

STANDARD TERMS & CONDITIONS QUOTED, GENERAL SERVICE & REPAIR WORK

SILTECH PTY LTD AND QUANTUM AIRCONDITIONING - ACN 091 337 521

GLOSSARY OF TERMS

Seller:	Siltech Pty Ltd, Siltech Pty Ltd trading as Quantum Airconditioning and Associated Companies ("Siltech")
Sales:	Siltech supplies Chillers, Unitary, Airsystems and Refrigeration Products, Silver Recovery, Humidification & Misting Systems, Coffee Equipment, Retail Food Equipment and associated parts and consumables
Service Operations:	Siltech supplies Installation, Service and Repair, Labour and Parts
Buyer/Purchaser:	The buyer of the equipment, spare parts service or repair work subject of a quotation submitted by or on behalf of Siltech
Equipment:	Plant or machinery to be supplied, installed, repaired, replaced, serviced or maintained
Start-Up:	Commissioning of the equipment for the purpose and manner intended
GST:	Goods and Services Tax (within the meaning of a new tax system <i>Goods and Services Tax Act</i> 1999 and associated legislation as amended from time to time)
Business Day	A standard day for conducting business, with the exception of Saturday and Sunday and public holidays of the State or Territory of Australia where Siltech accepted the offer.

1. Quotations and Orders

Receipt of the Buyer's order shall not bind Siltech until Siltech has confirmed acceptance of the order and approved terms of Siltech credit policy. A quote is valid for a period of thirty (30) days (unless otherwise stated on the quote or by Siltech's staff); after this period, Siltech reserves the right to revise the quotation. Prices given are applicable to that quotation only and will not necessarily apply in any other circumstance.

Prices are subject to change as necessary

2. Modifications

If Siltech is asked to carry out additions or modifications to the equipment and/or perform additional services or more frequent services, these will be deemed a variation and the quotation will be adjusted accordingly.

Any variation will take into consideration the nature and extent of such additions or modifications and the cost Siltech incurs in performing these, but (subject to this) all other conditions of the quotation will continue to apply.

3. Auxiliary Components

When auxiliary components are included in the quotation and not expressly named, Siltech reserves the right to supply from the source considered most suitable. If, after quotation, components of a nominated make are requested by the Buyer, the price will be adjusted by the difference between the cost to Siltech of those components and that allowed by Siltech in the

quotation. The date of dispatch will be adjusted by the period of delay, if any, in availability of such components.

4. Terms of Payment

- a) Property and ownership in the goods will not pass to the Buyer but will remain with Siltech until payment in full of the purchase price of the goods by the Buyer has been received by Siltech.
- b) The Buyer's debt to Siltech shall be reduced to the extent of the proceeds actually received by Siltech and, to the extent (if any) that any proceeds received by Siltech exceed the Buyer's debt, Siltech shall be indebted to the Buyer in the amount of the surplus, but nothing in this clause shall constitute Siltech a trustee of the Buyer with respect to any proceeds, or constitute Siltech a mortgagee.
- c) The Buyer shall as bailee of the goods:
 - (i) to the extent required by Siltech keep the goods separate from other goods in the possession of the Buyer;
 - (ii) account to Siltech in specie in respect of any proceeds received by the Buyer; and
 - (iii) concur in directing any sub-purchaser to pay proceeds to Siltech.
- d) Should the Buyer's cheque not be cleared, Siltech has the right to retake possession of the goods. To this extent, after giving forty eight (48) hours notice to the Buyer, Siltech shall be entitled to enter upon the Buyer's premises between 9:00am and 5:00pm to retake possession of the goods.
- e) Invoices for:
 - (i) the supply of equipment shall be payable in full by the Buyer thirty (30) days from the end of the month of purchase (subject to credit approval).
 - (ii) parts, site services and other similar services shall be payable in full by the Buyer thirty (30) days from the date of the invoice (subject to credit approval).
- f) If payment is not received by the due date interest may be charged at Siltech's current bank overdraft rate plus four per cent on the sum outstanding for the period from the due date until the date payment is received by Siltech. If at any time moneys are overdue and owing upon any invoice then outstanding, the whole of the amount of all invoices then outstanding becomes immediately due and payable.
- g) The Buyer shall be liable for all costs of whatsoever nature of and associated with the exercise of Siltech's rights under this clause, which costs shall be payable on demand.
- h) Should the Buyer sell the goods to any sub-purchaser, the Buyer must obtain a specific acknowledgement from the sub-purchaser that property and ownership in the goods will not pass to the sub-purchaser but will remain with Siltech until payment in full of the purchase price of the goods by the sub-purchaser to the Buyer.
- i) Risk in the goods passes to the Buyer at the time of delivery and the Buyer shall keep the goods insured.

