

## Definitions and General

The Company – Falcon Foodservice Equipment

The Buyer – the person or company contracting with “The Company”

The Contract – any contract between “The Company” and “The Buyer” for the sale and purchase of goods upon these terms and conditions.

All orders are accepted subject to these Conditions of Sale. No variation, waiver or addition to these conditions shall have effect unless agreed in writing by the Company.

### 1. Description

Although every effort has been made to ensure that the descriptions and illustrations in our catalogues, brochures and website are correct, they will not form part of the contract and therefore any important details to the buyer should be verified before placing an order. We reserve the right to modify or vary the design, specification or finish of any of our products without notice.

### 2. Prices

The price of the Goods shall be the price listed in the published price list current at the date of order less any agreed discount or as per the detail contained within issued quotations or tender documents. Prices are exclusive of VAT, which will be charged at the applicable rate at the date of invoice.

Prices do not include the cost of carriage and/or installation / site access unless specifically stated. All installation work whether included as part of the price quoted or as a separate quotation, will be undertaken only at the risk of the Buyer.

### 3. Orders

The buyer will be responsible for the accuracy of any order placed on the Company. Order acknowledgements will be sent to the email address nominated by the Buyer. The Buyer is responsible for ensuring that the correct email address is provided and maintained.

### 4. Payment

The buyer shall pay the price of the goods (Inc VAT) without any deductions within 30 days of the end of the month in which the goods were invoiced or within the time agreed in writing. This may include a proforma basis.

If payment is not made to terms we shall be entitled at our option to rescind the contract and repossess the goods or to take such other steps as we think fit including but not limited to the suspension of future deliveries. All costs involved in the recovery of overdue payment including solicitor’s fees and costs shall be covered by the buyer.

### 5. Delivery

Delivery of goods shall be made by the Company delivering the goods to an agreed address. On delivery of your goods, your goods will be off loaded and moved to a location at the kerbside. We are not under any obligation to move the goods further than the kerbside and shall not be required to enter any premises or carry your

goods up any stairs. Delivery of goods will be charged at £25 per order, when delivery of goods is not directly to the Buyer.

Whilst every effort is made to meet the quoted delivery date(s), should the Company be unable for any reason not to fulfill a delivery on the specified date, the Company will not be deemed to be in breach of Contract, nor will the Company have any liability to the Buyer for direct, indirect or consequential loss.

Any costs incurred due to inadequate site access shall be charged to the Buyer.

In the event of deferment of delivery after an item has been made ready against Buyers requirements, we reserve the right to charge expenses incurred in storing said goods.

There will be additional charges payable for each attempted repeated delivery.

It is the Buyer’s responsibility to inspect the goods at the time of the delivery. The Company accepts no responsibility for alleged non-delivery, shortfall of goods, damage on delivery or other discrepancies unless notification in writing is received 72 hours from date of delivery. In the absence of such notification, the Buyer will be deemed to have accepted the goods.

All proof of delivery documentation should be signed noting the condition the goods were delivered.

Any assistance given by the carrier beyond the stated delivery address shall be at the sole risk of the Buyer who will keep the carrier indemnified against all claims or demands which may arise notwithstanding that property in the goods may not yet have passed to the Buyer.

### 6. Risk and Property

The property of the goods shall not pass to the Buyer until the full purchase price has been paid to the Company together with any sums owing; and the Buyer expressly agrees:

- (a) not to resell, hire, lend, gift, pledge or otherwise dispose of the goods until the full purchase price has been paid; and
- (b) until the full price is paid, to store the goods in such a way that they are clearly identifiable as our property; and
- (c) until the full price is paid, to act as our agent in respect of the goods.

Until property is passed, we may enter upon any premises where such goods are stored or where they may be reasonably be thought to be stored for the purpose of re-possessing said goods and recovering same.

Risk of damage, loss or destruction of the goods shall pass to the Buyer upon delivery of the goods to the designated delivery point. Notwithstanding that property in the goods has not yet passed to the Buyer; and the Buyer shall insure accordingly.

Until such time as the property in the goods passes to the Buyer, the Company shall be entitled at any time to require the Buyer to deliver up the goods to the Company and if the Buyer fails to do so forthwith to enter upon the premises of the Buyer or any third party where the goods are stored and repossess the goods. The Buyer hereby grants an irrevocable license to the Company for this purpose.

