

The conditions set out below shall apply to all contracts for the sale of goods and parts (“Equipment”) between **AIR GAS COMPRESSOR SPECIALISTS LTD** (“the Owner”) and the person buying the equipment (“the Purchaser”).

The sale of any Equipment is on the following terms and conditions. These conditions shall not be modified, amended, waived, in whole or in part, except by written agreement between the Owner and the Purchaser. The Owner and Purchaser confirm that the contract between the parties is governed by these conditions and that there is no oral agreement varying these terms.

The Purchaser has entered into this agreement having carried out due diligence on the Equipment being purchased and has relied on their own judgement in making a decision to purchase the Equipment. This agreement represents the entire agreement between the Owner and the Purchaser.

The Owner neither gives nor implies any warranty that the Equipment is suitable for the Purchaser or the Purchaser’s intended use. The Owner shall not be liable for any failure of the Equipment nor any defect in the Equipment.

The Owner and Purchaser agree that both parties are in trade and that the Equipment being sold is to be used in trade and accordingly the parties agree to contract out of the provisions of the Consumer Guarantees Act. As the Equipment is being supplied in trade the parties agree, to the extent permitted by law, to contract out of sections 9, 12A and 13 of the Fair-Trading Act 1986. The parties agree that it is fair and reasonable that the parties are bound by this provision.

Ownership of the Equipment is retained by the Owner until such time as it has been paid for in full by the Purchaser and if called upon by the Owner the Purchaser shall provide all necessary details for the Owner to register a security interest over the Equipment. The Purchaser pledges that they will not grant security over the Equipment to any other party until it has been paid for in full.

Where the Purchaser is a limited liability company then the directors of the company hereby personally guarantee the performance of this agreement by the Purchaser. In consideration of the Owner entering into this agreement and at the request of the Purchaser the directors of the company purchasing the Equipment hereby personally, jointly and severally, guarantee the performance of the agreement by the Purchaser and shall be jointly and severally liable for any default by the Purchaser.

The Equipment is at the risk of the Purchaser and the Purchaser shall make its own arrangements as to insurance. The Owner is not liable for any damage to the Equipment. The parties agree that unless otherwise agreed in writing the Purchaser is responsible for collection of the Equipment. Until the Equipment is collected the Owner is not, in common law or in contract, liable in any way as a bailee and does not owe the Purchaser any duty of care in respect to the Equipment. The Owner shall not, in any event, be liable to compensate the Purchaser, his servants, agents, or any third parties for direct, contingent, consequential, indirect, special, punitive or any other damages, howsoever caused, for any damage to property or injury to person, whether arising out of the use or operation of the Equipment or otherwise and whether arising under breach of warranty, contract, negligence, commission, omission (or advice), tort, strict liability or otherwise.

The Purchaser, unless otherwise agreed in writing, is liable to pay the Owner in full for the Equipment. The Owner shall not be required to pass with possession of the Equipment until paid for in full provided that if the Owner does pass with possession of the Equipment and the Purchaser defaults in payment for the Equipment then the Owner may repossess the Equipment and the Purchaser shall be liable for all such repossession costs including default interest charges on those costs also. In the event the Purchaser fails to pay for the Equipment then the Owner may charge the Purchaser for the reasonable costs of storage and default interest at the rate of 3% per calendar month. The Purchaser also agrees to pay the Owner’s solicitor’s legal costs, on a solicitor to client basis, for the enforcement or attempted enforcement of this agreement along with any collection costs, court fees and disbursements. In the event of the continued default by the Purchaser, for a period exceeding two months, the Owner is entitled to cancel this agreement and sell the Equipment to any third party. If such sale results in losses or damages to the Owner then the Purchaser is liable for those losses and they shall be treated as a debt then owing by the Purchaser to the Owner. In the event of repossession of the Equipment the Purchaser, gives their irrevocable authority for the Owner, or the Owners authorised agent, to enter the Purchaser’s land or premises to recollect the Equipment.

The Owner shall have no liability for any consequence of delay or failure in carrying out the terms of this agreement caused by force majeure.

Any reference to Owner includes its servants and agents.

If at any time any provision of this agreement is or becomes illegal, invalid or non-enforceable in any respect under the law of New Zealand, neither the legal validity nor enforceability of the remaining provisions hereof shall in any way be affected or impaired thereby to the intent that this contract should be construed as if the provision or part thereof in question has been deleted.