

OBJECTIVE HOLDINGS PTY LTD (ACN 009 404 102)
T/AS LAZCO REFRIGERATION
TERMS AND CONDITIONS
Effective from 1 July 2022

1. DEFINITIONS

- 1.1 Unless the context otherwise requires:
- (a) **Agreement** means these design, manufacture and installation terms and conditions between the Client and Lazco.
 - (b) **Business Day** means any weekday excluding any gazetted public holidays in Western Australia.
 - (c) **Business Hours** means 8:00am to 5:00pm from Monday to Friday.
 - (d) **Client** means the person or entity for or on behalf of whom Lazco provides the Goods and Services specified in the Quotation.
 - (e) **Deposit** means any deposit payable by the Client to Lazco, being a proportion of the Price, as specified in the Quotation or otherwise notified by Lazco to the Client in writing from time to time.
 - (f) **Goods** means the goods designed, manufactured and/or supplied by Lazco for or on behalf of the Client.
 - (g) **Guarantors** means any guarantor or guarantors as specified in the Quotation.
 - (h) **Invoice** or **Invoices** means any tax invoice or invoices issued by Lazco to the Client from time to time for payment of the Price.
 - (i) **Lazco** means Objective Holdings Pty Ltd (ACN 009 404 102) trading as Lazco Refrigeration.
 - (j) **Party** means Lazco or the Client according to the context and **Parties** means both Lazco and the Client.
 - (k) **PPSA** means the *Personal Property Securities Act 2009* (Cth).
 - (l) **Price** means the price payable by the Client to Lazco for the Goods and Services, as specified in the Quotation, or as otherwise notified by Lazco to the Client in writing from time to time.
 - (m) **Quote** means any quotation issued by Lazco to the Client attached to this Agreement as amended, varied or supplemented from time to time.
 - (n) **Services** means the design, manufacture installation and/or maintenance of the Goods by Lazco for or on behalf of the Client.
 - (o) **Site** means the Client's site at which the Goods and Services are to be supplied or installed by Lazco as specified in the Quotation.

2. AGREEMENT

- 2.1 This Agreement sets out the terms and condition upon which Lazco agrees to provide the Goods and Services to the Client.
- 2.2 The Client will be deemed to have accepted the provisions of this Agreement upon the earlier of:
- (a) Lazco providing this Agreement to the Client;
 - (b) the Client placing an order for Goods or Services with Lazco; or

- (c) the Client returning a signed copy of this Agreement to Lazco.

3. QUOTATION

- 3.1 Lazco may provide the Client with a Quote for the supply of Goods and Services from time to time.
- 3.2 A Quote will remain valid until the date specified in the Quote, or otherwise for a period of thirty (30) calendar days from the date of the Quote (**period of validity**). Lazco will not be bound by any Quote if an order is placed outside the period of validity.
- 3.3 The Client may accept a Quote by placing an order with Lazco for the Goods and Services quote within the period of validity and providing written evidence of payment of the Deposit (if applicable).
- 3.4 Notwithstanding any other provision of this Agreement, the Client acknowledges and agrees that the Price may be subject to change depending on factors including, but not limited to:
- (a) changes to the Goods and Services quoted (requested by the Client or otherwise required in the opinion of Lazco to meet the needs of the Client);
 - (b) the availability of Goods;
 - (c) the ability of Lazco to manufacture, supply, install or maintain the Goods;
 - (d) changes to any transportation, freight or shipping costs for any Goods; or
 - (e) where otherwise provided in this Agreement, and Lazco reserves the right at any time to alter the Price or vary, withdraw or reissue any Quote accordingly.

4. PAYMENT

Deposit

- 4.1 The Client agrees to pay the Deposit (if applicable) without deduction or setoff, prior to Lazco providing any Goods and Services under this Agreement.

Price

- 4.2 After payment of the Deposit, the Client agrees to pay the balance of the Price for any Goods and Services, without deduction or setoff, in the manner specified in the Quote, or as otherwise notified by Lazco to the Client in writing from time to time.

