

Trading Terms & Conditions

These are the terms and conditions of sale of goods and materials supplied by CTS Fabrication (Aust) Pty Ltd or any of its related bodies corporate as defined in the Corporations Act 2001 (CTS) to any person, firm or company placing an order with the Company (Customer).

1. ORDERS

(a) Orders are subject to approval and acceptance by CTS. Subject to law, CTS may in its absolute discretion, refuse to supply goods to the Customer without giving any reason for its decision. The Customer acknowledges that CTS is not able to guarantee supply or repeat orders of the same design, quality or price.

(b) The Customer in selecting goods for use in any order agrees, undertakes and acknowledges that it will not rely on CTS's skill or judgement or on that of any person by whom negotiations are conducted. CTS will not accept any returns or claims if the Customer determines that the goods or any component of the goods are not suitable for their intended purpose.

(c) Any changes to an order must be made in writing.

2. DELIVERY

(a) The Customer is responsible for the cost of delivery of goods and the Customer must pay the delivery charges stipulated by CTS from time to time. CTS may, in its absolute discretion, determine the method of transport.

(b) CTS will endeavour to deliver the goods on the date agreed by the two parties and will use its reasonable endeavours to notify the Customer of any likely delays in advance, but under no circumstances will CTS be liable in any way whatsoever for any loss, damage or expense suffered or incurred by the Customer arising out of or in connection with the non-availability, delay in delivery, non-delivery, or non-supply of the goods.

(c) Without limiting the previous clause, CTS will not be liable for any delays in delivery due to causes beyond its reasonable control (including but not limited to the direct or indirect result of acts of God, acts of public enemy, war, riot, accidents, fires, explosions, earthquakes, floods and elements, strikes, labour or labour disputes, shortages of suitable products or materials, labour or transportation).

(d) CTS reserves the right to cancel a Customer's order where for any reason CTS is out of stock, without liability. In these circumstances the customer will be notified by CTS.

(e) Any measures requested by the Customer to protect the goods in storage or transit shall be at the Customer's expense.

3. PAYMENT

(a) Payment in full must be made by the Customer for all goods supplied to the Customer within 30 days after the end of the month in which the goods are invoiced.

(b) If the Customer fails to pay for goods supplied by the due date CTS may recover from the Customer the price of those goods as a liquidated sum.

(c) No negotiable instrument accepted or negotiated by CTS will be deemed payment until it has been honoured. The Customer must reimburse CTS for any charges made by CTS's bank for any negotiable instrument not met on presentation.

(d) CTS may allocate a credit limit to the Customer's account at any time. This limit will be advised in writing to the Customer and may be reduced by CTS at any time. Any credit provided in excess of the credit limit shall be repayable on demand.

Trading Terms & Conditions

(e) CTS, at its discretion, may suspend supplies of goods to Customers who are in default or have failed to make payment in accordance with clause 3(a) until full payment of all amounts due have been received.

(f) CTS may claim from the Customer all costs, expenses and charges incurred relating to any action taken by CTS to recover goods or monies due from the Customer, including but not limited to, any collection agent costs or legal costs.

4. CANCELLATIONS AND RETURNS

(a) Orders cancelled by the Customer will only be accepted with the prior written approval of CTS. CTS may invoice the Customer for any costs incurred by CTS in relation to the order and its cancellation, including the cost of any materials, labour or transport.

(b) CTS, in its absolute discretion, may accept returned goods from the Customer. Goods returned will be subject to a re-stocking charge equivalent to 25 % of the invoiced value of the returned goods, within 7 days of order original dispatch date.

(c) Where goods have been returned as a result of a CTS error - no restocking fee will apply.

(d) Goods sold as non-standard products i.e. bought in or manufactured specially for customers will not be accepted for return.

5. NOTIFICATION OF CLAIMS

(a) All and any claims in respect of goods must be notified in writing to CTS within seven (7) days of delivery of the goods to the address specified in the Customer's order and in this respect, time will be of the essence. If no claim is received within this time, the goods supplied will be deemed to have been a merchantable and faultless quality and condition at the time of receipt.

(b) No returns will be accepted unless authorised by CTS, in its absolute discretion, in advance. Goods returned must be in "as sold" or "saleable" condition and therefore not have been used.

6. LIMITATION OF LIABILITY

(a) Except as expressly provided to the contrary in these terms and to the maximum extent permitted by law, all terms, conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise, relating in any way to the supply of the goods under these terms are excluded.

(b) Without limiting the generality of the preceding, CTS will not be under any liability to the Customer in respect of any:

(i) consequential loss or damage; or (ii) loss of profits, however, caused.

(c) To the extent that the warranties implied under the Competition and Consumer Act 2010 (Cth) apply to supplying the goods, CTS's liability for loss arising as a result is limited, to the maximum extent permitted by law, at CTS's option to either the value of the goods in the particular order or the obligation

Trading Terms & Conditions

7. RISK AND RETENTION TITLE

- (a) The risk of damage to or loss of goods supplied by CTS passes on delivery to the Customer.
- (b) Title to goods supplied shall remain vested in CTS and shall not pass to the customer until the purchase price for the goods has been paid in full and received by CTS.
- (c) Until payment in full of the purchase price, the Customer must take custody of the goods and retain them as the fiduciary agent and bailee of CTS. The Customer may resell but only as a fiduciary agent of CTS.
- (d) Any right to bind CTS to any liability to any third party by contract or otherwise is expressly negated.
- (e) Any resale of the goods prior to payment of the full purchase price is to be at arms length and on market terms and pending resale or utilisation in any manufacturing process, the Customer must keep the goods separate from its own, properly stored, protected and insured.
- (f) The Customer will receive all proceeds whether tangible or intangible, direct or indirect of any dealing with goods in trust for CTS and will keep such proceeds in a separate account until payment in full of the purchase price has been discharged. CTS may appropriate payments to such goods and accounts as it thinks fit notwithstanding any appropriation by the Customer to the contrary.
- (g) In the event that the Customer uses the goods in some manufacturing process of its own or some third party, then the Customer must hold such part of the proceeds of such manufacturing process as relates to the goods in trust for CTS. Such part will be deemed to equal in dollar terms the amount owing by the Customer to CTS at the time of the receipt of such proceeds.

8. WARRANTY

CTS will pass on to the Customer any warranties it receives in respect of goods supplied to the Customer.

9. TERMINATION OF ACCOUNT

CTS has the right to terminate a credit account at its discretion.

10. ENTIRE AGREEMENT

The Customer agrees to these terms of trade irrespective of anything stated on the Customer's order, or in any other subsequent document, unless CTS otherwise expressly agrees in writing with reference to this document.

11. GOVERNING LAW AND JURISDICTION

These terms of trade will be governed by and construed according to the laws in force in the State of New South Wales and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the Federal Court of Australia.