

CMC TECHNOLOGIES PTY LIMITED,
ACN: 085 991 224, ABN: 47 085 991 224
Unit 19, 77 Bourke Rd, Alexandria NSW 2015 AUSTRALIA
STANDARD TERMS & CONDITIONS OF SALE: 1st July 2006

1. DEFINITIONS

- (a) "CMC" means CMC Technologies Pty Limited.
- (b) "Purchaser" means the person, firm or corporation to whom the Quotation is addressed.
- (c) "The Contract" means the Agreement between CMC and the Purchaser incorporating these terms and conditions.
- (d) "Terms and Conditions" means the terms and conditions stated below.
- (e) "Quotation" means the attached Quotation given by CMC. It should not be interpreted as an offer as no offer is being made for the sale of Goods.
- (f) "Goods" includes services and means the Goods and services referred to in the Quotation.
- (g) "The Act" means the Trade Practices Act of 1974 of the Commonwealth of Australia as amended.

2. QUOTATION AND ORDER ACCEPTANCE

The Quotation is valid for a period of 30 days from its date. CMC may withdraw the Quotation or adjust prices by notice to the Purchaser before the expiry date of the Quotation. No order shall be binding upon CMC until acknowledged and accepted in writing by CMC. CMC reserves the right to request additional information from a Purchaser before accepting an order. CMC reserves the right to correct all typographical and clerical errors that may be present in the prices or specifications of this Quotation. All Goods quoted on an ex-stock basis are subject to prior sale. All specifications given by the Purchaser must be submitted in writing to CMC for its prior approval, otherwise they shall be excluded from the Quotation and shall not be included part of the Contract. If the Purchaser did not originally provide written specifications to CMC, then CMC reserves the right upon receipt of the Purchaser's order confirming such specifications to review the terms of the Quotation.

3. PRICES

- (a) All prices quoted, unless expressly stated are ex-CMC store, Alexandria (Sydney Metropolitan Area), NSW, AUSTRALIA and exclude costs for packaging, freight, insurance, transport and GST (see note 10). When CMC pays for local delivery in Australia, all prices are Free on truck (FOT). Any further costs or expenses incurred by CMC for extra packaging, freight, insurance and transport shall be invoiced to the Purchaser and added to the quoted price and paid for by the Purchaser.
- (b) All prices are net and subject to change.
- (c) All prices are quoted in Australian Dollars unless stated otherwise.
- (d) An exchange rate variation will apply to 80% of the invoice value and will be calculated using the Commonwealth Bank of Australia "sell rate", which is the rate at the date of CMC's invoice. Hence any exchange rate variation between the date of Quotation and date of invoice may be made to the Purchaser's account at CMC's option.
- (e) If fixed pricing is requested by the Purchaser at time of order, the costs associated for forward exchange cover will be passed on to the Purchaser and added to the total value of the order.
- (f) A minimum billing charge of \$200 shall apply unless otherwise stated in the Quotation.
- (g) If the Purchaser requests special packing which is not the manufacturer's standard, then extra charges will also apply.
- (h) For Goods manufactured or obtained overseas, the quoted price includes export boxing, inland overseas freight, insurance, freight costs to Sydney, customs clearance and duties, local freight to our store & CMC inspection and handling.
- (i) On any imported content in the Quotation, costs for freight, insurance, agency fees, wharfage and storage charges and Customs Duty, have been allowed in accordance with the rates and methods of assessment in force at the date of Quotation. If any variation shall occur after that date then it may be included in the invoiced price to the Purchaser at the option of CMC.
- (j) Should the Purchaser request that a duty drawback be made by CMC on the Purchaser's behalf, or should CMC supply documentation to a Purchaser's agent an administration charge of \$250 + GST will be payable by the Purchaser. A purchase order and full payment will be required to be submitted by the Purchaser before the documentation is released by CMC to any third party and such third party will need to sign a confidentiality agreement with CMC.

