

# **ARMSTRONG MEDICAL LIMITED**

## **GENERAL TERMS AND CONDITIONS OF SALE**

### **1. DEFINITIONS**

In these Conditions: -

- 1.1 "Company" means Armstrong Medical Limited.
- 1.2 "Contracting Party" means the person, firm, Company or authority to which Goods are supplied subject to these Conditions.
- 1.3 "Goods" means the Goods supplied by the Company to the Contracting Party subject to these Conditions.
- 1.4 "Contract" means any agreement for the purchase of Goods by the Contracting Party.

### **2. CONDITIONS**

- 2.1 Any other terms or conditions of sale are hereby excluded, unless agreed in writing between the Company and the Contracting Party, whereupon such revised terms and conditions supersede any and all foregoing clauses, as applicable.
- 2.2 No variation, cancellation waiver or agreement not to rely upon any of these Conditions shall bind us unless authorised and agreed by a Company Director in writing.
- 2.3 The Contracting Party's acceptance of delivery of the Goods shall be deemed to establish his acceptance of our Terms and Conditions.

### **3. QUOTATIONS**

- 3.1 The right is reserved to correct any accidental errors or omissions. Subject thereto, all quotations (unless otherwise stated in writing) are valid for 30 days from the date thereof.

### **4. ORDERS**

- 4.1 Acceptance of orders shall be subject to such pricing as mutually agreed, quoted or notified and as per such conditions as specified elsewhere in the General Terms And Conditions Of Sale. Where annual sales targets are in force, orders against such targets shall be placed not less frequently than at monthly or weekly intervals, unless otherwise agreed in writing, and have a total value, excluding transportation costs, of not less than one twelfth (1/12<sup>th</sup>) or one fifty-second (1/52<sup>nd</sup>), as appropriate, unless otherwise agreed in writing, of any annual sales target or any associated minimum annual purchasing target, as appropriate.

### **5. CANCELLATION**

- 5.1 Orders may not be cancelled without written notice from the Contracting Party and our written consent.
- 5.2 Where the Company has purchased Goods specifically for an order, the Contracting Party will not be authorised to cancel the order, unless the Company can return the Goods to the original Supplier.
- 5.3 Where the Company incurs a charge for returning Goods to the original Supplier or there are other directly related expenses, the Company will have the right to charge an 'Administration and Handling Charge' to the Contracting Party.

### **6. TERMS OF DESPATCH, DELIVERY AND OWNERSHIP**

- 6.1 Times or dates quoted by the Company, for delivery of the Goods, are intended as estimates only. The Company shall not be liable in any way for any direct or indirect loss, damage or expense (including loss of profits and liability to third parties) suffered or incurred by the Contracting Party as a consequence of any delay in delivery.
- 6.2 The Company reserves the right to deliver the Goods by instalments in any sequence and to tender a separate invoice in respect of each instalment. Where the Goods are delivered by instalments, the Contract shall become severable and each instalment shall be deemed to be the subject of a separate Contract. No default or failure by the Company in respect of one or more instalments shall entitle the Contracting Party to treat the Contract as repudiated or to damages.
- 6.3 Every effort will be made to adhere to delivery dates, but delay or failure to maintain a delivery date shall not entitle the contracting party to cancel any order or withhold any payment. In addition, we

accept no responsibility for delays or prevention of delivery caused by natural phenomena, acts of any government authority, accidents and disruptions, strikes or other industrial disputes, transport difficulties, the lack of information or drawings from the Contracting Party or any other cause whatsoever not entirely under our control. In the event of any such delay the time for delivery shall be extended by the period of the delay even though such delay may occur after performance by us of our obligations had been delayed for other causes.

- 6.4 The risk in Goods passes to the Contracting Party upon delivery but title in the Goods remains vested in the Company and shall only pass from the Company to the Contracting Party upon full payment being made by the Contracting Party of all sums to the Company or any Company nominated by the Company.
- 6.5 In the event of the Goods becoming constituents or of being converted into other products whilst sums are due, as provided in condition 5.4, hereof the Company shall have the ownership of and title to such other products as if they were the Goods and accordingly condition 5.4 hereof shall, so far as appropriate, apply to such other products.

## **7 CLAIMS FOR DEFECTIVE GOODS**

- 7.1 The Company shall replace free of charge Goods damaged in transit provided that: -
- a) The Company has arranged the carriage.
  - b) The Company and the carrier receive written notification of such damage within 7 days of delivery to the Contracting Party or the Contracting Party's customer or in the case of non-delivery, within 5 days of the date of receipt of invoice.
  - c) The Contracting Party permits the Company to inspect any Goods alleged to be defective or damaged or any cases or packing in any consignment where shortage is alleged to have occurred and, if so requested by the Company, shall return the same to the Company in accordance with Condition 7.
- 7.2 If the Contracting Party fails to comply in any respect with Condition 6.1, the Goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods, and the Contracting Party shall be deemed to have accepted the Goods. If the Contracting Party, having complied with Condition 6.1, establishes to the Company's reasonable satisfaction that the Goods are not in accordance with the Contract or are defective, the Contracting Party's sole remedy in respect thereof shall be limited, as the Company may elect, to making good any shortages, to replacing such Goods or refunding all, or part of, the Contract price against return of the Goods.

