

TERMS AND CONDITIONS

1. DEFINITIONS

In these conditions the singular shall include the plural and vice versa and the following expressions shall, unless the context otherwise requires have the meanings ascribed to them respectively:

"ACE"	American Catering Equipment (UK) Limited
"ACE's address"	5 Chantry Court, Sovereign Way, Chester West, Chester CH1 4QN
"Our technician"	a technician or engineer of or authorised by ACE including a sub-contractor or agent
"Customer"	the Customer named overleaf
"Customer's premises"	the premises situated at the Customer's address overleaf or any other address described overleaf as the Customer's premises
"Goods"	the goods described overleaf
"Specification"	the technical description (if any) of the Goods set out overleaf
"Installation"	the installation (if any) described overleaf, as may be amended in writing by the parties
"overleaf"	the face of the Customer Invoice

2. THE CONTRACT

- No contract shall be made or be deemed to have been made until a written order signed by or on behalf of the Customer has been accepted by ACE. Notification of acceptance may be made by post in or in any other manner ACE may choose and if made by post shall take place upon posting.
- These conditions are the only conditions which shall apply to this contract. Without limiting the generality of the foregoing, no condition proposed or made by the Customer shall apply to this contract nor prevail over any of these conditions, notwithstanding any statement to the contrary.
- No variation of these conditions shall be effective unless in writing, signed by ACE.

3. PAYMENT

The Customer shall pay to ACE, at ACE's address, in Sterling without deduction, counterclaim or set-off:

- the purchase price of the Goods, any installation and special charges shown on the Customer Invoice and Value Added Tax within 30 days of the date of invoice which will usually coincide with that of despatch;
- carriage and freight charges on demand. Any such charges are estimates only and the Customer undertakes to pay the actual charges incurred and included in ACE's invoice;
- the amount, on demand, of any insurance premium borne by ACE at the Customer's request;
- the charges referred to in Clause 4(c).

4. DELIVERY AND SHIPMENT

- ACE shall deliver the Goods to the Customer's premises and, where required to do so, install the Goods, in each case within the stated period but such periods are an estimate only and shall not bind ACE.
- Unless agreed otherwise in writing, where the goods are to be shipped abroad, delivery will be made ex works and all risk of loss, damage, or destruction will pass to the Customer at the ex-works point.
- If the Customer requests that delivery be delayed or fails or refuses to accept delivery as and when tendered by ACE, ACE may, notwithstanding the same, invoice the Customer for the amount under Clause 3, and in its discretion, may store the Goods at the Customer's sole risk, and insure the Goods, all at the Customer's expense, for such period and on such terms as ACE may consider reasonable. The Customer shall be liable for all costs, damages and subsequent delivery charges resulting from the said delay, failure or refusal. All invoices shall be payable within 30 days of their respective dates.

5. ACCEPTANCE BY THE CUSTOMER

- The Customer shall furnish the carrier with a receipt marked "unexamined" and shall notify ACE and the carrier in writing:
 - of non-delivery of the Goods within 7 days of the date of despatch of the Goods if consigned by road or by rail, and within 28 days of such date if consigned by sea;
 - of damage to the packaging of the Goods forthwith on receipt of delivery;
 - of damage to the Goods within seven days of date of receipt of delivery of the Goods and of claims for shortage within three days of such date.
- The Customer shall notify ACE in writing of any other claim for loss, damage or defect within 7 days of receipt of delivery of the Goods.
- The Customer shall, if requested by ACE afford it all reasonable facilities for a proper investigation of any claim.
- In this Clause 5 time is of the essence and unless the Customer gives notice in accordance with these provisions the Goods shall be deemed to be in good order and condition and to the Customer's entire satisfaction.
- None of the provisions in this Clause 5 shall affect such of the Customer's statutory rights as may not be excluded or restricted.

6. CONDITION OF THE GOODS

- ACE undertakes that where the Goods are situated in the United Kingdom and fail or cease to function within twelve months from the date of its delivery to the Customer as a result of any inherent electrical or mechanical defect in the Goods, it will repair or procure the repair of the Goods free of charge, provided that no alterations, additions or repairs will have been made to the Goods by any person not authorised by ACE.
- Where the Goods have been purchased for resale the period of twelve months aforesaid may, in ACE's discretion, be extended to the shorter of the period of twelve months from the date of resale by the Customer or eighteen months from the date of their delivery to him for resale.
- Where the Customer is "a person dealing as consumer" (and the contract is not a contract as described in Section 26(3) of the Unfair Contract Terms Act 1977) the Customer is entitled to his statutory rights and the exclusions in this sub-paragraph (c)

shall not apply. In all other cases all conditions, warranties, guarantees and representations whether express or implied including any implied by statute or at common law (excluding those implied by Section 12 of the Sale of Goods Act 1979 of Section 2 of the Unfair Contract Terms Act 1977) relating to the Goods are hereby expressly excluded.

