

STANDARD CONDITIONS OF SALE OF  
MAC MARNEY REFRIGERATION AND AIR CONDITIONING LIMITED  
(referred to throughout as "The Company");

1. GENERAL. All quotations are made and orders accepted subject to the following express terms and conditions and no additions or alterations shall apply unless specifically agreed to in writing by the Company, notwithstanding any term to the contrary contained in the Purchaser's order.

All quotations shall be construed as invitations to treat and subsequent orders by the Purchaser shall be subject to the Company's acceptance in writing.

No verbal quotations of costs or time will be bonding upon the Company at any time.

An order may not be cancelled or varied after acceptance without the written consent of the Company. Such cancellation or alteration shall be subject to such reasonable charges as may be appropriate.

In the event of any extra work being required and not included in the contract, this extra work will be carried out at the Company's labour, mileage and material rate; ruling at the time the work is carried out.

2. SPECIFICATION. The goods are supplied in accordance with the specification (if any) submitted to the Purchaser and any additions and alterations shall be the subject of an extra charge. Any goods not so specified shall be in accordance with the Company's printed catalogue or the catalogues of the Company's suppliers (subject to any modifications). If the Company adopts any changes in construction or design of the goods and their specifications thereof the Purchaser shall accept the goods so changed in fulfilment of the order.

2 (a) All cooling/heating duties specified in this quotation are calculated and in practice cannot be guaranteed, as they depend upon factors beyond our control, such as the insulation value of the building or cold store. All duties given are approximate, and the equipment supplied will be to the nearest practicable duty required.

3. PRICES & PAYMENTS. All prices shall be those ruling at the date of delivery of the goods, not at the time of quotation. The Company reserves the right to charge for any increased costs, plus their normal profit margin resulting from any increase in the cost of goods from their suppliers between the date of quotation or order and the date of delivery. Any increase shall not make the order void.

Unless otherwise agreed payment for goods to be supplied shall be made prior to the delivery and where the contract price for labour and goods does not state the price of any particular goods then the Company shall be entitled to determine such part of the contract price applicable to each item of goods.

Where credit accounts are opened subject to satisfactory references, payment will be due within 30 days of delivery of the goods or services rendered. All invoices are strictly net and unless separately shown do not allow for any discount or retention.

Unless specifically agreed in writing by the Company, no discounts or retention shall be deducted.

Where any order is delivered in more than one instalment payment shall be due on each instalment separately.

If any payment is not made on the due date, the Company may withhold further deliveries until the amount due is paid and/or charge interest on the overdue amount at the rate of 4% above Bank Base Rate.

4. CARRIAGE. Carriage and packing charges are payable by the Purchaser in accordance with the Company's standard rate at the time being in force. Any additional cost of special transport requested by the Purchaser will be payable by the Purchaser.

5. Off-loading at point of delivery shall be the responsibility of the Purchaser.

6. LOSS OR DAMAGE IN TRANSIT Any claim arising from the delivery of incorrect goods must be accompanied by a copy of the Advice of Despatch and be made in writing within a reasonable time of the date of delivery.

(b) No claim for the loss of or damage to the goods in transit will be accepted unless the failure of the goods to arrive, or their arrival in a damaged condition is notified to the Company within 20 working days of the date of the despatch.

7. DESPATCH. All dates quoted for despatch are estimates only and are not guaranteed. The Company will endeavour to meet these dates but shall have no liability for any delay in despatch or delivery or any damage or loss occasioned thereby. Quotations for goods to be supplied from stock are made subject to such goods being in stock and available on acceptance of order.

8. STORAGE. In the event of the Company being prevented by the Purchaser from delivering the goods to the agreed place of delivery by the due date of delivery the Company shall store the goods and the Purchaser shall be liable to the Company for all reasonable charges arising thereupon including all reasonable financing and handling charges.

9. RESERVATION OF TITLE. Title in the goods shall not pass to the Buyer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other goods sold by the Company to the Buyer for which payment has not been made and all other sums due to the Company from the Buyer.

(b) Until such time as title on the Goods passes to the Buyer the Buyer shall hold the Goods as the Company's Fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and property stored and protected and insured and identified as the Company's property. Until that time the Buyer shall be entitled to resell or reuse the Goods in the ordinary course of its business but shall account to the Company for the process of sale or otherwise of the Goods whether tangible or intangible including insurance proceeds and shall keep all such proceeds separate from moneys or property of the Buyer and third parties and in the case of tangible proceeds property stored, protected and insured.