Payment

- 4.3 Lazco shall issue an Invoice or Invoices to the Client for the Deposit and the balance of the Price.
- 4.4 The Client shall pay the any Invoices issued within thirty (30) days of the date of each Invoice by direct deposit to Lazco's nominated account or otherwise as specified by Lazco in writing from time to time.

Interest

- 4.5 Interest is payable on any overdue Invoice at the rate of fifteen percent (15%) per annum calculated daily from the due date until the date the Invoice is paid in full.

5. EXCLUSIONS

- 5.1 Unless otherwise provided in a Quote, the following items are strictly excluded from the Price of any Goods and Services:
- (a) any electrical, plumbing or building works at the Site including, but not limited to, cutting of concrete and walls; and
 - (b) the supply of Goods and Services outside of Business Hours or Business Days.

6. THIRD PARTIES

- 6.1 The Client acknowledges and agrees that Lazco may engage the services of suitably qualified third parties to supply the whole or part of any Goods or Services, or repair or replace Goods under any Warranty, including, but not limited to, contractors, subcontractors, agents or any other parties whatsoever (**Third Parties**).

7. DESIGN

Design Services

- 7.1 The Services under this Agreement include the custom design of Goods by Lazco for or on behalf of the Client (**Design Services**).
- 7.2 Lazco will provide the Client with an initial consultation for any Design Services at no cost. This consultation may be held in person, by telephone or online as agreed between the Parties.
- 7.3 After the initial consultation, Lazco will provide the Client with a Quote for the Design Services. Any Price contained in the Quote includes, in sole opinion of Lazco, provision for a reasonable number of design revisions.
- 7.4 If for any reason, in the sole opinion of Lazco:
- (a) an excessive number of design revisions are requested by the Client;
 - (b) any variations or additional work outside the scope of the Quote are requested by the Client, or required as a result of further information provided or omitted by the Client,

the Client acknowledges and agrees that it shall be liable for any reasonable additional costs incurred by Lazco for those design revisions, variations, or additions. Lazco reserves the right to alter the Price or vary, withdraw, or reissue any Quote accordingly.

Copyright

- 7.5 The Client acknowledges and agrees that:
- (a) copyright subsists in any works produced in any format whatsoever by Lazco in connection with any Design Services; and
 - (b) it will not share, transfer, reproduce or distribute any such works in which copyright subsists (or procure any third party to do so) without the prior written consent of Lazco.

8. MANUFACTURE

- 8.1 The Goods and Services under this Agreement include the manufacture of custom designed and stock Goods.
- 8.2 Lazco will endeavour to manufacture any Goods to the specifications requested and agreed with the Client. However, the Client acknowledges and agrees that due to variations in the colour and texture of materials used in manufacture (and to the extent permissible by law) no

warranty, condition or guarantee is given by Lazco that any Goods manufactured by it will correspond in colour, texture, appearance, blend or finish, with any sample, display, or design.

- 8.3 The Client otherwise acknowledges and accepts all risks associated with the failure of any Goods which are not manufactured by Lazco.

9. DELIVERY AND INSTALLATION

Time for Supply

- 9.1 Lazco will endeavour to:
- (a) deliver and/or install any Goods and Services within the timeframe or by the date specified in the Quotation (if any); and
 - (b) advise the Client if there will be any delay to the supply of the Goods and Services.
- 9.2 The Client acknowledges and agrees that any timeframe or date specified in a Quote is an estimate only, and any delay, failure or inability of Lazco to supply the Goods and Services in accordance with that timeframe or by that date:
- (a) will in no way constitute a breach of this Agreement; and
 - (b) Lazco shall not be liable for losses, costs, expenses or damages suffered or incurred by the Client in respect of late or delayed delivery.

Risk

- 9.3 Risk in relation to any Goods passes to the Client upon:
- (a) delivery of the Goods by Lazco or any third Party engaged by Lazco; or
 - (b) upon notification by Lazco to the Client of the availability of any Goods for collection by the Client from any address notified by Lazco, whichever is applicable.

