

Terms and Conditions of sale

- (a) It is hereby agreed that a contract shall be entered into between Cross Refrigeration (Ireland) Limited (hereinafter referred to as "The Company" and the person, Firm, Corporation, sole Undertaking, Association or Body, proposing to purchase from The Company (hereinafter referred to as "The Customer") any goods on foot of an order placed whether by oral or writing, by The Customer.

(b) It is agreed that such contract as aforesaid shall be subject to the conditions hereinafter stipulated and that such conditions supersede any earlier sets of conditions appearing in any of the Company's Invoices, credit notes or any other documents whatsoever and shall override any terms and conditions shall be binding upon the company unless otherwise stipulated herein and agreed to in writing by a duly authorised officer of the Company.

(c) All guarantees, warranties and conditions, (including any conditions as to the quality or the fitness of the goods for any particular purpose (whether expressed or implied by statute, common law, or otherwise), are hereby excluded.

(d) All goods supplied by the Company shall be in accordance with standards as specified by the Company and Customary trade standards subject to due allowance for processing any other recognised tolerances.
- All orders for goods by the customer through any agent or representative or sales representative of the Company shall be subject to the acceptance and approval of such order or orders, by the Company and all deliveries of goods in respect of any such order or orders shall be subject to the approval and authorisation only by the company, at its Head Office in the Republic of Ireland.

Price

- It is hereby agreed that any price as quoted by the Company as comprised in the Contract is provisional only and shall be subject to market changes and changes in basic National Wage Agreement Rates, Freight Rates, Rates of Exchange, Costs of Materials, (including raw materials) or other relevant costs. Any goods supplied by the Company may be charged at the prices ruling as at the date of delivery to the Customer, whether such delivery be effected at the place of business of the Customer, or at some other place at the Customer's request, or whether such delivery be effected at the place of business of the Company.
- Unless otherwise expressly provided it is agreed that all prices shall be exclusive of valued added tax or any other tax or taxes hereinafter imposed whether statutory or otherwise and it is further agreed that the company shall be entitled to receive from the Customer any difference in price in respect of a variation in the valued added tax rates between the date of invoice and the date of payment of V.A.T, by the Company to the Revenue Commissioner.
- Unless otherwise provided, it is agreed that all accounts shall be paid within 30 days from the date of Invoice. It is also further agreed that all payments due shall be made on or before the due date as a condition precedent to further deliveries. Notwithstanding such condition, the Company shall be at liberty to make such deliveries as it sees fit, but such delivery or deliveries shall not be interpreted as a waiver by the Company of any of its rights.

Delivery

- It is agreed that if preparation manufacture or delivery of the goods is prevented or delayed in any way whatsoever by any Act of God or of any Government, War (whether declared or not) invasion or any other War like action, any strike, lockout or any Industrial Action or any civil disturbances, non-availability of raw materials, accident, mechanical failures, fire or any other event, or any action of a third party whatsoever, beyond the Company's reasonable control, then in any such circumstances the Company may upon reasonable notice, terminate, or amend this Contract or any obligation thereunder, in such manner it shall think fit without being liable to the Customer for any loss or damage thereby incurred, further without prejudice to the right of the company to payment in respect of goods supplied prior to such termination or amendment.
- It is agreed that the goods shall be packed and secured in such a manner to reach the destination in good condition under normal conditions of transport and shall be delivered by the Company at or dispatched for delivery to the place or places in such a manner as specified in the order or subsequently agreed. Delivery to any such place or places shall be deemed to be effected by delivery at the nearest off loading point or hard surface road adjoining such place of delivery.
- The Company shall endeavour to meet delivery dates but shall be under no liability of any kind if it fails to meet any such date or dates whatsoever, whatever the cause of failure and whether such causes is under the Company's control or not. If so required by the Company the delivery date or dates may be extended for a reasonable period. Each delivery or deliveries shall constitute a separate contract between the Company and the Customer and failure of any delivery shall not

affect contracts as to other deliveries, but if the said extension in delivery time required by the Company shall exceed three months, either party of the contract may cancel the undelivered balance of the contract by written notice to the other party without any claim on either side. It is also agreed that any time, date or place named by the company for delivery, is intended as an estimate only and the Company shall not be liable in damages or otherwise for any loss direct or indirect occasioned by the delivery of goods after such estimated time or date. It is further agreed that should the customer require that any goods be consigned by air freight or any other form of expressed transport then the costs of any such transport as aforesaid shall be at the customer's expense. It is also agreed that unless otherwise provided for, the Company shall be entitled to make delivery by instalments.

4. (a) If for any reason the Customer is unable to accept the delivery of the goods at the time when the goods are due and ready for delivery by the Company then the Company if its storage facilities permit, may agree to store the goods and safeguard them until their delivery and the customer shall be liable to the Company for storage, insurance and other expenses in so doing and the Customer shall pay to the Company interest at the current overdraft rate of the Associated Banks on the value of the goods so held and further the Customer agrees to indemnify the Company in respect of any claims, costs, expenses in respect of storage, insurance or other expenses.

