

## VISY AUSTRALIA - PAPER TERMS OF SALE

The following terms govern all Orders placed by the Buyer and shall be incorporated into each contract entered into between the Buyer and Visy for the supply of Goods to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 1. PRICE AND ORDERS

- 1.1 All quotations provided by Visy are subject to withdrawal or variation by Visy at any time prior to acceptance of an Order.
- 1.2 The Buyer will place Orders with Visy in accordance with Visy's processes as advised from time to time. Any Order, once accepted, may only be changed or cancelled by mutual agreement.
- 1.3 The Buyer will pay to Visy the Price for the Goods in accordance with clause 2. The Price will be increased by the amount of any GST/VAT, excise, sales tax and other taxes and duties which may be applicable, except to the extent that such taxes or duties are expressly included in the Price. Where any taxes or duties are included but their rates or other impact on Visy's supply costs change prior to Delivery, the Price shall be adjusted accordingly.
- 1.4 It is the responsibility of the Buyer to verify that all details of the Order shown on the Order Acknowledgement are correct.
- 1.5 Should the Buyer fail to draw to Visy's attention in writing any discrepancy between the Buyer's Order and Visy's Order Acknowledgement not later than 48 hours after receipt of the Order Acknowledgement, the Buyer will be bound by the terms of the Order Acknowledgement.
- 1.6 The Buyer agrees to keep the Price confidential, except as required by law or the rules of any Stock Exchange.

### 2. PAYMENT

- 2.1 In respect of any Orders, terms for payment of the Price are cash with order unless COD or credit has been approved by Visy. If credit is satisfactorily established, terms are strictly net 30 days from the end of the month during which the invoice was issued, unless otherwise agreed to by Visy in writing.
- 2.2 If the Buyer does not pay the Price by the due date, Visy calculate and charge interest at the current statutory penalty interest rate per annum calculated on a daily basis on the unpaid portion of the Price and any other monies owing by the Buyer from due date until payment in full (and such rate shall be chargeable both before and after any judgment is obtained).

### 3. MANUFACTURING CYCLES

The Buyer is required to purchase not less than the agreed minimum tonnes of Goods (per agreed period). Visy may give notice of the established manufacturing cycles of mills from time to time and Order Acknowledgements will be on the condition that such Orders are processed during the next convenient manufacturing cycle, at Visy's discretion.

### 4. DELIVERY

- 4.1 Visy will deliver, or arrange delivery of, the Goods in accordance with delivery terms agreed in writing by Visy and the Buyer. Where used, the terms EXW, FAS, FIS, FOB, FCA, CFR, CIF, DDP and DAP shall be construed in accordance with Incoterms 2010.
- 4.2 In the absence of any specific agreement, Goods are supplied "Ex-Works Visy" and delivery shall take place at the time when the Goods are made available for despatch at Visy's premises. If Visy subsequently arranges transportation of the Goods, Visy does this as the Buyer's agent, and the Buyer must pay Visy all the reasonable costs of this service and the Buyer agrees to indemnify Visy for any liability incurred by Visy in providing this service.
- 4.3 Any time advised for delivery is an estimate only. Visy has the right to nominate a suitable time for loading the Goods onto a delivery vehicle, taking into account weather conditions and safety matters, and Visy is not liable for any delay in delivery.
- 4.4 In all circumstances whatever the agreed method of delivery is, the Buyer will be responsible at its cost for unloading the Goods, or for arranging for a suitable means of unloading the Goods, from the relevant delivery vehicle.
- 4.5 Visy will endeavour to deliver the correct quantity ordered, but all deliveries will be within the following tolerances.

Quantity:	Orders will be considered complete if delivered plus or minus the following tolerances:	
	<u>Order Quantity per Grade</u>	<u>Tolerance</u>
	1 Metric Tonne or greater	10%
- Reel width: Reel width tolerance is zero minus, and plus up to 5 mm.

