

## TERMS AND CONDITIONS OF SALE

### 1. TITLE

- Risk in any goods supplied by the seller to the buyer shall pass when such goods are delivered to the buyer or into custody on the buyer's behalf but the ownership of any goods supplied by the seller to the buyer shall remain with the seller until payment in full is made for the goods the subject of the contract and for all other goods supplied by the seller to the buyer.
- The buyer acknowledges that until payment has been made in full, that:
  - The buyer is in possession of the goods as bailee for the seller.
  - The buyer shall store the goods separately so that they are clearly identifiable as the property of the seller.
  - Any sale of the goods by the buyer to a third party will be made by the buyer as agent for the seller and all sale proceeds will be held in trust for the seller as its property.
  - In the event that the buyer combines the goods with the buyers own goods or articles, the buyer does so on the condition that the resulting goods are the property of the seller.
  - In the event that the buyer combines the goods with goods or articles of a third party the buyer does so on the condition that, the resulting goods are deemed to be owned by the seller and third party.
  - The seller reserves the right to enter the buyers premises for the purpose of repossessing any goods not paid for in accordance with these terms and conditions of sale.
- In the event that, contrary to these terms, the buyer disposes of, alters, destroys or otherwise deals with the goods in a manner inconsistent with the seller's ownership thereof whilst payment in full has not been made, the buyer shall account to the seller for the value of such goods so dealt with and further, the seller will be entitled to the proceeds, if any, of such goods so dealt with.

### 2. PAYMENT

- The buyer must pay for all goods to be supplied by the seller within thirty (30) days from the date of invoice.
- Unless the buyer has been notified by the seller in writing that the buyer holds a credit account with the seller, the seller will not deliver the goods until the buyer's payment has been received and clears.
- If payment is not received by the due date then the seller is entitled to charge interest on the money due but not paid at the rate of twenty per cent (20%) per annum from the date payment is due until the date payment is made.
- Any amount not paid in accordance with the above terms will be referred to the seller's Collection Agents or Legal Representatives. The buyer will pay to the seller any costs or expenses incurred by the seller, including Solicitors costs on a full indemnity basis, in connection with the recovery or attempted recovery of any amount owed by the buyer to the seller upon demand.
- All amounts payable by the buyer to the seller are to be remitted to the seller's Brisbane office at 86 Bluegrass Crescent, Eight Mile Plains Q.4113.

### 3. WARRANTIES AND REPRESENTATIONS

- All new goods supplied are warranted to be free from defects in material and workmanship for a period of (12) months from time of delivery, with a (12) twelve month limited labour only period to run in conjunction with the parts warranty. Extended warranty is as per the 'Tick' Warranty terms. This warranty does not apply/extend to used, ex-rental or second hand goods. These goods are sold 'as is' at the risk of the buyer.
- To the extent permitted by law all conditions, warranties and liabilities, including those as to merchantability and fitness for purpose, implied by statute, common law or otherwise are expressly excluded. To the extent that the seller is not able to exclude such condition or warranty the liability of the seller is limited to:
  - Replacement of the goods or the supply of equivalent goods;
  - Repair of the goods;
  - Paying to the buyer the cost of replacement of the goods or equivalent goods; or
  - Paying to the buyer the cost of repair of the goods; at the discretion of the seller.
- The seller is not liable for any injury, loss, or damage, direct or consequential, arising out of the use of or the inability to use the goods.
- Before using, the buyer shall determine suitability of the goods for the buyers intended use, the buyer assumes all risk and liability whatsoever in connection therewith.
- THE BUYER ACKNOWLEDGES AND DECLARES THAT THE BUYER HAS READ THESE TERMS AND CONDITIONS AND UNDERSTANDS THE SAME. NO WARRANTY OR REPRESENTATIONS HAVE BEEN MADE TO THE BUYER (OTHERWISE THAN EXPRESSLY CONTAINED HEREIN) AND NO WARRANTY ASSURANCE PROMISE OR REPRESENTATION HAS BEEN MADE REGARDING THE QUALITY FITNESS FOR USE SUITABILITY OR MERCHANTABILITY OF GOODS FOR ANY PURPOSE WHATSOEVER, AND THAT IN ALL THINGS THE BUYER HAS RELIED ON THE BUYERS OWN KNOWLEDGE AND JUDGEMENT.

