

1. DEFINITIONS

"The Company" means McCloskey International Ltd. "The Customer" means the person, firm or company whose order for goods referred to in the company's quotation, tender, invoice or advice not accepted by the company.

2. GENERAL

(i) All quotations and tenders are made, orders accepted and goods delivered and installed by the Company subject to an upon the following terms and conditions of business and no additional variation shall apply agreed in writing by the Company upon a form issued by the Company and specifically express to constitute such addition or variation. If no such form shall have been issued by the Company the Customer shall upon delivery of the goods be deemed to have given final and absolute acknowledgement of its acceptance of these terms and conditions.

(ii) No other terms and conditions shall apply notwithstanding any provisions to the contrary which may appear on the order form or purchase order or any other document by the Customer whether or not the same shall be signed by or on behalf of the Company and whether issued either before or subsequent to the acceptance by the Company of the Customer's order.

(iii) Acknowledgement of receipt of a Customer's order or other communication by the Company in connection therewith shall not constitute acceptance of that order for contractual purposes. Delivery to the Customer of an Acceptance Notice signed by a duty authorised officer of the Company shall constitute the Company's acceptance of the Customer's order.

3. PRICES

(i) Prices are quoted ex-works and are those ruling at the date of quotation, tender or acknowledgement.

(ii) The Company reserves the right to vary prices at any time and in the event of a price variation between the date of quotation, tender or acknowledgement and delivery to the Customer the Customer shall pay the new price for the goods ordered provided that the Company shall have notified the Customer of such variation prior to despatch of the goods to the Customer or collection of the goods by the Customer as the case may be.

(iii) Prices quoted net of all taxes, imports and Levies which are or may from time to time be Levied by any governmental, statutory or local authority upon the sale of goods agreed to be sold to the Customer and such additions (if any) shall be charged at the rates prevailing at the date of delivery of Invoice as the case may be.

(iv) Prices are quoted net of all packaging, transportation and insurance costs, which shall be for the account of the Customer if the Company shall provide or arrange for transport of the goods to the Customer's order.

4. INCIDENTAL WORK

Where after the commencement of manufacture of installation it shall be necessary in the opinion of the Company to carry out any work additional to that which was indicated upon a quotation or tender in order adequately to comply with the Customer's requirements the Company shall be entitled in its absolute discretion to carry out such work up to the value of 10 percent of the original quotation without reference to the Customer and to charge the Customer for additional labour and parts in accordance with the Company's rates and prices from time to time ruling. If the additional work is likely to exceed that figure the Customer will be consulted by the Company before proceeding.

5. PAYMENT

(i) Payment for goods will be upon presentation of invoice unless otherwise notified to the Customer.

(ii) Payment for reconditioning and installation will be upon presentation of invoice unless otherwise notified to the Customer.

(iii) The Company reserves the right to charge interest upon any sums due to the company and unpaid, such interest to be calculated at the rate of 2 percent per calendar month or any part thereof from the date of invoice to the date of settlement.

No forbearance or indulgence by the Company shown or granted to the Customer shall be in any way affect or prejudice the rights of the Company or be taken as a waiver or the terms of this or any clause herein.

(iv) The property in the goods shall remain vested in the Company until payment in full is received by the Company in respect of the goods and were relevant in respect of any associated installation charges.

6. TITLE

(i) The goods shall remain the sole and absolute property of the Company as legal and equitable owner until payment in full for all goods supplied under this or any other contract has been received by the Company.

(ii) The Company may for the purpose of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

(iii) The goods supplied under this contract shall be stored separately from other goods in the possession of the Customer or in such manner as they can easily be identified as being the Company's goods.

(iv) If any of the goods are incorporated in other goods before such payment the property in the whole of such goods shall be and remain with the Company until payment under this and any other contract has been made in full.

(v) Payments under this or any other contract between the Customer and the Company shall become due immediately upon the commencement of any act or proceeding in which the Customer's solvency is involved.

(vi) The intending purchaser in Licensed by the Company to agree to sell on the Company's goods subject to the express condition that the entire proceeds thereof are held in trust for the Company and they are not mingled with other moneys or paid into any overdrawn bank account and shall be at all times identifiable as the Company's moneys.

(vii) The customer shall insure the goods for their full value.