5. Retention Moneys

Siltech does not in the normal course of business agree to retention of moneys owing to Siltech. However, if retentions are specified and agreed to by Siltech, such retentions shall be in the form of a Bank Guarantee. Such guarantee shall be held for a period not in any event to exceed a maximum of the period of warranty of the goods or services.

6. Buyer Delayed Delivery

Should the Buyer delay delivery of the equipment, Siltech reserves the right to store the equipment and to obtain payment as though the equipment had been delivered and to recover storage, insurance and handling costs incurred due to the delay. Siltech reserves the right to make progress claims when components and/or services are required ahead of scheduled delivery dates or when payment in full for the goods and/or services will be delayed.

7. Default of the Buyer

If the Buyer does not comply with the Standard Terms and Condition of Siltech, the granting of the credit facility to the Buyer is at the absolute discretion of Siltech to refuse the supply of further products or services to the Buyer.

This will include any products subject to an order acceptance by Siltech prior to the date of exercise of Siltech's discretion, within the meaning of this paragraph. Siltech will not be liable to the Buyer for any loss or damage the Buyer may sustain as a result of Siltech refusing to supply the products or services. Siltech may at any time terminate the Buyer's right to purchase products and have services provided on credit, without the necessity of giving prior notice.

A certificate, signed by the Director, Accountant, Credit Controller or other authorised person of Siltech stating the sum due and payable by the Buyer under this agreement at the date mentioned in that certificate, will be prima facie evidence that the sum so stated is the sum due and payable by the Buyer to Siltech under this agreement at the date. The cost of collection of any moneys due and payable, including but not exclusively the fees of any mercantile agent or Solicitor engaged by Siltech, will be recoverable on a full indemnity basis from the Buyer.

8. Cancellation Fees

If at any time the Buyer purports to terminate and/or cancel the contract entered into, then and without prejudice to any other rights or remedies Siltech may have hereunder or at law, Siltech will be entitled to recover from the Buyer such proportion of the total contract price (including GST), equivalent to the proportion of labour, skill and materials used by Siltech in its performance of the contract at the date of such termination or repudiation.

9. Delivery

The date of completion set forth in the quotation is made in good faith and is subject to Siltech not being delayed by instructions or lack of instructions from the Buyer, and Act of God, war, government, award, industrial disturbance, delays or damage to goods in transit, shortage of materials or any other cause beyond Siltech's control. In the event of a delay arising from, or contributed to, by any cause beyond Siltech's reasonable control, the delivery time will be extended commensurately and such delay in delivery will not constitute a breach of contract, nor will it affect other provisions of the contract to Siltech's disadvantage. Siltech will accept no liability for loss of use or for any indirect or consequential damages arising from delays in delivery.

10. Inspection During Maintenance

If desired, the Buyer will be allowed access to Siltech's premises for the purpose of inspecting the goods and works being carried out under the terms of the order. Such inspection will be by prior arrangement with Siltech and occur during normal business hours.

11. Product Change

Siltech reserves the right to make reasonable modifications in goods of any kind without notice to the Buyer and to deliver revised designs or models of products against any order, unless the right is specifically waived by Siltech in writing. Prior to making modifications of a major nature which may affect the Buyer in its contractual responsibilities, such modifications will be referred to the Buyer for acceptance.

12. Noise and Vibration

Information provided by Siltech concerning noise and vibration is given in an advisory capacity and is not part of the Siltech guarantee. Notwithstanding anything to the contrary contained within this document, Siltech will not accept any responsibility for noise and/or vibration unless specifically requested by the Buyer and agreed to by Siltech in writing.

13. Access

It is the Buyer's responsibility to provide adequate access for entry and installation of goods and/or services covered by this quotation, together with adequate access and rigging facilities for future service work. The Buyer will maintain the area in which the equipment is (or is to be) located free of extraneous materials and move any contents, fixtures, fittings or moveable partitions as required to facilitate the performance of work by Siltech.

The Buyer will grant Siltech entry to the premises and access to the equipment at any time when required for the performance of the work and allow Siltech to make use of all existing building services and maintenance facilities at the premises in the performance of the work, and to remove any item of the equipment from the premises (if in Siltech's opinion necessary) for the purpose of undertaking any repair or replacement thereof; the Buyer will only permit persons duly qualified to undertake work of the relevant nature on that Equipment other than in connection with its normal operation.

The Buyer warrants to Siltech that the Buyer of the service is the beneficial owner of the equipment or has obtained from the beneficial owner consent for Siltech to carry out such work and will indemnify and hold harmless Siltech in respect of any claim made against Siltech based on, or in any way arising from, a lack of such consent. Unless otherwise stated, it is the Buyer's responsibility to obtain and provide access, services, facilities, permits, approvals or licences as may be required for the performance of the work.

14. Assembly

When it is necessary to dispatch the goods in other than fully assembled condition (which facts shall be stated in the quotation), assembly and erection will be the Buyer's responsibility and to the Buyer's account except where nominated in the quotation.

15. Start-Up

It is the Buyer's responsibility to have the goods installed and all auxiliary services operative in accordance with the Siltech checklist prior to requesting start-up (if included in the contract). If upon arrival on site, the Engineer finds that the goods are not ready for start-up, any extra costs incurred, including but not limited to costs of travelling and accommodation will be charged to the Buyer's account. Quoted figures for start-up and other site services are based on normal working hours. Overtime, penalty rates and site allowances will be added to the Buyer's account if such expenses are incurred by Siltech.

16. Progress Claims

Siltech reserves the right to issue partial payment invoices as materials are supplied and certain services are completed and will issue a final invoice on finalisation of the work which is the subject of the quotation (less progress claims). Such progress claims will clearly define work completed or material made available. Payment is to be made by the Buyer in accordance with these Standard Terms and Conditions.

17. Freight and Insurance

Where quotations state that goods will be delivered free on truck ex-company premises, unless stated in writing to the contrary, means Siltech will be responsible for any damage to goods up to the point of Siltech premises, after which it shall be the Buyer's risk in all respects. Upon written request, Siltech will act as agents on behalf of the Buyer to dispatch and insure the goods. Charges for freight and insurance arranged by Siltech in this respect will be billed to the Buyer's account directly by the carrier and/or insurer. The Buyer will insure the goods until paid for in full against loss or damage and will receive and hold the proceeds of any such insurance in trust for Siltech.

18. Price Variation (Equipment only)

Unless stated to the contrary, goods offered will be subject to a Cost Adjustment based on the "Air Conditioning Material Index" as published by the Australian Bureau of Statistics Catalogue 6407. The cost adjustment shall be the "percentage change in cost" calculated from the difference in Price Indices at the date of quotation and the date of dispatch.

19. Price Variation (Site Services)

Site service including installation, start-up and maintenance will be subject to a Cost Adjustment based on the "percentage change" in hourly rate (including fringe benefits and allowances) based on the weekly Metal Industry Award Rate for a fitter in the State or Territory of Australia where the site services are performed for the balance of the work to be performed under the contract.

20. Price Variation

Sales Tax or Import Duty (statutory requirements) (if any) included in the quotation is based on the ruling rate of all items as at the date of the quotation. All variations, whether they are due to amendments of the relevant Acts or changes in interpretations of classifications, will be added to the Buyer's account. Variations to rates of exchange, freight, insurance, primage and cartage on imported equipment or components, affecting the amount paid by Siltech for the actual equipment or components supplied will be added to the Buyer's account.

21. Price Increases

Price Escalation. Prices payable are subject to CPI increase by Siltech on 1 January each year. In the event of any increase in labour or material cost to Siltech, Siltech may at any other time increase such prices by written notice to the Buyer.

22. Goods and Services Tax

- a) Any quote issued by Siltech does not include an amount on account of GST payable by Siltech unless otherwise specifically stated. If any supply made under or in connection with

the Agreement is subject to GST, the Buyer must pay to Siltech an additional amount equal to the GST payable.

