INTERPRETATION

In these Terms and Conditions the following expressions shall carry the following meanings:
"Acceptance Tests" means the series of functional tests to be carried out on the Goods and the result of the Services and the expected outcomes to ensure compliance with the Specification.
"Agreement" means the agreement between the Company and the Customer for the purchase of the Goods &/or supply of the Services in accordance with these Terms and Conditions.
"Company" means Manor Concepts Ltd.
"Contract Price" means the price to be paid by the Customer as stated either in the Quotation supplied by the Company or the price to be paid by the Customer in accordance with the Quotation as varied in accordance with Clause 2(a).
"Customer" means the purchaser of the Goods and/or Services pursuant to these Terms and Conditions from time to time.
"Goods" means the goods to be supplied under this Agreement.
"Multiplexed" means the mechanical joinery of adjacent refrigeration cabinets.
"Services" means the services to be provided under this Agreement.
"Site" means the location at which the Goods are to be delivered or installed or the Services provided as advised by the Customer.
"Quotation" means the Quotation supplied by the Company and any amendment thereto agreed by the Company in writing pursuant to Clause 2(a).
"Specification" means the description of the Goods and the Services as provided by the Company in the Quotation or any amendment thereto requested by the Customer which has been agreed to by the Company.

1. APPLICATION

These Terms and Conditions apply to all sales of goods and/or services provided by the Company under the Agreement and may not be varied unless specifically agreed to in writing by the Company.

2. QUOTATION

(a) The Quotation supplied by the Company is based on information supplied by the Customer at the time of the enquiry. Unless specifically stated the Quotation shall remain open for a period of 30 days from the date of the same. The Customer may place an order based on the Quotation within the said 30-day period. The Company shall have no obligation towards the Customer unless and until the Company provides written acceptance of the Customer's order. Any variation from the Quotation must be specifically agreed in writing by the Company.
(b) The Company reserves the right to make any changes in the specification of the Goods or services which maybe required to conform with any applicable statutory or EC requirements, or which do not materially affect their quality or performance.
(c) An order which has been accepted by the Company may not be cancelled by the Customer except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages and other expenses incurred buy the Company as a result of cancellation.

3. CONTRACT PRICE

(a) The Customer shall pay the Contract Price in accordance with Clause 13(a).The Contract Price covers all Goods and Services as may be set out in the Quotation and any agreed variation thereto.
(b) The Company reserves the right to vary the Contract Price to take account of factors beyond its reasonable control, including, without limitation, currency fluctuation, changes in costs or taxes, cost of personnel and materials and any other similar variable during the currency of the Agreement. Any such variation is to be notified to the Customer in writing.
(c) The Company will be entitled to charge in addition to the Contract Price any item not specifically included in the Contract Price, including work outside normal working hours, any costs associated with any delay in the commencement of the Services, delivery or installation of the Goods or completion to work on site, for whatever cause, save any fault on the part of the Company.
(d) The Contract Price is quoted as exclusive of VAT. VAT at the current rate will be added to the Contract Price.
(e) All Quotations for the supply and/or installation of 3 cases or less will be subject to a transport/labour surcharge.

4. TIME

If the Company provides a written estimation of time in the Quotation or otherwise during the continuance of this Agreement, that estimate is to be taken as a guide only and shall not be binding on the Company. The Company will use its reasonable endeavors to comply with any time estimate, but the Company does not accept any liability whatsoever, for, or which may be occasioned by any delay in the commencement of works, whether caused by events beyond the Company's control or not..

5. RESPONSIBILITY FOR GOODS

(a) The Customer shall be responsible for the safekeeping of the Goods delivered to the Customer's premises or the Site as from the time of unloading the Goods at the same, or, if the Customer wrongly fails to take delivery of the Goods; the Customer shall indemnify the Company against all loss or damage to the Goods howsoever that damage is caused.
(b) The Goods shall remain the property of the Company until the whole Contract Price has been paid, and clause 17 of these Terms and Conditions shall apply.
(c) The Company shall not be responsible for any loss or damage to the Goods whilst in transit unless any such damage or loss is notified to the Company as soon as reasonably practicable any in any event within three days of delivery of the Goods at the Customer's premises or the Site, time being of the essence in this cause.

6. SPECIFICATIONS

All drawings, technical specifications, capacities, performance rates and other descriptive matters or particulars given of any goods and whether appearing in catalogues, advertisements or accompanying material or referred to in the Quotation, are approximate and for guidance only. They are not binding upon the Company and do not form part of the Agreement, unless specifically referred to, in writing, as being part of the same.

