

Conditions of Sale

Reference 8801

1. **The Contract**

The only terms and conditions of contract between **SANYO E&E Europe BV, Biomedical Division** ("the Seller") and the Purchaser shall be those set out below unless other terms are expressly accepted in writing by an authorised employee of the Seller.
2. **Catalogues, Drawings and Sketches**
 - (1) All statements (whether written or oral) descriptions, drawings, sketches, photographs, illustrations, diagrams or specifications concerning the goods made or given by or on behalf of the Seller before contract, whether in catalogues, brochures, leaflets, price lists or otherwise, are for the purposes of information and guidance only.
 - (2) Where goods are sold by reference to descriptions in a catalogue, the goods are sold subject to the tolerances and variations expressed or implied in the catalogue. In that design and sources of supply may change from time to time, the Seller shall have the right to supply goods of altered design or from the new source of supply.
3. **Prices**
 - (1) All goods will be supplied at the price and the VAT rate ruling at the date of despatch.
 - (2) All prices shown in catalogues, leaflets or brochures, are net ex works prices exclusive of Value Added Tax, and are for guidance only. The Seller reserves the right to vary such prices at any time in its discretion.
 - (3) Quotations expressed to be for a fixed price remain open for acceptance by the Purchaser within the period stated in the quotation, or if no period is stated, within 30 days of the date of the quotation irrespective of when the quotation is received by the Purchaser.
4. **Payment**
 - (1) For all sales in the United Kingdom payment of the full price (including any VAT) and any additional transport, insurance, packaging and/or additional costs must be made within 30 days of the invoiced date. Thereafter the Seller shall be entitled to recover interest on any unpaid amounts at 2% above the Base Rate of National Westminster Bank plc ruling at the date the purchase price is due.
 - (2) For any sale outside the United Kingdom the Purchaser shall, unless other arrangements are agreed by the Seller in writing, establish an irrevocable letter of credit confirmed by a London Bank acceptable to the Seller covering the purchase price and all shipping, transport, insurance and other additional costs or charges.
 - (3) The Seller shall be entitled to increase the price to recover any additional costs rising from variation or delay in delivery occasioned by the Purchaser's instructions. The provisions of (1) and (2) above shall apply to such additional costs.
5. **Delivery**
 - (1) The Seller undertakes to use its reasonable endeavours to deliver by specified dates. However, in all cases delivery dates are estimates only and without commitment by or obligation on the part of the Seller. The Purchaser shall not be entitled to cancel or to delay or refuse payment should delivery be made after the established delivery date.
 - (2) Unless otherwise agreed by the Seller orders for delivery within the United Kingdom will be delivered at the Purchaser's cost by whatever means the seller considers appropriate. The cost of insurance and packaging, if any, will be charged in addition to the price quoted for the goods.
 - (3) Unless otherwise specified, for all orders for delivery outside of the United Kingdom,
 - (a) cases and other containers, packaging costs, dock and airport dues, port rates agency fees and other charges which may be incurred are chargeable to the Purchaser. Cases and other containers are non returnable.
 - (b) such orders shall be on an FOB basis, for delivery to London docks or London airport and FOB prices will include dock or airport charges. Deliveries to docks or airports other than London may be charged extra.
 - (4) The Seller shall be entitled to make delivery of the goods or carry out services in instalments and the Purchaser shall be obliged to pay for each instalment in accordance to the Seller's usual terms.
 - (5) If the Purchaser fails to accept delivery within 10 days of notice in writing that the goods are ready for delivery the Purchaser shall be liable for all the Seller's storage and other charges and the Seller shall be entitled, without prejudice to its other rights, to resell or otherwise dispose of the goods.
 - (6) Claims for shortages or damage to goods before risk passes must be made in writing within 10 days of receipt failing which proper delivery shall be conclusively presumed to have been made.
6. **Conditions, Warranties and Seller's Liability**
 - (1) Subject to fair wear and tear the due observance of any installation, user, storage, operating or maintenance instructions, the Seller undertakes to replace or at its option repair free of charge to the Purchaser and goods which the Purchaser can establish are defective by reason of defective workmanship or materials and which are returned to the Seller carriage paid within 12 months, of the date of receipt by the Purchaser.
 - (2) No warranty is given that the goods are suitable for any particular or special purposes or for use in connection with any equipment unless expressly given in writing by the Seller.