The designated delivery point shall be as follows:

(a) EX WORKS - as soon as the goods are loaded on to the transport for transit to the Buyer.

(b) BY US TO A SPECIFIED PLACE - the place or destination specified; providing that we shall not be liable for damage caused during unloading.

(c) WHERE TENDER INCLUDES INSTALLATION

OR OTHER WORK - the site specified for installation or other works; providing that we shall not be liable for damage caused during unloading.

## **7. Returns**

Any goods agreed by the Company as acceptable for return, excluding faulty goods, will be subject to a 20% restocking charge of the invoiced price along with any further reimbursement of expenses incurred by the Company, including return carriage costs.

Goods or parts damaged during transit shall be replaced free of charge providing:

(a) that the Buyer notifies us within three days of receipt of any damages or shortages; and

(b) that delivery notes have been clearly marked as damaged; and

(c) that damaged goods are returned to us within 14 days

In the event of non-arrival or shortage of goods, no claim will be entertained unless we receive written confirmation of non-arrival within fourteen days of our dispatch date.

## **8. Cancellation**

If a Buyer cancels an order for standard items of equipment after that order has been dispatched, we reserve the right to hold the Buyer liable to pay 20% of the invoice price to cover administrative and other costs.

For an item of equipment which has been made or purchased to the Buyers specific requirements this will be deemed to be neither returnable nor refundable unless the equipment is faulty. The item will be delivered as initially agreed.

## **9. Warranty**

This section applies only to equipment of our own manufacture which bears our nameplate and/or trademark. We undertake to replace, free of charge or to rectify any piece of equipment which is found to be faulty in material or workmanship within twelve calendar months from the date of dispatch from our works (or by special agreement from the date of installation) providing that it has been used under normal conditions.

This guarantee covers breakdowns experienced during normal working conditions inclusive of fair wear and tear. However, equipment failure as a result of neglect and/or misuse and failure to maintain the equipment as directed in the product instruction manuals will not be covered by the guarantee. A copy of our most up to date warranty policy is available on our website.

Equipment which is the subject of a guarantee claim should be returned to us for inspection. We regret that we cannot accept liability for any item which has been repaired before we have been able to inspect it or given authority for repair work to be carried out or in cases where other than genuine Falcon components have been used.

We undertake to replace free of charge or to rectify any part which is found to be faulty in material or workmanship within three calendar months from the date of dispatch, providing that it has been used under normal conditions. This guarantee excludes breakdowns from fair wear and tear, misuse or

damage and faulty installation by other contractors.

Where parts or equipment is not of our manufacture, our liability is confined to the guarantee given to us by the maker. We do not undertake to pay for the cost of disconnecting or reconnecting any equipment or the carriage charges involved in returning it to us.

## **10. Liability and Indemnity**

10.1 - Nothing in these Conditions shall limit or exclude either Party's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); fraud or fraudulent misrepresentation; or in respect of any matter where it would be unlawful to exclude or restrict liability.

10.2 - Subject to clause 10.1, we shall under no circumstances whatever be liable to you, whether in contract, tort (including without limitation negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of business, loss of goodwill, loss of revenue, or loss of anticipated savings (whether direct or indirect in each case) or for any indirect or consequential loss arising under or in connection with the Contract.

Subject to Clause 10.1, the Company's total aggregate liability arising under or in connection with the Contract, whether in contract, tort (including without limitation negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed a sum equivalent to the price of the Goods purchased under the Contract.

The Buyer shall indemnify the Supplier in respect of all damage, injury or loss occurring to any person or property and against all actions, suits, claims, demands, charges or expense in connection therewith arising from the condition or use of the goods in the event that the damage, injury or loss shall have been occasioned partly or wholly by the carelessness of the Buyer or his servants, invitees or agents or by any breach by the Buyer of its obligations to the Company hereunder.

## **11. Force Majeure**

The Company shall not be liable in respect of any breach of contract due to any cause beyond its reasonable control including Act of God, inclement weather, flood, lightning or fire, industrial action or lock outs, actions of government department, war, riot, or terrorism or the action of any party for whom the Company is not directly responsible.

## **12. Severability**

If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective without, as far as possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.

The company reserves the right to amend its policy without notice. Please refer to our website at [www.falconfoodservice.com](http://www.falconfoodservice.com) for the latest edition.