

GENERAL TERMS AND CONDITIONS OF SALE

The defined terms used in these General Terms and Conditions of Sale shall have the same meaning as given to those terms in the relevant Quotation provided by Coolworld (as Supplier) to you as Purchaser save where otherwise defined herein.

Definitions used in these terms and conditions:

Business Day: means a day (other than a Saturday, Sunday or public holiday) when banks in the jurisdictions of registration of both the Supplier and the Purchaser are open for business.

Delivery Address: means the delivery address for Equipment specified in the relevant Quotation.

Equipment: means the equipment specified in a Quotation as being the subject of a sale by the Supplier to the Purchaser.

Purchaser: means the legal entity which is identified as "Client" or "Purchaser" in a Quotation issued by the Supplier.

Purchase Price: means the purchase price for Equipment specified in the relevant Quotation.

Quotation: means a quotation for sale of Equipment provided by the Supplier to the Purchaser and which, together with these general terms and conditions, forms the "**Agreement**" between the Supplier and the Purchaser in respect of that sale.

Specification: means any specification for Equipment (including any related plans or drawings) that is agreed by the Purchaser and the Supplier and set out in, or affixed to, the Quotation.

Supplier: means the Coolworld legal entity from which a Quotation has been issued to the Purchaser.

NOTE: THE PURCHASER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 5.7

1 The Purchaser agrees with the Supplier as follows:

- 1.1 To pay the Purchase Price and all costs of delivering the Equipment to the relevant Delivery Address to the Supplier without any set-off, counterclaim, withholding or deduction whatsoever at the times and in the manner provided for by this Agreement. The Purchase Price and all other charges under this Agreement are exclusive of VAT and any other applicable taxes, tariffs and duties, including but not limited to customs duties, or similar charges which shall be payable by the Purchaser at the rate and in the manner prescribed from time to time by law and shall be invoiced separately by the Supplier to the Purchaser if required.
- 1.2 legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 2.2 shall survive termination of this Agreement.
- 1.3 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.
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2 **Delivery**

- 2.1 The Supplier shall deliver the Equipment to the relevant Delivery Address at any time after the Supplier notifies the Purchaser that the Equipment is ready and provided that payment of the Purchase Price has been received by the Supplier from the Purchaser in advance of any such delivery.
- 2.2 Delivery of the Equipment shall be completed on the Equipment's arrival at the relevant Delivery Address.
- 2.3 The Purchaser shall inspect the Equipment on taking delivery of it and shall sign a delivery note on which any defects in the Equipment shall be noted. The delivery note so completed shall be conclusive evidence of the state of the Equipment when it was delivered to the Purchaser save in respect of any fault not ascertainable by reasonable examination. Where no delivery note has been signed, unless notification in writing to the contrary is received by the Supplier from the Purchaser within 7 days of delivery, the Equipment shall be deemed to be in good order save in respect of any fault not ascertainable by reasonable examination. Acceptance of delivery of the Equipment shall constitute the Purchaser's acceptance of the terms and conditions of this Agreement.
- 2.4 Any dates quoted for delivery are approximate only, and the time for delivery is not of the essence. In particular, the Supplier shall have no liability in respect of or arising from any delay in delivery of the Equipment that is caused by (i) a Force Majeure Event or (ii) the Purchaser's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment or (iii) the Purchaser's failure to effect timely payment of the Purchase Price to the Supplier.
- 2.5 If, the Supplier fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Purchaser in obtaining replacement equipment of similar description and quality in the cheapest market available, less the Purchase Price.
- 2.6 If the Purchaser fails to accept delivery of the Equipment within 3 Business Days of the Supplier notifying the Purchaser that the Equipment is ready for delivery, then, delivery of the Equipment shall be deemed to have been completed at 9.00 am on

the fourth Business Day after the day on which the Supplier notified the Purchaser that the Equipment was ready for delivery and the Supplier shall store the Equipment until transfer of possession of the Equipment to the Purchaser takes place and shall charge the Purchaser for all related costs and expenses (including any insurance which the Supplier may, but is not obliged to, maintain in respect of such Equipment which is deemed to have been delivered).

