

Terms and Conditions of Sale

1. DEFINITIONS

In these Conditions the following words shall have the following meanings:

'The Buyer' is the person, firm or company, who or which is shown as such on the face of this invoice. 'Laboratory Equipment Pty Ltd' means Laboratory Equipment Pty Ltd (Australia). 'The Conditions' means the terms and conditions endorsed hereon read together with those contained on the face hereof. In the event of any inconsistency the latter shall prevail. 'The face hereof' includes continuation pages. 'The Act' means the Trade Practices Act 1974.

2. CONTRACT

Unless other terms and conditions are expressly accepted by 'Laboratory Equipment Pty Ltd' means of a written amendment to these conditions signed by one of Laboratory Equipment Pty Ltd' authorised officers and referring specifically to the conditions to be amended this Contract shall be on the terms and conditions set out herein to the exclusion of any others terms and conditions whether or not the same are endorsed upon or delivered with or referred to in any acceptance, counter-offer or call for tender whether verbal or in writing or in any other verbal or written communication of the Buyer or Laboratory Equipment Pty Ltd. Any reference on the face hereof to any document of the Buyer shall be deemed solely for the purpose of describing or specifying the goods or any part thereof and shall be deemed not to imply that any terms or conditions endorsed upon or delivered with or before or referred to in such document shall have effect to the exclusion or amendment of or addition to these conditions, The buyer hereby acknowledges that no person acting on behalf of Laboratory Equipment Pty Ltd has authority to alter or waiver these conditions save as provided in these conditions.

3. SPECIFICATIONS

When the goods are the subject of a manufactures specifications Laboratory Equipment Pty Ltd will deemed to have performed its obligations to the Buyer if it delivers to the Buyer goods according to the specifications as known to 'Laboratory Equipment Pty Ltd' at the time of the order or according to such other altered or amended specifications for those goods that the manufacturer may have published from time to time whether or not those specifications are known to 'Laboratory Equipment Pty Ltd' and no variation in these terms and conditions occasioned by such operation or amendment of the specification shall entitle the Buyer to avoid the contract or to any adjustment of the purchase price.

4. PRICE AND PAYMENT

(a) The Buyer shall pay to Laboratory Equipment Pty Ltd in addition to the stated price:

(1) The amount of any increase in the price of the goods unless otherwise stated by Laboratory Equipment Pty Ltd after the date of the order.

(11) Any increase in the cost to Laboratory Equipment Pty Ltd arising from delivery of the goods to a place at a time or in a manner other than that specified in the order resulting from any request made by the Buyer.

(b) The purchase price "it be paid by the Buyer to Laboratory Equipment Pty Ltd within thirty days after receipt of invoice unless otherwise stated by Laboratory Equipment Pty Ltd and the Buyer shall not be entitled to withhold payment or make any deduction from the price in respect of any set-off or counter-claim.

(c) If the Buyer fails to pay the purchase price as aforesaid 'Laboratory Equipment Pty Ltd' shall be entitled (without prejudice to any other rights hereunder or at law).

(1) to charge interest thereon from the date when due until payment at the rate of 1.5% per month.

(ii) to retain possession of the goods and to give the Buyer written notice that 'Laboratory Equipment Pty Ltd' intends to resell the goods after the expiry of seven days from the date of the notice and if the Buyer fails within that period to pay the purchase price with interest thereon then Laboratory Equipment Pty Ltd shall be released from all obligations under this Contract and shall be entitled either to:

(1) Rescind the Contract and sue for damages.

(2) Rescind the Contract and resell the goods and sue for damages.

5, DELIVERY

(a) The Buyer shall be responsible for the cost of delivery of the goods unless stipulated by 'Laboratory Equipment Pty Ltd'.

(b) Laboratory Equipment Pty Ltd shall be under no liability whatsoever to the Buyer for loss injury or damage of any kind whatsoever arising out of delay in or failure to make delivery of the goods or any part thereof including (without prejudice to the generality of the foregoing) consequential loss of any kind, whether the same be due to any act, omission, negligence or wilful default of Laboratory Equipment Pty Ltd or its servants or agents or to any other cause whatsoever, including (without prejudice to the generality of the foregoing) any breach by 'Laboratory Equipment Pty Ltd' its servants or agents of any term of the terms and conditions hereof.

(c) If 'Laboratory Equipment Pty Ltd' is prevented (directly or indirectly) from making delivery of the goods or any parts thereof by reason of acts of God, war, strikes, Lockouts, trade disputes, fire, breakdown, interruption of transport, Government action, failure or refusal of the manufacturers of the goods to supply them to 'Laboratory Equipment Pty Ltd' or any cause whatsoever (whether or not of the like nature to those specified above) outside its control 'Laboratory Equipment Pty Ltd' shall be under no liability whatsoever to the Buyer and shall be entitled at its option (to be notified to the Buyer in writing) either to cancel or to extend the time of its performance.

(c) Laboratory Equipment Pty Ltd shall be entitled to make delivery by instalments, and to determine the route and manner of delivery of the goods.

6. PASSING OF PROPERTY RISK AND INSURANCE

(a) The parties agree that the property in and title to the goods shall pass to the Buyer when the goods have been paid for in full, until which time they shall remain the property of Laboratory Equipment Pty Ltd.

