

CATERING SUPPLIES & REPAIRS CO. LTD

**STANDARD CONDITIONS OF TRADING
SUBJECT TO WHICH ALL GOODS & SERVICES ARE SOLD**

1. DEFINITIONS

In these Conditions of Sale

- (a) "The Company" means Catering Supplies & Repairs Co. Ltd and/or any of its subsidiaries.
- (b) "The Customer" means any person, persons or company who receives a quotation, places an order or buys any goods from the company and included servants, agents or sub-contractors of any such person, persons or company.
- (c) "Goods" means any machine, equipment and other non-edible goods which are supplied by the company. Any order accepted shall be governed only by terms of the quotation issued by the company relative to that order and these conditions. The Customer by acceptance of the goods or the commencement of work (whichever is the earlier) shall be deemed to have had notice of and accepted these Conditions prior to the acceptance of goods or the commencement of work.

2. GENERAL

All quotations are made, orders accepted and sales effected subject to the following conditions and no alteration, modification or term inconsistent herewith shall have effect unless expressly accepted in writing by the company.

3. DESCRIPTION

Illustrations and descriptions in our catalogues or documents accompanying quotations are correct in general detail. The company, however, reserve the right to vary or modify the design specification or finish without notice unless written undertaking has been given to the contrary and provided that there is no material change in the basic function of the goods supplied.

4. PRICES AND VARIATION OF QUOTATION.

Should any information or data supplied by the Customer to the Company prove to be incomplete or inaccurate in any respect, the Company reserves the right to make such amendments to the contract as it in its absolute discretion sees fit or to cancel the contract in either case without penalty or damages being due to the Customer unless otherwise agreed in writing. Although the Company will endeavour to maintain the prices quoted, the Company reserves the right to invoice at prices ruling at the date of despatch. Any amendment intimated by the Company to the prices quoted shall have effect as a variation of the contract price and all references to price in the Conditions shall in that event mean the amended price. All prices are exclusive of VAT, which will be charged as applicable.

5. TITLE

Title in the goods supplied and/or installed shall not pass to the customer until all sums due by the customer to the Company, however they shall have arisen shall have been received in full (receipt in this respect if payment is made by cheque meaning the date on which that cheque is successfully cleared by the Company's bank). Until title passes the Company's goods shall be stored in such a way that they are clearly the property of the Company. In the event of non payment on the date on which payment becomes due in terms of clause 6 hereof for whatever reason or in the event of the commencement of bankruptcy or liquidation proceedings against the Customer or of the Customer taking any steps to compound with its creditors the Company shall have the right without giving notice incurring liability to recover these goods (including if necessary entering into the Customer's premises) and to take possession of any of the Goods supplied and/or installed by the Company of which the title has not passed to the customer. This right shall be without prejudice to any other legal rights or remedies available to the Company.

6. SETTLEMENT TERMS

Unless otherwise specified in the quotation all sums payable in respect of goods or services supplied under the contract must be paid without deduction as follows:-

- (a) In respect of the cost of equipment 50% of the total sum payable with the order. The balance due within 14 days after delivery.
- (b) In respect of installation costs payment is due within 14 days after installation.

In the event that payment is not made within such periods the Company reserves the right to charge interest at the rate of 1.5% compounding for each period of 28 days until payment is received in full.

7. RISK

The risk of loss or damage to the goods delivered under this contract shall pass to the customer upon delivery to the Customer's premises or such other place as nominated in writing by the Customer. Delivery under this condition shall be deemed to have been effected upon the delivery vehicle reaching the delivery site. The unloading of the delivered goods from the vehicle and the movement and storage of the said goods shall be the responsibility and at the risk of the Customer.

8. DELIVERY AND DELAY

All delivery dates quoted by the Company are estimates only. The Company will use all reasonable endeavours to adhere to any delivery dates quoted but shall not be bound to do so. Time of delivery is not of the essence of the contract. In the event of the Customer not accepting delivery of the goods transported for whatever reason the Company reserves the right to make a charge to cover the costs related to such non-acceptance and for the subsequent re-delivery of the said goods.

9. DAMAGE/LOSS IN TRANSIT AND RETURN OF GOODS

Goods shall be examined on arrival by the Customer or his Representative and any damage or loss entered on the carrier's note or the carrier's note shall be signed to the effect that goods were received unexamined. In the event of damage or loss, claims must be submitted by recorded delivery to the Company within three days from the receipt of the goods. Damaged goods must be made and retained available for inspection. The Company will have no liability for allegedly damaged goods which are either installed or disposed of prior to inspection.

Under no circumstances shall

- (a) Credit be given or goods replaced if used, or
- (b) The goods be returned to the Company without the prior consent of the Company. Such written consent shall not be deemed to be evidence of any agreement to cancel an order or an admission by the Company of any defects in the goods supplied. The Company reserves the right to make a handling charge of 10% of the Nett invoice price over and above any re-stocking charges made to the Company by its suppliers, in respect of any products returned to it with the consent of the Company and in turn its' suppliers.

10. ERECTION AND/OR INSTALLATION

Where erection, positioning and installation are part of the contract the customer shall ensure that the site is clear and ready for installation of the equipment during normal working hours on such days as are required by the Company. In the event that the Company is prevented from undertaking the installation due to the site not being ready as stipulated for such installation, the Company reserves the right to make a charge in respect of any costs incurred in being so prevented.

11. CANCELLATION OF ORDER

Any order accepted by the Company cannot be cancelled by the Customer without the written consent of the Company. The Company reserves the right upon such consent being given to levy a cancellation charge of not less than 20% of the Nett invoice value to indemnify the Company for any loss whatsoever (including loss of profit) arising from the cancellation. Such charge is accepted by the Customer as a reasonable pre-estimate of the Company's losses in this respect.