- 2.7 If, within 25 Business Days after the day on which the Supplier notified the Purchaser that the Equipment was ready for delivery, the Purchaser has not accepted delivery of it, then the Supplier may resell or otherwise dispose of part or all of the Equipment and shall charge the Purchaser for reasonable storage and selling costs and for any shortfall below the Purchase Price arising on such a resale.
- 2.8 It is the responsibility of the Purchaser to ensure that all people who use the Equipment are properly instructed in its safe and correct use and that they are in possession of all instructions that may be supplied by the Supplier and/or the Equipment manufacturer's operating instructions (where applicable). It is the responsibility of the Purchaser to have read, Understood and communicated the QF56 General Safety Procedures for Refrigerated Units, as outlined in Schedule 1 to this Agreement, and ensure these are communicated to any person using the Equipment. Where applicable, the Purchaser will request training in writing on how to operate the Equipment.
- 2.9 The Supplier may (if applicable) deliver the Equipment by instalments. In such case, any delay in delivery of or defect in an
- 2.10 If the Purchaser fails to accept delivery of the Equipment within 3 Business Days of the Supplier notifying the Purchaser that the Equipment is ready for delivery, then, delivery of the Equipment shall be deemed to have been completed at 9.00 am on the fourth Business Day after the day on which the Supplier notified the Purchaser that the Equipment was ready for delivery and the Supplier shall store the Equipment until transfer of possession of the Equipment to the Purchaser takes place and shall charge the Purchaser for all related costs and expenses (including any insurance which the Supplier may, but is not obliged to, maintain in respect of such Equipment which is deemed to have been delivered).
- 2.11 If, within 25 Business Days after the day on which the Supplier notified the Purchaser that the Equipment was ready for delivery, the Purchaser has not accepted delivery of it, then the Supplier may resell or otherwise dispose of part or all of the Equipment and shall charge the Purchaser for reasonable storage and selling costs and for any shortfall below the Purchase Price arising on such a resale.
- 2.12 It is the responsibility of the Purchaser to ensure that all people who use the Equipment are properly instructed in its safe and correct use and that they are in possession of all instructions that may be supplied by the Supplier and/or the Equipment manufacturer's operating instructions (where applicable). It is the responsibility of the Purchaser to have read, Understood and communicated the QF56 General Safety Procedures for Refrigerated Units, as outlined in Schedule 1 to this Agreement, and ensure these are communicated to any person using the Equipment. Where applicable, the Purchaser will request training in writing on how to operate the Equipment.
- 2.13 The Supplier may (if applicable) deliver the Equipment by instalments. In such case, any delay in delivery of or defect in an instalment shall not entitle the Purchaser to cancel the Agreement or any other instalment thereunder.

3 Title & Risk

- 3.1 The risk in the Equipment shall pass to the Purchaser on delivery.
- 3.2 Title to the Equipment shall not pass to the Purchaser until the Supplier receives payment in full (in cash or cleared funds) for the Equipment. Until title to the Equipment has passed to the Purchaser, the Purchaser shall store the Equipment separately from all other equipment held by the Purchaser so that it remains readily identifiable as the Supplier's property and shall maintain the Equipment in good condition and shall keep it insured against all risks at a value equal to the Purchase Price (including all taxes duties and other payments which may be incidental to any replacement) against all usual risks of loss, damage or destruction by fire, theft or accident.
- 3.3 Notwithstanding any of the other provisions of this Agreement, in the event that the Supplier delivers the Equipment to the Purchaser before the Purchaser has made full payment of the Purchase Price to the Supplier, the Supplier shall be entitled to and the Purchaser hereby authorises the Supplier to enter upon the Purchaser's premises to recover and remove the Equipment. The Purchaser shall take all steps to ensure that the Supplier may enter such premises to recover the Equipment, including by procuring from any person having an interest in such premises a right for the Supplier to enter onto such premises to recover and remove the Equipment for these purposes.

4 Quality, Warranties & Remedies

- 4.1 The Supplier warrants that on delivery the Equipment shall:-
 - 4.1.1 conform in all material respects with its description or any applicable Specification;
 - 4.1.2 be free from material defects in design, material and workmanship; and
 - 4.1.3 be fit for any purpose held out by the Supplier.
- 4.2 The Supplier shall provide a 3 months parts only warranty in respect of any used or refurbished Equipment and a 12 months parts only warranty in respect any new Equipment commencing from the date of delivery of the Equipment. This warranty

does not extend to labour costs. If additional warranty cover is required by the Purchaser a quote for this is to be requested by the Purchaser and must be agreed in writing by the Supplier before the Equipment is delivered.

