

T.S. Refrigeration Ltd

TERMS AND CONDITIONS OF SALE

In these terms and conditions the following words shall have the following meaning:
'The company' shall mean T.S. Refrigeration Ltd.
'The goods' shall mean the products, articles or things offered for sale by the company;
'The buyer' shall mean the corporate entity, firm or person seeking to purchase.

1. THE CONTRACT

- 1.1 All orders are placed and accepted by the company only under these terms and conditions.
- 1.2 These terms and conditions exclude any other terms and conditions inconsistent therewith which the buyer might seek to impose even such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms and conditions inconsistent with them or may be contained in any offer acceptance or counter offer made by the buyer.
- 1.3 No variation of these terms and conditions is permitted unless expressly accepted by a director of the company in writing.
- 1.4 Quotations which comprise an invitation to treat may be withdrawn at any time before receipt of the buyer's offer to purchase and shall be deemed to be withdrawn if such is not received within thirty days from the date of quotation.

2. PRICE

- 2.1 The goods are offered for sale at current list price subject to change without prior notice. All prices are exclusive of VAT.
- 2.2 Quotations are based on prices applicable to quantities specified. In the event of orders being placed for lesser quantities the company shall be entitled to adjust the price of goods as ordered to take account of the variation in quantity.

3. PAYMENT

- 3.1 All sums become due and payable under these terms and conditions in net 7 days.
- 3.2 The company reserves the right to charge interest, at five per centum per annum above Royal Bank of Scotland Plc base rate from time to time in force on all overdue accounts, such interest being deemed to accrue on a day to day basis from the due date for payment under clause 3.1.
- 3.3 The buyer shall not be entitled to withhold payment of any amount payable to the company by reason of any dispute or claim by the buyer and in the case of any short delivery or delivery of damaged goods shall remain liable to pay the full invoice price of all other goods delivered or available for delivery.
- 3.4 The company reserves the right at any time at its discretion to demand security for payment before continuing with or delivering goods in satisfaction of any order notwithstanding any subsisting agreement to provide credit to the buyer.
- 3.5 The buyer shall reimburse to the company the entire costs of representing any cheque or other instrument delivered to it in payment of any sum due by the buyer.
- 3.6 Queries on invoices must be received in writing by the company within 21 days from the date of invoice.
- 3.7 If the buyer (being a company) has a petition presented for its winding-up or the appointment of an administrator or passes a resolution for voluntary winding-up otherwise than for the purpose of a bona fide amalgamation or reconstruction or enters a scheme of arrangement or voluntary arrangement compounds or makes any proposal to or enters into any arrangement with its creditors or has a Receiver or Manager or an Administrative Receiver appointed of all or any part of its assets or (being an individual) has a petition presented for his bankruptcy or becomes bankrupt or insolvent or enters into any arrangements with his creditors or makes or has made an application for an interim order in connection with a proposal to creditors for a voluntary arrangement or commits in either case a material or serious breach of this agreement (and in the case of such a breach being remediable fails to remedy it within 7 days of receiving notice to do so) he will be deemed to have repudiated the contract and all sums owing to the company of an account shall become due and payable forthwith without requirement for any notice to be given, and further, in either case the buyer's power of sale and use in clause 7.4 shall automatically cease.

4. DELIVERY

- 4.1 Delivery will be deemed to have been effected when the goods leave the premises of the company or as the case may be the premises of the suppliers to the company in circumstances where the goods are delivered direct from such suppliers.
- 4.2 Delivery dates are estimates only and time of delivery is not the essence of the contract. The company shall not be liable for any loss whatsoever or howsoever arising caused by its nondelivery or by the failure to make goods ready for collection on the due date.
- 4.3 The company shall not be liable for any loss whatsoever or howsoever arising caused by its nondelivery or by the failure to make goods ready for collection on the due date.
- 4.4 The company reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment.
- 4.5 When delivery is agreed to be by instalments or the company exercises its rights to delivery by instalments under clause 4.4 hereof or if there be delay in the delivery of any one or more instalments for whatever reason this will not entitle the buyer to treat the contract as repudiated or to damages.
- 4.6 The buyer shall either themselves or by their duly authorised representative sign the delivery ticket as acknowledgement of delivery provided that on delivery to the address nominated by the buyer the company shall be entitled to assume that any signature given is that of such a representative.

5. INSPECTION

- 5.1 The buyer is under a duty wherever possible to inspect the goods on delivery or on collection as the case may be.
- 5.2 The company shall be under no liability for any defects or shortages that would be apparent on careful inspection if the terms of this clause are not complied with and in any event will be under no liability if a written complaint is not delivered to the company within 3 working days of delivery detailing the alleged defect or shortage.
- 5.3 In all cases where defects or shortages are complained of the company shall be under no liability in respect thereof unless a reasonable opportunity to inspect the goods is provided to the company before any use is made thereof or any alteration or modification is made thereto by the buyer.
- 5.4 Subject to clause 2.2 and 5.3 the company shall make good any shortage in the goods and where appropriate replace the goods damaged in transit as soon as it is reasonably able to do so, but otherwise shall be under no liability whatsoever or howsoever arising for such shortage or damage.

