



## **CMI Healthcare Services, a division of Consolidated Medical Industries herein referred to as CMI. Terms & Conditions of Sale for Products & Services including TME Calibration & Testing**

### **1. General**

All orders for products and services supplied by CMI are subject to these terms and conditions of sale. No other terms by the customer will apply to the supply of products and services by CMI unless agreed in writing by an authorised signatory of CMI or expressly stated otherwise in these terms and conditions of sale. All descriptions of the products and services expressed in written or telegraphic form or otherwise communicated to the Customer are approximate only and shall not form any part of the contract between CMI and the Customer. CMI shall not be liable to the Customer for any errors or omissions in its quotation, brochure or other media. The advertising of products and services is not an offer capable of acceptance; it merely constitutes an invitation by CMI for the Customer to make an offer to purchase products and services.

These terms and conditions of sale do not apply to export transactions, to which separate terms and conditions of sale apply.

### **2. Prices**

The prices of the products and services shall be the price current at the date of invoicing unless otherwise agreed in writing by CMI. Customer is informed that prices, products and services expressed in written or telegraphic form or otherwise communicated are subject to change. All prices exclude VAT, which CMI will add at the rate applicable at the date of invoice. CMI reserves the right to change prices without prior notice at any time. Labour charges, including travel time, will be rounded up to the nearest ½ hour.

### **3. Ordering**

CMI reserves the right to decline to trade with any company or person. In addition, CMI may decline to accept any order, whether or not payment has been received, by giving notice of non-acceptance to the Customer by telephone, facsimile or email within a reasonable period of receipt by CMI of the order.

CMI executes orders to the Customer's requirements, and does not substitute one product for another unless requested by the Customer, or unless the product has been superseded by the latest version. To the extent that orders cannot be fulfilled completely from stock, the unfulfilled balance will (at the Customer's option) either be put on back order to be fulfilled when CMI next has available stock or be cancelled.

The Customer must submit orders by telephone, facsimile, email or other written form, quoting the CMI stock numbers or quotation reference number. If the Customer confirms telephone, fax or internet orders, the confirmation must be marked 'CONFIRMATION ONLY' to avoid duplication. If the Customer orders the wrong product or number of products, or duplicates orders, the provisions of clause 12 will apply.

### **4. Delivery**

CMI will aim to deliver products in accordance with the Customer's order. The current prices and delivery options will be notified to the Customer at the time of order. Delivery will be made to the Customer's usual business address, unless otherwise agreed in writing.

Times and dates for delivery quoted by CMI's employees are approximate only and CMI shall not be liable for the consequences of any delay in delivery. Time for delivery shall not be of the essence.

If any delivery is late, the Customer must notify CMI, and CMI will endeavour to ascertain if the product has been delivered or the expected delivery time of the product to the Customer. CMI may also, at its discretion, refund the total delivery charge to the Customer. If a revised delivery time is not acceptable CMI may also, at its discretion, offer an alternative delivery option. These are the Customer's exclusive remedies for late delivery.

CMI will aim to deliver Specially Ordered products in accordance with the lead times quoted by CMI suppliers. All such lead times are approximate only, and no other delivery options are available for Special Ordered products. CMI may, following Customer's order, notify the Customer if CMI will be unable to fulfil any order for Specially Ordered products within the quoted lead time, and will provide alternative options.

### **5. Inspection, Delivery Delays and Non-Delivery**

The Customer must inspect the products as soon as is reasonably possible after delivery and shall, within 3 days of the date of delivery or, in the case of clause iv, the due date for delivery, give notice to CMI in detail of:

- i. Any defect in the product that is apparent on reasonable examination. In this case CMI shall, at CMI's discretion, replace the products or refund the purchase price. In any event the Customer must refuse parcels delivered to it in a damaged condition;
- ii. Any shortfall in products delivered. In this case CMI shall, at its discretion, deliver the undelivered products or refund the price of the undelivered products;
- iii. Any delivery of products not in accordance with the order. In this case CMI shall, at CMI's discretion, replace the products or refund the purchase price;
- iv. Any non-delivery of the products (in which case the time limit is within 10 days of the despatch date). In this case CMI shall deliver the undelivered products or refund the price of the undelivered products.

If the Customer fails to give any such notice, the products shall be conclusively presumed to be, in all respects, in accordance with the order and free from apparent defects, and the Customer shall be deemed to have accepted the products accordingly. CMI's record of the products despatched (including the quantity) shall be conclusive evidence of the products received by the Customer, unless proved otherwise by the Customer.

The remedies set out above are the Customer's exclusive remedies for non-delivery or short delivery of products, or for apparent defects in the products or delivery of products not in accordance with the order. CMI shall not be liable for any losses, consequential or otherwise, or for costs (including legal costs), expenses, liabilities, injuries, loss of profits, business or economic loss, depletion of goodwill, damages, claims, demands, proceedings, judgments or otherwise arising from these circumstances.

