



A1 ENGINEERING SOLUTIONS LIMITED
TERMS AND CONDITIONS OF SALE

DEFINITIONS

'Our' or 'Us' means A1 Engineering Solutions Limited.

'Customer(s)' means the firm or person who purchases the goods from us.

'Contract' means the contract between us and the Customer for the sale and purchase of the goods in accordance with these Terms and Conditions.

'Terms and Conditions' means the terms and conditions set out in this document.

1. GENERAL

These Terms and Conditions are incorporated into and form part of the Contract between us and our Customers. All the terms of the Contract between us and our Customer are set out in our Estimate/Quotation and in these Terms and Conditions and all other terms whether or not agreed or offered and all representations or collateral warranties made orally or in correspondence or otherwise are hereby cancelled and excluded save to the extent that the same are written or printed on the face hereof or in these Terms and Conditions.

2. LIMITS ON LIABILITY

All implied conditions, warranties or guarantees implied by statute, common law or otherwise are hereby excluded and in place thereof we will undertake to repair or if necessary replace free of charge any materials or work as hereinafter set out. Our total liability under the Contract is the price of the goods paid for by the Customer.

WARRANTY

The goods sold under this Contract shall carry the benefit of one of the following warranties as stated in any quotation.

(a) We warrant to the Customer (the original buyer) in respect of goods including cabinets with sealed systems supplied by us or our authorised distributors that from the date of delivery or completion of installation or the due date for completion of installation where completion of is delayed by the reason of the fault of the Customer.

(i) For a period of one year we will, free of charge, replace or repair any part or parts thereof proved to our satisfaction to be defective owing to faults in workmanship or materials.

(ii) For a period of one year we will, free of charge, carry out such service adjustments thereto as shall in our opinion be necessary. Our ruling as to what shall constitute "service adjustments" for this purpose shall be final and binding upon Customer.

(iii) Warranty is applicable to equipment being fully paid for in accordance with the Contract.

(b) **GENERAL CONDITIONS AND EXCLUSIONS** None of

the above warranties shall apply to

(i) any defect which in our opinion arises by reason of misuse, misapplication, neglect or accident on the part of the Customer.

(ii) any defect not within three days of the discovery of the same notified to us or authorised distributors.

(iii) any refrigerating equipment which shall in our opinion have been improperly installed serviced or repaired or altered by anyone other than us or a service agent approved by us, or in or to which any part not manufactured or sold by us has been fitted.

(iv) goods not of our manufacture, in which case the Customer is entitled only to such benefit as we may receive under any warranty given in respect thereof. We reserve the right to charge to the Customer any labour charges incurred by us.

(v) any equipment upon which service has been carried out by anyone other than us or a service agent approved by us.

(vi) any hermetically sealed compressor installed on a vehicle either for the purpose of refrigerating the whole vehicle and its load or for refrigerating a cabinet of any kind.

(vii) any refrigerated equipment installed outside Great Britain, Isle of Man, Northern Ireland, Eire and the Channel Islands.

(viii) any equipment which has not been maintained in accordance with the manufacturer's recommendations we reserve the right to request evidence of a maintenance contract at the time of any warranty claim.

Save as aforesaid and save where otherwise expressly stated herein or on the face hereof we give no warranty of guarantee and do not promise or undertake any obligation as a condition warranty or any other term of the Contract or otherwise.

3. CONSEQUENTIAL LOSS

Save insofar as expressly stated herein or on the face hereof, neither we nor our servants or agents shall be liable for any loss or damage, whether in contract or tort, whether direct or indirect consequential or otherwise, or injury (save in respect of death or personal injury) or delay whatsoever, howsoever the same (namely loss, damage, injury or delay) may be caused whether by our negligence or the negligence of our servants or agents or otherwise and whether in performance of this Contract or otherwise. In no circumstances shall the Customer be entitled to recover damages whether direct, indirect consequential or otherwise from the company our servants or agents. The Customer will indemnify us against any liability to third parties (including our servants and agents) in respect of loss, injury or damage occurring as aforesaid and arising out of, either directly or indirectly, this Contract.

4. DAMAGE OR LOSS IN TRANSIT

If the Customer wishes to claim that there is any shortage on delivery in respect of goods or materials supplied by us (or that the same had been damaged in transit or that any goods or materials supplied by us are defective or not in accordance with the Contract) he shall give notice in writing to us (and in the case of any shortage or damage in transit, to any railway or other carrier by whom the goods were delivered) immediately he has had a reasonable opportunity to examine the same or in any event within three days of delivery of the same. If the Customer fails to give such notice the goods or materials shall be deemed to have been delivered and to be in accordance with the Contract in all respects.