(b) The signature of any employee of the of the Customer acknowledging receipt of the goods shall be conclusive evidence of the receipt of such goods as specified in the relevant delivery docket or other documentation.
5. (a) Where goods are delivered by public carrier the liability of the Company shall cease immediately after such goods are delivered to the said carrier its servants or agents for the delivery to the Customer.
6. (b) No claim for damages or shortages will be considered unless the Company and any carriers are advised in writing within seven days of the date of delivery and no claim for non delivery shall be considered unless the Company and any carriers are notified within ten days of the date of despatch.

Payment

1. It is agreed that the time of payment shall be of the essence of the contract and that all accounts shall be paid for in accordance with Clause 5. hereof. Such payment shall be effected without reduction on account of costs claims or any other reason whatsoever. If the Customer should fail to make payment on the due date for goods ordered or delivered by the Company to the Customer under this or under any other contract between the Company and the Customer then the Company may at its discretion suspend further deliveries or effect such further deliveries and if any of any payment or part thereof shall remain in arrears for seven days after written demand shall have been made therefore, the Company may cancel this or any other contracts in any case without prejudice to any other rights of the Company. The Company shall be entitled to charge interest at the rate of 2% per month on any over due account.
2. In addition to any right to which the company may be entitled by statute, common law or otherwise, the Company shall be entitled to retain possession of all goods in its possession or under its control for the unpaid price of any goods sold to the Customer by the Company under this or any other contract.
3. In addition to any other right of stoppage in transit to which the Company may be statute, common law or otherwise be entitled, the Company shall be entitled to retain and regain possession of all goods sold by the Company to the Customer which are in transit for the unpaid price of such goods or any goods sold to the Customer under this contract or any other contract.

Specifications

1. (a) Where specifications are to be supplied by the Customer to the Company then it is agreed that the Customer shall supply such specifications to the Company in such reasonable time as will enable the Company to compete manufacture and deliver within a period as may be agreed between the Customer and the Company.

(b) Where any goods of a special nature are manufactured and delivered in accordance with the customer design, pattern, drawings, sample or materials then the Company's interest shall be confined to Manufacture in accordance with the Customer's requirements and under no circumstances shall the Company be liable or responsible to the Customer or any other person or persons whatsoever for any loss or damage howsoever caused, whether directly or indirectly, by any fault in design, pattern, drawing sample or material and the Customer hereby agrees to indemnify the Company against any claims whatsoever arising out of the breach of any patent rights, registered design, copyright or any other protection, or arising out of any claim whatsoever arising out of any defect fault or omission in such designs, samples or materials.

(c) In view of recurring improvements in design, we do not bind ourselves to supply equipment identical to the specification.

(d) If materials are not available as specified, we reserve the right to substitute other materials if in our opinion such substituted materials are suitable and we reserve the right to amend the price quoted to meet any increase or decrease occasioned by such substitution.

Warranty

1. In respect of new equipment the company shall extend to the Customer the manufacturer's appropriate warranty (if any) and such warranty shall operate in place of all other warranties, conditions or liabilities expressed or implied by law, all of which are hereby expressly excluded. Such manufacturer's warranty shall not in any circumstances be extended to include the cost of labour, refrigerant, carriage, duty of taxes, and where equipment is sold on the basis of service being given to the Customer, without extra charge, during a stated period, such service shall include the cost of labour only and the period for which this free service is to be given must be given in writing by this Company before the contract is entered into, otherwise it is expressly understood that the manufacturer's warranty only shall apply. During the warranty period, the Company shall be entitled to inspect equipment at all reasonable times.
2. In no circumstances will the Company be responsible for consequential damages arising out of defect in or in the working of plant supplied or erected by the Company. This warranty shall only be binding on the Company provided the goods shall not have been subject to accident, neglect or misuse, that no repair or alteration has been attempted or affected by anyone other than ourselves or our accredited service agents, and that we or our accredited service agents are immediately notified of any alleged defects.
3. The machinery and materials furnished by the company hereunder shall remain personal property and retain its character as such no matter in what manner affixed or attached to any structure. Title to said machinery and materials shall remain in us until all sums due to us have been fully paid to us in cash. If the Customer fails in full performance of this contract, the unpaid portion of the purchase price shall, at our option, become immediately due and payable without notice, together with all reasonable legal or collection agencies fees incurred in the collection thereof.
4. The amount of any present or future sales, purchase, service, excise, or any other tax whatsoever which we shall be liable for, either on our own behalf or on behalf of the Customer or otherwise, with respect to any machinery, or material or service covered by this contract, shall be in addition to the price contained herein and be paid by the customer.
5. Any prices quoted in our catalogues, publications or websites are subject to alteration or withdrawal without notice.