- Without limiting the generality of the foregoing:
 - Under no circumstances shall ACE be liable for any consequential loss or damage arising out of or in connection with the Goods;
 - ACE's liability (if any) to the Customer shall in all cases be limited to repayment of the purchase price (or the proportion thereof) paid by the Customer for the Goods.

7. TITLE

- Unless agreed otherwise in writing the Goods shall be at the risk of the Customer immediately upon delivery to the carrier or, in the case of export, in accordance with clause 4(b). Accordingly, the Customer is required to insure the Goods.
- The Goods shall remain the sole and absolute property of the Company as legal and equitable owner until the Customer shall have paid to ACE:
 - the purchase price of the Goods and all other amounts referred to in Clause 3;
 - the full price of and all other charges relating to any other Goods the subject of any other contract between the Customer and ACE.
- Whilst title to the Goods remains with ACE the Customer shall:
 - Hold the Goods as bailee for ACE, separately from the Customer's own goods readily identifiable;
 - and
 - sell it only in the ordinary course of the Customer's business as ACE's agent.

8. INSTALLATION

- The Customer is responsible for obtaining all permissions, consents and authorisations required to be obtained for the installation including, but not limited to, those of any landlord, local authority and statutory body and any necessary to comply with building, health, safety and other rules or regulations.
- If ACE is notified within three months of the completion of the installation, (and provided that there has been no disturbance to or interference with the services connected to the installation or Goods) ACE will repair any installation defects resulting from faulty materials or workmanship not caused by circumstances beyond ACE's control.
- Subject to the Customer's statutory rights, ACE's liability for loss and damage (including consequential loss and damage) in respect of any installation shall be limited to that caused and to the extent that it is caused directly by the negligence of ACE and/or an ACE technician because of defective workmanship or materials (not being circumstances beyond ACE's control or outside its knowledge) provided that ACE's total liability therefore in respect of any claim or series of claims or any occurrence or series of occurrences shall not exceed £100,000 or the installation charge, whichever is the greater.
- ACE shall not be liable for death or personal injury unless resulting from its negligence.
- ACE shall not be liable for any loss, including consequential loss or damage, caused or related to any variation in any of the services connected to the Goods or the machines or appliances connected to the services.

9. DEFAULT

- If the Customer refuses or fails to take delivery of the Goods, or has a receiving order in bankruptcy (or a sequestration order) made against him or calls a meeting of creditors or has an administrator or liquidator or receiver appointed over it or over its income or assets or passes a resolution for its winding up (otherwise than for the purpose of an amalgamation or reconstruction) then ACE may treat this contract as repudiated by the Customer.
- If ACE at any time considers that the Customer is or may be unable or unwilling to pay the purchase price of the Goods, ACE shall be entitled to withhold delivery until receipt of payment of the purchase price.

10. VARIATION

ACE shall be entitled to vary the purchase price of the Goods if there is any change in the price of raw materials or any change of specifications between the date of the quotation and the date of acceptance of the Customer's order.

11. FORCE MAJEURE

ACE's obligations under this contract may be varied or cancelled by ACE if ACE is unable to deliver or install the Goods in accordance with this contract owing to any event beyond ACE's reasonable control.

12. HEALTH AND SAFETY ACT

The Customer's attention is drawn to the provisions of Section 6 of the Health and Safety at Work Act 1974. ACE will make available on request information relating to the design, construction and installation of the Goods to ensure that, so far as is reasonably practical, it is safe and without risk to health when properly used. The Customer hereby undertakes to take such steps as are necessary to ensure that the Goods are safe and without risk to health, including making available appropriate information relating to the Goods to its employees and to any person to whom it supplies the Goods.

13. MISCELLANEOUS

- ACE reserves the right to request security for payment by way of guarantee, a registered charge, a banker's letter of credit or in any other manner it may require.
- Any indulgence or waiver by ACE shall not affect its strict rights against the Customer.
- Any notice under this contract may be sent or delivered to the relevant party's address stated overleaf or that party's last known business address.
- This contract shall be governed by English law and the Customer submits to the non-exclusive jurisdiction of the English Courts. Headings are for convenience only and shall not affect the interpretation of any provision.