### 5. RISK AND SECURITY

- 5.1 Risk of any loss, damage or deterioration of or to the Goods passes to the Buyer on Delivery.
- 5.2 Legal and beneficial ownership of the Goods remains with Visy and does not pass to the Buyer until the Buyer pays in full the Amount Owing in respect of the Goods.
- 5.3 While ownership of the Goods remains with Visy, Visy authorises the Buyer in the ordinary course of its business to use the Goods and to sell the Goods for full consideration. Except as otherwise expressly permitted by these Terms, the Buyer must not sell, lease, dispose of, create a security interest in, mortgage or part with possession of the Goods or any interest in the Goods (or purport to attempt to do such a thing) or permit any lien over the Goods. If the Buyer sells or purports to sell any Unpaid Goods the Buyer does so as fiduciary for Visy and the proceeds of sale are the property of Visy to the extent of the Amount Owing and are to be held on trust for Visy and provided to Visy upon demand.
- 5.4 The authority referred to in clause 5.3 is revoked automatically from the time an Event of Default occurs including without limitation if a receiver, administrator or other form of external manager is appointed. Where the authority conferred by clause 5.3 is revoked under clause 5.4, Visy may bring an action for the Amount Owing in respect of the Goods even where ownership of the Goods has not passed to the Buyer. Alternatively Visy may retake possession of the Goods and resell them and for that purpose may enter the Buyer's premises to remove the Goods.

- 5.5 For the purposes of this clause 5 and in any case in which Goods are processed before repayment of the Amount Owing in respect of the Goods, the term "Goods" includes products, parts or components which can be identified as being substantially derived from the Goods supplied by Visy.
- 5.6 Until ownership of the Goods passes to the Buyer under these Terms the Buyer must adequately insure the Goods and:
- (a) keep proper stock records and records of account with respect to the purchase, receipt, sale of, and other dealings with, the Goods;
  - (b) make those records and/or the Goods themselves available to Visy for inspection (and in the case of the records, copy them) at its reasonable request; and
  - (c) where the Goods are supplied within Australia, provide any assistance reasonably requested by Visy to enable Visy to record or perfect its security interest in the Goods on the PPSA register.

## 6. WARRANTIES AND LIABILITY

- 6.1 Subject to the remainder of this clause 6, Visy warrants that the Goods shall conform with the specifications agreed to by both parties in writing in the Order Acknowledgement, and upon Delivery shall be free from material defects. Visy also warrants that, subject to clause 5.2, the Buyer shall obtain clear title to the Goods. To the extent permitted by law all other warranties, express or implied, are excluded. Visy shall not be liable for any technical advice or assistance tendered in connection with the supply of the Goods.
- 6.2 In the event of any Claim under these Terms at Visy's discretion Goods may be repaired or replaced or the Price refunded. These are the sole remedies available to the Buyer for default by Visy under these Terms. No claim may be made against Visy for loss of production or profits, loss of goodwill or reputation, or any other consequential or indirect loss or damages.
- 6.3 Claims with respect to non-conforming or defective Goods will only be accepted if made to Visy in writing within 7 days after Delivery, or such further period as Visy may agree in writing, and Visy has first been given the opportunity to inspect the Goods and agrees to their return.
- 6.4 In any event, Visy's liability arising out of any Claim or otherwise under these Terms, or relating to the supply of Goods, will not exceed the Price of the Goods that are the direct subject of the Claim.

## 7. DEFAULT

- 7.1 If a party is in breach of these Terms, and the defaulting party is unable to remedy the breach within third (30) days after receiving written notice of the breach from the non-defaulting party, then:
- (a) the non-defaulting party may suspend or terminate these Terms; and/or
  - (b) if the Buyer is in breach, any Amount Owing will immediately become due and payable notwithstanding that the due date has not arisen.
- 7.2 Notwithstanding clause 7.1, if the Buyer is in payment default, Visy may immediately suspend supply of the Goods until the outstanding amounts are paid.
- 7.3 A party may immediately terminate these Terms if there is a Default Event.
- 7.4 Visy is entitled to recover from the Buyer all reasonable costs that Visy incurs in connection with the exercise, protection or enforcement of Visy's rights under these Terms or conferred by law, in each case on demand and on a full indemnity basis (including solicitor client costs).
- 7.5 Subject to any mandatory law, Visy will not be liable:
- (a) in respect of any loss or damage that results from the exercise, attempted exercise or non-exercise by Visy of its rights under these Terms or conferred by law; or
  - (b) to account as a mortgagee in possession in respect of the Goods if it or any person on its behalf takes possession of the Goods.

