



STANDARD TERMS AND CONDITIONS OF TRADE

1. Definitions

“we”, “us” and “our” means Arrow Refrigeration Ltd, or any agents or employees thereof.

“you” and “your” means the customer and / or the purchaser, any person acting on behalf of and with the authority of the customer and / or the purchaser, or any person purchasing goods from us.

“goods” means those goods and / or services are identified in any sales orders, invoices, order forms or other documents or statements describing the goods and / or services supplied (or to be supplied) by us to you.

2. Terms of Supply of Goods

- 2.1. We will supply goods on these standard terms and conditions unless we agree in writing to change them. By signing an application for credit account and / or sales order, you accept these standard terms and conditions, and anything to the contrary in your enquiries, orders or confirmations will not apply.

3. Orders

- 3.1. Acceptance of an order by us is subject to availability of the goods.
- 3.2. You may not cancel or vary an order once it has been placed or confirmed unless agreed in writing by us. In the event that we accept a cancellation of an order, we may charge a handling fee of up to 10% of the price of the goods plus any and all costs incurred by us to time of cancellation.

4. Price and Payment

- 4.1. All quotations given by us are based on current rates of labour, overheads, materials, freight, cartage, insurance, foreign exchange, customs duty, landing charges, taxation, legislation, and current quotations from suppliers. We reserve our right to add any increases in the price of these items and any other costs incurred by us occurring after the date of quotation to the quotation price.
- 4.2. You must pay the price for the goods and other relevant costs as indicated on the sales order, invoice, order form or other document or statement issued by us in New Zealand dollars.
- 4.3. If credit has been extended by us to you, payment is due on or before the 20th day of the month following the month in which the invoice is issued by us, or at other times as may be agreed in writing by us.
- 4.4. If we at any time deem your credit to be unsatisfactory, we may immediately terminate this contract or any credit arrangement and require you to pay the price on delivery of the goods.
- 4.5. All costs and expenses of, or incurred by us as a result of termination and recommencement of any credit arrangement are payable by you upon demand.
- 4.6. We may charge interest and collection costs on any moneys which are overdue under the contract commencing on the due date until the date of actual payment. The interest rate will be the then current overdraft interest rate charged by our bank plus 2% per month.

- 4.7. You agree to pay on demand all costs (including commission and legal fees as between solicitor and own client and any other costs) incurred by us or our agents relating to the recovery of any amounts payable by you to us.
- 4.8. All payments by you must be made in full and without any deduction or right to set off or counterclaim. You agree, however, that all moneys which we may owe you on any account whatsoever may, at our option, be set off against payments due by you to us.
- 4.9. Unless otherwise stated all prices exclude GST and other taxes and duties, which, if payable, are payable by you.

5. Delivery

- 5.1. Delivery of the goods is deemed to be made:
- when you or your agent is given possession of the goods at our premises or elsewhere (loading is then at your risk); or
 - (If we effect delivery for you) when the goods arrive at your premises (unloading is then at your risk).
- 5.2. On delivery, the goods are at your sole risk, and with effect from the time of delivery, you will have in place all risks insurance to cover both your interest as bailee of the goods and our interest as owner of the goods under clause 6.1, until all monies owing for the good have been received by us.
- 5.3. We may choose the carrier and the method of transport, unless otherwise agreed by us in writing. We may choose to deliver by installments and may treat each delivery as a separate contract. Should we fail to deliver or make defective delivery of one or more installments, this will not entitle you to repudiate the main contract.
- 5.4. If we believe that you may not make any payment when due, then we may suspend or cancel any delivery.
- 5.5. Any delivery date agreed by us is approximate only, and no delay in delivery will entitle you to cancel your order for the goods.
- 5.6. Part of our quality control process is to ensure that immediately before a delivery of goods, the goods comply with the relevant order and are appropriately packaged for delivery. Immediately upon delivery of an order, the goods must be inspected for you and if any of the goods are damaged, we must be advised by you within 2 working days so that a claim for damaged goods can be made against the carrier.

6. Retention of Title

- 6.1. Title of ownership (both legal and equitable) in all goods delivered by you does not pass (and you are a bailee only in respect of those goods) until payment in full is made for all such goods and other goods supplied by us to you. Until property has passed, you will store all goods in such a way that they are clearly identifiable as our property.
- 6.2. Until you have paid us in full for all goods supplied, you may not sell, dispose of or charge the goods and must hold or deal with the goods for and on behalf of us. However, if the goods are sold, in the ordinary course of your business, prior to property passing to you, the proceeds of that sale are held by you on trust for and on behalf of us.
- 6.3. Prior to you acquiring full property in the goods we or our agents may at any time enter upon any land, premises or property where we believe such goods may be to view and inspect them, and if you have not paid for them in full retake possession of the goods. You will indemnify us on demand in respect of any costs or liabilities incurred by us in exercising our rights under this clause.

6.4. Until title in the goods has passed to you, you shall keep the goods free of Security Interest other than any security interest held by us, and you will not permit the goods to become an accession as defined in the Personal Properties Security Act 1999.

