

# TERMS AND CONDITIONS



This offer is made subject to acceptance within the terms of the attached quotation, is further subject to written confirmation by us on receipt of your order and to the availability in our works on the market of the subject goods at the price upon which the quotation is based.

## 1. Price

The price quoted is based on the following factors at the date of quotation: Overseas – Principal's, ruling pricelist, exchange rates, current freight and insurance rates, prevailing customs tariffs, local manufacture – principal's current pricelist, current labour rates and material costs.

If between the date of the quotation and the date on which the goods are delivered, any variation should occur in any of the above mentioned factors, we reserve the right to amend the price to allow for the cost of such variations.

## 2. Specifications

All illustrations, drawings etc. accompanying our quotation, or contained in our catalogues, price lists or advertisements must be regarded as approximate representations only and are not binding in detail unless stated to be so in our quotation.

All weights and measures, powers, capacities and other particulars of the goods being offered by us are stated in good faith as being approximately correct but small deviations there from shall not vitiate the contract nor be made the basis of any claim against us. Errors and omissions are subject to correction. All extras ordered but not specified in our quotation will be charged for as well as the costs of all tests, alterations, additions or any other work undertaken at the buyer's request.

## 3. Guarantee

- (a) (i) New machines  
Any part or parts of an entire machine which may prove defective through faulty material or workmanship will be replaced or repaired free of charge at our option F.O.B port of origin, within 12 months of the date of delivery of the machine on the defective part or parts being returned to our works carriage paid.
- (ii) New spare parts/recondition parts  
New, rebuilt or reconditioned parts are sold in the as seen condition and are covered with a 3 month guarantee.
- (b) These guarantees are made on the condition that the buyer does not permit any alteration or repair of any kind to goods or equipment without our consent and does not extend to any defect or breakdown caused by negligence, improper handling by the buyer, his agents or any other cause outside of our control.
- (c) Your attention is drawn to section 64A of the traded practices Act 1974 (hereinafter called "the Act") which has the effect of enabling suppliers of the goods and services (other than goods and services of a kind required for personal, domestic or household use or consumption) to limit their liability in certain circumstances for breach of certain conditions and warranties implied by the Act.
- (d) Subject to the qualifications contained in section 68A of the Act should we be liable for breach of a condition or warranty implied by Division 2 of Part V of the Act (not being a condition or warranty implied by Section 69 of the Act) our liability for such breach shall be made limited to one of the following as determined by us.
  - (I) In the case of goods:
    - (a) replacement of the goods or supply of equivalent goods; or
    - (b) repair of the goods; or
    - (c) payment of the costs of replacing the goods or acquiring equivalent goods; or
    - (d) payment of the cost of having the goods repaired.
  - (II) In the case of services:
    - (a) supplying of the services again; or
    - (b) payment of the cost of having the services supplied again.References to specific provisions of and circumstances arising under the Act are intended to include references to equivalent provisions of and circumstances arising under any state or territory enactment.
- (e) Subject to any legislation to the contrary in the paragraphs (c) and (d) of this clause but notwithstanding any other clause of this agreement.
  - (i) Representations and agreements not expressly contained here shall not be binding upon us as conditions, warranties or representations.
  - (ii) All other conditions, warranties and representations on our part whether expressed or implied, statutory or otherwise are hereby expressly negated and excluded.
  - (iii) This agreement including the quotation overleaf constitutes the whole of the agreement and understandings between us with respect to the subject matter hereof notwithstanding any conditions to a contrary effect which may be expressed in any of the buyer's documents and all additions and modifications to this agreement shall be in writing and shall be signed by both parties.

(iv) We shall be under no liability to you for any loss (including but not limited to loss of profits and consequential loss) or for damage to persons, property or for death or injury caused by any act or omission (including negligent acts or omissions) of us or our agents.

(v) Without limiting the generality of the preceding sub-paragraph we shall not be liable for and delay in installing goods, or for loss or damage. Arising out of installation of the goods or from failure of the goods, or from the design or operation thereof.

(vi) You hereby agree to indemnify us against any such loss, damage, death or injury as set out in sub-paragraph (iv) and (v) hereof.

## 4. Terms

Net payment by cash, bank cheque, direct deposit, credit card (charges may apply), [personal cheques only accepted by prior arrangement with management], with order unless otherwise agreed. Failure to meet our payment terms may result in charges or commissions and/or collection fees being added to your account.

## 5. Damage or loss in Transit

When the price quoted includes delivery we will repair or replace, free of charge, at our option, goods damaged or lost in transit provided the carriers and ourselves receive written notice of such loss or damage within the following period.

- (a) Goods by rail or sea. Within 3 days of receipt of goods, or, in the case of loss, 21 days from the date of dispatch as notified by us.
- (b) Goods by road transport or airfreight. Within 3 days of receipt of goods, or in the case of loss, within 7 days from the date of dispatch as notified by us.

## 6. Government Imposts

Quoted price does not include GST and this or any other Impost by Government or by governmental authority shall, if applicable, be paid by the purchaser, and will be added to and treated as part of the purchase price by us.

## 7. Delivery

- (a) Goods sold ex our warehouse will be dispatched according to Buyer's instructions but will be at the Buyer's Risk and cost from the time of loading. Goods sold and delivered will be dispatched by any means of transport, at our option, unless otherwise agreed in writing, and all unloading and demurrage charges will be added to the Buyer's account. Where we undertake to sell goods delivered to Buyer's premises or site the Buyer undertakes that adequate facilities exist for so doing by road, and /or rail and/or ship. All packing will be charged for when specifically included in quoted prices.
- (b) The time given for the execution of your order shall be reckoned from the date on which we accept the order. We will use our best endeavours to dispatch by the date given, but will not accept any liability for failure to do so unless an undertaking in writing shall have been given by us under agreed penalty (as liquidated damages) for late dispatch and you have suffered loss by our delay. Should dispatch be hindered or delayed by your instructions or lack of instructions or by any cause whatsoever beyond our reasonable control (including the effects of war, strikes, blackouts, fire, accidents, work breakdowns, material and labour supply difficulties, delays in transport or compliance with government requirements) a reasonable extension of time shall be granted. In the event that preparation of your order is suspended by your instructions or lack of instructions the contract price shall be increased to cover any extra expenses incurred by us thereby. Should you be unable to take the goods when ready for dispatch it is understood that we reserve the right to invoice you for all expenses involved in the preparation of your order. If we are unable, for any reason, to deliver the goods subject of the contract, the contract shall be voidable at our option with no right for either of us to claim against the other in respect of any loss, cost or expense which may have been incurred.

## 8. Title

- (a) Upon the delivery of the goods, the risk of any loss, deterioration or damage to the goods, from whatever cause arising shall be borne by the Buyer. Except as otherwise agreed in respect of any particular consignment, delivery shall be deemed to have occurred as soon as the goods arrive at the premises to which they are consigned by us.  
The Buyer shall at their own expense insure any goods in their possession, their employees or agents, against loss or damage by fire, impact, earthquake, aircraft, riots, civil commotions, malicious damage, storm and/or tempest and/or rainwater, flood, water damage, accidental or negligent damage or howsoever and shall keep such insurance on foot until the property for the said goods passes to the Buyer.
- (b) Ownership and property of the goods delivered remains with us until payment in full has been received and if payment is not made within (14) business days of a final demand in writing made by us, we shall, without prejudice to any other remedies, be entitled to retake possession of the goods and hold them until full payment has been received.

## 9. Governing Law

The law of the State or Territory of Australia from which the quotation was issued shall be the governing law of this agreement.