## 8. FORCE MAJEURE

- 8.1 If at any time for any reason beyond Visy's control (including, without limitation, by reason of war, terrorism, cyberattack, software malfunction, storm, fire, flood or other act of God, epidemic, strike, labour dispute, shortage of raw materials, utility interruption, damage or breakdown of plant and equipment, changed market conditions, order of any governmental or regulatory body) it becomes practically impossible or commercially unviable in the opinion of Visy to perform its obligations under an Order, then Visy shall, for the affected period, be relieved of its obligations under an Order and/or may delay (in whole or in part) supply or terminate an Order, without penalty and on written notice to the Buyer.

## 9. INTELLECTUAL PROPERTY

All right, title and interest in and to any Goods or materials in which copyright or other intellectual property rights exist created by Visy for or supplied by Visy to the Buyer shall, as soon as the same may come into existence or be capable of commercial exploitation vest absolutely in and remain the sole property of Visy. The supply of Goods shall imply a licence to the Buyer to use the same under Visy's intellectual property rights for the purpose for which they have been supplied but for no other purpose whatsoever and no other licence is given or is to be implied. The Buyer undertakes not to utilise, copy, reproduce or disclose or permit others to utilise, copy, reproduce or disclose any such intellectual property without the prior written consent of Visy.

10. **GOVERNING LAW AND DISPUTE RESOLUTION**

Any dispute arising out of these Terms is governed by the laws of Victoria, Australia. Each party submits to the jurisdiction of the courts of that state. If any dispute arises, the parties will initially seek to resolve such dispute by amicable negotiations. If the dispute cannot be settled by the parties within forty five (45) days of initial notification by one party to the other of the dispute, then either party may refer the matter to litigation. This forty five (45) day negotiation period does not apply where there is a requirement for urgent interlocutory relief.

11. **OTHER AGREEMENTS**

If there is any inconsistency between these Terms and any Order submitted by the Buyer (whether in writing, verbally or otherwise) or any other arrangements between the parties, these Terms prevail unless otherwise specifically agreed in writing by the parties. Any terms and conditions contained in any order, offer, acceptance or invoice of the Buyer are null and void unless specifically agreed to by Visy in the Order Acknowledgement.

12. **ASSIGNMENT**

A party shall not assign or purport to assign or subcontract any of its rights under these Terms without the prior written consent of the other, such consent not to be unreasonably withheld or delayed. The entry into of any subcontracts will not relieve a party from liability for the performance of any obligations under these Terms.

13. **PPSA**

13.1 The Buyer agrees that these Terms constitute a security agreement for the purposes of the PPSA.

13.2 The Buyer grants to Visy, VIA and each of its Related Bodies Corporate (each a "Secured Party"), a security interest in all Unpaid Goods supplied to the Buyer by the Supplier and any proceeds in respect of those Unpaid Goods ("Proceeds") to secure the Amounts Owed. The Buyer acknowledges that such security interest shall be held jointly and severally by the Secured Parties and agrees that such security interest may be enforced by any one or more of the Secured Parties. To the extent that any Secured Party is not a party to these Terms, these Terms shall take effect as a deed poll by the Buyer in favour of that Secured Party and shall be enforceable by that Secured Party.

13.3 The Buyer agrees that a Secured Party may register, in any manner it considers appropriate, any security interest on the Personal Property Securities Register which in its opinion is created by or contemplated under these Terms and, for the avoidance of doubt, may include any or all of the Secured Parties as the secured party in such registration. The Buyer agrees not to lodge any Amendment Demand with respect to any registration made by a Secured Party.

13.4 The Buyer agrees, at its own cost, to do anything (such as obtaining consents, signing and producing documents and supplying information) which a Secured Party reasonably requires for the purposes of: (i) ensuring that any security interest is enforceable, perfected with the highest priority and otherwise effective; or (ii) enabling a Secured Party to apply for any registration, or give any notification, in connection with a security interest; or (iii) enabling a Secured Party to exercise rights in connection with a security interest.

13.5 The Buyer agrees that until ownership of the Unpaid Goods has passed to the Buyer under these Terms it will not enter into any agreement or arrangement which gives rise to, or permits any other person to register, any security interest in respect of the Unpaid Goods or the Proceeds without the Supplier's prior written consent, and will not otherwise deal with the Unpaid Goods or Proceeds in a way that will or may prejudice any rights of a Secured Party under these Terms.

13.6 To the maximum extent permitted by law, the Buyer waives:

- (i) its rights to receive any notice or statement that is required by:
  - (A) any provision of the PPSA (including a notice of a verification statement); or
  - (B) any other law before a secured party exercises a right, power or remedy; and
- (ii) any time period that must otherwise lapse under any law before a Secured Party exercises a right, power or remedy.