7. DELIVERY

(i) The Company will use its best endeavours to comply with despatch, collection and delivery dates but such dates are estimates only and are not guaranteed neither shall they be under any circumstances be deemed to be a term or condition of the contract for sale. The Company shall accept no Liability of whatsoever nature for failure to meet such dates and such failure shall not entitle the Customer, to repudiate or cancel the Contract.

(ii) Delivery shall be ex-works to the Customer or its designated carriers unless otherwise agreed in writing by the Company and the risk in the goods shall pass to the Customer on delivery to the Customer or such carrier as the case may be.

8. CARRIAGE AND PACKAGING

(i) The Company will at the request of the Customer and as agent for the Customer effect insurance for the transport of the goods to the Customer.

(ii) Where the Company as agent shall have arranged such transport of the goods it shall accept no Liability whatsoever for loss or damage to the goods in transit or for any loss or damage whether consequential or otherwise suffered by the Customer in consequence of the loss or damage to the goods in transit. But the company shall render all reasonable assistance to the Customer in tracing lost goods if the Customer shall notify the Company within 14 days of the date of despatch of in the case of export orders, within 14 days of the estimated date of arrival of the goods.

(iii) In the event of damage to the goods arising in transit or storage through a defect in packaging supplied by the Company the sole liability of the Company shall be to repair or (at its option) replace the goods so damaged.

(iv) The Company will not be liable for any shortages in delivery unless it shall receive written notification from the Customer within 7 days from the date of delivery of the goods ex-works to the customer or, in the case of delivery ex-works to a carrier on behalf to the Customer within 7 days of receipt of the goods by the Customer from the carrier.

(v) Unless otherwise agreed in writing cases and other packing materials when charged for will be credited if returned carriage paid and in good condition to the Company's works within two months of the date of delivery ex-works.

9. STORAGE

(i) If for any reason the Customer is unable to accept delivery of the goods at the time when the goods are due and ready for delivery the

Company shall if its storage facilities permit storing the goods and take reasonable steps to safeguard and reserve them until their actual delivery and the Customer shall be liable to the Company for the cost (including insurance) of such storage.

(ii) Storage of the goods shall be at the Customer's own risk.

(iii) If the Customer shall fail to take delivery of the goods within 28 days of notification that they are ready for delivery or having been stored, that the storage facilities are no longer available the Company shall be liable to the Company for any loss or damage (including profits) which the Company shall suffer in consequence of the Customer's failure to take delivery of the goods.

10. PATENTS AND REGISTERED DESIGNS

The Customer shall indemnify the Company against all costs, claims, damages or other expenses suffered by the Company in connection with any infringement of patent or registered design arising out of the manufacture or sale of goods in accordance with the Customer's specifications.

11. CUSTOMER'S PROPERTY

(i) Any machinery, materials or other property of the Customer delivered by it to the Company shall be at the absolute risk of the Customer while in the Company's possession and neither the Company nor its employees, servants and agents shall have any Liability for loss of or injury to such machinery, materials or property howsoever occasioned or any other damage whether direct or consequential arising there from.

(ii) The handing over by the Customer of any vehicle or machine to the Company or its employee, servant or agent whether at the premises of the Customer or the Company or elsewhere shall be deemed to constitute express authority for the Company, its employees, servants and – agents to drive and operate such vehicle or machinery.

12. INSTALLATION

(i) Any installation or other work carried out in connection with the goods at the Customer's premises or outside the Company's premises shall be the subject of separate charges in addition to the purchase price of the goods and the Customer agrees to indemnify the Company, its employees, servants and agents in respect of all damage or injury, actions, suits, claims, demands, costs or charges incurred in connection with such installation and work howsoever the same shall be occasioned.

(ii) Notwithstanding installation by the Company of the goods, delivery shall be deemed to be ex-works and the risk in the goods shall pass upon such delivery in accordance with Clause 6 above.

13. DESIGNS AND SPECIFICATIONS

The Company reserves the right at any time to make any modification in design or specification of the goods without giving prior notice to the Customer.

14. DESCRIPTIVE LITERATURE

Descriptions, illustrations and other information contained in catalogues, price lists and other literature issued by the Company or on its behalf are intended to act as a general guide and description of the goods. These do not constitute express or implied representations as to the fitness or suitability of the goods for any purpose and the Customer shall not be entitled so to treat them and they shall accordingly form no part of any contract governed by these Terms and Conditions.

