
Terms & Conditions of Sale – Parts & Equipment Sales

1. The quote and agreement

- 1.1. These terms and the attached quote form the entire quote (the quote).
- 1.2. The quote is an offer by AFC to supply the goods described in the quote on the terms stated here.
- 1.3. AFC's offer (including the quote and these terms) are accepted by and binding on the buyer by the buyer's conduct of:
 - 1.3.1. providing any document including a purchase order or any written communication from the buyer or the buyer's agent expressly or implicitly accepting the quote;
 - 1.3.2. any payment of money from the buyer to AFC in connection with the quoted price;
 - 1.3.3. any other conduct consistent with the buyer's acceptance of the quote.
- 1.4. On acceptance of the quote in accordance with clause 3 above, the parties have entered into a contract on the terms set out in the quote including these terms.
- 1.5. That contract shall not be varied unless permitted by these terms.
- 1.6. Any document, purchase order or other written communication purporting to include any terms not contained in the quote are not a variation and not binding on the parties.
- 1.7. These terms prevail and take precedence over any other document, discussion or representation between the parties concerning the quote or the supply of the goods described in the quote.
- 1.8. The quote is valid for the period specified on the quote, and if not specified then 30 days only.
- 1.9. The goods described in the quote are being supplied to AFC by another entity (the supplier). In providing the quote to the buyer, AFC has relied upon representations:
 - 1.9.1. given to it by the supplier including representations as to price;
 - 1.9.2. from its bank as to foreign currency exchange rates applicable at that time.
- 1.10. If at any time before the buyer receives and or pays AFC for the goods, the price invoiced by the supplier to AFC increases or there is a change in foreign currency exchange rate such that the price when converted to Australian dollars (AUD) is less than at the time of the quote, then AFC may issue a new quote to the buyer for the increased price and that new quote shall apply and bind the parties as a variation of any contract formed between the parties. In the event that AFC has already issued the buyer with an invoice, then AFC shall deliver to the buyer an amended invoice with the higher price and that invoice shall be paid by the buyer.
- 1.11. No other variation shall be permitted unless in writing and signed by the parties.
- 1.12. The quoted price does not include packing (other than standard commercial packaging of the goods) carriage, transport, storage or agistment pending transport, insurance of the goods, customs, taxes quarantine treatment or other costs or other costs inherent in the carriage of goods from one country to another and such matters and costs are to be the sole responsibility and cost to be paid by the buyer in addition to the quoted price. Further the buyer agrees to indemnify and pay any such costs incurred by or imposed on AFC.
- 1.13. Any representation made by AFC on the quote as to time including but not limited to lead or delivery times is an estimate only and not binding on AFC and if such time cannot be adhered to or performed then AFC is not liable for and the buyer releases and indemnifies AFC from any liability, claim, loss or damage made by or to the buyer caused by any delay or change in time.

2. Payment of the deposit

- 2.1. The buyer must pay a deposit of 50% of the quoted price including any revised quote as per clause 9 above within 7 days of acceptance of the offer in accordance with clause 3 above (the deposit).
- 2.2. The deposit is non-refundable and shall be retained by AFC as a genuine estimate of its loss should the buyer not proceed with its purchase of the goods any reason.

3. Payments

- 3.1. Prior to making the goods available to the buyer, AFC shall provide the buyer with an invoice showing the price, an amount for Australian GST as required by law and account to the buyer for any deposit paid by the buyer showing the balance of price to be paid.
- 3.2. The balance of the price on the invoice including any revised invoice by reason of the above terms must be paid by the buyer prior to AFC making the goods available for the buyer or the buyer's agent's / carrier/ freight agent's collection.
- 3.3. All payments by the buyer are to be made into the bank account nominated by AFC on the quote and made in the currency nominated on the quote or in writing at any time inclusive of any transaction fees associated with the making and receiving of such payments.

4. Cancellation of order

- 4.1. The buyer may cancel the order but only with AFC's written consent.
- 4.2. The buyer may not cancel the order after payment of the deposit. After payment of the deposit, the buyer is obliged to pay the full price.

5. Collection of goods

- 5.1. On AFC being advised by the supplier that the goods are ready for collection, AFC shall advise the buyer that the goods are ready for collection and provide an address for that collection. From that time the sole risk in the goods passes to the buyer.
- 5.2. The buyer shall thereafter make all such arrangements for the prompt collection of the goods.
- 5.3. AFC is not responsible nor liable for the conduct of the collection agent authorised by the buyer and that agent remains the sole agent of the buyer. The buyer releases and indemnifies AFC for all and any loss or damage to the goods, the premises in which the goods are located and or any person or property caused by that agent.