12. GUARANTEE

The Company undertakes to repair or at its option, replace, free of charge, any piece of equipment or part thereof used for the purposes specified in the contract (or in event of no purposes being specified, under normal conditions for which the equipment was designed), which is found to be faulty in either materials or workmanship within six months of the date of delivery. This guarantee only applies to equipment supplied by the Company and excludes defects arising out of fair wear and tear, mis-use or damage due to defective installation by the Customer or other contractors or by the act, omission, default or negligence of the Customer or by accident, vandalism or malicious damage.

The Company's responsibility is limited to the repair or replacement of the equipment or part thereof and under no circumstances will the Company be liable for consequential financial or economic loss or damage. The Company's responsibility under this clause shall cease if

- (a) The Customer has not paid in full all invoices for goods supplied by the customer under this agreement within the time stipulated under these Conditions.
- (b) The Company's Representatives are denied full and free access to the goods.
- (c) The Customer permits persons other than the Company's employees or agents or those approved or authorised by the Company to effect any replacement of parts, maintenance, adjustments or the repair to the goods.
- (d) The Customer has not properly maintained the goods in accordance with printed instruction, pamphlets or directions given or issued by the Company from time to time.
- (e) The Customer uses any spare parts or replacement not recommended by the manufacturer of the equipment or supplied approved by the company of the Customer fails to follow the instruction for the use of the same.

13. LIMITATION OF THE COMPANY'S LIABILITIES

- (a) This Condition is intended to exclude certain and to limit others of the Customers rights and remedies against the Company. It shall not give the Customer any additional rights and remedies and shall not effect the Customers duty to mitigate any damage.
- (b) The Customer's remedies against the Company for any breach shall be strictly limited to damages as limited by these Conditions.
- (c) Notwithstanding paragraphs (e) and (f) below, the Company does not limit or exclude liability for (1) damage to tangible property not in excess of £5,000.00 (2) death or personal injury insofar as it results from negligence and (3) the

- Company's liability for any breach of the undertakings as to title implied by Section 12 of the Sale of Goods Act 1979.
- (d) If the Company fails within a reasonable time after notification to remedy under Condition 12 above, a defect notified by the Customer under that Condition and the Customer subsequently and as a direct result of that failure necessarily incurs expense to effect temporary repairs to the goods in excess of the expense which would otherwise have been incurred, the Customer may, subject to paragraph (e) below, recover from the Company damages of only the amount of such expenses reasonably incurred up to the date on which the Company repairs the defect or replaces the equipment.
 - (e) The damages for which the Company is liable in respect of any one breach shall not exceed a sum equal to the Nett invoice price of the Company's equipment in respect of which the breach occurs.
 - (f) The Company shall not be liable for the following however caused
 - (i) Financial loss or damage (including loss of income, profits, goodwill or anticipated savings)
 - (ii) Consequential or indirect loss or damage (other than as set out in paragraph (d) as above.
 - (iii) Third party claims against the Customer
 - (g) All representations, conditions or warranties (other than those expressly contained in these conditions) expressed or implied statutory or otherwise are hereby excluded

14. PATENTS AND COPYRIGHTS

- (a) The Customer shall inform the Company forthwith of any claim by a third party that any of the Company's products infringe any patent, copyright or design registration.
- (b) The Company shall be entitled at its own cost to defend or compromise any such claim and proceedings arising there from on such terms as it shall alone see fit. The Customer shall use its best endeavours at the Company's costs to assist in such defence.
- (c) The Company shall be entitled upon reasonable terms to replace or to modify any Company's products which infringe any patent, copyright or design registration so as to end such infringement.
- (d) Notwithstanding the generality of the foregoing the Customer shall indemnify the Company against all damages, penalties, costs and expenses arising out of work done in accordance with the Customers specification involving any infringement of a registered design or patent.

15. ADDITIONAL TERMS

- (a) No forbearance or indulgence on the part of the company in enforcing these conditions shall in any way restrict, waive or prejudice any rights which the Company may have under these conditions or howsoever against the Customer.
- (b) These Conditions represent the entire contract between the parties hereto and supersede all prior arrangements or communications (oral or written) between the parties with the exception of the information or dates referred to in Conditions 3 & 4.
- (c) If any of the provisions of these Conditions are held to be invalid under any applicable statute or rule of Law, they are to that extent to be deemed omitted. If any of the provisions of Condition 13 which exclude the Company's liability are deemed omitted by this paragraph the provisions of Condition 13 which limits the Company's liability shall apply to the liability.
- (d) The Company but not the Customer may assign the benefit of any contract under these Conditions.
- (e) The Company shall incur no liability whatsoever for any breach of contract occasioned by reason of circumstances beyond its control or by reason of force majeure and in particular but without prejudice to the generality of the foregoing by reason of any delay or failure on the part of the manufacturer or any of the Company's products to supply such products to the Company.
- (f) Any written communication given to the pursuant to these Conditions shall be deemed to have been received by the addressees three dates after its despatch in the ordinary course of post.
- (g) All disputes between the Company and the Customer arising from the interpretation or implementation of the contract between the parties shall be referred to a single arbiter to be appointed, failing agreement, by the Sheriff Principal of Falkirk which arbiters decision shall be final and binding upon the parties. The operation and application of Section 3 of the Administration of Justice (Scotland) Act 1972 is expressly excluded and neither party shall thus be entitled to state a case for the opinion of the Court of Session.
- (h) The proper law of the Contract between the parties shall be Scots Law.
- (i) The parties prorogate the jurisdiction of the Sheriffdom of Falkirk for any proceedings relative to the contract or any alleged or actual breach thereof.