

W & P Reedy Pty Ltd.
Service and Suppliers of Pastry Cooks and Bakers Equipment
TERMS AND CONDITIONS OF QUOTATION AND SALE
A.C.N. 002 383 860



EST 1935

1. Every quotation is an estimate only and is subject to withdrawal, correction or alteration at any time prior to the seller's acceptance of the buyer's order.
- 2.1. Orders are accepted on the basis that the seller reserves the right to vary the prices payable by the buyer to accord with those ruling at the date of dispatch, except where prior negotiations allows an order on an alternative basis. In the event that any order or other document forwarded by the buyer to the seller contains anything inconsistent with these conditions such order or other document, if accepted, is accepted only under the express understanding that these conditions are to prevail in all cases.
- 2.2. On acceptance of the buyer's order, any deposit paid by the buyer to the seller shall not be refunded without prejudice however to the seller's right to damages on the purchaser's failure to perform a contract between the parties.
- 3.1. Prices are subject to buyer's order being for whole quantity mentioned in the quotation unless otherwise negotiated.
- 3.2. Where goods are imported, prices are based on existing rates of freight, exchange, insurance, customs and other duties. Any variation either way in such rates between time of quotation and time of payment will be to buyer's account.
4. Whilst every endeavour will be made to effect delivery by the date given, the seller shall not be liable to penalties or damages (either direct or indirect) for failure to deliver within the time stated due to strikes, accidents, wars and other causes beyond the seller's control.
- 5.1. Property and title in the goods shall not pass until the seller has received payment in full although risk in the goods passes on delivery. For the purposes of this clause, delivery shall mean the date and time the goods leave the premises of the seller even though delivery may be by the seller.
- 5.2. Where the goods have been delivered to the buyer but the seller has not been paid then until payment is received the buyer agrees to keep the goods as a fiduciary for the seller, to store or otherwise identify the goods in a manner that clearly shows the ownership of the seller and if required to deliver the goods to the seller.
- 5.3. Until full payment is made, the buyer cannot sell the goods other than in the ordinary course of its business, and if it does sell the goods, the buyer sells as agent for the seller and the proceeds of sale of the goods will be held by the buyer on trust for the seller absolutely.
- 5.4. Whilst the property and title in the goods remains with the seller, the seller has the right to, without prior notice, enter upon any premises of the buyer (or receiver, administrator, liquidator or trustee of the buyer) to repossess the goods, and deal with the goods without restrictions, if payment is overdue. Such entry will not give rise to any action or trespass.
- 6.1. All goods supplied are covered by such warranty as is specified by the manufacturer and supplied subject to the product standards detailed by the manufacturer.
- 6.2. Subject to the provisions of the Trade Practices Act, 1974 the buyer expressly acknowledges and agrees that the seller is not liable for any advice given by its agents or employees in relation to the suitability for any purpose of goods or materials supplied by the seller and all such advice relied upon is at the buyer's risk.
- 7.1. The buyer's attention is drawn to Section 68A of the Trade Practices Act, 1974 ("the Act") which has the effect of enabling suppliers in respect of contracts for the supply of goods or services not being goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption to limit their liability in certain circumstances for breach of certain of the conditions and warranties implied by the Act.
- 7.2. Subject to qualification contained in Section 68A of the Act should the seller be liable for breach of condition or warranty implied by Division 2 of Part V of the Act (not being a condition or warranty implied by Section 69 of the Act) the seller's liability for such breach shall be limited to:
 - a) in the case of goods, any one of the following as determined by the seller: (i) the replacement of the goods or the supply of equivalent goods; or (ii) the repair of goods; or (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or (iv) the payment of the cost of having the goods repaired.
 - b) In the case of services, one of the following as determined by the seller: (i) the supplying of the services again; or (iv) the payment of the cost of having the services supplied again.
- 7.3. To the full extent permitted by the law, but subject always to the above terms, all conditions, warranties and representations not expressly contained herein and hereby expressly negated and excluded.