(b) The Buyer agrees that, prior to payment in full, it shall not remove any marks identifying the goods as the property of Laboratory Equipment Pty Ltd.

(c) In the following events Laboratory Equipment Pty Ltd may (but without limiting any other rights or remedies available to Laboratory Equipment Pty Ltd at law, in equity or by statute) seize, repossess or resell (or seize, repossess and resell) the goods at its discretion and for such purpose 'Laboratory Equipment Pty Ltd' may enter any premises in or upon which 'Laboratory Equipment Pty Ltd' reasonably believes from time to time the goods to be located.

(1) if an order is made or an effective resolution is passed for the winding up of the Buyer or a meeting is summoned or convened for the purpose of considering such a resolution (otherwise than for the purpose of amalgamation or reconstitution): or

(ii) if any person appoints a receiver or receiver and manager over the whole or any part of the undertaking or assets of the Buyer, or

(iii) if the Buyer enters any arrangement or composition with any of its creditors; or

(iv) if the Buyer is paid under official management or a meeting is summoned or other steps taken for the purpose of placing the Buyer under official management and appointing an official manager thereof; or

(v) if the Buyer is unable to pay its debts as they fall due or otherwise commits an act of insolvency; or

(vi) if the Buyer fails to pay for the goods in accordance with the terms of this Contract; or

(vii) if the Buyer fails to comply with any of its obligations under this Contract.

(d) The Buyer hereby acknowledges the right of 'Laboratory Equipment Pty Ltd' to enter at any time on to any premises where goods which have not been paid for in full are held, and the Buyer further acknowledges the right of 'Laboratory Equipment Pty Ltd' to remove such goods upon the happening of any one or combination of the events stipulated in sub-paragraph (c).

(e) Irrespective of whether property in the goods has passed to the Buyer, the goods shall be at the Buyer's risk from the earliest to occur of the following events:

(1) the passing of property to the Buyer in accordance with this clause; or

(ii) the physical delivery of the goods or any of them to the Buyer, or

(iii) the goods leaving the store of 'Laboratory Equipment Pty Ltd'

(f) 'Laboratory Equipment Pty Ltd' is under no obligation to insure unless otherwise stipulated by

7. WARRANTY

(a) In the event that any defect in manufacture or materials in the goods becomes apparent within twelve months of the date of invoice of the goods Laboratory Equipment Pty Ltd shall replace the faulty part or parts at its own expense provided that the goods are returned to its premises within the said period of twelve months. This warranty does not apply in respect of any defects in faulty manufacture and/or defective materials in the goods which become apparent after the Buyer has sold or otherwise parted with possession of the goods. This warranty does not apply to any control or other mechanical or electrical device sold by any person other than 'Laboratory Equipment Pty Ltd' with which the goods have been incorporated.

(b) Certain legislation (including the Act) has the effect of giving a consumer rights which cannot be excluded restricted or modified by agreement. The provisions of this agreement and the foregoing warranty must therefore be read having regard to such legislation to the extent that it may be applicable and nothing in this agreement shall have the effect of excluding restricting or modifying such rights.

(c) Subject to the rights so conferred upon the Buyer and restrictions so imposed upon 'Laboratory Equipment Pty Ltd' to the extent that such rights and restrictions may be applicable as set out in subparagraphs (a) and (b) hereof:

(1) Representations and agreements not expressly contained herein or incorporated herein by reference shall not be binding upon Laboratory Equipment Pty Ltd as conditions, warranties or otherwise,

(ii) All conditions, warranties and representations on the part of Laboratory Equipment Pty Ltd whether expressed or implied, statutory or otherwise collateral or antecedent hereto or otherwise are expressly excluded,

(iii) 'Laboratory Equipment Pty Ltd' shall be under no liability to the Buyer for any loss including but not limited to loss of profits and consequential loss or damage to persons or property or death or injury caused by an act or omission by Laboratory Equipment Pty Ltd its servants or agents or any other person in any way related to or arising out of the supply or non-supply or performance of anything or any services provided for or contemplated by or in pursuance of this agreement (including negligent acts or omission).

(iv) Without in any way limiting the generality of the foregoing 'Laboratory Equipment Pty Ltd' shall not be liable for any defect or defects in the goods.

(v) The Buyer hereby agrees to indemnify 'Laboratory Equipment Pty Ltd' against any claims made against Laboratory Equipment Pty Ltd by any third party in respect of any such loss, damage, death, injury, defect or defects.

(d) The Buyer's attention is drawn to the Act which has the effect of enabling suppliers in respect of contracts for the supply of goods or services not being goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption to limit their liability in certain circumstances for breach of certain of the conditions and warranties implied by the Act.

(a) Subject to the qualifications contained in the Act should Laboratory Equipment Pty Ltd be liable for breach of a condition or warranty implied in the Act (not being a condition or warranty implied by the Act) differentiability for such breach shall be limited to at the discretion of 'Laboratory Equipment Pty Ltd'

(1) the replacement of the goods or the supply of equivalent goods;

(ii) the repair of the goods;

(iii) the payment of the cost of replacing the goods or of acquiring equivalent goods;

(iv) the payment of the cost of having the goods repaired.

8. PROPER LAW

The proper law of this Contract is that of the State of New South Wales, Australia and the parties hereto hereby submit to the jurisdiction of the Courts of the State of Australia.