- 4.3 The warranty period for any part that is replaced or repaired pursuant to clause 5.2 shall be the remainder of the original warranty period or three months (whichever is longer).
- 4.4 If any part of the Equipment fails during the warranty period, the Purchaser's exclusive remedy shall be, at the Supplier's option, to either (i) repair or replace the failed part provided that the Purchaser returns the Equipment or the relevant part to the location designated by the Supplier within the warranty period and pays the freight and any customs costs both to and from such location; or (ii) to deliver a replacement part to the Purchaser provided that the Purchaser installs, at its cost, such part(s). In all cases the Purchaser shall be responsible for returning the failed parts or Equipment to the Supplier and shall be responsible for all costs associated with the return of the failed parts or Equipment. If the Supplier determines that the returned parts or Equipment are not defective, the Purchaser shall pay and/or reimburse the Supplier for all expenses incurred by the Supplier in the examination of the returned parts or Equipment.
- 4.5 The warranties set out in this clause 5 do not extend to the following:-
- 4.5.1 Any Equipment that has been damaged or rendered defective as a result of (i) a use of the Equipment other than for its normal intended use, (ii) failure to use the Equipment in accordance with the instructions that may be supplied by the Supplier and/or the Equipment manufacturer's operating instructions (where applicable) or (iii) any wilful damage, misuse, abuse, negligence, abnormal storage or working conditions in relation to the Equipment;
- 4.5.2 Any defect in the Equipment which arises as a result of the Supplier following any Specification provided by the Purchaser;
- 4.5.3 Any Equipment that has been damaged or rendered defective as a result of (i) any modification of the Equipment by a party other than the Supplier, (ii) any improper installation in or integration with the Equipment of third party goods or products or (iii) as a result of any servicing of the Equipment carried out by a third party;
- 4.5.4 Any Equipment that has been damaged or rendered defective as a result of improper transportation or packaging when returning the Equipment or any parts to the Supplier;
- 4.5.5 Fair wear and tear of consumable parts, that is parts that require periodic replacement during the normal course of the Equipment's usage including without limitation batteries, adaptors etc; or
- 4.5.6 Cosmetic damages such as scratches, dents, fading or discolouration.
- 4.6 The warranties set out in this clause 5 are the only warranties given by the Supplier with respect to the Equipment. The Supplier expressly disclaims to the fullest extent permitted by law any and all other representations and warranties, including without limitation, warranties as to fitness for a particular purpose or merchantability. The Supplier assumes no liability for costs or expenses associated with lost revenue or with the removal or installation of the Equipment. The Supplier shall under no circumstances whatsoever be liable to the Purchaser, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this Agreement. The remedies set out in this clause 5 are the Purchaser's sole and exclusive remedies for any failure of the Equipment.
- 4.7 **Note:** The Supplier's aggregate liability in any and all causes of action arising under, out of or in relation to this Agreement shall in no event exceed the total amount paid by the Purchaser to the Supplier under this Agreement.
- 4.8 Nothing in this Agreement shall limit or exclude the Supplier's liability for death or personal injury caused by its negligence or the negligence of its employees or agents, fraud or fraudulent misrepresentation and/or any other liability which cannot be excluded by law.
- 4.9 No proceedings may be issued by the Purchaser against the Supplier more than 12 months after the cause of action first arose.

5 Termination

- 5.1 The Supplier may terminate this Agreement with immediate effect in the following events:-
- 5.1.1 the levying of any distress or execution against the other Party or the making by it of any composition or arrangement with creditors or, being a company, the other Party's liquidation (other than a members' voluntary liquidation) or, being an individual, the other Party's bankruptcy;
- 5.1.2 the Purchaser suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
- 5.1.3 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Purchaser (being a company);

- 5.1.4 the holder of a qualifying floating charge over the assets of the Purchaser (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 5.1.5 a person becomes entitled to appoint a receiver over all or any of the assets of the Purchaser or a receiver is appointed over all or any of the assets of the Purchaser;
- 5.1.6 any event occurs, or proceeding is taken, with respect to the Purchaser in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in 6.1.1 to 6.1.5 (inclusive);
- 5.1.7 where the Purchaser suspends or ceases or threatens to suspend or cease carrying on all or a substantial part of its business.
- 5.2 On termination of the Agreement for any reason, the Purchaser shall immediately pay to the Supplier all of the Supplier's outstanding invoices and the Supplier shall be entitled to invoice the Purchaser for any costs incurred by the Supplier, up to the date of termination, towards fulfilment of a Quotation which has not yet been delivered, any such additional invoices to also be immediately due and payable by the Purchaser.
- 5.3 Termination of this Agreement shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination. Clauses which expressly or by implication survive termination of this Agreement shall continue in full force and effect.