7. INSTALLATION & WORK ON SITE

(a) Where the Agreement includes any Services then unless the Construction (Design and Management) Regulations 1994 (the "Regulations") apply to the same the following provisions shall apply:
  (i) if the Company has agreed to carry out any installation works or other services at the Customer's premises or the Site, the Company's responsibility shall be limited to ensuring that such installation works or the Services are completed in a proper and workmanlike manner;
  (ii) the Customer shall be responsible for notifying the Company in writing of any health and safety rules regulations or procedures or other requirements relating to access to the Site to be adhered to by the Company whilst on Site for the purposes of the installation (including but not limited to any health and safety briefings required on first arrival at the Site) not less than 14 days before the date scheduled for the installation;
  (iii) If the Customer shall fail to notify the Company of any such requirements as are referred to in Condition 7(a)(ii) then the Customer shall indemnify the Company in respect of any loss claim costs or expense incurred by the Company if on arrival at the Site the Company is unable to commence the installation as scheduled;
  (iv) at the Site the Customer shall not stop or otherwise prevent the installation from proceeding save as a result of any life threatening health and safety issue. If the Customer or any representative of the Customer does stop or prevent the installation from proceeding without due cause then the Customer shall indemnify the Company for any loss claim costs or expense incurred by the Company as a result;
  (v) if the Regulations apply the Customer shall notify the Company not less than 14 days before the date scheduled for the installation of the identity of the Planning Supervisor and of the Principal Contractor and shall procure that both such persons communicate with the Company in a timely manner to enable the Company to comply with the Company's statutory obligations under the Regulations.
(b) The Customer shall provide for the benefit of the Company and its contractors or agents all such facilities at the Site as may be reasonably required in connection with the installation.
(c) The Customer shall ensure safe and adequate access for the Company to the Customer's premises or the Site and shall be responsible for the safe custody of all equipment, materials and other property left on the site by the Company in the course of carrying out the Services or delivering or installing the Goods.. The Customer shall indemnify the Company in respect of any loss, damage or other charges incurred by the Company owing to damage or loss of any equipment or materials left in the Customers custody or at the Customers premises or Site.
(d) Any preparatory work or materials for which the Customer is responsible shall meet the Company's specification and shall be carried out to the Company's reasonable satisfaction. The Customer shall be responsible for any loss or delay or other damage suffered by the Company in breach of such responsibility. The Customer is responsible for making good when the Company has completed the installation.
(e) In particular the Customer shall advise the Company or ensure of the following:
  (a) Access to the store, e.g. Noise abatement, any restrictions
  (b) Access onto the sales floor
  (c) Suggested route to the final shopfloor position
  (d) Floor markings to be provided at the time of installation
  (e) To ensure on a refit, the area is clear of debris/obstructions
  (f) Delivery date/time and Handover dates
  (g) Point of Contact
(f) Installation shall be deemed complete when the Company has completed the Acceptance Tests or on the Customer signing a certificate of acceptance whichever is the earlier.
(g) Upon satisfactory completion of the Acceptance Tests the Company shall, subject to there being no qualifying comments, forthwith send to the Customer copies of the relevant test reports. Such reports shall be signed on behalf of the Customer together with a certificate of acceptance in the Company's standard form from time to time and such documents shall be returned to the Company.
(h) If upon completion of the Acceptance Tests either party identifies that the Goods or the Services or any part of them do not meet or otherwise comply with the Specification then that party shall notify the other of the defects.
(i) The Company shall be responsible at its own cost and expense for correcting any defects which become apparent as a result of Acceptance Tests as soon as reasonably practicable. Upon correction of any defects in the Goods or Services then the Acceptance Tests shall be repeated to the extent necessary on the same terms.
(j) The Goods and Services shall not be deemed to have failed the Acceptance Tests by reason of any failure to provide any facility or function not specified in the Specification.