5. ADDITIONS AND VARIATIONS OF WORK

Orders for work to be done by way of addition to or variation of work for which we have contracted shall, unless the price for the same shall have been agreed in writing beforehand be charged at our standard day work rates for the time being in force and percentage additions for labour, materials and plant used and will be undertaken upon the same conditions as those applicable to the original work contracted for. Where no facilities are available for signature of work sheets at the work site the unsigned work sheets shall be conclusive as to the work spent recorded therein.

6. SPECIFICATIONS AND DRAWINGS

Unless otherwise agreed in writing all description specifications drawings and particulars of weights and dimensions furnished by us are to be deemed approximate only and the illustrations contained in such documents are intended to present a general idea of the product dealt with and not to form part of the Contract. Any technical drawings, prints and specifications supplied by us to the Customer under or in connection with any quotation or Contract shall remain our property. The Customer shall not copy them without our consent and shall comply with our reasonable requirements as to their use, return and otherwise.

7. PATENT

In the event of any claim being made or action being brought against the Customer in respect of infringement of letters patent, registered design, trademark or copyright or other industrial property right relating to the goods by the use or sale of any article or materials supplied by us to the Customer, the Customer shall make no admission in respect thereof and shall notify us immediately and we shall be at liberty, with Customer's assistance if required, and at our own expense, to conduct all negotiations for the settlement of the same or any litigation that may arise therefrom, subject to such negotiation and provided that no such goods or any part thereof shall be used for any purpose other than that for which they were supplied by us to the Customer. Such notice as is required herein of any such claim must be given in writing to us by the Customer within seven days of the receipt thereof by the Customer. Save as aforesaid we give no indemnity in respect of any actual or alleged infringement of the letters patent, registered design, trademark or copyright or any other industrial property right relating to the goods.

8. TRADE NAMES AND TRADEMARKS

- (a) The Customer undertakes not to hold himself out in any circumstances or in any manner whatsoever as having authority to sell, service, maintain or deal with the goods as agent or dealer or as our authorised representative.
- (b) In particular and without prejudice to (a) the Customer undertakes not to use or reproduce any trade name or registered trademark of his on goods premises, vehicles letter headings and other stationery, sales literature or in any way whatsoever and not to do or authorise to be done any other act to which section 6(ii) of the Trade Marks Act 1994 apply.
- (c) The Customer's undertakings under this clause are conditions of this Contract so that any breach thereof shall entitle the seller to terminate the Contract and to recover damages in respect of all loss damage and expense occasioned thereby. We shall, at our option, be entitled to recover the profit made by the Customer during the period of the breach from sales, servicing maintenance and other dealings with goods manufactured by us.
- (d) Notwithstanding clause 1 of these conditions no document purporting to authorise the Customers to do any act which would otherwise be a breach of the Customer's undertakings under this clause or purporting to consent thereto on our behalf shall be binding on us unless it is a formal licence agreement bearing our corporate seal.

9. PERFORMANCES

Any performance figures given by us are subject to the recognised tolerances and rejection limits applicable thereof.

10. WORKS TO BE DONE ON SITE

It is a condition of any contract entered into by us that the Customer will at his own expense ensure that everything requisite to enable our programme of work to be carried out on site in the sequence planned by us can be so carried out without interruption and without prejudice to the generality of the foregoing we are to be provided with the following facilities for our work namely:

- (a) The site will be readily accessible to normal road transport at the date for delivery and throughout the work of installation.
- (b) In any event there shall be suitable access to and possession of the site, foundations ready to receive plant on delivery, adequate crane lifting tackle and scaffolding or handling facilities or labour in lieu thereof and all other reasonable facilities and assistance our representatives may deem necessary.
- (c) At all times when required adequate lighting and power and water supply.
- (d) Labour for assisting with unloading or moving heavy or bulky equipment.
- (e) Full insurance against fire, storm, tempest lightning earthquake, aircraft or anything dropped therefrom, aerial objects, riot and civil commotion, burglary, theft and accidental or malicious damage to our materials, equipment, plant and equipment, tools, other property and work done with suitable protection (and when requested by our site representative a secure and enclosed space) for our materials, plant equipment, tools, instruments and other property.
- (f) A safe place in which our employees are to work. Where we are responsible for installation equipment it will be consigned to us c/o the Customer who will take responsibility for safe custody until the arrival of our staff on site.