7. Personal Property Securities Act 1999

7.1. You acknowledge that the contract creates a security interest ("security interest") (as that term is defined in the Personal Properties Securities Act 1999("PPSA")) in the goods and for avoidance of doubt, the proceeds of sale of the goods. You will, if requested by us, sign any documents (including any new agreements), provide all necessary information and do anything else required by us to ensure that the security interest is a perfected purchase money security interest (as that term is defined in the PPSA).

7.2. Until payment to us has been made in full for the goods, you acknowledge and agree that in relation to goods that are inventory, you will not allow any non-purchase money security interest to arise in respect of the goods unless we have perfected our purchase money security interest prior to you taking possession of the goods.

7.3. If the goods are for your business use you agree, (to the extent permitted under the PPSA and unless we agree by notifying you in writing), that you will have no rights under Part 9 (Enforcement) of the PPSA. For example, but without limitation, you will have no rights under sections 114(1) (a) and 116 (to receive notice of sale and statement of account), sections 121(2) and 122 (to receive any proposal or object to any proposal to retain the goods), sections 125 and 129 (relating to removal of accessions), and sections 132 and 133 (to redeem the goods or reinstate the contract).

7.4. You waive your right under the PPSA to receive a copy of any verification statement or financing change statement (as those terms are defined in the PPSA).

8. Consumer Guarantees Act 1993 and Warranty for Business Use

8.1. If you are acquiring the goods for the purposes of a business, then all of the guarantees and remedies in the Consumer Guarantees Act 1993 are excluded, and the provisions of clauses 8.2 to 8.9 below shall apply.

8.2. We warrant that all new goods are of merchantable quality and this warranty remains in force for the period of 12 months immediately following delivery ("express warranty"). We may, however choose to give a specific written warranty, in relation to the particular goods, in addition or substitution to the express warranty in this clause, in which case the specific written warranty will apply to those goods not the express warranty.

8.3. No claim may be made by you under the warranty unless:

- The claim is received by us within 7 days of the defect complained of becoming apparent;
- The claim is confirmed in writing and accompanied by proof of purchase; and
- We are given a reasonable opportunity to inspect and verify the claim.

8.4. Our liability under the warranty is, in all cases, limited to the amount of the price of the goods in respect of which the warranty is given. We may perform the express warranty by doing any one of the following at our option:

- replace the goods, or supply equivalent goods;
- repair the goods or workmanship; or
- give a credit for or refund the price.

8.5. The warranty does not cover;

- any defect caused or contributed to by you;
- any attempt to repair the defective goods made by any person not authorized by us to make such repairs; or
- costs for the shipment of defective goods to the place of repair.

8.6. We exclude all other representations, warranties (whether express or implied) and liabilities whether in contract, tort, under any other legal principle, or otherwise.

8.7. We will not be liable to you, or to any other person, for any loss or damage:

- caused by any delay in delivery however that delay is cause;
- arising directly or indirectly from the goods or their use, any services provided by us, or any breach by us of any of our obligations under these terms and conditions.

8.8. We will not be liable for any consequential, indirect or special damages or loss of any kind suffered by you or any other person. You are strongly advised to insure all perishable good and equipment against such occurrences.

8.9. If we are ever liable to you, or any other person, and we cannot rely on the exclusions of representations, warranties or liabilities set out above, then our liability is in all cases limited to the amount of the price of the goods.

9. Credit Application – Disclosure and Content

9.1. You authorize us to collect, retain and use any information about you that we regard as necessary to our credit enquiry and control purposes, from any third party. Accordingly, any person or company is authorized by you to provide us with such information as we may require in response to our credit enquiry. Any information collected may be used for other purposes in addition to that of credit enquiry.

9.2. You further authorize that we may furnish to any party, details of any credit application and any subsequent dealings that you may have with us, as a result of such credit application being actioned by us.

9.3. You acknowledge that you have credit rights under the Privacy Act 1993, to access and correct any information we may hold about you.

10. Goods Return

10.1. No goods will be accepted for return by us without our specific approval. All Goods shall be returned un-used, in un-damaged condition, original packaging and all freight pre-paid by you.

10.2. A re-stocking fee of 20% of the invoice value, plus any costs for damage repairs, will be charged upon the return of the goods to us. Goods supplied to special requirements will not be accepted for return.

11. General

11.1. These standard terms and conditions, any sales orders, invoices, order forms or other documents or statements issued by us describing goods delivered and/or payment terms and the provisions in the New Account Application Form (Together the "contract") are the full agreement between us and you.

11.2. We may, and you may not, vary or replace the contract and it will be a condition of us continuing to supply goods to you that you agree to sign any variation or replacement of this contract where required under the terms of this contract.

11.3. Tube effective, any approval granted or any waiver of any or all of these terms and conditions by us must be in writing and signed by the manager.

11.4. You may not assign all or any of your rights or obligations under the contract without our prior written consent.

11.5. We are not bound by any error or omission on any invoice, sales order, order form or other document or statement issued by us.