6. TITLE AND RISK

- 6.1 Risk in the goods shall pass to the buyer when the goods are delivered to or collected by the buyer or its agent.
- 6.2 The ownership of the goods sold by the company to the buyer shall remain with the company until the buyer has paid the price for those goods.
- 6.3 For the purpose of these terms all liquidated sums owed by the buyer to the company on any account or grounds whatsoever shall be deemed to form part of the said price.
- 6.4 The buyer is licensed by the company to use or to agree to sell the goods delivered to the buyer subject to the express condition that the entire proceeds of any sale are held in trust for the company and are not mixed with other moneys or paid into an overdrawn bank account and shall at all times be identifiable as the company's money

6.5 Until title to the goods passes:

- 6.5.1 The buyer will hold the goods as fiduciary agent and bailee for the company;
- 6.5.2 The goods shall, subject to clause 6.4, be kept separate and distinct from all other property of the buyer and of third parties and in good and substantial repair and condition and be stored in such a way as to be clearly identifiable as belonging to the company and the buyer will not allow any interference with any identification marks or serial number on the goods.

- 6.5.3 Without prejudice to any other rights the company may at any time revoke the power of sale and use contained in clause 6.4 by notice to the buyer if the buyer is in default for longer than 14 days in the payment of any sum whatsoever due to the company whether in respect of the goods or any other goods supplied at any time by it to the buyer if the company has bona fide doubts as to the solvency of the buyer.

- 6.6 The buyer shall place any of the goods in its possession or under its control and unsold at the disposal of the company and the company by its servants or agents shall be entitled to enter upon any premises of the buyer or any premises under the buyer's control or to which the buyer has a right to access for the purpose of inspection, repossession and the removal of such goods at any time.

- 6.7 The company shall at any time be entitled to appropriate any payment made by the buyer in respect of any goods in settlement of such invoices or accounts in respect of such goods as the company may in its absolute discretion think fit notwithstanding any purported appropriation to the contrary by the buyer.

7. WARRANTY

- 7.1 The company warrants that it has title to and unencumbered right to sell the goods.

- 7.2 No representation or warranty is given as to the suitability or fitness of the goods for any or any particular purpose and the buyer shall satisfy itself in this respect and shall be totally responsible therefore.

8. LIABILITY

8.1 INTRODUCTION

- 8.1.1 Nothing in clause 8 shall be deemed to exclude or restrict the company's liability for death or personal injury resulting from negligence.

- 8.1.2 Each of the sub-clauses in clause 8 is to be treated as separate and independent and capable of severance.

- 8.1.3 The company is willing to undertake liability additional to that provided by this clause if a higher selling price for the goods is agreed.

8.2 EXCLUSION

- 8.2.1 Clause 8.2 only covers defects in goods supplied caused by fault design, manufacture, materials or workmanship. It does not cover defects caused by abnormal use, misuse or neglect.

- 8.2.2 The company agrees that if any defect covered by clause 8.2.1 is discovered the company will in its absolute discretion either:

- Repair the goods at its own expense, or
- Replace the goods, or
- Refund the purchase price.

- 8.2.3 The buyer cannot claim the benefit of this clause unless:

- The defect is covered during the period of three months commencing with the date of despatch:

- He informs the company of the relevant defect in writing within three working days of discovering it, and;

- He returns the goods to the company at his own expense.

- 8.2.4 The risk of accidental loss while the goods are being returned will be borne by the buyer.

- 8.2.5 In consideration for receiving the benefit of this clause the buyer agrees that, part from those terms set out in clauses 5 and 7, no other terms, whether conditions, warranties or innominate terms, express or implied, statutory or otherwise, shall form part of this contract (except where the buyer deals as consumers within section 12 of the Unfair Contract Terms Act 1977, when the terms implied by sections 13, 14 and 15 of the Sale of Goods Act 1979 shall be implied into the contract).

8.3 EXCLUSION OF CONSEQUENTIAL LOSS

- The company shall not be liable for any consequential loss or indirect loss suffered by the buyer or any customer of or purchaser from the buyer as to which the buyer shall hold the company fully and effectually indemnified whether this loss arises from breach of a duty in contract or tort in any other way (including loss arising from the company's negligence). Non-exhaustive illustrations of consequential or indirect loss would be:

- Loss of profits;
- Loss of contracts;
- Damage to property of the buyer or anyone else, and;
- Personal injury to the buyer or anyone else (except so far as such injury is attributable to the company's negligence).

8.4 LIMITATION

- Without prejudice to any other provision in these conditions in any event the company's total liability for any one claim or for the total of all claims arising from any one act or default of the company (whether arising from the company's negligence or otherwise) shall not exceed the contract price of the goods.

9. FORCE MAJEURE

- 9.1 The company shall not be liable for any failure to deliver the goods arising from circumstances outside its control.

- 9.2 Non-exhaustive illustrations of such circumstances would be Act of God; war, riot, explosion, abnormal weather conditions, fire, flood, strikes, lockouts, government action or regulations (UK or otherwise), delay by suppliers, accidents and shortage of materials, labour or manufacturing facilities.

10. NOTICES

- Any notices to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its address specified overleaf or such other address as that party may from time to time notify in writing and shall be deemed to have been served, if sent by post, 48 hours after posting, or if by telex or facsimile transmission at the time of sending.

11. PROPER LAW AND JURISDICTION

- The contract shall be governed by and construed in accordance with English law and all disputes arising in connection with the contract shall be submitted to the jurisdiction of the English courts.

12. HEADINGS

- The headings of these conditions are for convenience only and shall have no effect on the interpretation thereof.

13. SEVERANCE

- If any provision of this agreement shall be void or unenforceable in whole or in part, the remaining provisions and the remainder of the provision affected shall remain in full force and effect