8. WARRANTIES

(a) The Company's liability in respect of the Goods or Services supplied or for any loss, damage or injury (other than death or personal injury resulting from the Company's negligence or fraudulent misrepresentation) attributable to any defect in, or failure of, the Goods or Services shall be limited in the manner set out below:
  (i) The Company undertakes to replace or repair at its option and to deliver at its own expense in mainland UK, (or at the Customer's expense if outside mainland UK) any goods or parts supplied to, or work carried out for, the Customer, if a defect in materials or workmanship arises under conditions of normal use given proper maintenance, provided that;
    (a) the Goods were purchased and used for a purpose for which, and in a way in which, in the Company's opinion, they were suitable;
    (b) the Customer notifies the Company in writing without delay upon such defect becoming apparent to the Customer. If the Company so requires, the defective goods or parts thereof are to be returned to the Company, carriage and all charges paid by the Customer;
    (c) the Company shall not be liable under this Clause 8 in the event that the defect occurs more than 12 months after the date of delivery or completion (as detailed in paragraph 7(a) above)
    (d) the Goods or, as the case may be, the works or Services, have not been installed, Multiplexed, commissioned, repaired or modified by anyone other than the Company or its authorised representative;
    (e) in the case of goods or parts not of its own manufacture, the Company's responsibility shall be limited to replacing those defective goods or parts.
  (ii) If the Services supplied by the Company are found to be defective, the Company undertakes at its cost and expense and discretion to either provide additional or replacement Services to replace or remedy the defective services; or give a full refund for the price paid by the Customer for such defective services.
(b) The Company shall not be liable for any damage to the Goods to the extent that such damage is attributable to use of the Goods or the result of the Services following the Customer's notice pursuant to Condition 5(c) or if the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (in the absence of such instructions) good trade practice.
(c) The rights given under this clause are in substitution for any statutory rights the Customer may have, save for such rights as are incapable of exclusion from contract by operation of statute or common law, and the Customer agrees that in all circumstances of this Agreement the liability accepted by the Company is fair and reasonable.
(d) The Company may at its option elect to satisfy its liability under this clause by refunding the Contract Price paid by the Customer. On refunding the Contract Price the Customer is to return the Goods to the Company.

9. LIMITATION OF LIABILITY

(a) Subject to the provisions of these Terms and Conditions, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
  (i) any breach of these Terms and Conditions; and
  (ii) any representation, statement or tortious act or omission including negligence arising under or in connection with the Agreement.
(b) All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979 (as amended)) are, to the fullest extent permitted by law, excluded from the Agreement.
(c) Nothing in these Terms and Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
(d) Subject to Condition 9(c), the Company shall not be liable to the Customer for:
  (i) any indirect or consequential, special or punitive loss, damage, costs or expenses;
  (ii) loss of profit;
  (iii) loss of business;
  (iv) loss of revenue; or
  (v) depletion of goodwill.
(e) Subject to Condition 9(c), the Company's total liability to the Customer under or connected with these Terms and Conditions for:
  (i) damage to the Customer's tangible property resulting directly from the Company's negligence or that of its employees shall not exceed £5,000,000 for any one event or series of connected events;
  (ii) any other loss or damage not covered by Condition 9(d)(i) and which arises directly out of the Company's negligence shall not exceed £5,000,000 for any one event or series of connected events;
  (iii) any other direct loss not covered by Conditions 9(d)(ii) to 9(d)(v) shall not exceed 125% (one hundred and twenty five per cent of the price payable for the Goods &/or Services.

10. PATENTS AND INTELLECTUAL PROPERTY

(a) All intellectual property rights in the Goods shall remain the exclusive property of the Company, unless otherwise agreed in writing by the Company. Subject to the Customer paying the Contract Price to the Company and all monies due to the Company otherwise due under any other contract between the Company and the Customer, the Company hereby grants to the Customer a non-exclusive, royalty free, non-transferable licence of such intellectual property rights for the purpose of utilising the Goods in its normal course of business.
(b) All intellectual property provided to the Customer in the course of the Agreement, whether in drawings, reports or other documentation provided to the Customer shall remain the absolute property of the Company and is provided for Customer purposes only and is to remain confidential to the Customer. The drawings, reports or other documentation provided may not be released, disclosed to or used by any third party without the specific consent in writing of the Company, save to the extent that such disclosure is required by any Court of competent jurisdiction or other regulatory or government body.
(c) The Company endeavours not to knowingly offer for sale goods or services which infringe known and valid patents. The Company shall not be liable for any damage or loss of profit arising from any infringement of any patent, copyright, registered or unregistered design right, know-how or other form of intellectual property which is attributable to any use of the Goods by the Customer or sale of the Goods by the Company.

11. RESTRICTION ON EXPORT

Goods supplied by the Company shall not be exported from the Country in which they were first delivered without the specific consent in writing of the Company (such consent shall not be unreasonably withheld). Refusal of consent shall be reasonable if in the Company's opinion such export may interfere with any licensing or other contractual arrangements with third parties.

12. STORAGE

If, for any reason outside the control of the Company, or through the fault, negligence or delay of the Customer the Company is delayed in delivering the Goods to the Customer, the Customer shall pay a reasonable charge for storage of the same as long as the Company has sufficient facilities for such storage. The Company shall accept liability in respect of the Goods stored for a period of 21 days from the commencement of storage. After 21 days the risk of loss or damage to the Goods shall pass to the Customer. Following 21 days from the commencement of storage, the Company may require the Customer to take delivery of the Goods or arrange for the same to be stored at an alternative location. Where upon the Company requires the Customer to take delivery or undertake storage of the Goods the Customer will be required to make payment for the Goods forthwith and prior to delivery at the Customers premises, Site or alternative location in any event.