10. SITE ACCESS AND SUITABILITY

Access

- 10.1 The Client must ensure that Lazco and its employees and Third Parties are granted unobstructed access to the Site during an agreed period to allow Lazco to supply the Goods and Services in accordance with the Quote.
- 10.2 The Client warrants to Lazco and agrees that where they are not the owner of the Site, they have obtained the consent of the owner, managing agent or any third party necessary for Lazco and its employees and Third Parties to access the Site during the agreed period to supply the Goods and Services.

Suitability

- 10.3 The Client warrants to Lazco that:
- (a) any existing structures at the Site are structurally sound and capable of supporting any Goods installed; and
 - (b) they have obtained all government approvals prior to the provision of the Goods and Services;
 - (c) the Site is ready for Lazco or its Third Parties to provide the Goods and Services at the time they are required or requested to attend; and
 - (d) Lazco or its Third Parties will not be obstructed by any third parties including other contractors or subcontractors while providing the Goods and Services.

Breach of Warranties

10.4 The Client agrees to indemnify Lazco against all losses, costs, expenses or damages suffered or incurred by Lazco, or claimed against it by any third party, as a result of the Client breaching any warranties under this clause 10. This includes, but is not limited to, costs reasonably incurred by Lazco for:

- (a) re-attending the Site to provide any Goods or Services;
- (b) re-engaging any Third Parties to provide any Goods or Services;
- (c) further time reasonably spent by Lazco or its Third Parties to provide the Goods or Services, as a result of the Client breaching any warranty under this clause 10.

10.5 The Client agrees that Lazco shall not be liable for any losses, costs, expenses or damages suffered or incurred by the Client, or claimed against the Client by any third party, as a result of the Client breaching any warranties under this clause 10.

11. INSPECTION

11.1 The Client must inspect any Goods or Services within two (2) days of being supplied, delivery or installed, as the case may be, and immediately notify Lazco in writing of any issue or defects with the Goods or Services provided.

12. RETENTION OF TITLE

12.1 Ownership of any Goods does not vest in the Client until the Price has been paid in full.

12.2 In the event that the Client obtains the Goods before ownership passes to the Client, then the Client shall hold those goods as bailee for Lazco.

12.3 If the Client fails to pay any Invoice by the due date, Lazco may demand that the Client surrender those Goods to Lazco. If the Client fails to surrender the Goods upon demand, the Client authorises Lazco to enter the Site (whether owned by it otherwise) as necessary to retake possession of the Goods.

12.4 Lazco:

- (a) shall not be liable to the Client; and
- (b) and the Client shall indemnify Lazco for any losses, costs, expenses or damages claimed against it by any third party, for any damage or injury to any Site reasonably incurred by Lazco when retaking possession of the Goods under this clause 12.

13. MARKETING

13.1 The Client acknowledges and agrees that Lazco may use the name and logo of the Client and photographs of any Goods at the Site on its website for promotional marketing purposes.

13.2 The Client may, at any time, by notice in writing to Lazco, withdraw consent for Lazco to use the name and logo of the Client or photographs of the Goods at any Site for promotional marketing.

14. DEFAULT AND TERMINATION

14.1 The Client is in default under this Agreement if it:

- (a) breaches any provision of this Agreement;
- (b) commits an act of insolvency (including, but not limited to, liquidation, bankruptcy administration or being unable to pay its debts as and when they fall due); or
- (c) breaches any warranty or representation provided or made by it under this Agreement.

14.2 If the Client is in default under this Agreement, then Lazco may:

- (a) deem that all amounts owing by the Client under this Agreement are immediately due and payable; and/or
- (b) terminate this Agreement with immediate effect.

14.3 The Client agrees to pay all costs and expenses (including legal costs on a full indemnity basis, and commissions paid by Lazco to any commercial or mercantile agent) incurred by Lazco in connection with the recovery of any amounts overdue under this Agreement, or the enforcement by Lazco of any provision of this Agreement.

