

General Conditions of Sale/ Tender

Finance Department

Unless otherwise specifically provided herein, this Quotation/Tender is submitted under the following conditions: Hereinafter "Company" means Bosch Rexroth Pty Ltd and "Customer" means the party to whom the quotation is addressed. "Goods" shall refer to the subject matter in the quotation.

1. GENERAL:

The terms and conditions contained herein on acceptance of the Customer's order in writing comprise the whole Agreement between the Company and the Customer and these terms and conditions supersede and exclude all negotiations and representations relating to the order. No other terms and conditions, including any attached or written on any purchase order whether received before or after acceptance of the Customer's order shall be included or implied into the contract, and these terms and conditions shall only be varied in writing by the Company and the Customer. Nothing hereby shall be deemed an attempt to exclude conditions implied by law which cannot be excluded by Agreement.

2. QUOTATION AND ACCEPTANCE OF ORDERS:

(a) Prices quoted herein will remain valid for 30 days from date of quotation, after which the Company may withdraw or vary the quotation.

(b) Orders based on quotations are subject to acceptance by the Company in writing.

3. DELIVERY AND COMPLETION:

Delivery shall be taken ex works and risk shall pass on delivery. The time given for delivery, despatch or completion of the Goods is to date from written acceptance by the Company of a written order from the Customer, or from sending of written notification by the Company to the Customer of settlement of preliminary engineering technical details, whichever is the later. The Company shall not be liable for failure to deliver or for delay in delivery occasioned by any cause whatsoever beyond the Company's control. The Company reserves the right to vary delivery, despatch or completion on such dates as necessary, where delays beyond the Company's control occur in completion of orders, and the Customer agrees to accept delivery, despatch or completion on such dates as varied.

4. PAYMENT:

Payment, including progress payment, shall be made in Australian currency nett cash within 30 days of the date of invoice, unless otherwise stated in quotation. Cheques tendered shall not constitute payment until cleared. The Company may submit monthly progress claims based on the contract value of design materials and work performed in respect of any contract from month to month, up to a total of 90% of such value.

Invoicing of the balance of 10% shall be made following delivery to site. If partial delivery is made, proportionate payment, as determined by the Company, may be invoiced.

5. CANCELLATION FEES:

If, at any time, the Customer purports to terminate and/or repudiate or cancel the contract entered into with the Company, then, and without prejudice to any other rights or remedies which the Company may have, the Company shall be entitled to recover from the Customer such proportion of the contract price as shall be equivalent to the proportion of labour, skill and materials used by the Company in its performance of the contract to the total of such labour, skill and material required to complete the contract. A written statement by the Secretary or other authorised officer of the Company stating the proportion of the contract price to be paid under this provision shall be conclusive evidence of the amount payable by the Customer.

6. PRICE:

(a) The quotation has been calculated on the basis of the cost of labour and material effective as at the base date appearing in the attached Schedule.

(b) The Customer acknowledges that some or all of the Goods or materials may be imported by the Company. The price is inclusive of the import duty (if any), as at the date of the quotation, unless the Customer is exempted from paying duty. The price is, however, subject to an increase equal to any future duty or other charge that the Company may be required to collect or pay on imported Goods or materials on or prior to the payment for the Goods or materials by the Customer. In the event that the prevailing exchange rate (as determined by the rates issued or used by the Commonwealth Trading Bank for a spot transaction between Australia and the country where the Company has imported the Goods or materials) fluctuates in excess of 1 per cent from the time of the base date appearing in the attached schedule to the date of the invoice, the Company reserves the right, at its sole discretion, to adjust the prices of the Goods or materials and the Customer agrees to promptly remit to the Company the amount of any such adjustments.

(c) The price does not include GST, which, if payable, shall be to the Customer's account.

(d) The contract price is subject to Rise and Fall variation. Calculation for Rise and Fall variation shall be in accordance with the formula set out in the Schedule attached to these Conditions of Sale.

7. RETURN OF GOODS

No returns will be accepted for credit unless goods are defective or supplied in error by Bosch Rexroth. Goods are not otherwise returnable except by negotiation before return and after acceptance of our handling charge, which is 15%. We will not accept freight charges for returned goods and are not responsible for loss or damage in transit. No claim will be recognised after 10 days. Property in goods shall not pass until payment in full has been effected.

8. INTEREST:

Interest may be charged on Overdue Accounts at the Company's current bank overdraft rate prevailing from time to time and shall be payable on demand.

9. WARRANTY:

(a) Unless otherwise specified in writing, the Goods which are the subject of this quotation, are warranted to the original purchaser to be free of defect in design, material and workmanship for six months from the date of invoice and in fulfillment of any breach of such warranty the Company's sole obligation shall be to replace such parts which, upon examination by it, are disclosed to have been defective. Replacement shall be free ex works.

(b) Except to the extent to which any Commonwealth State or Territorial law applies to this contract and implies conditions or warranties which cannot be excluded, these Conditions supersede and exclude all other conditions and warranties, whether expressed or implied by law and all prior agreements and representations.