## **8 RETURN OF GOODS**

- 8.1 Subject to condition 6 above, no Goods delivered in accordance with the Contract will be accepted for return, unless accompanied by the Company's 'Returns Authorisation Number', available on request from the Company, and on terms to be determined at the absolute discretion of the Company.
- 8.2 Such Goods shall be returned to the Company at the expense and risk of the Contracting Party, unless previously agreed in writing by the Company. Goods must be returned in secure packaging with the 'Returns Authorisation Number' clearly marked on the exterior of each box/package, along with the Company's name and full address. If several boxes/packages are being returned, they must be numbered e.g.: 1 of 4, 2 of 4 etc. The Contracting Party's Name, Address and the details of the reason for return must be noted on paper and enclosed in the first box.
- 8.3 Products that have been used and found to be defective or requiring servicing, must firstly be decontaminated before being returned with the decontamination certificate.**
- 8.4 Goods returned to the Company without prior authorisation may, at the discretion of the Company, be returned to the Contracting Party or retained at the Contracting Party's cost without prejudice to any rights or remedies the Company may have.

## **9. ACCOUNTS AND PAYMENT**

- 9.1 Unless otherwise agreed in writing the price of the Goods shall be paid in cash on or before delivery.
- 9.2 Where the Company agrees in its sole discretion to supply the Goods on credit, the Goods shall be paid for not later than thirty (30) days from the date of invoice. The Company reserves the right to close the account or withhold further supplies of the Goods if a Contracting Party fails to pay within the thirty (30) day period, without prejudice to any existing rights the Company may have in respect of any such unpaid invoice.

- 9.3 The Company reserves the right to charge compound interest on overdue invoices at 2% above the current Bank of Ireland rate (calculated from the date of invoice) which said right shall not be determined by the fact that the Company has subsequently or still is supplying Goods to the Contracting Party on credit.
- 9.4 All charges incurred by the Company in the recovery of overdue monies by means of a solicitor, authorised debt collector or the courts will be payable by the Contracting Party.
- 9.5 Any query concerning accounts should be notified, in accordance with Condition 6, failing which the Company will look for payment of all due invoices, with any queries being resolved at a later date. Where unresolved queries remain, the undisputed balance should be paid to avoid interest charges on overdue undisputed balances.
- 9.6 Extensions to the normal thirty (30) day credit terms may only be authorised in writing by a Company Director.
- 9.7 Where the Company has authorised the issue of a credit and re-invoice, the thirty (30) day credit terms apply to the original invoice date.

#### **10. DEFAULT BY THE CONTRACTING PARTY**

- 10.1 If the Contracting Party fails to make payment for the Goods in accordance with Condition 8 or otherwise commits a breach of this Contract, or if any distress or execution shall be levied upon any of the Contracting Party's Goods or if the Contracting Party offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy be presented against the Contracting Party or if the Contracting Party is unable to pay its debts as they fall due or if, being a Limited Company, any resolution or petition to wind up the Contracting Party (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole, or any part, of the Contracting Party's business or if the Contracting Party shall suffer any analogous proceedings under foreign law, all sums outstanding in respect of Goods shall become payable immediately.
- 10.2 The Company may in its absolute discretion and without prejudice to any other rights that it may have, suspend all future deliveries of Goods to the Contracting Party and /or terminate the Contract without liability upon its part.

#### **11. SET-OFF AND COUNTERCLAIM**

- 11.1 The Contracting Party shall not be entitled to withhold payment of any invoice by reason of any right of set off or counterclaim which the Contracting Party may have, or allege to have, against the Company or for any other reason whatsoever.
- 11.2 The Company shall be entitled to set off against monies it is owed by the Contracting Party for the supply of Goods any monies which the Company owes the Contracting Party.

#### **12. ASSIGNMENT**

- 12.1 The Contracting Party may not assign, sub-Contract or in any way dispose of its rights and obligations under the Contract without the prior written consent of the Company.

#### **13. GENERAL CONDITIONS**

- 13.1 Any provisional term of these Conditions, which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision hereof.
- 13.2 No waiver or forbearance by the Company, whether express or implied, in enforcing any of its rights hereunder shall prejudice its right to do so in the future.
- 13.3 All Contracts shall be non-exclusive and shall not confer any distribution or agency rights unless otherwise specifically agreed in writing.

#### **14. LAW AND JURISDICTION**

- 14.1 All Contracts shall be construed and governed by the laws of Northern Ireland and by the jurisdiction of the Courts of Northern Ireland. The above clauses shall operate separately and apart.