



ULCO MEDICAL  
Medical Products Marketing Division of  
ULCO ENGINEERING PTY. LTD  
ACN 000 457 732  
25 Sloane St Marrickville NSW 2204 Australia  
Ph: 61 (0) 2 9519 5881, Fax 61 (0) 2 9550 2841  
Email: [ulco@ulco.com.au](mailto:ulco@ulco.com.au)  
Manufacturers and Distributors of Hospital and Medical Equipment.

## TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale supersede all prior terms and conditions that may have been issued by ULCO Engineering Pty Ltd ("ULCO")

### 1. General

All tenders and quotations are submitted by ULCO and all orders are accepted by ULCO solely on and subject to the following Terms and Conditions of Sale. These Terms and Conditions of Sale shall be deemed to be incorporated in any Contract or Agreement of Sale between ULCO and the Customer to the exclusion of all other terms and conditions except in such circumstances as are specifically accepted by ULCO in writing.

### 2. Limits of Contracts

Tenders and quotations submitted and orders accepted only include such goods or accessories ("the Goods") and additional services ("the Services") as are specified therein. Any variation must be made in writing between ULCO and the Customer.

### 3. Literature and Suitability of Goods and Services

Advertising and other literature provided by ULCO contains general information only and this information will not form part of any contract or agreement between ULCO and the Customer.

The Customer is solely responsible for determining the suitability of the Goods for the purpose for which they are intended for use by the Customer and expressly acknowledges that ULCO is not aware of that purpose and that the Customer has not relied on ULCO's advice.

### 4. Price

Unless otherwise confirmed in writing by ULCO, all prices quoted and acknowledged are in Australian dollars ("A\$") and are net ex works Sydney.

Prices confirmed by ULCO's order confirmation will remain fixed, whenever possible, up to the delivery date agreed and specified on the order confirmation.

However, ULCO reserves the right to increase the final price invoiced to the Customer by a maximum of 5% of the confirmed price in the event of cost increases for either labour or materials utilized in the manufacture of the Goods. In the event that cost increases do occur, ULCO will inform the Customer, in writing, of the increases and the basis of these increases.

Prices confirmed for each and any order are not binding for further and additional new orders.

### 5. Taxes and Government Charges

All prices quoted and acknowledged by ULCO exclude any local or international taxes or government charges that may be applicable. ULCO may add these taxes or charges to prices including without limitation any goods or services tax or other similar tax.

### 6. Order Transmission

ULCO will only accept written orders which are either mailed to ULCO at 25 Sloane Street Marrickville New South Wales Australia 2204 or faxed to ULCO on 612 9550 2841.

### 7. Order Confirmation

For all orders valued over \$A100, ULCO will confirm, in writing, details of the Goods and Services to be supplied, price, payment terms, expected delivery times and any further specific conditions if any.

### 8. Minimum Order Value

A minimum order value of \$A50 will apply to all orders accepted by ULCO.

### 9. Variation and/or Cancellation of Orders

All costs incurred due to variations, including delays in delivery, specified by the Customer and agreed to by ULCO after an order confirmation has been issued, will be to the Customers account. ULCO will issue a revised order confirmation covering the agreed variations.

To the extent permitted by law, an order or part of an order may not be cancelled and Goods may not be returned to ULCO for credit, unless previously agreed to in writing by ULCO. Any order cancellations will be subject to a minimum restocking fee of 20% of the order value, or forfeiture of any deposit monies paid, whichever is greater. In addition, when cancellation is agreed to ULCO reserves the right to claim for indemnities for loss and damage. ULCO will not accept cancellation or return of any non-standard products or products manufactured with non-standard materials.

#### 10. Payment Terms

In no event shall defects or short supply be grounds for the suspension or delay of any payment due to ULCO as detailed in the order confirmation.

For supply within Australia to listed or approved customers:

All payments shall be made within 30 days of the date of the invoice to the Customer unless otherwise agreed at the time of order confirmation.

For supply to customers outside Australia:

All payments will be made by Confirmed Irrevocable Letter of Credit ("CILC") payable 30 days from sight of shipping documents, or such other terms as stated in the agreed order confirmation, issued by an International Bank approved by ULCO and negotiated through ULCO's nominated bankers in Australia. All CILC and Bank charges will be to the Customer's account.

For supply to unlisted customers:

Prepayment, prior to delivery, either by Bank Cheque or TT of funds into ULCO nominated account. Goods will not be dispatched and Services will not be supplied until funds are cleared into ULCO's nominated bank account.

#### 11. Testing and Inspection

All Goods manufactured by ULCO are inspected and tested at our factory, prior to dispatch. If the Customer requires special tests they must be specified at the time of order placement and ULCO reserves the right to make additional charges for these tests, charges that will be included in the order confirmation.

If special tests are required in the presence of the Customer, or its nominated representative, these tests must take place in ULCO's factory in Sydney at a time agreed to by ULCO. In the event of any delay on the Customer's part in attending such tests, after seven days notice that ULCO is ready to perform the tests, the tests will be performed in the Customer's absence and shall be deemed to have been made in the Customer's presence.

#### 12. Delivery

The delivery times communicated to the Customer are estimates only and ULCO shall not be liable for any loss, damage or delay suffered by the Customer or its customers arising from or connected to late or non-supply of the Goods or Services. The Customer must notify ULCO of any over-supply of Goods, within seven (7) days of delivery, and ULCO will arrange for the return of the Goods at no charge to the Customer.

#### 13. Freight Costs

Unless otherwise agreed in writing, all costs related to packing, shipment and delivery of any Goods will be to the Customer's account.