If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse of time is one day or the minimum period the law allows to be agreed (whichever is the longer).

However, nothing in this clause prohibits a Secured Party from giving a notice under the PPSA or any other law.

14. **INTERPRETATION**

14.1 "**Amount Owed**" means, at any time, all amounts owing by the Buyer to Visy under these Terms or otherwise, or if the context specifically provides in respect of specific Goods.

14.2 "**Buyer**" means the person purchasing the Goods from Visy pursuant to these Terms, including that person's successors and assigns.

14.3 "**Claim**" includes any claim:

- (a) for any loss, damage or injury of any kind, including consequential, indirect or special loss or damage suffered by any person arising directly or indirectly from:
  - (i) any breach of Visy's obligations under these Terms;
  - (ii) any cancellation of these Terms; or
  - (iii) any negligence, misrepresentation or other act or omission by Visy or its employees, agents or contractors; or
- (b) for any other compensation, demand, remedy, liability or action.

14.4 "**Delivery**" means delivery of the Goods as determined pursuant to clause 4 of these Terms.

14.5 "**Event of Default**" means an event where:

- (a) a party is unable to pay its debts when due, or commits an act of bankruptcy;
- (b) a party enters into any composition or arrangement with its creditors;
- (c) a party is a company:
  - (i) the party does anything which would make it liable to be put into liquidation;

- (ii) a resolution is passed or an application is made for the liquidation of the party;
  - (iii) a receiver or statutory or official manager is appointed over all or any of the party's assets;
  - (iv) the party, its board or shareholders is considering appointing an administrator or liquidator; or
  - (v) an administrator is appointed to the party; or
- (d) anything analogous to or having a similar effect to any of the other events above arises.
- 14.6 **"Goods"** means all goods and related services supplied to the Buyer by Visy now and any time in the future including but not limited to papers and paperboards, and other pulp and paper related products.
- 14.7 **"Order"** means an order placed by the Buyer with Visy for the purchase of Goods.
- 14.8 **"Order Acknowledgement"** means the acceptance of an Order communicated by Visy to the Buyer whether by written notification or otherwise.
- 14.9 **"PPSA"** means the *Personal Property Securities Act 2009 (Cth)* and terms defined in the PPSA have the same meaning in this clause (unless otherwise defined in this clause)
- 14.10 **"Price"** means the purchase price of the Goods as most recently specified by Visy to the Buyer in writing or otherwise (or, if no such price has been specified, Visy's then-current market price for the Goods) and any taxes or duties payable under clause 1.3 and any other costs payable by the Buyer under these Terms (including, without limitation, costs relating to transportation, storage and insurance).
- 14.11 **"Related Body Corporate"** has the meaning given to that term in the *Corporations Act 2001 (Cth)*;
- 14.12 **"Secured Party"** means Visy, Visy Industries Australia Pty Ltd ("VIA") and each of its Related Bodies Corporate;
- 14.13 **"Terms"** means these terms of sale and, as the context requires, each contract entered into between the Buyer and Visy for the supply of Goods and each invoice issued by Visy to the Buyer for Goods into which these terms of sale are incorporated.
- 14.14 **"Unpaid Goods"** means any Goods in respect of which title has not passed to the Buyer under these Terms;
- 14.15 **"Visy"** means either Visy Paper Pty Ltd or Visy Pulp & Paper Pty Ltd (as identified on the relevant Order Acknowledgement), and its successors and assigns.
- 14.16 References to legislation include as amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under such legislation.
- 14.17 The waiver by Visy of any provision, or breach of any provision, of the Terms is not to be construed as a waiver of any other provision or breach of any other provision, or further breach of the same or any other provision of the Terms.
- 14.18 If any provision of the Terms becomes unenforceable or void either in whole or in part for any reason, then that provision (or part) is deemed to be deleted without in any way affecting the validity or enforceability of any other provision.
- 14.19 Both the Buyer and Visy may only use confidential information of the other for the purposes of the sale of Goods contemplated by these Terms, and both parties agree to keep confidential any confidential information of the other except to the extent the information is public knowledge or disclosure is required by law.
- 14.20 There is no obligation on Visy to enquire as to the authority of any person placing an Order on behalf of the Buyer. Any person contracting or purchasing Goods on behalf of the Buyer warrants and guarantees that they have authority to bind the Buyer in accordance with the Order and these Terms.