14.4 Clauses 4, 14, 15, 16, 17, 19, and 20 survive termination of this Agreement.

15. SECURITY

15.1 The Client agrees, for the purpose of securing its obligations and liabilities arising from this Agreement or on any other basis whatsoever to Lazco, to charge and mortgage all their legal and equitable interest (both present and future) of whatsoever nature held in any real property to Lazco, and consents unconditionally to Lazco lodging a caveat or caveat noting its proprietary interest in any such property arising from this Agreement.

15.2 The Client further agrees to:

- (a) execute any documents and do all things reasonably required by Lazco to perfect the charge given under this clause, at the request of Lazco; and
- (b) appoint Lazco to be its lawful attorney for the purpose of executing and registering any documents contemplated by this clause 15.

16. GUARANTEE

16.1 The Guarantor guarantees (if more than one, jointly and severally) the performance of the obligations of the Client under this Agreement, and payment of all monies now or in the future owing by the Client to Lazco, without any deduction or setoff whatsoever (**Guarantee**).

16.2 The Guarantor indemnifies the Client against all costs, losses and expenses which Lazco may suffer or incur in connection with any default of this Agreement by the Client (**Indemnity**).

16.3 The Guarantee and Indemnity is a continuing guarantee and will not be affected by:

- (a) Lazco granting any extension of time or other indulgence to the Client (even this increases the liability of the Guarantor under the Guarantee and Indemnity).
- (b) By the release of any Guarantor or this clause 16 becoming unenforceable against one or more Guarantor(s).
- (c) Any payment by the Client being later avoided by law, whether or not the Guarantor has been given

notice of these matters.

- 16.4 As security for the obligations and liabilities of the Client, the Guarantor charges and mortgage all its legal and equitable interest (both present and future) of whatsoever nature held in any real property to Lazco, and consents unconditionally to Lazco lodging a caveat or caveat noting its proprietary interest in any such property arising from this Agreement.
- 16.5 The Guarantor further agrees to:
- (a) execute any documents and do all things reasonably required by Lazco to perfect the charge given under this clause 16, at the request of Lazco; and
 - (b) appoint Lazco to be its lawful attorney for the purpose of executing and registering any documents contemplated by this clause 16.

17. PERSONAL PROPERTY SECURITIES ACT

- 17.1 In this clause 17, words and phrases that have defined meanings in the PPSA have the same meaning as in the PPSA unless the context indicates otherwise and a reference to a section shall be a reference to a section in the PPSA.
- 17.2 The Client acknowledges and agrees that this Agreement constitutes a security agreement for the purposes of the PPSA and creates a security interest in any Goods that have been or will be supplied by Lazco to the Client.
- 17.3 The Client undertakes to:
- (a) promptly sign any further documents and/ or provide any further information (such information to be complete, accurate and up to date in all respects) which Lazco may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 17(a)(i) and 17(a)(ii);
 - (iv) indemnify, and upon demand reimburse, Lazco for all expenses incurred in registering a financing statement or financing change statement on the Personal Properties Securities Register established by the PPSA or releasing any Materials charged thereby;
 - (v) not register a financing change statement in respect of a security interest without the prior written consent of Lazco;
 - (vi) Immediately advise Lazco of any material change in its business practices of selling the Materials which would result in a change in the nature of proceeds derived from such sales.
- 17.4 Lazco and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by this Agreement.
- 17.5 The Client, to the maximum permitted by law, hereby waives its rights to receive notices under sections 95, 118 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 17.6 The Client waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 17.7 Unless otherwise agreed to in writing by Lazco, the

Client waives its right to receive a verification statement in accordance with section 157 of the PPSA.

- 17.8 The Client shall unconditionally ratify any actions taken by Lazco under clauses 17.3 to 17.5.
- 17.9 Subject to any express provisions to the contrary nothing in this Agreement is intended to have the effect of contracting out of any of the provisions of the PPSA.

