

Terms & Conditions

Preface

The following terms and conditions shall apply to and form part of any contract for the supply of goods or services by C. E. Bartlett Pty. Ltd. ("CEB") to another party ("the customer") including any contract arising from oral acceptance of repeat or further orders from the customer for goods or services the same or similar to those to which such contract applies, and shall terminate, cancel and supersede any previous written or oral agreements and understandings (if any) entered into between CEB and the customer. These terms and conditions replace any previous terms and conditions. By receiving delivery of all or a portion of the goods ordered, the customer shall be deemed to have accepted these Terms and Conditions of Sale.

Purchase Order

Purchase orders submitted by the customer are to show order number and full description of the goods or services required.

Purchase Price

Subject to the following clause, all sales are made by CEB at the ruling price at the time of delivery, unless otherwise agreed in writing. Any prior quotation shall be subject to alteration accordingly.

Terms of Payment

(a) The customer shall pay for the sale upon receipt of the goods of the sale unless alternative terms have been agreed to between CEB and the customer.

(b) CEB shall be entitled to interest on all amounts over due for payment by the customer at a rate equal to fifteen (15) percent per annum, this interest shall accrue and be calculated on a daily basis from the date on which such payment becomes overdue to the date on which payment in full is received by CEB.

(c) If any amount due by the customer to CEB remains overdue for more than thirty (30) days CEB may suspend further deliveries until payment in full has been received by CEB. The rights conferred upon CEB by this clause shall be in addition to and not in substitution for any other rights whether under this sale or arising by operation of law CEB may have.

Prepayment

Prepayments are accepted upon condition that delivery is taken of the goods to which they relate within three (3) months of the date of prepayment. The price for such goods shall be CEB's ruling price at the date of prepayment. Should the customer not take delivery of the goods within the time hereinbefore specified CEB may, at its option, either refund the amount prepaid or continue to hold the prepayment, in which case the price payable by the customer for the goods the subject of the prepayment shall be CEB's ruling price at the date of delivery.

Ownership

(a) Ownership of the goods contained in each delivery ("the goods") shall remain with CEB which reserves the right to dispose of the goods until payment has been received in full or until such times as the customer sells the goods by way of bona fide sale at full market value.

(b) Until payment in full for the goods has been received by CEB the customer shall hold the goods as bailee, provided however that the customer may, in the ordinary course of business use any of the goods to make up other products or sell any of the goods to make up other products or sell any of the goods on condition that should CEB so require the customer will assign CEB rights in respect of the sale price thereof.

(c) The customer acknowledges that until payment in full for the goods has been received by CEB, the customer is under an obligation to account to CEB for the proceeds of the sale of the goods in the normal course of business.

Buyer Instructions

(a) Where any particulars of instructions are to be supplied by the customer before CEB can proceed with or complete this sale such particulars or instructions shall be supplied within a reasonable time to enable CEB to deliver the goods within a specified time. Failure by the customer to supply such particulars or instructions within a reasonable time shall constitute a breach by the customer of this sale.

(b) Where the customer requests CEB to manufacture goods to the customer's design or specification, CEB provides no warranty as to the suitability or fitness of purpose of such design or specification and further the customer warrants that its design and specification is fit for the purpose for which the customer requires the goods.

(c) The customer warrants to CEB that the customer has the necessary patent, trademark, copyright or other intellectual property rights for the manufacture of the goods. The customer shall indemnify CEB in relation to any claim made by any person for breach of patent, trade mark copyright or other intellectual property right which CEB may inadvertently make in the manufacture of the customers goods

Delivery

(a) Any date quoted for delivery is an estimate only unless a guarantee shall have been given by CEB in writing providing for liquidated damages for failure to deliver by the date CEB shall not be liable to the customer for any loss or damage howsoever arising for failure to deliver on or before the quoted date.

The customer shall accept and pay for goods if and when tendered notwithstanding any failure by CEB to deliver by the quoted date.

(b) CEB reserves the right to deliver by installments. If delivery is made by installments the customer shall not be entitled:

(i) to terminate or cancel the contract, or

(ii) to any loss or damage howsoever arising for failure by CEB to deliver any installments on or before the quoted date.

Claims

(a) CEB shall not recognize any claim unless such claim is made in writing and is received by CEB within seven (7) days after delivery of the goods.

(b) The purchase by the customer of goods manufactured to the customer approved specifications is done at the customer's risk. CEB will not accept claims by the customer in respect of such goods after completion of such sale.

Cancellation

Any order may only be cancelled by mutual agreement and in the event of such cancellation the customer undertakes to reimburse and indemnify CEB for any costs, expenses or charges incurred by CEB in preparation for and in the execution of an order which without limiting the generality thereof, plus twenty percent (20%).

Waiver

Failure by CEB to insist upon strict performance of any term or condition hereof shall not be deemed a waiver thereof or of any rights CEB may have and shall not, and nor shall any express waiver, be deemed to be a waiver of any subsequent breach of any term or condition.

Insurance

Goods are not insured by us unless a specific request to do so is made in writing. Charges will be debited to the customer's account where a request for insurance is made.

Risk

Unless otherwise agreed in writing all goods shall be at the customer's risk upon departure of the goods from CEB premises.

Force Majeure

If we are prevented from giving delivery of any goods under this contract due to any circumstances caused by War, Act of God, Strike, Fire, Storm, Tempest, Breakdown, Shortage of Raw Material, Scarcity of Labour, Government Actions, Riots, Civil Commotions, Stoppage of Machinery or from any causes or other circumstances beyond our control, the balance of the goods not delivered may, at our option, be cancelled without claim by the customer upon us giving written notice of this event or circumstances.

Guarantee/Warranty

(a) Except when the customer is a consumer for the purposes of the Trade Practices Act, 1974 and the conditions, warranties and rights implied by the Statute cannot be excluded, and subject always thereto, representations, promises, statements, warranties and conditions (whether (subject to the aforesaid) statutory express or implied) regarding any goods or services supplied by or on behalf of CEB are expressly excluded. CEB shall not be liable for any loss or damage whatsoever and howsoever arising whether direct, indirect or consequential or in respect of any claim whenever and however made for any loss, damage, deterioration, deficiency or other fault or ham in the goods manufactured, work executed or services provided by or on behalf of or in any arrangement with CEB or occasioned to the customer or any third party or to his or their property or interest and whether or not due to the negligence of CEB its servants or agents.

(b) As soon as any of the facts or matters which form any part of the claim or complaint whatsoever become known to the customer, the customer shall within seven (7) days notify CEB in writing of the same.

(c) CEB's liability shall be limited in all circumstances to the repair or replacement or monetary compensation at the option of CEB of any goods manufactured by it which are returned only upon the written authority of CEB.

(d) CEB shall not be liable in any circumstance for any:

(i) defects or damage caused in whole or in part by misuse, abuse, neglect, electrical or other overload, unsuitable lubricant, improper installation, repair or alteration (other than by CEB) or accident

(ii) any transport, installation, removal, labour or other cost;

(iii) goods not manufactured by CEB but will endeavour to pass on to the customer the benefit of any claim made by CEB and accepted by the manufacturer of such goods under a warranty given by the manufacturer; provided that nothing contained in this sub-paragraph shall limit the rights of the customer to proceed against CEB pursuant to the Trade Practices Act 1974;

(iv) technical advice or assistance given or rendered by CEB to the customer whether or not in connection with the manufacture of supply of goods for or to the customer provided always that CEB has rendered such services with due care and skill and that any materials supplied in connection with those services are reasonably fit for the purpose for which they are supplied.