Where a warranty is granted:

 - a) The warranty will not cover the following: lamps, globes, any type of glass or plastic, and any type of belts, fuses, filters, seals, o-rings, knives, blades, springs, steam jets, paints and no warranty on second hand refrigeration compressors or part thereof.
 - b) The replacement of items not covered under warranty will be charged at current rates.
 - c) Service calls to rectify defects covered by warranty shall only be made during the hours 9a.m. to 5p.m. Monday to Friday, excluding public holidays.
8. The buyer will be responsible for immediate examination of the goods after arrival at place of delivery and the seller shall, except as may otherwise be mandatory by Law, not be liable for an claim to which it would otherwise be liable in respect of damaged goods including goods damaged in course of transit and the buyer shall not be deemed to have accepted the goods are of the description quality and quantity ordered unless particulars of claims are notified to the seller in writing within three (3) working days after arrival of goods at the place of delivery.
- 9.1. The seller will not accept return of any goods unless such return is authorised by the seller.
- 9.2. On the return of any goods, the seller is entitled to charge the buyer an amount being equal to 25% (twenty five per cent) of the price of the subject goods.
10. G.S.T. is not included in prices quoted unless so stated but will be charged to buyer's account when applicable.
- 11.1. The seller is entitled to change interest on overdue accounts at the rate of 2% (two percent) per calendar month calculated from the date of invoice.
- 11.2. If a buyer pays any goods by cheque which is not met on presentation, then the seller is entitled to charge the buyer an administration fee of \$50.00 each time the cheque is not met.
12. Subject to 7.2 above, the sellers liability for any breach of contract or for any negligent act or omission is limited to the cost of replacement of the goods or supply of equivalent goods and shall not extend to consequential loss, loss of any profits or any liability for damage to property or death of or injury to persons howsoever caused.
13. If the buyer fails to make any payment to the seller by the due date, the seller may without notice withhold delivery of any further goods to the buyer until payment of all money's due to the seller by the buyer on any account has been made in full and the seller may furthermore, at its discretion, treat the buyer as having repudiated any or all subsisting contracts between the seller and buyer.
14. Where goods are manufactured to the buyer's specification, the buyer indemnifies the seller against any liability to or action by a third party for infringement or alleged infringement of a patent, registered design, trademark or copyright.
15. No delivery or installation is included in the prices. Where extra is paid for delivery and installation:
 - a) Delivery is only to ground floor level, with loading facilities close by with no obstacles such as steps, multiple levels etc. and no limitations in height, width, depth or weight.
 - b) Installation only includes the equipment put into position pointed out by the buyer and/or one of his representatives and not for any connection of water, gas, electricity, drain, ducts etc. or any whatsoever type.
16. Any labour warranty on machines outside the sellers city of operations and its Metropolitan Area is subject to payment of travelling expenses from the seller's place of business.
- 17.1. Terms in clauses 17.1 – 17.6 have the same meaning as given to them in the Personal Property Securities Act ("PPSA").
- 17.2. The Seller and the Buyer acknowledge that this is a Security Agreement and gives rise to a Purchase Money Security Interest (PMSI) in favour of the Seller over the Goods supplied to the Buyer, as Grantor.
- 17.3. The Seller and Buyer acknowledge that the Seller, as Secured Party, is entitled to register its interest in the Goods Supplied or to be supplied to the Buyer, as Grantor, under this Agreement on the PPSA Register.
- 17.4. The Buyer waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a security interest granted by the Buyer to the Seller
- 17.5. The Buyer agrees to indemnify the Seller on demand for all costs and expenses, including debt collection/legal costs and expenses on a solicitor/client basis, associated with the;
 - (a) Registration, amendment or discharge of any Financing Statement
 - (b) Enforcement of any Security Interest granted to the Seller by the Buyer.
- 17.6. The Buyer agrees;
 - (a) That, to the extent permitted at law, nothing in Sections 130-143 of the PPSA will apply to these Terms and Conditions or any Security Interests granted by the Buyer to the Seller.
 - (b) To the extent permitted at law, to waive its right to do any of the following under the PPSA:
 - (i) Receive notice of removal of an Accession under Section 95
 - (ii) Receive notice of an intention to seize collateral under section 123
 - (iii) Receive notice of a disposal of collateral under Section 130
 - (iv) Receive a Statement of Account if there is no disposal under Section 130(4)
 - (v) Receive notice of retention of collateral under Section 135
 - (vi) Redeem the Collateral under Section 142
 - (vii) Reinstatement the Security Agreement under Section 143
 - (viii) Object to the purchase of the Collateral by the Secured Party under Section 129
 - (ix) Receive a Statement of Account under Section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged