

Olympus UK Limited (“Olympus”)

Terms and Conditions of Trading

Condition 1

- (A) The following terms and conditions (the “Conditions”) shall apply to and be incorporated in any agreement between Olympus and you (the “Contract”) for the sale of goods by Olympus to you (the “Goods”) to the exclusion of all other terms and conditions (including any terms and conditions endorsed upon, delivered with or referred to in any purchase order or other document sent by you to Olympus or which could be inferred by trade, custom, practice or course of dealing) save to the extent that any amendment to, or variation of, these Conditions are expressly accepted by Olympus in writing. Acceptance of delivery of the Goods shall be deemed conclusive evidence of your acceptance of the Conditions.
- (B) No binding contract shall be created by the placing of an order by you (whether in accordance with a quotation or tender issued by us or otherwise) unless:-
- (i) Olympus sends you written notice that your order had been accepted; or
 - (ii) (if earlier) the Goods are despatched by Olympus.

Any price quoted to you by Olympus shall remain subject to revision without notice at any time prior to dispatch and all orders are accepted by Olympus on condition that they are executed at prices prevailing at the date when the relevant Goods are dispatched.

- (C) Save as set out in these Conditions, no particulars, statements or descriptions whether contained in any advertising matter, catalogues, brochures, price lists or otherwise supplied by Olympus concerning the Goods nor any verbal representation by any employee, agent or representative of Olympus shall form any part of the Contract nor shall they be treated as constituting a Olympus’ representation on Olympus’ part. You acknowledge that you have not been induced to enter into the Contract by any representation or warranty other than those contained in these Conditions and agree that subject to condition 9(D), you shall have no remedy in respect of any other such representation or warranty.

Condition 2

- (A) Any periods quoted for dispatch or delivery are estimates only and shall not become conditions or terms of the Contract and, save for condition 3, where time shall be of the essence, time shall not be of the essence of the Contract.
- (B) Olympus reserves the right to deliver Goods by instalments in any sequence and to deliver a separate invoice in respect of each instalment. Where the Goods are delivered by instalments, the Contract shall become severable and each such instalment shall be deemed to constitute a separate contract subject to these Conditions. No default by Olympus in respect of one or more instalments shall entitle you to treat the Contract as repudiated.
- (C) Should dispatch or delivery of any or all of the Goods or the performance of any of Olympus’ other obligations under the Contract be prevented or delayed by reason of any cause or circumstance beyond Olympus’ reasonable control (including that of an Olympus employee, agent or representative) including, but not limited to, any act of God, fire, flood, strike, government action or industrial dispute then Olympus shall not be liable for any loss or damage arising directly or indirectly through or in consequence of such event(s) and Olympus reserves the right to cancel the Contract or suspend delivery or extend the time for delivery until such cause or circumstance has ceased, providing that the foregoing shall not prejudice Olympus’ right to receive payment for Goods already delivered to you.
- (D) All Goods are supplied on the condition that where they are resold they are offered for sale and sold in the same form as sold by Olympus to you under the Goods’ brand names and trade marks and with the written specification supplied by Olympus without any modification or attachment to the Goods or the specification.
- (E)
- (i) Any drawings, designs, specifications and information furnished by Olympus to you other than marketing materials are Olympus property (or, as the case may be, the property of Olympus’ supplier) and shall be treated as confidential and shall not be disclosed or copied to any third party without Olympus’ prior written consent or used by you other than for purposes authorised by Olympus and such drawings and documents shall be returned to Olympus forthwith upon request.
 - (ii) You shall not use or deal in any way with the Goods or any of Olympus’ catalogues, brochures, leaflets, artwork, logos or lists in a manner so as to interfere with, weaken or infringe Olympus’ rights under any patent, trade mark, trade name, registered design, copyright or other intellectual property rights which subsists therein and no licence thereunder is granted to you except the right to use or to re-sell the Goods.
 - (iii) Where the Goods are manufactured by Olympus to your design or specification or where you combine such Goods in any way with other goods, you warrant that the supply of such British or foreign (including, without limitation, EU) patent, trademark, trade name, registered design, copyright or other intellectual property right belonging to any third party does not infringe the intellectual property rights of such third party and you shall on demand fully indemnify Olympus and keep Olympus indemnified against all costs, claims, proceedings and demands by third parties arising out of or relating to any infringement or alleged infringement of intellectual property rights in respect of such goods as aforesaid.
- (F) You shall be responsible for ensuring that your use of the Goods complies with all relevant treaty, legislation, statute, directive, regulation, judgement, decision, decree, order, regulation, instrument, by-law or any other law of, or having effect in, any jurisdiction (“Law”) where the Goods supplied to you are of satisfactory quality and is reasonably fit for the particular purpose for which the Goods are bought when such purpose is made known to Olympus and, except where Olympus is made liable pursuant to condition 9(D), shall indemnify Olympus and keep Olympus indemnified against all claims and liabilities suffered or incurred by Olympus as a result of any non-compliance on your part.
- (G) If a licence or consent of any government or other authority is required for the acquisition, carriage or use of the Goods by you, you shall obtain the licence or consent at your own expense and if requested produce evidence of it to Olympus on demand. Failure to obtain any licence or consent does not entitle you to withhold or delay payment of any sums owed by you to Olympus. Any additional expenses or charges incurred by Olympus resulting from such failure shall be paid by you.
- (H) Orders of substances included in Schedule 1 of the Poisons Rules 1982 (as amended or re-enacted from time to time) for delivery in the UK must be signed by you or your authorised representative stating his name and address, trade, business or profession and the purpose for which the substances are required and the total quantity to be purchased.
- (I) Both Olympus and you shall comply with its respective obligations under applicable Law.

Condition 3

- (A) Unless otherwise agreed in writing by Olympus, prices are as specified in Olympus' price list which shall be exclusive of value added tax or any successor tax thereto, the costs of carriage and packing and any applicable charge stated in the price list which shall be added to the invoice and paid by you.
- (B) Your account must be paid in accordance with the invoice which accompanies the Goods. The total amount shown due on any invoice must be paid at the latest by the 15th day of the next calendar month following the date of the invoice.

Condition 4

- (A) Olympus reserves the right to apply any sums received from you to discharge any part of your accumulated liability.
- (B) If within fifteen (15) days after Olympus notifies you that the Goods are ready for dispatch, you have not notified Olympus of the delivery instructions, Olympus shall be entitled to arrange storage at Olympus' own premises or elsewhere on your behalf and at your risk and expense (including the cost of insuring the Goods) and, in that event, the Goods shall be deemed to have been delivered and the price of the Goods to have become due.

Condition 5

- (A) Olympus reserves the right to recover from you any costs incurred directly or indirectly by Olympus in connection with the collection of an overdue account.
- (B) Where an invoice is raised containing pricing errors, no credit note will be issued nor any other rectification will be made by Olympus, unless you notify such errors to Olympus by no later than three (3) months from the invoice date.

Condition 6

- (A) Olympus shall at all times endeavour to supply Goods which comply with the specification and/or design as described in Olympus' catalogue subject to the tolerances and variations expressed or implied in such catalogue provided that the Goods are still of satisfactory quality and is reasonably fit for the particular purpose for which the Goods are bought by you where you made such purpose known to Olympus. Olympus however reserves the right to vary the specification, source of supply and/or design of advertised Goods where necessary.
- (B) Minor variations to the quality, colour, design, finishing and workmanship of the Goods which are customary in the trade will not be sufficient grounds on which to reject the Goods or to refuse to accept them.

Condition 7

- (A) Risk shall pass on delivery of the Goods. Subject to condition 4(B), unless otherwise expressly agreed in writing by Olympus, the Goods shall be deemed to be delivered when unloaded at your premises and the risk in those Goods shall thereupon pass to you.
- (B) Legal and beneficial ownership in the Goods, notwithstanding delivery of the Goods to you, shall not pass from Olympus until:
 - (i) you shall have paid Olympus in full; and
 - (ii) no other sums due are then outstanding from you to Olympus on any account whatever, whether or not such sums have become due for payment.
- (C) If, in Olympus' opinion your credit-worthiness deteriorates before delivery of the Goods, Olympus may require full or partial payment of all sums outstanding from you to Olympus, prior to delivery of the Goods or the provision of security for payment by you in a form acceptable to Olympus.
- (D) While property in the Goods remains vested in Olympus, you shall hold the Goods on a fiduciary basis only and as bailee only for Olympus and you shall:
 - (i) store the Goods at no cost to Olympus separately from your own goods or those of any other person in such a way that they are clearly identifiable as Olympus' property;
 - (ii) not permit any charge, lien or other encumbrance whatsoever to be created over any of Olympus' property;
 - (iii) take proper care of the Goods and take all reasonable steps to prevent damage to or deterioration of them; and
 - (iv) insure the Goods to Olympus' reasonable satisfaction and whenever reasonably required to do so, shall produce to Olympus a copy of the policy or policies current, premium or other evidence of the existence or payment thereof.
- (E) In the event that you commit any act or default which entitles Olympus to exercise any of its rights under condition 11:
 - (i) Olympus shall (without prejudice to any of Olympus' other rights and remedies) have the right to repossess and use the Goods and for that purpose Olympus and its servants or agents may enter upon any land or building, vehicle or vessel or other place where such Goods are reasonably thought to be situated for the purpose of inspecting and/or possessing such Goods; and
 - (ii) any right you may have to sell, dispose of, deal or in any way use the Goods shall cease forthwith.
- (F) Where you resell the Goods before payment in respect thereof has been received in full by Olympus, you shall hold as trustee for Olympus all monies recovered from the resale of those Goods and shall not mingle such monies with other monies or pay them into an overdrawn bank account.
- (G) In relation to any resale, you shall not sell or act as Olympus' agent and Olympus accepts no liability in this respect.