6. Outstanding previous monies

- 6.1. AFC shall not be obliged to perform the agreement nor provide any goods to the buyer where the buyer has not first paid:
 - 6.1.1. the deposit to AFC;
 - 6.1.2. any monies due by the agreement and these terms;
 - 6.1.3. any previous sums of money owing by the buyer to AFC.

7. The Goods

- 7.1. The goods are generally and may not be precisely described in the quote. The buyer acknowledges that no right nor remedy arises because of any lack or defect of description in the quote.
- 7.2. The buyer warrants that:
 - 7.2.1. by its own independent enquiry and cost it has and or will satisfy itself that:
 - 7.2.2. the goods described in the quote are the goods required by the buyer;
 - 7.2.3. the buyer intended to order the goods;
 - 7.2.4. the goods described in the quote and provided for collection are suitable for the buyer's purpose;
 - 7.2.5. the goods are in an acceptable condition and appearance without damage or defect and or alternatively any damage or defect is accepted by the buyer without responsibility or liability to AFC;
- 7.3. it will make available suitable and sufficient resources and time to inspect and determine the condition, nature and quantity of the goods;
- 7.4. by acceptance of the goods at collection, the buyer:
 - 7.4.1. is fully and completely satisfied with the goods;
 - 7.4.2. will not make any claim and releases AFC from any claim it may have at any time in connection with the condition, nature and or quantity of the goods.
- 7.5. they have not received from AFC any prior representation as to the nature, description or suitability of the goods alternatively if they have received such representation then they have not relied upon it by accepting the quote and entering into any agreement with AFC;
- 7.6. if there is any variance between the description of the goods or the goods themselves when received by the buyer, then the buyer releases and indemnifies AFC from any inconvenience, loss, damage including consequential loss, cost or expense suffered or incurred or to be suffered to incurred by the buyer thereby;
- 7.7. risk in the goods passes to the buyer on receipt of the goods by the buyer or the buyer's agent including the buyer's carrier, freight agent or shipper;
- 7.8. title does not pass to the buyer until such time as the full price has been paid by the buyer in clear funds to AFC and all of these terms are fulfilled;
- 7.9. AFC has a security interest in the goods which AFC may register with PPSA until such time as all of these terms and fulfilled;
- 7.10. the buyer releases and indemnifies AFC from any loss or damage including consequential loss, cost or expense suffered by the buyer or any third party no matter where or how arising from the transport, supply and use of the goods by the buyer or its agent;
- 7.11. the buyer holds all relevant licences and permits required by any country and or lawful authority in connection with the goods, their possession, transport or use and shall not resell the goods without first obtaining the supplier's written consent;
- 7.12. AFC is not obliged nor responsible for the care and or protection of the goods and any and all care and protection or storage of the goods shall be provided by the buyer at the buyer's sole cost, however AFC

may in its sole discretion do so to the extent it deems reasonable and necessary in the event of such failure to do so by the buyer in which case the buyer shall indemnify and pay AFC for all such costs and expenses paid or incurred by AFC in full without retention;

7.13. but for the above warranties and these terms, AFC would not have entered into any agreement with the buyer.

8. Delivery

- 8.1. All delivery and freight costs are the sole liability of the buyer.
- 8.2. AFC is not responsible or liable for any loss or damage to the goods suffered in the delivery of the goods.
- 8.3. No costs of delivery form part of the quoted price.
- 8.4. Delivery shall be as described on the quote.

9. Insurance

- 9.1. On the date of acceptance of the quote as described in paragraph 3 above the buyer must take out and maintain appropriate insurance in the buyer's own and AFC's name as a co-insured:
 - 9.1.1. on and in respect of the goods and their freight or delivery for an amount no less than the value of the goods and all freight and other charges applicable to the goods;
 - 9.1.2. in respect of public liability as well as damage to third party property and or person and shall provide a copy of such insurances to AFC.

10. Force Majeure

- 10.1. If AFC is unable to provide the goods described in the quote for any reason or at any time prescribed by the quote, then the buyer acknowledges and agrees that:
 - 10.1.1. AFC has no liability to the buyer for any loss or damage suffered by the buyer including consequential loss or damage and
 - 10.1.2. the buyer releases AFC from any liability, loss, cost or damage suffered, incurred or to be suffered or incurred by the buyer by reason of the failure to supply the goods at any time or at all.

11. Governing Law

- 11.1. The laws of Queensland and Australia shall apply to this quote and any agreement formed by the buyer's acceptance.

12. Jurisdiction

- 12.1. AFC and the buyer shall submit to the courts of Queensland and Australia in connection with any action, claim or matter concerning the quote and any agreement formed thereby and the goods described in the quote.

