

TERMS AND CONDITIONS OF SALE: PRODUCTS

1. Definitions.

In these Conditions of Sale "Seller" shall mean Wallace Cameron & Co. Limited and/or its successors, assignees, sub-contractors and agents; "Buyer" shall mean any person or persons, firm or firms, company or companies, authority or authorities who shall order or buy the Goods and shall include his or their successors, executors and personal representatives: "Goods" shall mean the equipment, goods and/or materials supplied or sold by the Seller in terms of any individual Contract (including all replacements and renewals thereof and all accessories and additions thereto whether added or made before or after the date of the relative order); "Contract" shall mean any contract for the sale or supply of the goods by the Seller to the Buyer; "Conditions of Sale" shall mean the terms and conditions of sale set out herein.

2. Contract

- a) No quotation, advertisement or issue of a catalogue by the Seller shall constitute an offer. No order placed with the Seller shall be binding on the Seller or deemed to be accepted by the Seller unless and until such acceptance has been intimated by telephone by a duly authorised representative of the Seller or a written and unqualified acknowledgement and acceptance of such order is issued to the Buyer by the Seller or its agents. Every such order accepted by the Seller shall constitute an individual and legally binding Contract. The Contract between the Buyer and the Seller shall be governed in all respects by these Conditions of Sale. The Seller shall not be bound by any terms or conditions set out in the Buyer's order and these Conditions of Sale shall supersede and prevail over any other terms and conditions stipulated or referred to by the Buyer. No previous correspondence, writings, telexes, facsimile, telegrams or verbal communications between the Buyer and the Seller regarding the goods shall form part of or be incorporated into the contract.
- b) The Seller reserves the right to alter these conditions of sale from time to time by giving written notice of such alterations to the Buyer.
- c) The Seller reserves the right to make improvements, substitutions or modifications to any part of the goods resulting from any variation for whatever reason in the specification or technical data. The Seller will not be liable in respect of any damage caused by or resulting from such improvements, substitutions or modifications.

3. Cancellation

- a) No notice of cancellation of an order or contract shall be valid unless given in writing by the Buyer to the Seller. Once the written notice of cancellation is received the Seller reserves the right to levy a cancellation charge of up to 50% of the amount of the Contract.
- b) Where the contract provides for the delivery by instalments, each instalment shall be deemed to be a separate contract and non-delivery or delay in the delivery of any instalment shall not entitle the Buyer to repudiate the contract as regards the balance thereof.

4. Force Majeure

The Seller shall not be liable for any loss or damage caused by the delay in the performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond the Seller's control including but not limited to an Act of God, war, civil disturbance, requisitioning, governmental or parliamentary restrictions, prohibitions or enactments of any kind; import or export regulations, strike, lock-out or trade dispute (whether involving its own employees or those of any other person), difficulties in obtaining workmen or materials; breakdown of machinery, fire or accident. Should any such event occur the Seller may cancel or suspend the contract without incurring any liability for any loss or damage thereby occasioned.

5. Account Terms

Prices are quoted in £ Sterling unless otherwise stated and are subject to VAT (if applicable) at the current rate. All goods are subject to availability and prices charged will be those ruling at date of despatch. Payment Terms are strictly 28 days from date of invoice. The Seller reserves the right to charge:

- a) Interest on all overdue payments at 3% above the base rate. Such interest being deemed to accrue on a daily basis from the due payment date until receipt of payment and
- b) An administration fee of £35, or 15% of the outstanding debt whichever is the greater for late payments.

6. Retention of Title

Ownership of the goods shall remain with the Seller who reserves the right to dispose of the goods until the Buyer has made payment in full. Such payment shall become due immediately upon the commencement of any act or proceeding in which the Buyer's solvency is involved. If payment is overdue in whole or in part the Seller may (without prejudice to any of its other rights) recover or resell the goods or any of them and may enter upon the Buyer's premises by its servants or agents for that purpose. Until the Seller is paid in full all monies outstanding the relationship of the Buyer to the Seller shall be fiduciary in respect of the goods or other goods in which they are incorporated or used and if the same are sold by the Buyer the Seller shall have the right to trace the proceeds thereof.

7. Notice of Damage, Non-Delivery or Wrong Delivery

- a) Claims for non-delivery must be notified to the Seller and the Carrier within seven days of invoice, failing which the Seller shall be under no liability for non-delivery.
- b) The Seller shall not be liable to the Buyer in the event that the Goods, at the time of delivery, do not comply with the warranty in Clause 10 and the non-compliance is one which should have been apparent on a careful visual inspection of the Goods unless the Buyer shall have notified the Seller and the Carrier within three days of delivery that such inspection was impossible and shall have confirmed such notification in writing received by the Seller within five days of delivery.
- c) Subject to the receipt of a written notification from the Buyer the Seller will normally replace any merchandise that might reach the Buyer in an unusable condition and no handling charge will be made under these circumstances.
- d) The Seller will, in all cases advise the Buyer through the issue of a Returned Materials Authorisation Label or advise on the disposition of damaged or unusable goods.
- e) Any surplus goods delivered in error shall remain the property of the Seller and the Buyer shall take all reasonable precautions for the safe custody and protection of such surplus goods until the time of their removal by the Seller in accordance with c).
- f) In the event of goods being wrongly delivered none of the Goods be returned to the Seller without its prior written consent, otherwise liability is not accepted. Where the Seller has made an error, full credit will be given on uplifted goods in good condition.
- g) The Seller reserves the right to make a carriage charge plus 10% handling charge on all consignments tendered for delivery that are refused without justification.
- h) The Seller is under no obligation to accept goods for return. No goods may be returned from the Buyer without the prior written consent of the Seller. Where the Seller consents to the return of goods they must be received from the Buyer in good condition and the Buyer agrees to pay an administrative handling charge of 20% of the invoice value of the goods returned. Only complete units of sale may be returned and all goods are to be clean and in good condition. **Note:** To assure and ensure product integrity Medical Devices & Medicines cannot be accepted for return other than in the case of damage as outlined in c) or defect as in Clause 10.
- i) Other than for transit damaged or defective product as defined in Clause 10, the Buyer will pay in full for any goods returned in an unsaleable condition.

8. Specification

Attention is specifically drawn to the Seller's and the Manufacturers instructions and safety literature in respect of the correct use and application of products that the Seller may supply. The Buyer shall be wholly responsible for checking that such products are entirely appropriate for the use and application to which they may be put. The specification and description of the goods in the Seller's catalogues are correct to the best of the Seller's knowledge at the time of going to press. In view of the rights claimed by manufacturers to change specifications without notice and whilst all reasonable care is taken to ensure that due notification of such change is given the Buyer is advised to check the exact specification of all goods prior to order.

9. Health & Safety

- a) In accordance with the Health & Safety at Work Act 1974, the Seller shall in so far as is reasonably practicable manufacture, stock, distribute and sell products that will be safe and without risks to health. Within the scope of this Act, some products supplied may be deemed hazardous.
- b) The Buyer must adhere to the Manufacturer's or Seller's instructions outlined in product data sheets, or label warnings or instructions for use.

10. Warranty & Liability for Defects

- a) Where any goods supplied by the Seller are found by the Buyer to be defective within six calendar months after delivery the Buyer shall notify the Seller of such defect in writing and the Seller will arrange for the disposition of the goods in accordance with Clause 7 d).
- b) The Seller shall, provided that it agrees that the goods are so defective and the goods have been paid for and at its own option either repair such goods free of charge, replace such goods or refund the Buyer the price thereof but in no circumstances whatsoever, subject to any statutory provision from time to time in force, shall the liability of the Seller in connection with any such goods exceed the price paid or agreed to be paid by the Buyer.
- c) The Seller's liability under this Clause is conditional upon the Buyer (i) adhering strictly to the payment terms provided in the contract (ii) notifying the Seller and returning the Goods in accordance with Clause 7 d) and (iii) not attempting to repair or have repaired the goods.
- d) There shall be no liability on the Seller in terms of this Section for any defects which are in the opinion of the Seller, occur as a result of:
 - i) Misuse of goods or negligence on the part of any person other than the Seller;
 - ii) Loss or theft of the goods or any part of them;
 - iii) Damage from any cause other than by the Seller or Seller's personnel;
 - iv) Unauthorised modification, alteration or repair of the goods; and
 - v) Fair wear & tear.

11. Technical Data / Intellectual Property Rights

- a) With the exception of these Conditions of Sale all information, details, measurements, descriptions and illustrations contained within the Seller's catalogues, sales literature, price lists and advertisements are intended to be construed only as of a generally informative nature and no such information shall form any part or be incorporated in any way into the contract. Further, no statement, description, warranty or recommendation made verbally by the Seller shall be construed to enlarge, vary or override in any way any of these Conditions of Sale.
- b) The Buyer hereby acknowledges that any patent, copyright design, trade mark or other industrial or intellectual property rights in relation to the Goods in which the Seller or the respective manufacturer, developer or third party has an interest shall at all times and for all purposes vest and remain vested in the Seller or such manufacturer, developer or third party.

12. Ruling Law

The Contract shall be governed in all respects by Scots Law and the Seller and Buyer agree to submit to the jurisdiction of the Scottish Courts.