 - (3) Subject to sub-clause (1) above, the Seller's liability for any loss or damage whatsoever and whether in respect of loss or damage to the Purchaser's property or interests (including, without limitation, property of any nature whatsoever, profits, contracts or other interests of the Purchaser) shall be limited to the payment by the Seller of a sum not exceeding £5,000.00 or twice the price of the goods in respect of which liability arose, whichever shall be the greater. This limitation of the Seller's liability shall apply whether such damage or loss shall arise from any breach of this contract or from any condition or warranty implied by law or custom, or from misrepresentation by or the negligence of the Seller, its employees or agents. Nothing in this clause shall exclude or restrict any liability on the part of the Seller for death or injury which may not be excluded or restricted under the Unfair Contract Terms Act 1977.
7. **Purchaser's Duty to Take Care**
 - (1) The goods, especially dangerous chemicals, may be dangerous if not properly used or stored and the appropriate precautions taken. The Purchaser accordingly agrees that it shall take all such steps as are reasonably practicable or usual to eliminate or reduce any risk to health and/or safety which may arise from use or storage of the goods. Where the goods are manufactured to a design supplied by the Purchaser, the Seller will not undertake any research as to the risks to health and/or safety which may arise from use or storage of the goods. Where the goods are manufactured to a design supplied by the Purchaser, the Purchaser shall comply with all the duties imposed by Section 6 of the Health and Safety at Work etc. Act 1974 on designers and further shall comply with all other duties which may be implied at law on a designer and/or manufacturer of the goods.
 - (2) The Purchaser shall indemnify the Seller against any claim, proceedings, costs, loss, damage or liability suffered by the Seller against any claim, proceedings, costs, loss, damage or liability suffered by the Seller as a result of any failure by the Purchaser, or any other person in control of the goods, to take such steps or ensure compliance with the duties referred to in (1) above.
8. **Patents, Designs and Technical Information**
 - (1) The Purchaser shall not use or deal with the goods or the Seller's catalogues, brochures, leaflets or lists so as to infringe, interfere with or weaken any rights of the Seller under or in respect of any patents, processes, proprietary information, trademarks, registered designs, logos, artwork or any copyright for or in connection with the goods. The Seller shall have no liability for the infringement of any rights of any third party arising from the use of the goods in combination with other goods, trademarks or processes not supplied by the Seller.
 - (2) Where goods are manufactured to the design or specification of the Purchaser, the Purchaser warrants that such design or specification does not infringe the rights of any third party.
9. **Tooling**
 - (1) Tools remain the property of the Seller unless the Purchaser is invoiced for and pays the entire cost of tooling.
 - (2) The use, safekeeping and maintenance of the Purchaser's tools which are in the Seller's possession shall be at the Purchaser's risk. If, after reasonable notice the Purchaser fails to remove any tools which are in the Seller's possession the Seller shall be entitled to destroy or otherwise dispose of the tools without payment or compensation to the Purchaser.
10. **Passing of Risk and Property**
 - (1) The risk in the goods shall pass:
 - (a) on orders for delivery within the United Kingdom on delivery to a carrier at the Seller's works.
 - (b) on orders for delivery outside the United Kingdom on delivery FOB to the port notified hereunder.
 - (2) The goods shall remain the property of the Seller until the price has been fully paid and the Seller shall be entitled to recover the goods at any time until the property has passed. Until property passes the Purchaser shall take all reasonable steps to keep the goods separately identifiable from other property, but shall not be prohibited from using such goods.
11. **Termination or Suspension**
 - (1) The Seller shall have the right, without prejudice to its other rights, to cancel or suspend the performance of the contract or any part thereof should the Purchaser be in default of any of its obligations under the contract or should there be any amounts due and unpaid by the Seller whether in respect of the Purchaser's obligations under the contract or any other contract.
 - (2) If the Seller is at any time unable to perform its obligations for any circumstances beyond its control (as hereinafter defined) it shall be entitled, on notice to the Purchaser given within a reasonable time either to terminate or suspend the contract or any part of it without incurring any liability whatsoever to the Purchaser without limitation, circumstances beyond the Seller's control shall include, war, civil commotion or insurrection, strikes, lockouts or other labour or industrial disputes, legislation whether by statute, regulation, instrument or order, earthquake, fire, flooding, tempest or abnormal weather conditions, breakdown or interruption of or disruption in supplies, plant, machinery or equipment or transport and all other occurrences or circumstances which prevent, hinder or delay the Seller's performance of the contract.
12. **Proper Law**

This contract shall be governed by and construed according to English law and the Purchaser submits to the jurisdiction of the English Courts.