Condition 8

- (A) You shall be deemed to have released Olympus from all responsibility for any shortage or defect found or claimed to exist in any consignment and to have accepted the Goods unless Olympus receives written notice of the shortage, damage, or defect within fourteen (14) days of receipt by you of the Goods and subsequently full details thereof within seven (7) days thereafter.
- (B) Olympus accepts no responsibility for non-delivery of a Goods consignment unless written notice of such fact is received by Olympus within fourteen (14) days of the date of the invoice issued by Olympus in respect of the Goods in question.

Condition 9

- (A) The provisions of this condition 9 set out Olympus' entire liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you in respect of:-
 - (i) any breach of these Conditions; and
 - (ii) any representation, statement or tortious act or omission including negligence arising under or in connection with these Conditions.
- (B) Subject to condition 9(D) below:
 - (i) Olympus shall not be liable or responsible in any way for any loss, damage or expense, direct or indirect (including loss of profit and liability to third parties) which you may suffer in consequence of any late dispatch or delivery of Goods or failure to deliver the Goods for whatever cause the same may arise.
 - (ii) Olympus shall not be liable to you by reason of any representation or implied warranty, condition or other term or any duty of common law, statute or under the express or implied terms of these Conditions or otherwise, for any loss of profits, revenue, anticipated savings, goodwill or any type of special, indirect or consequential loss or damage (including business interruption), howsoever arising and whether occasioned by Olympus' negligence or breach of contract or that of Olympus' employees, agents or subcontractors; and
 - (iii) Olympus' total liability arising in connection with the performance or contemplated performance of these Conditions shall be limited to the value of the Goods purchased and paid for by you from Olympus in relation to the relevant consignment.
- (C) Any representation, condition or warranty which might be implied or incorporated into these Conditions by reason of statute, common law or otherwise is excluded to the fullest extent permitted by Law.
- (D) Nothing in these Conditions shall restrict or exclude Olympus' liability:
 - (i) under Part 1 of the Consumer Protection Act 1987;
 - (ii) in respect of fraudulent misrepresentation;
 - (iii) for death or personal injury caused by Olympus' negligence; or
 - (iv) arising under Section 12 of the Sale of Goods Act 1979.

Condition 10

- (A) Subject to condition 9(D), you shall indemnify Olympus against any loss, liability and cost that Olympus incurs as a result of carrying out any work required to be done on or to Goods in accordance with your requirements or specifications and that result in any infringement or alleged infringement of the rights of any third party.
- (B) If at any time it is alleged that the Goods infringe the rights of any third party or if in Olympus' reasonable opinion such an allegation is likely to be made due to any act, default or omission of Olympus or an employee, representative, agent or sub-contractor of Olympus, Olympus at its option and at its own expense may:
 - (i) modify or replace such Goods without detracting from the overall performance of such Goods so as to avoid the infringement;
 - (ii) procure for you the right to continue to use such Goods; or
 - (iii) repurchase such Goods at the price paid by you less depreciation at the rate that Olympus applies to its own goods.
- (C) You shall notify Olympus immediately of any claim made or action brought or threatened alleging infringement of the rights of any third party. Olympus shall have control over and shall conduct any such proceedings in such manner as Olympus shall determine. You shall provide all such reasonable assistance as Olympus may request.