4. PERMITS, QUOTAS ETC

The Purchaser shall at his expense obtain all permits, approvals, licenses, authorities that are or may be necessary or expedient to purchase the Goods under this contract. The purchase price for the Goods does not include a reconciliation of the Goods to Australian or Zealand standards. CMC will provide to the Purchaser all available overseas certificates and test reports (subject to the signing of a confidentiality agreement by the Purchaser with CMC) to assist the Purchaser to obtain such reconciliations.

5. GOODS AND SERVICES TAX (GST)

The prices quoted on the Quotation are exclusive of GST. GST of a rate of 10% shall be added to CMC's Invoice and is payable by the Purchaser. No GST exemptions apply. CMC is registered for GST and the Purchaser is required to provide their Australian Business Number (ABN) with their purchase order.

6. PAYMENT TERMS

Terms of payment are net cash 30 days on approved credit accounts from the date stated in CMC's Invoice. CMC reserves the right to charge interest of 1% per month if payment is not received on the due date. Unless otherwise agreed in writing by CMC, the purchase price for the products purchased shall be in Australian Dollars. An irrevocable letter of credit confirmed by an Australian Bank or Telegraphic Transfer with CMC's receipt of order shall be the terms of payment for all sales outside Australia unless otherwise mutually agreed. If payments by the Purchaser are to be made by direct transfer to CMC's bank account, all associated bank charges shall be borne by the Purchaser.

7. PURCHASER'S FAILURE TO PAY

In the event of non payment by the Purchaser after seven (7) calendar days of the due date, CMC or its agents may enter the premises where the Goods are stored by the Purchaser and re-take possession. Any costs associated with the repossession including legal and related expenses will be to the account of the Purchaser.

8. PASSING OF PROPERTY AND RISK

No property in any of the Goods shall pass to the Purchaser until the price has been paid in full by the Purchaser. The Purchaser will be responsible for proper care, insurance and storage of the Goods while in his possession until final payment is made, whether the Goods were supplied in partial shipments or not.

9. DELIVERY AND ACCEPTANCE OF GOODS.

Time is not of the essence in relation to the obligation of CMC to deliver the Goods to the Purchaser although CMC will use all reasonable endeavours to comply with the date or time fixed for delivery. CMC may at its option partially dispatch any Goods to the Purchaser and invoice for any part order should there be any delay in the remaining items of the order. Each parcel, when delivered must be accepted and paid for notwithstanding late delivery or non-delivery of any other parcel. If the Purchaser requests to delay in delivery, CMC will store the Goods and charge the Purchaser storage rates at current market value. CMC will have the right to invoice the full value of the Goods while being in storage. If CMC selects a carrier for delivery to the Purchaser, it does so on the express understanding that CMC is acting as agent for the Purchaser and CMC shall have no liability for delay in delivery due to causes beyond its control. The Purchaser shall not be entitled to repudiate or cancel the Contract by reason of late delivery. If there is an extra cost to be paid to maintain the original delivery time quoted, these costs shall be borne by the Purchaser. If inspection by the Purchaser or its agents is required at the manufacturer's works or CMC's premises, this must be arranged by the Purchaser at the Purchaser's cost and any delays in arranging for inspection shall be added to the delivery time quoted. Adequate notice must be given to CMC of such inspection and agreed to by CMC in writing. Any inspection shall be limited only to visual inspection unless agreed in writing by CMC. In cases where approval drawings are required as part of the order, the delivery date quoted will be extended until after the Purchaser signs and gives the final drawings back to CMC so that manufacture can proceed. Depending on the nature of the Goods, CMC may recommend that they be shipped by air freight. If the Purchaser decides otherwise, CMC shall have no responsibility if the Goods arrive damaged to the Purchaser. The Purchaser cannot refuse to accept Goods despatched in accordance with an agreed delivery date and substitute a later date, except with the prior written consent of CMC. Where Goods are ordered by CMC for the Purchaser from overseas and received into CMC's warehouse before the agreed delivery date, CMC may at its option deliver and invoice those Goods to the Purchaser earlier than the agreed delivery date, but only after the expiration of five (5) working days from the date of receipt by CMC.