### 4. DELAY

- If the seller shall state or accept any time for delivery or completion of the contract or any part thereof then such shall be approximate only and shall not be deemed to be of the essence of the contract.
- The seller shall not be liable for the failure to deliver or complete the contract or any delivery or completing the contract where such failure or delay is occasioned by Act of God, fire, accident, war, strike, lock-out, shortage of labour, lack of skilled labour, breakdown of plant, non-delivery of raw materials, difficulty in procuring components or materials, delays by suppliers or sub-contractors, delays in transit, delays by the buyer, legislative governmental or other prohibitions or restrictions, or any other event of any kind whatsoever which is beyond the control of the seller, and the buyer shall have no right of cancellation of the contract but shall accept delivery of the goods when the seller is reasonably able to deliver the goods having regard to the seller's commitments to other customers.

### 5. ACCEPTANCE

An offer or quotation by the seller shall become binding upon the seller only upon receipt written in such form as the seller may require. Order forms and other documents provided to the seller by the buyer as confirmation of orders previously placed must be clearly marked with the words "confirmation". Confirmation documents so marked will be treated as original orders. Acceptance of goods is deemed to be acceptance of these terms and conditions.

### 6. REJECTION

Except for defective goods supplied by the seller, goods returned for credit will only be accepted on the following conditions:

- Goods returned must not be obsolete, incomplete, damaged or otherwise imperfect.
- The amount of credit allowed in respect of the goods returned, if any, will be subject to a service charge at the seller's rate of (30%) thirty percent, unless the agreement specifically states otherwise.
- Goods cannot be rejected unless defective on original supply or incorrectly supplied. Goods specially produced or procured to the buyer's order cannot be rejected as being unsuitable or because they are no longer required by the buyer.
- No responsibility is accepted by the seller for goods lost or damaged in transit during return to the seller.
- No returns will be accepted for credit after the expiry of (7) seven days from date of original supply.
- Goods sold as used, ex-rental or second hand goods will not be accepted for credit, return, exchange or refund for any reason whatsoever.

### 7. DEFAULT

If the buyer:

- Is in breach of any of the terms and conditions of the contract, and in case of any default which may be remedied, fails to remedy the same within 7 days of receiving written notice specifying default; or
- Shall have any execution levied against it or become bankrupt or insolvent or commit any act of bankruptcy or enter or intend to enter into any composition or arrangement with its creditors or (in the case of a company) do any acts which would render it liable to be wound up or have a receiver appointed over its property or if it shall have a winding up order made against it or pass or attempt a resolution for winding up or be a party to the appointment of or have a manager or receiver appointed of the whole or any part of its property or undertaking. Then without prejudice to any other remedy available to the seller
- The seller by written notice may forthwith enter, suspend or terminate the contract without prejudice to any other right or remedy it has at law or equity; and whether or not such notice is given, payment for all goods sold by the seller, whether delivered or not and any other moneys payable by the buyer shall immediately become due; and
- The seller may enter upon the premises where any delivered goods are situated and take possession of and remove the same without being responsible for any damage thereby caused and may resell the same and apply the proceeds in or towards payment of the purchase price. All costs and expenses of or incurred by the seller as a result of any such action shall be payable by the buyer on demand.
- Any suspension of the contract by the seller shall not prevent it terminating the contract during the period of suspension.

### 8. CANCELLATION

Cancellation of any order by the buyer will only be effective if accepted by the seller in writing and in any event shall be upon the condition that the buyer shall pay the seller for all work done and materials used by the seller in the execution of work on the buyer's behalf up to the date of cancellation.

### 9. GOVERNING LAW

The validity and interpretation of these conditions of sale and of the rights of the parties both pursuant to these conditions of sale and otherwise shall be governed by the laws of Queensland.

### 10. INTERPRETATION

- "The Seller" means Austwide Sales & Rentals Pty. Ltd, its successors or assigns.
- "The Buyer" means the person, firm or company which has offered to purchase the goods from the seller or to whom the seller has offered to sell the goods.
- "Goods" means any products or items offered for sale by the seller or sold by the seller to the buyer.
- "Contract" means the contract for the sale of goods entered into between the seller and the buyer and includes these "Terms and Conditions of Sale" and any quotation provided to the buyer by the seller and any further terms and conditions contained therein."
- "Terms and Conditions" means the terms and conditions contained in this document and any other document forming part of the contract.

### 11. MANUFACTURERS SPECIFICATIONS

Due to Manufacturers continuous improvements, Product Specifications may change without notice.