Condition 11

- (A) If:-
 - (i) you fail to pay for the Goods on the due date;
 - (ii) you fail to pay any other debt due to and payable to Olympus;
 - (iii) you fail to take delivery of the Goods (otherwise in accordance with your contractual rights);
 - (iv) any distress or execution is levied upon your goods; or you offer to make any arrangements with or composition for the benefit of your creditors or commit any act of bankruptcy or if any petition in bankruptcy is presented against you or if (being a limited company) any resolution or petition for your winding-up (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if bankruptcy proceedings are commenced or if an administrator, administrative receiver or a receiver or manager is appointed over the whole or any part of your business, you shall notify Olympus immediately upon the happening of any such events and all sums outstanding in respect of any Goods sold by Olympus to you (whether or not such sums have become due for payment) shall immediately become payable and Olympus may, in its absolute discretion and without prejudice to any other rights Olympus may have:-

- (i) suspend all deliveries of goods to you under any contract between us whatsoever and/or terminate any such contract(s) without liability on its part; and/or
 - (ii) exercise any of its rights pursuant to condition 7 above; and/or
 - (iii) terminate the Contract forthwith at any time thereafter by giving written notice to you.
- (B) You shall not be entitled to withhold payment of any sums after they become due by reason of any right of set-off or counterclaim which you may have or allege to have or for any other reason whatsoever.

Condition 12

No Goods delivered in accordance with the Contract shall be accepted for return without Olympus' prior written consent unless Olympus is required to do so in order to comply with applicable Law.

Condition 13

Any concessions which Olympus may make or allow to you at any time shall not prejudice any subsequent exercise of its legal rights. No failure to exercise nor any delay in exercising by either party of any right, power, privilege or remedy under these Conditions shall impair or operate as a waiver thereof in whole or in part.

Condition 14

You may not assign, sub contract or in any way dispose of your rights or obligations under the Contract without Olympus' prior written consent. Olympus may at any time assign all or any part of its rights and benefits under these Conditions.

Condition 15

Any Contract shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the English Courts.

Condition 16

These Conditions may only be varied in writing signed by a Director or by the Company Secretary of Olympus.

Condition 17

- (A) Any notice to be served by you pursuant to these Conditions shall be sent to the following address marked 'For the Attention of the Credit Control Manager':- Olympus UK Limited, Vision House, 19 Colonial Way, Watford WD24 4JL.
Fax number: 01923 803 518
- (B) Any notice served pursuant to these Conditions on you shall be sent to such address as you may notify to Olympus or, in default of notification, to the address from which the Goods are or were ordered, or, if you are a company, at Olympus' option, to your registered office.
- (C) Any notice may be validly served by first-class recorded delivery inland post, registered airmail or facsimile. Any notice sent by recorded first class delivery post to a destination in the United Kingdom shall be deemed to have been received two (2) days after the date of its dispatch. A notice sent by registered airmail to any other destination shall be deemed to have been received seven (7) days after the date of its dispatch. A notice sent by facsimile shall be deemed to have been received at the time of dispatch. In proving service, it will be sufficient to prove, in the case of a letter, that such letter was properly stamped and addressed and, in the case of a facsimile, that such facsimile was duly dispatched to a current facsimile number of the addressee.

Condition 18

Any provision hereof which is or may be held to be illegal, void or unenforceable shall, to the extent of such invalidity or unenforceability, be deemed severable and shall not affect any other provision hereof. The parties shall negotiate in good faith to replace such void or unenforceable exclusion with a valid exclusion which, as far as possible, has the same legal and commercial effect as that which it replaces.

Condition 19

No person (other than a company which is Olympus' subsidiary or holding company or a company which is a subsidiary of that holding company) who is not a party to a Contract shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Conditions.

Condition 20

The above Conditions shall apply to export sales, subject to the following amendments:-

- (i) All prices quoted for the delivery of Goods delivered to customers located outside the UK are delivered to your premises or such other premises as may be agreed in writing between Olympus and you, and you shall be liable to pay any expenses (other than for delivery Ex Works) incurred by Olympus in delivering such Goods to you at your request.
- (ii) All export orders are accepted subject to Olympus obtaining appropriate export licences or other necessary consents and Olympus shall be under no liability for failing to deliver any or all of the Goods by reason of the non-issuance of any such licences or consents.
- (iii) Unless otherwise agreed in writing, all payments shall be made by irrevocable letter of credit confirmed by a UK bank which has been approved by Olympus and all expenses regarding such payments will be for your account.
- (iv) Olympus reserves the right to charge a reasonable administration fee to cover its costs in processing claims for VAT refunds.