



TERMS AND CONDITIONS OF QUOTATION AND SALE

These are the terms and conditions upon which Capital Aircraft Services ABN 34 002 140 267 sells and quotes for the sale of goods.

DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In these terms and conditions, unless the context otherwise requires:

- (a) "Buyer" means the Person named in the Sales Invoice or Quotation/Estimate.
- (b) "Quotation / Estimate" means the form of quotation or estimate submitted by the Seller to the Buyer in which these terms and conditions of sale are or are deemed to be incorporated.
- (c) "Sales Invoice" means the sales invoice issued by the Seller to the Buyer in which these terms and conditions are or are deemed to be incorporated.
- (d) "Seller" means Capital Aircraft Services. ABN 34 002 140 267 unless the sale is expressed to be made by the Seller as agent for a Person named in the Sales Invoice or Quotation/Estimate in which case the Buyer acknowledges that Capital Aircraft Services acts only as the agent of the Person so named.

1.2 INTERPRETATION

- (a) Any special conditions specified on a Quotation/Estimate or Sales Invoice shall, to the extent they are inconsistent with these terms and conditions, take precedence over these terms and conditions.
- (b) The expression "Person" includes an individual, the estate of an individual, a body politic, a corporation, an association (incorporated or unincorporated) and a statutory or other authority.
- (c) Words importing the singular shall include the plural (and vice versa).

2. GOVERNING TERMS AND CONDITIONS

These are the only terms and conditions which are binding upon the Seller with the exception of those otherwise agreed in writing by the Seller or which are imposed by statute and which cannot be excluded.

3. TERMS OF PAYMENT

Payment by the Buyer for goods is due prior to shipment by the Seller, unless the Buyer has applied and been approved to hold a credit account facility.

If the Buyer has been approved by the Seller to hold a credit account facility, payment by the Buyer for goods delivered and accepted is due within thirty (30) calendar days of the receipt of the invoice. If the Buyer fails to make payment in accordance with this clause, all amounts owing by the Buyer to the Seller on any account shall immediately become due and payable. Outstanding amounts shall bear interest of the rate of 10 per centum per annum calculated on a daily basis.

4. INSPECTION AND ACCEPTANCE

The Buyer shall inspect all goods upon delivery and shall within forty-eight hours of delivery give notice to the Seller of any matter or thing by which the Buyer alleges that the goods are not in accordance with the Buyer's order. Failing such notice and, to the extent permitted by statute, the goods shall be deemed to have been delivered and accepted by the Buyer.

5. RETURNS

All returns must be approved by the Seller. Authorised returns must be freight prepaid. The Seller will only be obliged to credit returned goods if they are in a saleable condition. The Seller reserved the right to charge a handling fee equal to 15% of the price of the new goods and 30% of second hand goods returned unless the Buyer is a "Consumer" for the purposes of the Trade Practices Act 1974 or similar State or Territory legislation. Products specifically purchased, manufactured, machined or made to size or to the Buyer's specification are not returnable.

6. QUOTATIONS / ESTIMATES

- (a) Unless previously withdrawn, a quotation/estimate is valid for thirty (30) days or such other period as stated therein. A quotation/estimate is not to be construed as an obligation to sell but merely an invitation to treat and no contractual relationship shall arise there from until the Buyer's order has been received by the Seller in writing.
- (b) The Seller shall not be bound by any conditions attaching to the Buyer's order or acceptance of a Quotation/Estimate and, unless such conditions are expressly accepted by the Seller in writing, the Buyer hereby acknowledges that such conditions are expressly negated.
- (c) Prices specified in a Quotation/Estimate are subject to alteration without notice. Unless otherwise stated in writing by the Seller, prices quoted/estimated shall be exclusive of handling, delivery, agent's charges and any charge duty or impost including GST.
- (d) Every Quotation/Estimate is subject to and conditional upon obtaining any necessary import, export or other licence.
- (e) The labour component of any quotation is an estimate only. The actual invoice amount will not be known until work has been completed.

7. PASSING OF PROPERTY AND RISK

- (a) Goods supplied by the Seller to the Buyer shall be at the Buyer's risk immediately upon despatch from the Seller.
- (b) Property in the goods supplied by the Seller to the Buyer pursuant to these terms and conditions shall not pass to the Buyer until those goods and other goods supplied by the Seller to the Buyer have been paid for in full.
- (c) Until the goods have been paid for in full:
 - (i) the Buyer shall store the goods in such manner as to show clearly that they are the property of the Seller; and
 - (ii) the Buyer may sell the goods, in the ordinary course of its business, as agent for the Seller and shall account to the Seller for the proceeds of the sale (including any proceeds from insurance claims).
- (d) The Buyer irrevocably authorises the Seller at any time, to enter onto any premises upon which:
 - (i) the Seller's goods are stored to enable the Seller to: - inspect the goods: and/or – if the Buyer has breached these terms and conditions, reclaim the goods:
 - (ii) the Buyer's records pertaining to the goods are held to inspect and copy such records.
- (e) The Buyer and Seller agree that the provisions of this clause apply notwithstanding any arrangement pursuant to which the Seller grants credit to the Buyer.

8. SUPPLY

The Seller reserves the right to suspend or discontinue the supply of goods to the Buyer without being obliged to give any reason for its action.

9. PART DELIVERIES

The Seller reserves the right to make part deliveries of any order, and each part delivery shall constitute a separate sale of goods upon these terms and conditions. A part delivery of an order shall not invalidate the balance of an order.

10. INSTALLATION

The Seller's Quotation/Estimate or Sale Invoice is made on a supply only basis. Installation and commissioning (if any) is at the expense of the Buyer unless otherwise specified in writing by the Seller. Installation of goods purchased will only be undertaken once payment for goods has been received in full.

11. DIMENSIONS, PERFORMANCE DATA AND OTHER DESCRIPTIVE DETAILS

- (a) Photographs, drawings, illustrations, weights, dimensions and any other particulars accompanying, associated with or given in a Quotation/Estimate, the descriptive literature or a catalogue, approximate the goods offered but may be subject to alteration without notice.
- (b) Any performance data provided by the Seller or a manufacturer is an estimate only and should be construed accordingly.
- (c) Unless agreed to the contrary in writing, the Seller reserves the right to supply an alternative brand or substitute product when necessary.

12. SHIPMENT AND DELIVERY

- (a) Upon acceptance of an order the Seller will seek confirmation of the period of shipment or delivery. If any variation had occurred in the quoted period, the Seller will notify the Buyer. Unless the Buyer objects in writing within seven (7) days of such notification to the Buyer, the period of shipment or delivery notified to the Buyer will be the contractual period for shipping or delivery. A delivery charge will apply to all deliveries.

13. MANUFACTURER'S CHANGES

Where the Seller is acting as agent for a manufacturer or supplier, the Seller shall not be liable for any alteration or variation in the goods made by the manufacturer or the supplier.

14. CURRENCY

Where goods are imported into Australia, the final invoice to the buyer shall be created using the same exchange rate incurred by the seller upon importation of the goods.

15. CONTINGENCIES

Any charge, duty, impost, sales tax or other expenditure which is not applicable at the date of Quotation or Sales Invoice but which is subsequently levied upon the Seller in relation to the Quotation or Sales Invoice as a result of the introduction of any legislation, regulation or governmental policy, shall be to the Buyer's account.

16. CHARGES BEYOND POINT OF DELIVERY QUOTED

Unless otherwise agreed in writing, if the Seller prepays freight, insurance, custom and import duties (if any), landing and delivery charges and all other charges in connection with shipment and delivery of the goods, then any such charges shall be to the Buyer's account. The Seller reserves the right to nominate the means of delivery.

17. FORCE MAJEURE

If in the performance or observance of its obligations the Seller is prevented, restricted or affected by reason of a force majeure including strike, lockout, industrial dispute, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond the reasonable control of the Seller, the Seller may, in its absolute discretion give prompt notice of such cause to the Buyer whereupon the Seller is excused from such performance or observance to the extent of such prevention, restriction or affectation.

18. DEFAULT OF BUYER

- (a) If these terms and conditions are not strictly observed by the Buyer, the Seller may in its absolute discretion, refuse to supply to the Buyer and the Seller shall not be liable to the Buyer for any loss or damage the Buyer may sustain as a result of such refusal.
- (b) The costs of collection of any moneys due and payable by the Buyer, including the fees of any Mercantile Agent or Solicitor engaged by the Seller shall be payable by the Buyer.

19. BUYER'S CANCELLATION

Unless otherwise agreed in writing, the Buyer shall have no right to cancel an order, which has been received by the Seller. If a right of cancellation is expressly reserved to the Buyer, such right of cancellation must be exercised by notice in writing from the Buyer to the Seller not later than seven (7) days prior to the estimated date of shipment by the manufacturer or the Seller as the case may be. Unless otherwise agreed between the Buyer and Seller, upon cancellation prior to shipment any deposit paid by the Buyer shall be forfeited to the manufacturer or the Seller (as the case may be).

20. WARRANTY

- (a) Subject to clause 20(c), all goods supplied are covered by such warranty as is specified by the manufacturer and supplied subject to the product standards detailed by the manufacturer.
- (b) The Buyer shall immediately notify the Seller in writing upon discovery of any defect in the goods. The Buyer shall not carry out any remedial work to alleged defective goods without first obtaining the written consent of the Seller to do so.
- (c) The only conditions and warranties which are binding on the Seller in respect of the state, quality or condition of the goods supplied by it to the Buyer are those imposed and required to be binding by statute (including the Trade Practices Act 1974) and to the extent permitted thereby, the liability, if any, of the Seller arising from the breach of such conditions or warranties shall at the Seller's option be limited to and completely discharged by:
 - (i) the replacement of the goods or resupply of same by the Seller;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacement of the goods; or
 - (iv) the payment of the cost of repair of the goodsand otherwise all other conditions and warranties whether expressed or implied by law or otherwise in respect of the State, quality or condition of the goods which may apart from this clause be binding upon the Seller are hereby expressly excluded and negated.
- (d) The Buyer expressly acknowledges and agrees that it has not relied upon and the Seller is not liable for any advice given by the Seller, its agents or employees in relation to the suitability for any purpose of goods or material supplied by the Seller.

21. LIABILITY OF SELLER

- (a) Except as expressly provided herein and to the extent permitted at law:
 - (i) the Seller shall not be under any liability, whether in contract, tort or otherwise in respect of defects in goods delivered or for any injury, damage or loss resulting from such defects or from any work done in connection therewith except to the extent that any statute applicable to these Terms and Conditions prevent the exclusion, restriction or modification of such terms and conditions;
 - (ii) the Seller shall not be liable to the Buyer for any loss of profit howsoever arising nor shall the Seller be under any liability whether in contract, tort or otherwise nor for any injury, damage or loss whether consequential or otherwise save as is expressly provided in these Terms and Conditions;
 - (iii) the Buyer indemnifies the Seller against any liability to or action by a third party for infringement or alleged infringement of a patent, registered design, trademark or copyright in respect of goods manufactured to the Buyer's specification; and
 - (iv) all goods are supplied in accordance with usual industry standards and the Seller shall not be liable to the Buyer for the condition or quality of goods, which comply with these standards.

22. ALTERATION TO CONDITIONS

The Seller may, at any time and from time to time, alter these Terms and Conditions of Quotation and Sale.

23. CREDIT REPORTING

Where goods are supplied to the Buyer irrevocably authorises the Seller, its employees and agents to make such enquiries as it deems necessary to investigate the credit worthiness of the Buyer from time to time including (but without limiting the generality of the foregoing) the making of enquiries of persons nominated as trade referees, the bankers of the Buyer or any other credit providers (the information sources) and the Buyer hereby authorises the information sources to disclose to the Seller such information concerning the Buyer which is requested by the Seller.

24. GOVERNING LAW

These terms and conditions and any contract including them shall be governed by the law of the State or Territory in which the Seller accepts the Buyer's order and the Seller and Buyer submit to the jurisdiction of the Courts of the State or Territory.