18. WARRANTY

- 18.1 For the purposes of this clause 18:
- (a) **Warranty** means Goods which Lazco warrants to be free from defects in material and workmanship under this clause 18.
 - (b) **Warranty Claim** means any claim made by the Client to Lazco under this clause 18 for breach of the Warranty.
 - (c) **Warranty Certificate** means a certificate issued by Lazco to the Client confirming the commencement of a Warranty and the Warranty Term.
 - (d) **Order Number** means an order number issued by Lazco to the Client for the repair or replacement of Goods (as applicable) upon approving a Warranty Claim.
 - (e) **Term** means term during which the Client may make a Warranty Claim under this clause 18, calculated from the date of issue of a Warranty Certificate.
- 18.2 Lazco provides the Warranty for the following Goods and Term subject to clauses 18.5 to 18.12 (inclusive):
- | Goods | Term |
|--|---------|
| Refrigeration Compressors | 2 years |
| Remote condensors (Non-refrigerated unit) | 1 year |
| Hardware and fixings | 1 year |
| Electrical components, elements and controls | 1 year |
| Other Goods not described above and specified in the Quotation | 2 years |

Claim Procedure

- 18.3 The Client must submit any Warranty Claim in writing to Lazco with the following details:
- (a) A copy of any Invoice or Invoices for the Goods.
 - (b) Client contact details including: a contact name, telephone number, address and email.
 - (c) Details of the Goods including: a description of the alleged defect, model number, serial number, distributor name (if applicable), compressor tag.
- 18.4 If the Warranty Claim is:
- (a) Rejected or deemed void: Lazco will notify the Client in writing.
 - (b) Approved: Lazco will issue an Order Number and agree with the Client a date and time to repair or replace the Goods under Warranty, subject to the availability of Lazco to repair or provide the replacement Goods.

Exclusions

- 18.5 The Warranty does not apply to Goods outside Australia, or any Goods manufactured by a third party but supplied by Lazco.
- 18.6 Lazco may deem a Warranty or Warranty Claim void if, in its sole opinion, any defects in the Goods result from:

- (a) electrical power failure, use of extension leads, low voltage or voltage interference to the Goods,
- (b) improper use or operation of the Goods;
- (c) damage caused by accident, neglect, transportation, fire, floods or other acts of God;
- (d) improper maintenance of the Goods by the Client including, but not limited to, failing to clean and maintain the Goods in accordance with the Goods manual or as instructed by Lazco upon purchase, delivery and/or installation; or
- (e) repairs or alteration to the Goods by any third parties not authorized and approved by Lazco, howsoever caused.

18.7 The repair or replacement of Goods under Warranty shall be carried out during Business Hours or Business Days. Any repair or replacement works that the Client requests and Lazco agrees to provide outside these times and dates will be charged to the Client at the reasonable cost of Lazco.

Client Obligations

18.8 Lazco may not accept a Warranty Claim unless:

- (a) the Client has submitted a Warranty registration card to Lazco to within twelve (12) days of the installation or payment of the Goods in full (whichever occurs first) and Lazco has issued a Warranty Certificate to the Client;
- (b) the Client has paid all monies owing to Lazco under this Agreement, or on any other basis whatsoever, in full; and
- (c) the Goods remain at the Site during the Term of the Warranty.

Australian Consumer Law

18.9 There are certain consumer guarantees provided in respect of Goods and Services under the *Competition and Consumer Act 2010* that cannot be excluded, restricted or modified. These consumer guarantees are separate from and different to the Warranty, which is given voluntarily by Lazco.

Other

18.10 While Lazco will endeavour to repair or replace any Goods under an approved Warranty Claim in a timely manner, it shall not be liable for any costs, losses, expenses or damages suffered or incurred by the Client as a result of any delays in repairing or replacing those Goods.

18.11 All transportation, freight and/or shipping costs for returning the Goods to Lazco shall, whether from inside or outside Australia, shall be prepaid by the Client.

18.12 A Warranty is transferable or assignable to any third party.

19. LIMITATION OF LIABILITY

Implied Conditions, Warranties or Guarantees

19.1 To the maximum extent permissible by law, all terms, conditions, warranties or guarantees that would be implied in this Agreement under any law or statute from or in connection with the supply of any Goods and Services are excluded.