### **6. Payment**

If CMI has not granted credit to the Customer, payment terms are cleared payment prior to acceptance of order and despatch.

Credit terms (subject to satisfactory references and at CMI's absolute discretion) are available. If credit has been granted, the Customer shall pay the price of the product or service within 30 days of the date of invoice. Any discounts offered will be forfeited in the event of failure to comply.

All payments must be made without any set-off, deduction or counterclaim.

If any sum is not paid on the due date for payment then, without prejudice to any other right or remedy:

- i. all sums then outstanding from the Customer will immediately become due and payable notwithstanding that such sums would not otherwise be due until a later date, and
- ii. CMI may also charge the Customer interest from the due date until payment is made in full (both before and after any judgement) on the amount unpaid at a rate which is 2 per cent per annum above the Bank of England base rate as set at 31 December for the period 1 January to 30 June inclusive in the following year and as set at 30 June for the period 1 July to 31 December inclusive, compounded monthly.
- iii. CMI may also charge an administration fee associated with this default in payment

## 7. Risk and Ownership

Risk of loss of or damage to the products shall pass to the Customer on delivery. Ownership of all products supplied shall not pass to the Customer until full payment of the purchase price of the goods and of all other amounts owing to CMI has been made and funds cleared. If the Customer is late in paying any sum to CMI, then CMI shall be entitled to the immediate return of all products where the ownership has not passed to the Customer. The Customer authorises CMI and its agents to recover the products, and to enter any premises of the Customer for that purpose. Demand for or recovery of the products by CMI shall not of itself discharge either the Customer's liability to pay the whole of the price and take delivery of the products or CMI's right to sue for the whole of the price.

## 8. Product and Availability Information

CMI reserves the right, without prior notice, to discontinue any product or to make design changes as part of its continuous programme of product improvement, or to assist product availability, and such changes may take place without prior notice.

## 9. Warranty

For new products (sterilizers/washer disinfectors etc) purchased from CMI: CMI warrants that if any product is defective, it will replace or repair the product or refund the purchase price. This warranty is subject to a claim being made in writing to CMI within 12 months of the original date of despatch, or such other longer period as may be indicated by CMI for specific products from time to time in writing.

For parts (spares) purchased from CMI: CMI warrants that if any product is defective, it will be governed by CMI's suppliers' Terms and conditions.

For pre used products and parts purchased from CMI: CMI warrants that if any product is defective, it will replace or repair the product or refund the purchase price. This warranty is subject to a claim being made in writing to CMI within 3 months of the original date of despatch, or such other longer period as may be indicated by CMI for specific products from time to time in writing.

The Customer must return the products/parts, or make them available for collection by CMI, in accordance with CMI's instructions and suitably packaged.

For services purchased from CMI (as referred to in clause 13): CMI warrants that if any service is defective, it will, at its option, either re-provide the service or supply to the Customer free of charge a substitute service. This warranty is subject to a claim being made in writing to CMI within 3 months of the date of delivery of service, or such other periods as may be indicated by CMI for specific services from time to time in writing.

These warranties shall not apply to any defect which arises from improper use, failure to follow the product instructions, or any repair or modification made without the consent of CMI. All orders are accepted by CMI subject to the Terms and Conditions of Sale set out below:

The Customer must contact CMI to notify CMI of the failure of any products prior to returning any products and obtain a returns number, which is to be quoted on all paperwork. Returned products must be accompanied by an advice note stating the original invoice number in respect of the products and the nature of any claimed defect. Where the Customer returns products otherwise than in accordance with these warranty provisions, CMI may refuse such products and return them to the Customer at the cost of the Customer.

Any returned products which are replaced by CMI shall become the property of CMI. Title to replacement products shall pass to the Customer on delivery, and the period of the replacement product's warranty shall be the unexpired period of the original product's warranty.

The remedies set out above shall be CMI's sole liability and the Customer's sole remedy for any breach of warranty and in respect of the supply or non-supply of products and/or services.

The Customer shall have no remedy in respect of any untrue statement made to it upon which it relied in ordering products and/or services (unless such untrue statement was made knowing that it was untrue) other than any remedy it may have set out expressly in these terms and conditions of sale. Save as expressly provided in these terms and conditions of sale, all implied warranties, terms and conditions (whether statutory or otherwise) concerning the supply or non-supply of products and/or services are excluded to the fullest extent permitted by law (including, without limitation, the implied terms of satisfactory quality, fitness for purpose and provision of services with reasonable care and skill). CMI will not be liable to the Customer for any loss, damage or liability of any kind whatsoever which arises out of the breach of implied warranties, terms or conditions (statutory or otherwise) or breach of any other duty of any kind imposed on CMI by operation of law. The Customer acknowledges that it is responsible for ensuring that the products and services it orders are fit for the purposes for which it intends to use them.