13. Dispute Resolution

- 13.1. Any dispute concerning the quote and any agreement formed thereby, the goods described in the quote and any other matter between AFC and the buyer shall be referred to arbitration which shall be conducted in accordance with the Commercial Arbitration Act 2013 (Qld) and held in the city of the registered office of AFC at a time, date and place agreed between AFC and the buyer and failing such agreement to be determined by the arbitrator.
- 13.2. Notwithstanding the above term, the buyer shall not be entitled to refer any matter to arbitration until or unless the buyer has first paid the quoted price to AFC and advanced to AFC 50% of the arbitration costs.
- 13.3. Any determination of the arbitrator shall be final and binding on the parties.
- 13.4. The buyer shall pay the costs of arbitration.

14. Errors and Omissions

- 14.1. AFC shall not be responsible nor liable to the buyer and the buyer releases and indemnifies AFC and AFC's agents or principals for any matter, loss, damage or expense suffered by the buyer or the buyer's agent for any error or omission of AFC's supplier.

15. Breach

- 15.1. In the event of any breach of these terms by the buyer:
 - 15.1.1. AFC may treat such breach as a fundamental breach of any agreement with the buyer;
 - 15.1.2. AFC may immediately terminate any agreement with the buyer in addition to any rights held by AFC in law;

15.1.3. the buyer shall be liable to and pay AFC for any loss, damage, cost or expense incurred or suffered by AFC including its legal costs (on the indemnity basis).

16. Warranties

16.1. The buyer has conducted its own independent enquiry of the existence or not of a warranty by the manufacturer of the goods and the terms of that warranty (if any) and accepts those terms.

16.2. The manufacturer's warranty of the goods shall apply and be the only warranty to apply to the goods.

17. Time

17.1. Time is of the essence.

18. Manufacturer's terms

18.1. The buyer warrants that it has obtained, read and understood the suppliers and manufacturer's terms and agrees to abide and be bound by them.

19. Confidentiality

19.1. All documents and information passing between or coming into the buyer's possession or control by reason this quote, any agreement between the parties and or purchase including information and documents concerning AFC, the manufacturer or the goods not already in the public domain is the private and confidential property of AFC and the buyer shall not use, copy, publish, sell or provide that confidential property without AFC's prior written consent.

20. Taxes and duties

20.1. The buyer shall be solely responsible for and must pay any tax, duty or exercise associated with or arising by reason of the quote, any agreement between the parties and the goods irrespective where or when such tax, duty or exercise arises.

20.2. The buyer must pay Australian GST assessed on the price to AFC.

21. Quarantine and quarantine treatment

21.1. The buyer is solely responsible for an must pay for the cost of any customs, biosecurity or quarantine inspection required or requested by any lawful authority in respect of the goods.

22. Compliance with local and or foreign laws

22.1. The buyer must comply with all local and foreign laws applicable to the quote, any agreement between the parties and the goods and shall be solely responsible and pay for the costs of that compliance.

23. Agency

23.1. AFC is not an agent of the buyer and the buyer is not the agent of AFC.

23.2. Any person or entity to transport or store the goods is solely the agent of the buyer.

24. Retention

24.1. The buyer shall pay AFC all monies described by any quote or invoice submitted by AFC to the buyer without exception or retention.

25. Interest on late payments

25.1. The buyer shall pay AFC interest on any late payment calculated at the rate of 2% per month or part thereof.

26. Foreign currencies

26.1. AFC shall in its sole discretion determine the currency of the quoted and invoiced price.

26.2. In the event that between the date of any quote or invoice and the date on which AFC receive payment from the buyer, the currency exchange rate as between that described in the quote or invoice (CUR) and Australian dollars (AUD) as then advertised By CommBank Australia on its website and or available to AFC by CommBank Australia for the exchange of such currency from CUR to AUD changes such that the new conversion is less favourable to AFC, then:

26.2.1. AFC is entitled to deliver to the buyer and if delivered the buyer shall pay a further invoice for any increase (but not decrease) in price by reason of the change in conversation rates;

26.2.2. The buyer shall pay this further invoice within 21 days.

27. Good faith

27.1. The buyer shall at all times act honestly and in good faith to AFC.

28. Works by AFC

28.1. Where the quote and any agreement between the parties requires AFC to provide labour and or to perform any works or services (other than the supply of goods) then:

28.1.1. Form AFC108 "Terms & Conditions of Sale – Service Sales" applies to those services.

28.1.2. Any price shown in a quote is an estimate only and the quote is not a fixed price but is to be calculated by AFC using its current and applicable rates.

28.1.3. Some tests to be performed by AFC may cause damage to or destruction of some components or parts which is a risk solely carried by the buyer and the buyer releases and indemnifies AFC for all and any damage, loss or expense incurred by the AFC from such damage or destruction including consequential loss;

28.1.4. AFC warrants those works for a maximum period of 12 months provided that no other person or entity has conducted work on or interfered with the work or services.

29. Notices

All communications between the parties shall be in writing and delivered to the address and or email described on the quote and shall be deemed delivered one (1) business day after transmission.