(c) The liability of the Company for breach of term or condition implied by the Trade Practices Act 1974 as amended (other than by Section 69 of the Act) shall be limited at the Company's option to:-

- (i) Replacement of Goods or supply of equivalent Goods
- (ii) Repair of the Goods
- (iii) Payment of cost of having Goods repaired or where any such breach may relate to services to:-
 - (i) The supply of those services
 - (ii) Payment of cost of having services supplied again.

10. DAMAGE:

The Company shall not be responsible for the performance of the Goods under conditions which are different to those under which they are normally tested nor for damage thereto caused by abnormal use, temperatures, or storage. The Company shall be entitled to make any change it sees fit in design or construction of or material used in the Goods. Any literature, drawings or documentation produced by the Company in connection with the Goods or this contract are for product description purposes only and must not be interpreted as warranted characteristics in a legal sense and any variation there from shall give the Customer no cause for complaint.

11. TOLERANCES:

Unless expressly agreed to the contrary, the Company will manufacture in accordance with accepted tolerance standards.

12. TESTS:

If tests are requested by the Customer to determine the performance of Goods covered in the Company's quotation form, the test procedure to be used must be acceptable to the Company, and the Customer agrees to reimburse the Company for the cost of any tests, other than those normally required.

13. STANDARDS:

Any modifications subsequent to date of quotation required to be made to the Goods or associated materials to meet any specific legislation (including regulation and by-laws) shall be at the cost of the Customer.

14. SPECIAL TOOLING:

Special tooling created by the Company as a result of this quotation remains the property of the Company.

15. CUSTOMER'S PATTERNS/GOODS:

No responsibility is accepted by the Company for loss or damage to Customer's patterns and/or other Goods left in the Company's possession or in transit to or from its premises, such patterns and/or other Goods being the absolute property of the Customer.

16. PATENT INFRINGEMENT:

In all cases where the Company's quotation is based on the specification, design or description of the Customer, the Customer shall indemnify the Company against all claims at any time for patent rights, royalties, damage, costs, expenses and other losses due to the infringement of patents or other rights by reason of the manufacture, and the Company shall not be liable to defend any action or suit arising out of such infringement or alleged infringement.

17. COMMISSIONING:

If it is the Customer's responsibility to have the Goods installed and/or all auxiliary services operative prior to requesting commissioning, and if the Company's commissioning representative upon arrival on site finds that the Goods are not ready for commissioning, any extra cost incurred may be charged to the Customer's account.

18. ACCESS:

It is the Customer's responsibility to provide adequate access for delivery and installation of Goods covered by this quotation.

19. TITLE IN GOODS:

(a) Any goods delivered by the Company to the Customer remain the sole and absolute property of the Company as legal and equitable owner until all monies due by the Customer to the Company on any invoice of supply of goods and/or services by the Company, has been paid.

(b) The goods will be at the Customer's risk from the time of delivery to it by the Company.

(c) The Customer acknowledges that it is in possession of the goods upon receipt as bailee for the Company until the time they are delivered to a purchaser and until delivery to a purchaser, the Customer agrees to store the goods supplied by the Company on its premises separately from its own goods or those of any other entity and in a manner which makes them readily identifiable as the Company's goods.

(d) The Customer's right to possession of these goods will cease if it does, or fails to do, anything which would entitle a Receiver or Administrator to take possession of any of the Customer's assets or which would entitle to file an application for the winding up of the Customer at which time the Company may elect to recover the goods from the Customer.

(e) The Company may for the purpose of examination or recovery of its goods, enter upon any premises where they are stored or where they are reasonably thought to be stored, with the full consent of the Customer.

(f) The entire proceeds of the goods will be held in trust for and accounted to the Company by the customer and must not be mingled with any other money paid into any bank account and must at all times be identifiable as the Company's money, until all money due to the Company by the Customer has been paid in full, and the company has a security interest in the proceeds.

20. EXPORT CONTROL:

Deliveries and services (fulfillment of contract) will only be executed under the proviso that their fulfillment complies with national or international export control regulations and does not violate any embargoes or other sanctions. The buyer commits himself to supply all necessary information and documents necessary for the export or transfer to other EU member states. Delays due to export control assessments or export control licensing procedures invalidate terms and dates of delivery. When licenses are not granted, or the delivery and service is not licensable, this contract becomes void in respect of the affected parts. The buyer must in case of re-export of the items (hardware and/or software and/or technology and/or corresponding documents, irrespective of the mode of supply) supplied by Bosch or services provided by Bosch and its plants (including any sort of technical assistance) to third parties at home and abroad comply with all applicable national and international regulations of (re-) export control law.

21. LAWS APPLICABLE:

Any contract based hereon shall be deemed to have been entered in the State entered in the attached Schedule, and any legal action arising out of or in respect to such contract may only be brought in the Court of such State and the law of such State shall apply to the interpretation of any contract based hereon, and the Customer shall submit to the jurisdiction of the Courts of that State and any appellate Court there from