## 10. Limitations of Use

Products sold by CMI are not recommended or authorised for use in life support, surgical implantation, nuclear or aircraft applications or for any use or application in which the failure of a single component could cause substantial harm to persons or property.

## 11. Liability

CMI shall not be under any liability for damage, losses (whether direct, indirect or consequential), expenses, liabilities, injuries, loss of profits, business or economic loss, depletion of goodwill, costs (including legal costs), claims, demands, proceedings, judgments or otherwise resulting from the failure to give advice or information or the giving of incorrect advice or information (including through the CMI technical helpline) whether or not due to its negligence or that of its employees, agents or sub-contractors.

CMI shall not be liable for economic loss, punitive damages, loss of revenue, loss of profits or expected future business, damage to reputation or goodwill, loss of any order or contract or any consequential or indirect loss or damage, all as may result from, or be connected with: (i) any express or implied terms of the contract between CMI and the Customer, or of any order accepted by CMI; (ii) any duty of any kind imposed on CMI by law arising out of or in relation to the contract between CMI and the Customer or order; (iii) any defect in the products or services; (iv) intellectual property rights infringement; or (v) any other loss whatsoever arising out of these terms and conditions of sale.

If, notwithstanding any other provisions in these terms and conditions of sale including without limitation clauses 9, 10 and 11 any liability attaches to CMI, CMI's liability to the Customer arising out of or in connection with these terms and conditions of sale or any order whether in contract, tort or otherwise in respect of one or more of (i) any express or implied terms of the contract between CMI and the Customer, or of any order accepted by CMI; (ii) any duty of any kind imposed on CMI by law arising out of or in relation to the contract between CMI and the Customer or the order; (iii) any defect in the products or services; (iv) intellectual property rights infringement; or (v) any other loss whatsoever arising out of these terms and conditions of sale shall be limited in the aggregate to £10,000,000 or the total value of the order, whichever is greater.

Nothing in these terms and conditions of sale (including without limitation this clause 11) shall exclude or limit the liability of CMI for death or personal injury caused by the negligence of CMI or its employees, agents or sub-contractors, or for fraud.

## 12. Cancellations and Returns

The Customer may not cancel orders once accepted by CMI. CMI may, at its discretion and in writing, allow an order to be cancelled subject to CMI recovering from the Customer the costs incurred by CMI. In the event of cancellation of part of any order only, CMI may invoice the Customer any difference in selling price per unit applicable to the quantity actually despatched up to the time of cancellation compared to the quantity ordered.

The Customer may only return products to CMI, and receive a credit or refund and on the following conditions:

- i. The Customer must contact CMI prior to the return of any products and obtain the prior consent of CMI and obtain a returns number (to be quoted on all returned paperwork);
- ii. Return must be made within 30 days of the date of delivery (as stated on the delivery documentation). Products must be returned to CMI in their original condition and packaging and in a condition which will enable them to be immediately fit for re-sale. Products must be returned to CMI adequately packed and despatched freight prepaid, clearly labelled to: CUSTOMER RETURNS DEPARTMENT, Consolidated Medical Industries Ltd, 5 Rise Road, Sunningdale, Ascot, Berkshire. SL5 0BH
- iii. The Customer must quote the invoice details or the CMI reference number on the CMI original despatch note, otherwise any credit given for the returned products will be based upon the lowest sales price; and

Where the Customer returns products to CMI not in accordance with (i) - (ii) above (for example, after 30-days from the date of despatch or in an unfit state) CMI will refuse delivery and return the products at the Customer's expense or may apply a handling charge which relates to the actual cost of reprocessing.

This returns policy excludes software, calibrated products, Special Ordered or specially manufactured products. In addition, CMI will not accept returned ESD sensitive devices where the integrity of the original CMI ESD shielding packaging has been compromised e.g. the bag has been opened and resealed or multiple bags have been stapled together.

CMI accepts no responsibility for any loss of or damage to products in transit from Customer to CMI or for any items received by CMI with them.

### **13. Services**

CMI offers services in respect of products supplied by CMI and Customers own equipment. These services include: On site repairs and servicing, planned maintenance, testing and instrument calibration of CMI products and Customers own equipment plus any other services that the parties agree. CMI may quote a time target for these services, but CMI shall be under no liability if it fails to comply with such target. Except in respect of the repairs service, the product must be free from physical and electrical damage and from modifications (other than modifications detailed in the literature supplied with the product). See additional Information regarding the special conditions which apply to the calibration service.