Default

1. If the customer should make default in or commit a breach of this contract or of any other contract between the Customer and the Company or of any of the obligations of the Customer to the Company, howsoever arising, or if any distress, execution or other process be levied upon the Customer's property or assets, or if the Customer shall make or offer to make any arrangement or composition with its creditors, or shall commit any act of bankruptcy or if any receiving order in Bankruptcy shall be presented or made against him, or, if the customer is a Limited Liability Company, any resolution or petition to wind up such Company's business, (other than for the purpose of reconstruction) shall be passed or presented or if a receiver of such Company's undertaking, property or assets or any part thereof shall be appointed, the Company shall have the right forthwith to suspend all further deliveries to the Customer and to determine with or without notice any contract then subsisting between the Company and the Customer but without prejudice to any claim or right the Company may otherwise make or exercise.
2. Notwithstanding any other provisions or agreement to payments in this contract, if, in the sole and absolute opinion of the Company, the financial position of the Customer warrants such action, then the company may demand payment in cash or bankers draft, before delivery of all or any part or parts of the goods and on failure of the Customer to make such payment or payments as requested, the Company may Cancel this or any other contracts between the Customer and the Company without prejudice to any other right which the Company may have.
3. It is further agreed that in the event of any of these matters referred to in Clause 17 arising or occurring, then the Customer agrees to indemnify the Company against any loss, damage or expense incurred by the Company in connection with the contract including but not limited to the total cost of manufacture of the goods and a proportion in respect of profit.

Retention of Title

- (a) The ownership of all goods supplied by the Company to the Customer under this contract shall remain in the Company until such times as all debts due to the Company from the Customer in respect of this or any other contract, have been paid by or on behalf of the Customer. Notwithstanding any other provisions or agreement to payments in this contract, if, in the sole and absolute opinion of the Company, the financial position of the Customer warrants such action, then the company may demand payment in cash or bankers draft, before delivery of all or any part or parts of the goods and on failure of the Customer to make such payment or payments as requested, the Company may Cancel this or any other contracts between the Customer and the Company without prejudice to any other right which the Company may have. It is further agreed that in the event of any of these matters referred to in Clause 17 arising or occurring, then the Customer agrees to indemnify the Company against any loss, damage or expense incurred by the Company in connection with the contract including but not limited to the total cost of manufacture of the goods and a proportion in respect of profit.

(b) Until such time as all debts as aforesaid have been discharged in full, the Customer shall:

 1. Store the goods separately so as to clearly show them to be property of the company; and
 2. Hold the goods and all moneys received from the subsale thereof as bailee and trustee respectively for the company; and
 3. Shall keep separate books of account, in respect of all such money or moneys received; and
 4. At the request of the company shall furnish to the Company the names and addresses of any debtor, sub purchasers and all appropriate particulars thereof so as to enable the Company recover directly from such sub purchasers all sums owing by such sub purchaser.

(c) The Company or its Authorised Agents may without notice re-take possession of any materials or machinery. For this purpose the Company or its servants or agents shall be entitled to enter upon any lands or buildings either of the Customer or any other person continuing to sever or remove machinery or goods therefrom and take away same or any part thereof so severed. In the event of such re-taking of possession the Customer shall be liable for any costs of removal incurred by the Company together with the costs of making good any damage caused to any such lands or buildings as a result of such removal, whether caused by negligence of the Company's Agents or servants or otherwise.
2. It is agreed that the risk in the goods shall pass to the Customer or any carrier or agent acting on his behalf and it is further agreed that the provisions hereof shall not entitle the Customer to return any goods or refuse or delay payment on the grounds that his property on such goods is not passed to the Customer.

Interpretation

1. It is agreed that this contract shall be deemed to have been made at the registered office of the Company and that all disputes differences questions at any time arising between the Customer and the Company as to the construction of the contract or as to any matter or thing arising out of the contract or in any way connected therewith shall be decided in accordance with the laws of the Republic of Ireland and it is agreed that courts established by law in the Republic of Ireland shall have jurisdiction to decide all such differences or questions and the Customer submits to the jurisdiction of such Irish Courts of Law.

General

1. It is agreed that the Company does not warrant any particulars specifications or otherwise as being accurate and the Company reserves the right to alter any such particulars or details where necessary in any of the Company's documents or documentations. It is further agreed by the Customer that any specifications, drawing or any other details whatsoever prepared by the Company for the purpose of a quotation or tender or otherwise shall remain the property of the Company and shall be returned on request and shall not be used by the Customer for any purpose other than the purpose of the contract and the Customer shall not disclose them to a third party or parties and shall not copy use, pass or in any other way dispose of such specifications and details without specific consent in writing of the Company.
2. A scheduled order (that is an order calling for specific quantity of goods for delivery spread over a period whether specified or not) shall constitute unqualified authority to the Company for the manufacture of that quantity and if the Customer shall fail to call on that quantity within the period specified in such order or orders then the Customer shall be liable to reimburse the Company for all loss or expenses incurred by it as a result of such failure. If the Schedule Order does not specify the date or dates on which the calls off are to be made then the Company shall be entitled to require the Customer to accept delivery of the specified quantity or quantities stated in such order or orders within a period not exceeding a maximum of twelve months from the date when such order was received.