## WARRANTY INFORMATION

This warranty applies for calls of a breakdown service nature only, for problems of manufacturing origin. Recalls, customer related problems (power supply fluctuations, thermostat adjustments, overstocking and overloading of shelves/baskets, choked condenser etc) and any other non warranty nature calls will be charged to the service call originator at normal full rates, payable at the time of the service call.

THIS WARRANTY IS VOIDED, IF THE EQUIPMENT HAS NOT BEEN PROPERLY MAINTAINED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS SUPPLIED WITH THE EQUIPMENT, OR THE EQUIPMENT HAS BEEN SUBJECT TO POWER SUPPLY FLUCTUATIONS, MISUSED OR TRANSPORTED IN A MANNER WHICH COULD PREJUDICE THE CORRECT OPERATION OF THE APPLIANCE.

Austwide will not pay, authorise or reimburse any costs for travelling time, callout or attendance fees, overtime/penalty or premium labour rates, or any other costs incurred or charged, other than detailed herein. This warranty specifically excludes glass, lights, elements, keys, and accessories.

### 1 TICK WARRANTY GUIDE 2010

'1' = (12) Twelve months limited labour component.

Austwide Sales & Rentals Pty Ltd provides a limited labour warranty to compliment the manufacturer's parts only warranty. This limited labour warranty shall be restricted to the following items and at the maximum rates shown only, not including GST. Austwide will pay an amount equal to half of the callout fee for capital city metropolitan area, (or the first hour travelling time costs for country area calls.) Payment is limited to one of the preceding two options per service call, and will not be paid for subsequent calls to the same machine for the same fault.

- o Remove and replace compressor (3) three hours
- o Remove and replace fan motor (changeover) (1) one hour
- o Remove and replace thermostat (changeover) (1) one hour
- o Allowance for reclaim and re-gas of appliance to 250 grams of R134A / R404A \$ 48
- o Allowance for nitrogen, vacuum pump use on dome changes \$ 15

### 2 TICK WARRANTY GUIDE 2010

'1' = (12) Twelve months limited labour component - as above.

'2' = (24) Twenty four months compressor component.

Additional compressor warranty will be limited to the supply of new parts for faulty parts at the discretion of Austwide. The subsequent (12) twelve months compressor warranty, after the initial (12) twelve month period (above) will be restricted to the supply of compressor only, not including labour costs.

### 3 TICK WARRANTY GUIDE 2010

'1' = (12) Twelve months limited labour component - as above.

'2' = (24) Twenty four months parts component.

Parts warranty will be limited to the supply of new parts for faulty parts at the discretion of Austwide. The first (12) twelve months parts warranty will be concurrent with the (12) twelve months limited labour provision (above), the subsequent (12) twelve months parts warranty will be restricted to the supply of refrigeration system moving parts only (specifically fan motors, compressor, thermostat), not including labour costs.

'3' = (36) Thirty six months compressor parts only.

Additional compressor warranty will be limited to the supply of new parts for faulty parts at the discretion of Austwide. The subsequent (12) twelve months compressor warranty, after the initial (24) twenty four month period (above) will be restricted to the supply of compressor only, not including labour costs. Warranty will apply from the date of sale to the distributor/wholesaler, for the periods stated herein, with a (30) thirty days 'shelf life' extension period granted, to allow for items not on sold by the Distributor/wholesaler immediately upon receipt of goods, to be held in stock for a short period. Parts will be invoiced and supplied ex Austwide's Melbourne warehouse, on the basis of "Credit on return of faulty goods" within (30) thirty days of despatch. Austwide will not pay for parts, not supplied by Austwide, but may authorise parts to be issued over the counter from OEM suppliers in special circumstances. Faulty parts not received within (30) thirty days of despatch will not be credited. All items returned will be tested for faults and non faulty items will not be credited. All parts will be supplied FIS to the distributor/wholesaler via general road freight. Parts requested urgent /overnight /express will be sent on the basis " Receiver pays".

Item serial number, model, description and invoice number, must be supplied by the Distributor/wholesaler for all warranty claims and must include these minimum details to be eligible for consideration. Non provision of this basic information, will delay the parts and/or credits being issued.

All parts returned should be freight prepaid by sender. Faulty parts will not be accepted as "Receiver pays" or "freight on".

Compressors should have pipework welded sealed.

Hourly rates will be paid at the average commercial applicable rates for the area. All warranty works must be authorised with an order number from Austwide, prior to commencement of works. Any invoices received without an authority order number will be rejected.