The repairs service is subject to the availability of replacements for products that have been identified as defective. Any instructions set out in the repair information/questionnaire supplied with the product in question must be complied with. CMI may at its absolute discretion either repair the product or replace it with a substitute product. CMI shall not be under any liability whatsoever in respect of any data contained in Customer-generated software.

### **14. Force Majeure**

A force majeure event is any event beyond the reasonable control of CMI (including strikes, traffic congestion, the downtime of any external line, or CMI's inability to procure services, materials or articles required for the performance of the contract except at enhanced prices). If CMI is prevented or restricted from carrying out all or any of its obligations under these terms and conditions of sale by reason of any force majeure event, then CMI shall be relieved of its obligations during the period that such event continues, and shall not be liable for any delay and/or failure in the performance of its obligations during such period. If the force majeure event continues for a period longer than fourteen days, CMI may cancel the affected order or cancel the whole or any part of these terms and conditions of sale, without any liability to the Customer.

### **15. Copyrights**

The Customer acknowledges that CMI and its licensors own the intellectual property rights in the CMI website or other media, the content of the CMI brochure, leaflets, circulars, task sheets, reports, stock numbers etc. and that their whole or partial reproduction without CMI's prior written consent is prohibited.

### **16. Anti-Bribery**

Supplier shall (and shall procure that persons associated with it or other persons who are providing goods or services in connection with this agreement shall) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption, including, but not limited to, the Bribery Act 2010 (the Relevant Requirements) and shall:

- i. not (directly or indirectly) induce any employee, agent or subcontractor of CMI to make any concession to or confer any benefit on the Supplier, refrain or withhold from doing any act, in return for any gift, money, or other inducement;
- ii. not do or omit to do any act that will cause or lead CMI to be in breach of any of the Relevant Requirements
- iii. promptly report to CMI any request or demand for any undue financial or other advantage of any kind received by Supplier in connection with the performance of this agreement
- iv. have and maintain in place throughout the term of this agreement its own policies and procedures, including, but not limited to, adequate procedures to ensure compliance with the Relevant Requirements and shall promptly supply copies of or provide access to such policies on request from CMI.

Supplier is informed that CMI employees are not permitted to:

- i. accept gifts of more than token value, loans, excessive entertainment or other substantial favours from any company or individual that does business with CMI or seeks to do so;
- ii. solicit gifts or other favours from any company or individual that does business with CMI, or seeks to do so.

Entertainment is acceptable only if it has a justifiable business purpose. It should be of a reasonable nature and such that CMI's employees, agents or contractors, can reciprocate.

Financial restrictions on gifts and entertainment are contained in CMI's Anti-Bribery Policy and further details are available on request.

Any breach of this clause 16 shall be a material breach of this agreement which is incapable of remedy.

### **17. UK Government Sanction List**

The Customer confirms that they are not currently on the UK Government Sanction List by accepting these terms and conditions.

### **18. Data Protection and Customer Information**

Any employee of CMI may keep and use personal details of the Customer and its employees for the purposes of providing products and services to the Customer. In addition CMI may disclose the Customer's and its employees' details to organisations working on behalf of CMI anywhere in the world for the purpose of proper fulfilment of orders and CMI's obligations under these terms and conditions of sale.

CMI may send to the Customer and its employees, details of other products and services offered by its group that may interest the Customer. If the Customer or its employees do not want to receive details of these offers then they should contact the CMI Marketing Department either in writing at cmi registered address, by fax on 01344 872204, by telephone on 01344 621378 or by e-mail at: sales@cmiltd.co.uk

The Customer consents that CMI may use the name of the Customer by disclosing it to certain CMI suppliers for market research and commission purposes.

### **19. Law and Jurisdiction**

The contract between CMI and the Customer based on these terms and conditions of sale as applicable to each Customer order shall be governed by and interpreted in accordance with English Law and the Customer submits to the non-exclusive jurisdiction of the High Court of Justice in England, but CMI may enforce the contract in any court of competent jurisdiction.

Registered office: Consolidated Medical Industries Ltd. 5 Rise Road, Sunningdale, Ascot, Berkshire. SL5 0BH

Registered No. 1524904 VAT Registration No. GB 342 806 170

### **Additional Information on Services**

#### **1. Calibration**

CMI trading as TME Calibration and Testing is accredited by UKAS (United Kingdom Accreditation Service) in accordance with the recognised International Standard ISO/IEC 17025:2005 - 'General requirements for the competence of testing and calibration laboratories' - Calibration Laboratory No. 0615.

CMI will check the product for compliance with the published specification at customer requested points, using working standards which are periodically verified and which are traceable to National Standards. CMI will issue a dated and signed certificate of testing which gives details of the measurements made. CMI provides calibration to CMI or UKAS standards.

Send all enquiries & calibrations to: Consolidated Medical Industries Ltd. 5 Rise Road, Sunningdale, Ascot, Berkshire. SL5 0BH