10. LOSS OR DAMAGE TO GOODS

The Purchaser shall be responsible and pay for any insurance of the Goods to be supplied when they are in transit from CMC to the Purchaser unless otherwise agreed in writing. The Purchaser shall be responsible for loss and damage to the Goods from the time of dispatch from CMC's store or other location if nominated as the delivery point by CMC.

Where Goods are dispatched to the Purchaser on CMC's account, immediate notice of any event likely to give rise to a claim shall be made to CMC by the Purchaser and in event of receipt of damaged Goods by the Purchaser in his store. Claims may only be made where transportation costs for transit from CMC to the Purchaser's store are paid for by CMC. Unloading of Goods is the Purchaser's responsibility.

11. TERMINATION, CANCELLATION OR VARIATION.

- (a) The Purchaser may cancel its order only if CMC approves in writing, and upon immediate payment by the Purchaser of reasonable and appropriate cancellation charges that are determined by CMC and to the extent of the work done by CMC or its suppliers.
- (b) CMC reserves the right to terminate the Contract if the Purchaser becomes or in CMC's reasonable opinion is likely to become insolvent.
- (c) If the Purchaser wants to make any variation to the order, the variation shall be in writing.
- (d) An order may be varied only if such variations are accepted by CMC in writing and CMC shall then adjust the price and delivery accordingly.
- (e) Standard stock items cannot be returned to CMC without payment of a restocking fee. The minimum fee is \$100 for untouched items to be returned to stock. If after evaluation by CMC, Goods are not returned in their original condition, CMC may reject the Goods or if it is possible to rectify the Goods to their original condition, do so at the Purchaser's cost and expense.

12. WARRANTY & LIMITATION OF LIABILITY:

- (a) CMC warrants to the Purchaser that the Goods supplied shall be free from defects in workmanship and materials. Any defect must be reported in writing to CMC as soon as the defect becomes apparent. The liability of CMC for a breach of this warranty shall be limited to:
 - (i) the replacement of Goods; or
 - (ii) the supply of equivalent Goods; or
 - (iii) the payment of the costs of replacing the Goods or of acquiring equivalent Goods; or
 - (iv) the payment of the cost of having the Goods repaired;at the option of CMC.
- (b) CMC assigns to the Purchaser the benefit of any or all warranties furnished by the manufacturer of the Goods. A copy of the manufacturer's warranty is available on request. Any claims made by the Purchaser against the manufacturer must be made within the manufacturer's warranty period.
- (c) In no event shall CMC or the manufacturer or supplier be liable to the Purchaser or the ultimate user or to any other person or entity for any consequential loss or damage incurred by such party, relating to the installation, use, repair or replacement of the Goods supplied by CMC.
- (d) The warranty given by CMC or by CMC's manufacturer or supplier is dependent upon the Goods being used in accordance with the manufacturer's installation and operating instructions and the Purchaser operating under the process conditions directed by the manufacturer or CMC.
- (e) The Purchaser agrees to indemnify and keep CMC indemnified against all losses and expenses that CMC may suffer or may be liable for in the event of the failure of the Purchaser to comply with its obligations as to the usage of the Goods as provided for in the manufacturer's and/or CMC's directions and this Contract.
- (f) In the event of any inconsistency between these provisions and any State or Federal legislation including the provisions of the Trade Practices Act, such State or Federal legislation and the Trade Practices Act shall prevail to the extent of such inconsistency.
- (g) No performance guarantees apply to the contract unless otherwise agreed in writing by CMC. The Purchaser is responsible to evaluate if the Goods are fit for the purpose stated by the Purchaser.
- (h) CMC and its suppliers are not consultants and the cost of the Goods does not include engineering design for the Goods. It is the Purchaser's responsibility to provide engineering design specifications to CMC at the cost of the Purchaser.
- (i) It is also the Purchaser's responsibility to obtain independent certification for the Goods and check that any preliminary calculations made in relation to the Goods and/or the design of the Goods to be supplied by CMC are correct.
- (j) CMC and its manufacturer and/or supplier warrant that the materials used in the equipment sold to the Purchaser are mechanically suitable for the use proposed by the Purchaser and that the correct grade and specification of materials in the equipment will be used to fulfil the Purchaser's order. No warranty is given by CMC or its manufacturer that the materials used in the manufacture of the equipment are suitable for the Purchaser's process conditions and it is the responsibility of the Purchaser to confirm compatibility of those materials with the Purchaser's process conditions.