#### 14. Passing of Risk

Risk in Goods supplied under these Terms and Conditions of Sale passes to the customer immediately upon delivery to the Customer.

#### 15. Loss or Damage in Transit

In the event that the Goods are lost or damaged in transit the Customer must notify ULCO in writing immediately the loss or damage is discovered. The Customer shall render to ULCO such assistance as may be necessary to press claims on carriers.

#### 16. Inspection

The Customer shall inspect the Goods immediately upon delivery and shall give notice in writing within 7 days of delivery to ULCO of any deliveries which are not in accordance with these terms.

#### 17. Retention of Title

(a) Title in the Goods delivered under a particular order shall not pass to the Customer until receipt and acceptance of payment by ULCO for the Goods and until all other amounts owing to ULCO in respect of the Goods are paid in full. ULCO reserves the right to enter Customer's premises (or the premises of any associated company or agent where the Goods are located) without liability

for trespass or any resulting damage and retake possession of the Goods for the purposes of keeping or reselling those Goods until all accounts in respect of those Goods have been fully paid.

(b) The Customer shall not sell or agree to sell Goods delivered until payment in full has been made to ULCO. In the event that the Customer does sell those Goods, the proceeds of the sale are hereby acknowledged by the Customer to be assets of ULCO and the Customer will hold the proceeds of the sale in a separate bank account upon trust for the benefit of ULCO.

(c) Until the Goods are fully paid for, Customer agrees to store the Goods in such a way as they are identifiable as ULCO's property and to allow ULCO access to those Goods at ULCO's request and to maintain records of the Goods identifying them as ULCO's property and to allow ULCO access to inspect those records at ULCO's request.

(d) The Customer and ULCO agree that the provisions of this clause shall apply notwithstanding any agreement between ULCO and the Customer under which ULCO grants the Customer any form of credit.

(e) Notwithstanding any other arrangement between ULCO and the Customer, ULCO may sue the Customer for the value of the Goods supplied as a liquidated debt at any time after delivery of the Goods and the expiry of the credit period.

#### 18. Installation, Training and Other Services

Unless otherwise agreed in writing and included in the order confirmation, installation is to be accomplished by the Customer. If required, ULCO will provide installation, training and/or other services on a chargeable basis. If these services are required they should be identified at the time of order placement and ULCO will include related charges in the order confirmation.

#### 19. Express Warranty

(a) The "Express Warranty" means the warranty given by ULCO under the terms of this clause 19.

(b) Subject to the receipt of the payment in full, for a period of 12 months from the date of delivery of the Goods, ULCO warrants that the Goods are free from defects in workmanship and materials. ULCO's sole obligation under this clause is to, in its sole discretion, repair or replace the Goods or any component of the Goods that ULCO determines was defective at the time of delivery.

(c) ULCO accepts no liability for damage to or defects in the Goods arising from the improper use, improper handling, and lack of maintenance or by any unauthorized modifications, by the Customer.

(d) The Customer must give notice in writing to ULCO of any defects in workmanship and materials as soon as it becomes aware of the defect and ULCO will, at its sole discretion, immediately confirm whether remedial action will be taken.

(e) The Express Warranty will only cover the free of charge replacement or repair and ex works delivery of defective part(s).

(f) The Express Warranty does not imply any liability on ULCO for any damage, injury or loss of any kind whatsoever to any property or persons caused from or in connection with the installation or use of the product(s) supplied.

#### 20. Service and Repair

Unless otherwise agreed in writing, repair facilities or parts in respect of the Goods will be available only in accordance with the terms of the Express Warranty.

#### 21. Return of Goods

The return of Goods for either Express Warranty claims, repair, general service or for any other reason ("the Return of Goods") will be at the Customers Risk. ULCO is not liable for damage or loss in transit of Goods being returned. The Customer must pack Return Goods adequately and cover all necessary insurance.

#### 22. Limitation of Liability

(a) To the extent permitted by law, the Express Warranty is in substitution for all other terms, conditions, warranties and representations, express or implied, by statute or otherwise, as to the description, merchantable policy or fitness for purpose of the Goods or Services which terms, conditions, warranties and representations are hereby excluded.

(b) Certain legislation, including the Trade Practices Act 1974, as amended or replaced, may imply warranties or conditions or impose obligations upon ULCO which cannot be excluded, restricted or modified except to a limited extent. These Terms and Conditions of Sale must be read subject to any such statutory provisions. If such statutory provisions apply, to the extent to which ULCO is entitled to do so, its liability will be limited at its option to:

(i) Replacing the Goods;

(ii) Supply of equivalent Goods;

(iii) Payment to the Customer of the cost of replacing the Goods;

- (iv) Payment to the Customer the cost of having the Goods repaired;
- (v) the repair of the Goods;
- (vi) resupply of the Services; or
- (vii) payment to the Customer of the cost of having the Services resupplied.

(c) To the extent permitted by law, and subject only to any express exceptions contained in these Terms and Conditions of Sale, ULCO will under no circumstances be liable to the Customer for any loss, damage, expense, injury or death sustained or incurred by the Customer or any other party resulting from directly or indirectly, the supply, performance, handling, installation or use of any Goods or the supply of any Services or out of any breach by ULCO under any contract incorporating these Terms and Conditions of Sale or out of the negligence of ULCO.

#### 23. Breach of Conditions of Sale

If at any time the Customer breaches the Terms and Conditions of Sale, ULCO is entitled to cancel all previously accepted orders from the Customer without liability and without prejudice to any remedies or right to damages resulting from the Customer's failure to perform the contract.

#### 24. Governing Law and Submission to Jurisdiction

The Terms and Conditions of Sale are governed by the laws of the State of New South Wales and the parties irrevocably agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.