15. FORCE MAJEURE

In the event that the Company shall be delayed in or prevented from carrying out all or any of its obligations under a contract for sale of goods and/or as installation as a result of any cause beyond its control including (but not by way of limitation) war, invasion, hostilities, civil war, civil strife or commotion, strikes, lockouts, breakdown of plant, failure of third parties to deliver goods or materials, storm, flood, fire or any other causes it shall be relieved of all obligations and liabilities incurred under such contracts insofar as and for so long as the fulfilment of such obligations and Liabilities is thereby prevented, frustrated or impeded.

16. WARRANTY

(i) Goods sold by the Company are warranted free from defects in materials and workmanship at the date of delivery to the customer.

(ii) If upon delivery to and inspection by the Customer or (were relevant) upon completion of their installation by the Company goods are found to be defective the Company will repair or (at its option) replace the defective goods if the Customer shall in the case of goods delivered ex-works have returned them to the Company within 6 months of delivery and in the case of goods installed by the Company have notified the Company within 6 months of completion of installation.

(iii) The Company's warranty shall not apply to any goods:-

- (a) Which have been tampered with in any way outside the Company's premises or
- (b) Which have been stored in unsuitable conditions or for any excessive period of
- (c) Which have been subject to overloading misuse negligence neglect or accident or
- (d) The quality of which has been impaired as a result of the incorporation of defective materials supplied by the Customer or
- (e) Which are sold second-hand and in which either defects have been brought to the Customer's attention or if the Customer has carried out an examination which ought reasonably to have revealed any defects or
- (f) Which have not been manufactured by the Company but which are sold by the Company with the benefit of the manufacturer's warranty.

(iv) The contract for sale of the goods shall not be deemed to be a sale by sample unless specifically expressed so to be in writing in the contract documents.

(v) Nothing in this warranty shall be deemed to prejudice such statutory rights of a Customer as shall not in Law be capable of variation.

17. LIMITATION OF COMPANY'S WARRANTY LIABILITY

Except as expressly stated above all other warranties conditions and representations express or implied statutory or otherwise are (to the extent that they may in Law be excluded) hereby excluded and the Company shall not be Liable in contract part or otherwise for any loss damage expense or injury (whether direct or consequential) arising out of or in connection with the supply of the goods or any defect in them PROVIDED ALWAYS that it shall not exclude:

(i) Liability in respect of death to personal injury arising out of the Company's negligence

(ii) Such liability in respect of direct physical damage arising out of the Company's negligence as may in the circumstances be reasonable

(iii) Any term as to title quiet possession and freedom from encumbrance which may be implied by Section 12 of the Sale of Goods Act 1979.

18. DEFAULT OR INSOLVENCY OF CUSTOMER

(i) If the Customer defaults in any way on its commitments with the Company or suffers any distress or execution upon its property or assets or makes or offers to make any arrangement or composition with its creditors or commits an act of bankruptcy or has a Receiver appointed over all or a substantial part of its assets or a resolution passed or petition filed for winding up then the Company shall have the right (without prejudice to any other remedies) to cancel any uncompleted order or to withhold or suspend delivery.

(ii) In the event of an order being cancelled by the Company in the above circumstances or being cancelled by the Customer the Customer shall indemnify the Company against all loss (including profits) costs (including labour, materials and overheads) and all other expenses and damages of whatsoever nature incurred by the Company in connection with the order and its cancellation (the Company giving credit for the value of any materials sold or utilised for other purposes).

19. NOTICE

Any notice given in respect of the contract for the sale of the goods shall be delivered to the address of the recipient appearing in the contract documents (or such other address as shall be notified in writing and shall be delivered by prepaid post or telex).

20. ASSIGNMENT, SUBCONTRACTING, ETC.

Neither the Company nor the Customer shall be entitled to assign its rights or obligation under any contract for sale governed by these Terms and Conditions of Business PROVIDED THAT the Company may at its absolute discretion and without prior consent employ such subcontractors as it may deem suitable.

21. NORTHERN IRISH LAW

Every contract to which these Terms and Conditions shall apply shall be construed in accordance with governed in all respects by the Laws of Northern Ireland and the Company and the Customer agree to submit to the jurisdiction of the Northern Ireland Courts provided always that the Schedules to the Uniform Laws on International Sales Act 1967 are hereby excluded.