- b) The Buyer must pay the additional amount at the same time as the Buyer must pay the purchase price, or if a partial payment invoice is issued, at the same time as the buyer must make the first partial payment.
- c) Siltech will issue a tax invoice within twenty eight (28) days after receiving payment from the Buyer.

23. Warranty

- a) Save and except as required by law, no warranty is given where Siltech is not the manufacturer of products other than the warranty offered by the manufacturer of the goods supplied.
- b) Service Warranty: unless otherwise noted, warranty for labour service is ninety (90) days from the date of service. Warranty on parts is that which is specified by the parts manufacturer's warranty terms and conditions. Unless otherwise noted, these warranty's are normally twelve (12) months from the date of purchase.

24. Exclusions

Siltech does not assume contingent liabilities for:

- a) Damages, losses or injuries direct or consequential, that may arise from use of or inability to use product supplied.
- b) Abuse, neglect, or costs where product is installed, operated or applied contrary to installation and operating instructions produced by Siltech.
- c) Damage by fire, flood, abrasion, erosion, corrosion, chemicals, energy supply, foreign materials or deterioration due to extremes of environment.
- d) Refrigerant lost during shipment or during the warranty period.
- e) Equipment manufactured by others.

25. Laws to Apply

The laws of the State or Territory of Australia where Siltech's acceptance of the order is issued shall apply to the interpretation of these Standard Terms and Conditions and any matters arising therefrom.

26. Arbitration

In the event of any dispute between Siltech and the Buyer arising from these Standard Terms and Conditions, the matter will be referred to an arbitrator appointed by the mutual agreement of both parties or, failing agreement, will be an arbitrator appointed by the President of the Institute of Engineers, Australia.

27. Entire Agreement

Subject to the terms of the Agreement, these Standard Terms and Conditions contained within this document embody the entire understanding and agreement between the parties to this Agreement as to the subject matter of these Standard Terms and Conditions. Subject to the terms of the Agreement all previous negotiations, understandings, representations, warranties,

memoranda or commitments in relation to, or in any way affecting, the subject matter of these Standard Terms and Conditions are merged in and superseded by these Standard Terms and Conditions and shall be of no force or effect whatever and no party to the Agreement shall be liable to any other party to these Standard Terms and Conditions in respect of those matters. No oral explanation or information provided by any party to these Standard Terms and Conditions to another shall affect the meaning or interpretation of these Standard Terms and Conditions or constitute any collateral agreement, warranty or understanding between any of the parties to these Standard Terms and Conditions.

28. Credit Policy

Siltech may at its discretion, as a condition of acceptance of such order for sale, service or repair works require the Buyer to:

- a) Provide personal guarantees as to payment
- b) Enter into an assignment of progress payments due to the Buyer for the supply of the said goods, service or repair work. The form shall be in accordance with the Credit Policy.

29. Form of Notice

Any notice, consent or other communication ("Notice") required or permitted by these Standard Terms and Conditions shall be in writing and shall be deemed sufficiently served if delivered by hand or sent by facsimile or certified mail, postage prepaid and addressed to the party as outlined in the main contract.

30. Service

Unless later time is specified in the Notice, a Notice takes effect from the time it is actually received or taken to be received:

- a) In the case of a letter – on the third Business Day after posting
- b) In the case of a facsimile:
 - i). if transmitted before 5:00pm on a Business Day – on that Business Day
 - ii). if transmitted after 5:00pm on a Business Day – on the next following Business Day
 - iii). if transmitted on a day not being a Business Day – on the next day being a Business Day.

provided that, in any instance, the sender can produce a transmission report by the machine from which the facsimile was sent which indicated the time and date of transmission and that the facsimile was sent in its entirety to the facsimile of the recipient.

31. Validity

If any covenant or obligations of the Agreement or the application thereof to any person or circumstances shall be or become invalid or unenforceable, the remaining covenants and obligations shall not be affected thereby and each covenant and obligation of these Standard Terms and Conditions shall be valid and enforceable to the fullest extent by law.

IF YOU DO NOT UNDERSTAND THIS DOCUMENT, SEEK INDEPENDENT ADVICE