11. TESTING

We carefully inspect and test all equipment supplied but such inspection and test will only be carried out in the presence of the Customer's representative or consulting engineers where prior intimation of their desire to be present has been received. Where the Customer requests additional or special operation and efficiency tests (whether attended by his representative or not) which require the attendance of our engineer, a charge for such additional time at the appropriate rate will be made. In the event of delay on the part of the Customer or the consulting engineer a charge for such additional time at the appropriate rate will be made. In the event of delay on part of the Customer or the consulting engineer in attending tests after receiving reasonable notice, tests will proceed in their absence but shall be deemed binding as if made in their presence. Our obligation to satisfy such tests shall be contingent on the Customer proving that our equipment or installation is not effected by any defect in any main installation.

12. DELAYS AND EXTRA WORK

If our work is delayed, suspended or varied or if we are required to carry out extra work or perform additional services (including working overtime or during unusual hours) on the instructions of the Customer or his representative or because of any lack of instructions or any mistake for which the Customer is responsible or if the progress of our work is interrupted by a Customer or his agents or servants then we reserve the right to make an extra charge. We reserve the right to refuse to carry out such extra work or perform such additional services unless the instructions of the Customer or his representative have previously been confirmed to us in writing but the absence of written confirmation shall not invalidate our entitlement to payment therefor.

13. PRICE AND VARIATION THEREOF

Our prices are based upon the cost to us of materials, labour and transport (including compliance with any statute or government order) ruling at the date when our prices were quoted. Save as aforesaid prices shall be those according to our price list where applicable and in force at the date of our notice that the goods are ready for delivery or are delivered by us unless otherwise agreed in writing by us and the Customer or shall be the price quoted overleaf which we shall be entitled to adjust to take account of any increases or reductions in the cost to us of carrying out our work either directly or indirectly by reason of any such variation in costs. The same shall not apply in the case where we have agreed to a fixed price. All prices are exclusive of VAT which will be added at the appropriate rate ruling at the date of delivery.

14. TERMS OF PAYMENT

Unless otherwise agreed in writing the whole of the agreed price or prices for the execution of any work or the supply of any goods or materials by us shall, upon the practical completion of such work or upon the date of delivery of such goods or materials become payable immediately. We reserve the right to charge interest at the rate of two per cent for each month during which any sum is overdue after 28 (twenty eight) days from the date payment is due. Interim payments shall be made and discounts shall only be given in accordance with any agreement made. Unless otherwise stated any quotation given by us includes delivery by any method of transport at our option.

15. INVOICING

Unless otherwise stated in our quotation,

- (a) the Customer may be invoiced for goods and/or materials supplied upon
 - (i) despatch from our premises or
 - (ii) delivery to the Customer's premises or arrival at dock in the case of direct shipment or
 - (iii) the expiration of seven days from the date when notification that the equipment is ready for despatch is forwarded to the Customer whichever event first occurs.
- (b) the Customer may be invoiced for work done immediately such work has been performed.
- (c) Customer's Credit
We reserve the right to refuse to execute any order or Contract if the arrangement for payment or Customer's credit is not satisfactory to us.

16. TITLE AND RISK

- (a) The risk in the goods shall pass to the Customer on completion of delivery.
- (b) Title to the goods shall not pass to the Customer until:
 - (i) we receive payment in full (in cash or cleared funds) for the goods;
 - (ii) the Customer resells the goods, in which case title to the goods shall pass to the Customer at the time specified in clause 16(d).
- (c) Until title to the goods has passed to the Customer, the Customer shall:
 - (i) store the goods separately from all other goods held by the Customer so that they remain readily identifiable as our property;
 - (ii) not remove, deface or obscure any identifying mark or packaging on or relating to the goods;
 - (iii) maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and
 - (iv) give us such information relating to the goods as we may require from time to time.

- (d) Subject to clause 16(e), the Customer may resell or use the goods in the ordinary course of its business (but not otherwise) before we receive payment for the goods. However, if the Customer resells the goods before that time:
 - (i) it does so as principal and not as our agent; and
 - (ii) title to the goods shall pass from us to the Customer immediately before the time at which resale by the Customer occurs.
- (e) If before title to the goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 24, then, without limiting any other right or remedy we may have:
 - (i) the Customer's right to resell the goods or use them in the ordinary course of its business ceases immediately; and
 - (ii) we may at any time:
 - a. require the Customer to deliver up all goods in its possession that have not been resold, or irrevocably incorporated into another product; and
 - b. if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the goods are stored in order to recover them.

17. COMPLIANCE WITH THE LAW

The placing of any order with us for work undertaken by us shall be deemed to constitute a warranty and representation by a Customer placing the order that every applicable statute, regulation, by-law or other lawful requirement or instruction whether of the government or any local or other lawful authority affecting our work has been and will be complied with by and at the expense of the Customer during the execution of our work. The Customer shall pay and indemnify us against any liability in respect of any fees or charges legally demandable directly from us under any act of Parliament, any instrument rule or order made under any act of Parliament or any regulation or by-law of any local authority or any statutory undertaking. It shall be the Customer's responsibility to bring to our notice all such statutes, instruments, rules, orders or by-laws at a date prior to the date of quotation.