6 **Arbitration**

- 6.1 Any dispute or claim arising out of or in connection with this Agreement, including any question regarding its breach, existence, validity or termination, shall be referred to and finally resolved by arbitration.
- 6.2 The arbitrator shall be agreed upon by the Parties or, in default of agreement between them within five (5) Business Days of one Party nominating an arbitrator in writing to the other Party, by an arbitrator appointed on the written application of any Party by:
- the President for the time being of the Law Society of Ireland; or
 - where the Purchaser is a UK registered entity, the London Court of International Arbitration,
- (the "Arbitrator").
- 6.3 The Arbitrator shall be required to proceed promptly and diligently and to render his decision as soon as practicable. The decision of the Arbitrator shall be presented in separate findings as to fact and law. The award of the Arbitrator shall be final and binding on the Parties from which no appeal may be taken, and an order confirming the Arbitrator's award or judgement upon such award may be entered in any court having jurisdiction. The award of the Arbitrator may include pre-award interest and equitable relief to the extent that the Arbitrator deems appropriate. The award shall include interest from the date of the award until paid in full at a rate to be fixed by the Arbitrator.
- 6.4 In any award made by him, the Arbitrator may assess his own fees and expenses and those of the arbitration and the witness and legal fees of the Parties, or any part thereof, against one or more of the Parties, taking into account the circumstances of the case.
- 6.5 The Arbitrator shall act in accordance with:
- the Irish Arbitration Act 2010 and any modification or re-enactment for the time being in force; or
 - where the Purchaser is a UK registered entity, the UK Arbitration Act 1996 and any modification or re-enactment for the time being in force.
- 6.6 Notwithstanding the initiation of arbitration proceedings, each Party shall continue to perform all duties and obligations under this Agreement, on a without prejudice basis

7 **General**

- 7.1 Any delay or failure of either Party in exercising any right or remedy shall not constitute a waiver of any of that Party's rights or remedies which may be enforced separately or concurrently with any other right or remedy in the future accruing to that Party to the effect that such rights are cumulative and are not exclusive of each other.
- 7.2 The Purchaser acknowledges that these terms and conditions, together with the Quotation, contains the whole agreement between the Parties (including but not limited to the full extent of the Supplier's obligations and liabilities in respect of the Equipment) in respect of the Equipment and that it has not relied upon any oral or written representation made to it by the Supplier or its employees or agents. The Agreement supersedes and extinguishes any prior agreement between the Parties in respect of the Equipment, whether written or oral.

- 7.3 No variation of this Agreement shall be effective unless it is in writing and signed by the Parties or their authorised representatives.
- 7.4 Headings contained in this Agreement are for reference purposes only and should not be incorporated into the Agreement and shall not be deemed to be any indication of the meaning of the clauses and sub-clauses to which they relate.
- 7.5 Any notice to be served on either Party by the other shall be sent by prepaid recorded delivery or by hand delivery to the address of the respective recipient party as noted at the beginning of this Agreement.
- 7.6 If any provision or part-provision of this Agreement 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 this Agreement.
- 7.7 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original but all the counterparts shall together constitute one Agreement.
- 7.8 Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **"Force Majeure Event"**). In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations.

8 **Governing law**

- 8.1 Save in the case where the Purchaser is a UK registered entity, the Agreement and any dispute or claim arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Ireland.
- 8.2 Where the Purchaser is a UK registered entity, the Agreement and any dispute or claim arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 8.3 legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 2.2 shall survive termination of this Agreement.
- 8.4 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

Schedule 1

QF56 General Safety Procedures for Refrigerated Units

Refrigerated Units

The refrigerated units are used for storage of perishable goods. These facilities pose special risks to workers. All workers should be aware of the possibility of hypothermia, the enclosed space causing reduced oxygen levels as well as poorly or non-functioning opening mechanisms. Cooperation and respect for this facility is a necessity

When you are in a refrigerated unit, you are often “alone” in that space, even during regular work hours. You should be aware of this and take the necessary precautions to reduce your risk. Basic precautions for working in the unit are:

Recommendations for working in Refrigerated Units

- Try always to work with a buddy. There is safety in numbers and an immediate support system in the event of an emergency.
- Be aware! Cold temperatures affect you both mentally and physically.
- Tell someone, your supervisor or another co-worker that you are going to work in the refrigerated unit and when you will return. If you are going to be in a unit for an extended period, timed checks are advised. Do not forget to report back to that contact person at the agreed upon time(s)!
- You should be aware that mobile phones might not work well in the refrigerated unit. Before relying on this as a communications device, check to see if it will work in that space. Remember that frozen batteries might disable the phone.
- Have a contact person and a check-in schedule. Ensure that your contact can access the unit if the need arises. Check-in at least once an hour. Cold temperature reduces you mental alertness and physical coordination, so do not work in units for extended periods without a physical and mental rest period. Access is restricted to regular business hours of operation.
- Any work that requires moving, shelving/retrieval of heavy boxes or ice core must not be done alone.
- An appropriate stool or ladder should be used for shelving/removal of ice core or material from the upper storage shelves.
- Coats/mittens/head wear or other fabric items of work gear must be hung on the hangers provided outside of the walk-in freezer. Fabric items should not be left on the floor, tables, chairs, storage boxes or blocking the cooling unit machinery.
- DO NOT change the temperature of the unit unless with permission from your supervisor. Many of the freezers are alarmed, so changing the temperature could cause false alarms.
- Do not block or cover the cooling fan units inside the unit.