(c) Until such time as title in the Goods passes to the buyer (and provided the Goods are still in existence and have not been resold the Company shall be entitled at any time to require

the Buyer to deliver up the Goods to the Company and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or and third party where the Goods are stored and repossess the Goods.

(d) The Buyer shall not be entitled to pledge or in any way charge by way of security for an indebtedness any of the good which remain the Company's property but if the Buyer does so all the money owing by the Buyer to the Company shall forthwith become due and payable (without prejudice to any other right or remedy the Company may have)

(e) Title in all compressors and other plant with the Company refurbishes or repairs shall vest in the Company and title in the compressors or any other reconciled items substituted for them shall only vest back in the Buyer in accordance with the terms of this clause.

(f) Notwithstanding the forgoing, the goods shall be at the Purchasers risk from delivery to him or to any carrier or agent acting on his behalf.

10. GOODS MANUFACTURED OR SUPPLIED TO PURCHASERS SPECIFICATION. The Purchaser shall indemnify the Company against all damages penalties costs and expenses to which the Company may become liable as a result of work done in accordance with the Purchases specification which involves the infringement of any letters patent design or other intellectual property rights.

11. In the case of goods manufactured or components supplied in accordance with the Purchasers specification no condition is made or to be implied not is any warranty given or to be implied as to the life or wear of the goods supplied or that they will be suitable for any particular purpose or for use under any specific conditions notwithstanding that such purpose or conditions may be known or made known to the Company. Process scrap resulting from work carried out on material supplied by the Purchasers shall remain the property of the Company.

12. COMPANY'S LIABILITY The Company will repair or replace at the Company's option goods which are defective as a result of faulty workmanship or material and will remedy faulty installation work carried out by the Company or on its behalf if notified in writing to the effect within twelve months of delivery.

(a) In the event of second hand goods being ordered and supplied, three months guarantee will apply to faulty workmanship or materials as in 12 above. In the event of any new parts being fitted to second hand equipment supplied, either before delivery or during the three months guarantee, the new part will only carry a guarantee until the end of the initial three months, taken from the date when the equipment is first delivered.

13. Claims will not be accepted in respect of any goods or installations which have been Dismantled or altered without the Company's agreement in writing. Charges for the repair of goods or for remedying installation work alleged to be defective will not be accepted by the Company unless previously agreed in writing.

14. In the case of goods manufactured solely in accordance with the Company's specifications and designs and in respect of any installation work carried out by or on its behalf the Company's entire liability and the Purchasers sole remedies shall be as follows:

(a) The Company accepts liability for death or personal injury to the extent that it results from the negligence of the Company its employees agents or sub-contractors.

(b) Subject to paragraph (d) below the Company accepts liability for direct physical damage to tangible property to the extent that such damage is caused by the negligence of the Company its employees agents or sub-contractors.

(c) The total liability of the Company to the Purchaser over and above any liability to replace under condition 12 above (whether in contract or in tort including negligence) in respect of any one cause of loss or damage claimed to result from any breach of the Company's obligations hereunder shall be limited to actual money damages which shall not exceed the greater of £20,000 or the cost of the goods provided that such monetary limit shall not apply to any liability or the part of the Company referred to in paragraph (a) above.

(d) Except as provided in paragraph (a) above but otherwise notwithstanding any other provision herein contained in no event shall the Company be liable for the following loss or damage however caused and even if foreseeable by or in the contemplation of the Company:

(i) economic loss which shall include loss of profits, business revenue, goodwill or anticipated savings.

(ii) damages in respect of special indirect or consequential loss or damage (other than death, personal injury and damage to tangible property)

(iii) any claim made against the Purchaser by any other party (save as expressly provided in paragraph (b) above.

(e) Except in respect of the liability of the Company referred to in paragraph (a) above no claim may be made or action brought (whether in contract or tort including negligence) by the Purchaser in respect of any goods supplied by the Company more than one year after the date of delivery of the relevant goods.

(f) Nothing in these conditions shall confer on the Purchaser any rights or remedies to which the Purchaser would not otherwise be legally entitled.

15. FORCE MAJEURE. The Company shall be under no liability to the Purchaser in any way whatsoever for destruction, damage, delay or any other matters of any nature whatsoever arising out of war, rebellion, civil commotion, strikes, lock-outs and industrial disputes, fire, explosion, earthquake, act of God, flood, drought or bad weather, the unavailability or late delivery of supplies, inability to secure labour, or requisitioning or other act or order by any Government department, council or other duty constituted body.

16. RETURNED GOODS. Goods may not be returned without the written consent of the Company.

17. ENGLISH LAW Any contract formed by acceptance of the Purchaser's order shall be construed and governed in all respects according to English law.