13. PAYMENT

(a) Save as otherwise specifically stated, the Company's terms of payment are net cash payment to be paid in full within 30 days of the date of invoice. No discount, allowance or set off is permitted and payment shall be in the full amount of the invoice price.
(b) In the event that payment is not made within the said 30 days time limit:
  (i) The Company may charge interest at the rate of 2% per annum above the Bank of England base rate on all monies owing from the date when payment was due (a part of the month shall count as a full month for the purposes of calculating interest); and
  (ii) The Company shall be entitled to make a reasonable charge by way of administration expenses, which in any event shall not be less than the sum of £50 (plus VAT, in respect of each invoice unpaid in whole or in part.
(c) In the event that the Customer fails to comply with the Company's terms of payment, the Company may discontinue the provision to the Customer of any further goods or services.

14. TERMINATION FOR BREACH BY CUSTOMER

(a) If the Customer shall commit any breach of any term or condition of any contract for the sale and supply of the Company's goods and/ or services, the Company may, by notice in writing to the Customer, terminate this Agreement.
(b) The Company may terminate this Agreement immediately if the Customer becomes bankrupt or on the happening of any event specified in Condition 17(c). Any termination or cancellation shall be without prejudice to any of the rights of either party arising prior to the date of such termination.

15. FORCE MAJEURE

(a) Without prejudice to any other term hereof, the Company shall not be liable for any failure to fulfill its obligations under this Agreement if the carrying out of the obligation is hindered or prevented by any event or circumstances beyond the Company's reasonable control, including, without prejudice to the generality of the foregoing, strike, lockout or industrial action or failure, or breakdown of plant, supplies, transport or equipment.
(b) If the delivery of equipment, or completion of any work shall be delayed hereunder for more than 12 months, the Customer shall be entitled to cancel the Agreement or the unexecuted remainder thereof, upon payment to the Company of a reasonable sum in respect of such works carried out, but the Customer shall not be entitled to any damages or compensation whatsoever.

16. NAME PLATES

The Customer shall not apply any nameplate or label to the Goods which directly or indirectly implies that the Goods have been supplied by someone other than the Company.

17. TITLE TO PROPERTY

(a) If the Goods are supplied by the Company and not paid for in full by the Customer, at the time of delivery, the same shall remain in the ownership of the Company until payment in full has been received by the Company in cash or cleared funds. During such period, the Customer shall:
  (i) hold the Goods as the Company's fiduciary agent and bailee;
  (ii) store the Goods (at no cost to the Company);
  (iii) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
  (iv) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company; and
  (v) hold the proceeds of the insurance referred to in Condition 17(a)(iv) on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
(b) The Customer may not sell on to any third party, charge, deliver or otherwise deal with the Goods until full payment has been made to the Company. In the event that the Customer does resell the Goods before ownership has passed to it, the Customer agrees that such sale shall be made solely on the following Conditions:
  (i) any sale shall be effected in the ordinary course of the Customer's business at full market value; and
  (ii) any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale;
  (iii) the Customer shall account to the Company for the sale proceeds and shall keep such proceeds separate from any monies of the Customer and third parties; and (as between the Company and the Customer) the Company shall have title to the Customers rights or claims against such third party arising out of such sale.
(c) The Customer's right to possession of the Goods shall terminate immediately if:
  (i) the Customer (being an individual) has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer in any jurisdiction; or
  (ii) the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform any of his/its obligations under the Agreement or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
  (iii) the Customer encumbers or in any way charges any of the Goods; or
  (iv) anything analogous to the foregoing occurs in any other jurisdiction.
(d) The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
(e) Until such time as ownership in the Goods passes to the Customer, the Company shall be entitled at any time to require the Customer to deliver up the Goods to the Company (at no cost to the Company) and if the Customer fails to do so to enter upon any premises of the Customer where the Goods are stored and repossess the same.
(f) The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

18. THIRD PARTY RIGHTS

A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This shall not affect any right or remedy of a third party that exists or is available apart from under that Act.

19. ASSIGNMENT

(a) The Customer shall not be entitled to assign, transfer or dispose of any right, obligation or interest in or arising out of the Agreement or any part of it without the prior written consent of the Company.
(b) The Company may assign the Agreement or any part of it to any other person, firm or organisation.

20. GENERAL

(a) Any notice required or permitted to be given by either party to the other under these Terms and Conditions shall be in writing and addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to these Terms and Conditions to the party giving notice.
(b) If any provision of these Terms and Conditions is held by any Court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.
(c) The Company may choose not to enforce any right under these Terms and Conditions but any delay or failure to enforce shall not be construed as a waiver of any such right and will not prevent the Company from enforcing any right in the future.
(d) The construction, validity and performance of this Agreement and these Terms and Conditions shall be governed in all respects by English law and the parties hereby submit to the exclusive jurisdiction of the English Court.