Express Conditions, Warranties or Guarantees

19.2 Any liability of Lazco arising from or in connection with the performance of its obligations under this Agreement (including the supply of any Goods and Services, the

breach of any Warranty or conditions or guarantees under this Agreement, or any consumer guarantees under the *Competition and Consumer Act 2010*, shall be limited, at the option of Lazco, to:

- (a) the repair of the Goods;
- (b) the replacement of the Goods;
- (c) the supply of equivalent Goods;
- (d) the payment of the cost to repair the Goods;
- (e) the supply of the Services again; or
- (f) the cost of supplying the Services again.

Other

19.3 Lazco and its officers, employees and Third Parties, shall not be liable for any losses, costs, expenses, claims or damages (whether contingent, consequential, direct, indirect, special or punitive) including in relation to:

- (a) any personal injury or death, damage to property or loss of profits arising from or in connection with the supply of Good and Services;
- (b) the Client breaching any warranty provided under this Agreement;
- (c) any negligent or fraudulent act by Lazco or its officers, employees and Third Parties arising from or in connection with the supply of Good and Services;
- (d) any defective Goods, or delays in repairing or replacing any defective Goods subject to an approved Warranty Claim; or
- (e) Lazco refusing to supply Goods or Services in accordance with any provision of this Agreement, and the Client acknowledges this limit of liability and agrees to limit any claim it may have against Lazco or its employees, agents or Third Parties accordingly.

20. GENERAL PROVISIONS

Credit Application

20.1 If Lazco has approved the Client being provided Goods and Services on credit under any credit application, the terms and conditions in that credit application shall form part of this Agreement.

20.2 To the extent that there is any inconsistency between any credit application and this Agreement, the provisions of this Agreement shall prevail.

Governing Law

20.3 This Agreement shall be governed by and construed according to the laws in force in Western Australia, and the Parties shall submit to the jurisdiction of the courts of Western Australia.

Severability

20.4 If any provision or part thereof under this Agreement is or becomes unenforceable or invalid:

- (a) in a particular Australian jurisdiction, then that provision or part thereof is invalid in that jurisdiction to that extent, without invalidating or affecting any other provision of this Agreement in any other jurisdiction; or
- (b) in all Australian jurisdictions, then that provision or part thereof may be severed from this Agreement without invalidating or affecting any other part of this Agreement.

Waiver

20.5 The failure, delay or omission by a Party to exercise any



power or right conferred upon it by this Agreement will not operate as a waiver of such power or right, nor will any single exercise of any such power or right preclude any other future exercise of the power, or the exercise of any other power or right under this agreement.

20.6 A waiver of any provision of this Agreement, or consent to any departure by a Party from any provision of this Agreement, must be in writing and signed by all parties and is effective only to the extent for which it is given.

Assignment

Who must sign this Agreement on behalf of the Client:

A. **Companies:** Where there is only one director for the company then that person must sign; where there are two or more directors for the company then two (2) Directors, or one (1) Director and one (1) Secretary must sign.

B. **Sole Traders** operating under their own name or under a business name: the individual.

C. **Partnerships:** All partners of the partnership.

20.7 Neither Party may assign, novate or transfer any of their rights or obligations under this Agreement without the prior written consent of the other Party.

Variation

20.8 Any amendment or variation to this Agreement has no effect unless in writing and signed by the Parties.

EXECUTED BY THE CLIENT

Signatory

Print Name	
Position	
Signature	
Date	/ /

Witness

Print Name	
Address	
Signature	
Date	/ /

Signatory

Print Name	
Position	
Signature	
Date	/ /

Witness

Print Name	
Address	
Signature	
Date	/ /

EXECUTED BY THE GUARANTOR(S)

Signatory

Print Name	
Position	
Signature	
Date	/ /

Witness

Print Name	
Address	
Signature	
Date	/ /

Signatory

Print Name	
Address	
Signature	
Date	/ /

Witness

Print Name	
Address	
Signature	
Date	/ /