13. INSURANCE

CMC does not accept any condition in a purchase order which is at variance with CMC's limitation of liability provision contained in Clause 15. CMC has in place public and product liability insurance and a copy of CMC's insurance policy wording and a Certificate of Currency is available to the Purchaser free of charge upon request. If a Purchaser requests CMC to endorse the name of the Purchaser on its insurance policy, the Purchaser agrees to pay a \$200 administration fee to CMC for each endorsement plus the costs (if any) charged by CMC's insurer to create that endorsement.

14. OTHER

- (a) **Installation:** Unless otherwise specified, the Quotation and /or the Contract do not include the cost of installation of the Goods.
- (b) **Documentation:** Each manufacturer supplies one set of their standard documents or manuals with each order. Any extra copies or special manufacturer's data reports, drawings or other special documentation will cost extra, to be paid for by the Purchaser. Any such drawings and instructions shall remain confidential and the property of CMC.
- (c) **Technical Information:** Drawings, illustrations, and specifications prepared by CMC and supplied to the Purchaser remain the property of CMC. The Purchaser shall not discuss any information contained therein with a third party without the prior written consent of CMC. Drawings and illustrations prepared in connection with the Quotation or the Contract or contained in CMC's price lists are not binding as to dimensions or details unless it is specifically so stated. Information shown on manufacturer's literature is general only and the manufacturer reserves the right to change dimensions or specifications etc at any time.
- (d) **Returned Goods:** Any Goods to be returned to CMC under the terms of this contract must first be approved by CMC in writing before shipment. CMC will issue a "Returned Goods Authorisation" number that must appear on the Goods to be returned. All Goods that are returned shall be freight prepaid by the Purchaser, regardless of the reason for the return unless otherwise agreed in writing by CMC. Items returned "Freight Collect" will be refused by CMC and returned at the Purchaser's expense. All items returned to CMC must be properly packaged to prevent shipment damage. Any claims for shipment damage are the responsibility of the Purchaser.

15. THE ENTIRE CONTRACT

The Quotation and CMC's formal acceptance of the Purchaser's order and these terms contain all the terms of the Contract. CMC's acceptance of the Purchaser's purchase order shall be deemed to constitute acceptance by the Purchaser of these Terms and Conditions for the purchase of Goods from CMC by the Purchaser. Any additional or different terms or conditions contained in the Purchaser's purchase order or in any other communication between the Purchaser and CMC are of no force and effect between the parties, unless CMC and the Purchaser have specifically agreed in writing on terms or conditions different from those contained herein. These Terms and Conditions shall not be varied unless specifically agreed to and confirmed in writing by CMC.

16. FORCE MAJEURE

CMC shall not be deemed to be in default of the Contract and shall not be liable, directly or indirectly for any loss or delay, nor for its inability to perform or make delivery under the Contract occasioned by war, strikes, boycotts, lockouts, shortages, confiscation, transportation and communications problems, or to any other circumstances or matters or inevitable accident beyond the control of CMC.

17. JURISDICTION AND LAW

The parties submit to the Jurisdiction of the Courts of the State of New South Wales in regard to any disputes that relate to the Contract. The law from time to time in force in the said state shall apply to the Contract in all respects including its formation, interpretation, enforcement and discharge.

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