18. FRUSTRATION OF ORDER

The company shall incur no liability to the extent to which the fulfilment of any obligations or any part thereof is prevented, frustrated or impeded as a consequence of conforming to any rules or regulations whether Parliamentary, Parochial or by any other authority or by any cause beyond our control. We shall also be entitled to cancel the Contract without liability in the event of any necessary licence or consents not being forthcoming.

19. DELIVERY

The place and date for delivery are as agreed between the Customer and us.

The date for delivery is our best estimate based on present information and time of delivery is not of the essence. We shall not be liable for delay in any circumstances whatsoever (even if caused by the negligence of ourselves our servants or agents) nor for any loss, damage or expense our client may suffer by reason of such delay.

20. STORAGE

If after due date for delivery we do not receive forwarding instruction that the goods are ready for despatch Customer should take delivery or arrange for storage. We may, if our storage facilities permit, however, store the goods or arrange for storage elsewhere making a charge until they are despatched and the goods when in storage shall be paid for as if they had been despatched.

21. INITIAL PERIOD SERVICE

Where the goods are sold and/or installed or erected on the basis of service being given during a stated period we will provide such service during normal working hours as shall in our opinion be necessary and the stated period shall run from the date of delivery of any goods being supplied or from date of completion of installation or erection if such goods are being installed or erected by us.

22. GENERAL SERVICES

In the event of the Contract relating solely to services such services shall be provided during normal working hours or otherwise if provided for in our quotation as shall in our opinion be necessary. Any contract relating solely to the provision of services may be terminated upon either giving to the other three months' notice in writing to that effect.

23. LIMITATION OF OUR LIABILITY RE FORCE MAJEURE ETC

- (a) We shall not be liable if manufacture or delivery or installation of the goods is prevented, hindered or delayed by reason of strikes, sit-ins, trade disputes, lock outs or any other actual or threatened industrial action or by difficulty in obtaining labour, plant, materials or bought in components or by breakdown of plant, or machinery (including transport), or by interruption of power supplies or by fire or by legal action by third party (whether or not any of the aforesaid are caused by our negligence or the negligence of our servants or agents) or by reason of any circumstances outside our control which shall include but not be limited to war, civil riot, intervention by government and all other cases of force majeure.
- (b) If the manufacture or delivery of the full quantity due hereunder is prevented, hindered or delayed by reason of any circumstances within sub clause (a) then without prejudice to the exemption from liability under (a) we shall be entitled either to apportion goods of the Contract description at our discretion between the Customers and to deliver the quantity so apportioned to the Customer, delivery of which quantity shall constitute delivery in full, or to withhold delivery, until such time as the full quantity can be and is delivered hereunder. If the delay continues for more than 2 months, we may terminate this Contract by giving you notice.

24. TERMINATION OF THE CONTRACT

- (a) Without limiting the rights or other remedies of the Contract we may automatically terminate if:
 - (i) the Customer (being an individual or, in the case of a firm, any member thereof) commits any act of bankruptcy or has a receiving order made against him or has any process of distress or execution levied upon his goods or makes any arrangement with his creditors, before the property in goods has passed to the Customer hereunder;
 - (ii) the Customer (being a limited company) has a receiver appointed of its assets or goes into liquidation whether compulsory or voluntarily or ceases to carry on business, or if we reasonably consider that any of the said events are about to occur, before the property in the goods has passed to the Customer then we may terminate the Contract forthwith by notice in writing;
 - (iii) the Customer commits a material breach of any term of the Contract and fails to remedy that breach after being given reasonable notice to do so.
- (b) Without limiting our other rights or remedies, we may suspend provision of the goods under the Contract if you become subject to any of the events listed in clause 24(a) or if you fail to pay any amount due to us under the Contract.

25. THE APPLICABLE LAW

The law governing this Contract shall be the law of England. Any dispute arising out of or in connection with this Contract shall be submitted to the jurisdiction of the English Courts.

26. NOTICES

Any notice may be served by either party on the other by leaving it at or sending it by post to the address of that party contained in this Contract. Such notice shall be deemed to be served when it would be received by either party in the normal course of post or otherwise.

27. DIVISIBILITY

We may deliver by instalments in such quantities as we may reasonably decide; such instalments shall be separate obligations and no breach in respect of one or more of them shall entitle the Customer to cancel any subsequent instalments or repudiate this Contract as a whole.

28. VARIATION

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

29. SEVERANCE

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

30. THIRD PARTY RIGHTS

No-one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.