

# **TERMS AND CONDITIONS**

In these conditions the following expressions shall have the meanings set opposite them:-

the Company	means B. Braun Medical Ltd
the Customer	means any person, firm or company to whom the company has agreed to sell goods.
Goods	means goods of any description provided by the Company to the Customer.

## **1 GENERAL**

(1) All quotations are made and all orders are accepted solely upon and subject to the following terms and conditions and all other terms and conditions or warranties whatsoever are excluded from the contract or any variation thereof, unless expressly accepted by the Company in writing.

(2) Quotations shall unless otherwise stated only be available for acceptance for a maximum period of 30 days (90 days for export customers) from the date thereof and may be withdrawn or amended by the Company within such period at any time by written or oral notice.

(3) Acceptance of delivery of goods shall constitute acceptance of these conditions where acceptance has not previously been communicated by the Customer to the Company.

(4) The Customer agrees that apart from the express terms contained herein or in the quotation or in any document expressly stipulated therein to form part of the contract and to be outside the provisions of this clause no statement or representation has been made by the Company relating to the products supplied or if any such statement or representation has been made the Customer warrants that he understood it to be a statement of opinion only and did not rely on it.

(5) The Customer must at all times when communicating with the company quote invoice number, account number, company order number and any relevant information so that any query may be answered without delay.

## **2 DELIVERY**

(1) Time for delivery is given as accurately as possible but is not guaranteed. The Customer shall have no right to damages or to cancel the order for failure for any cause to meet any delivery times stated.

(2) The date of delivery shall in every case be dependent upon prompt receipt of all necessary informational instructions or approvals from the Customer. Alterations by the Customer in design specifications or quantities required may result in delay in delivery.

(3) The Company will endeavour to comply with reasonable requests by the Customer for postponement of delivery but shall be under no obligations to do so.

(4) Failure by the Customer to take delivery of the goods whether due to restrictions on the import of the goods into the country or otherwise or to make payment in respect of any one or more instalments of goods delivered hereunder shall entitle the Company to treat the whole contract as repudiated by the Customer.

(5) Customers outside the UK shall be solely responsible for obtaining all import authorisations.

## **3 RISK AND TITLE**

(1) Risk shall pass unless otherwise agreed when the goods leave the premises of the Company.

(2) Title in the goods shall pass to the Customer when payment in full under this contract and any other sums due from the Customer to the Company has been made or when the Company serves written notice upon the Customer specifying that title in the goods or part of the goods has passed whichever shall be the earlier in time and the Customer shall permit the servants or agents of the Company to enter on to the Customers premises and to repossess the goods at any time prior thereto.

(3) Until title to the goods has passed to the Customer it shall possess the goods as a bailee and if the Company so requires it shall store the goods separately and in such a manner so as to ensure that they are clearly identifiable as belonging to the Company.

## **4 CANCELLATION**

Cancellation will only be agreed to by the Company on condition that all costs and expenses incurred by the Company up to the time of cancellation and all loss of profits and other loss or damage resulting to the Company by reason of such cancellation will be reimbursed by the Customer to the Company forthwith.

## **5 PRICES**

- (1) Prices are quoted unless otherwise stated exclusive of VAT and carriage.
- (2) The price payable by the Customer shall be the price quoted together with such sum as is sufficient to cover any increase to the Company after the date of the quotation in the cost of performance of the contract due directly to government action or to strikes or to fluctuations in the cost of labour overheads currency exchange rates taxation customs duties demurrage charges transport charges shipping rates and insurance rates or to the imposition of surcharges on any of the three latter items or to any unforeseeable events. Such additional sum shall become part of the agreed contract price without the necessity for prior notice to or further agreement by the Customer.
- (3) In the event of any suspension or interruption of the manufacture and supply of the goods due to circumstances set out in Clause 16 hereof or due to the Customers instructions or lack of instructions or in the event of any variations in or additions to the goods being required by the Customer a reasonable addition shall be made to the contract price and shall be paid for accordingly in accordance with the terms of the contract.
- (4) Prices quoted are for the total quantities shown and the Company shall not be obliged to accept any order for a portion only at the rates or prices quoted.
- (5) The cost of carriage and packaging and consular and any legalisation costs if required by the Customer shall unless otherwise stated be charged extra.

## **6 TERMS OF PAYMENT**

- (1) Payment is due within 30 days of invoice date.
- (2) Each consignment or partial delivery shall be invoiced and paid for separately.
- (3) No disputes arising under the contract nor delays beyond the control of the Company shall interfere with prompt payment in full by the Customer.
- (4) In the event of default in payment by the Customer the Company shall be entitled without prejudice to any other rights or remedy to suspend all further deliveries without notice and to charge interest on any amount outstanding at the rate of 4% per annum above the basic rate of HSBC plc during the delay.

## **7 SPECIFICATIONS**

- (1) The Company reserves the right to alter or change dimensions of the goods supplied within reasonable limits having regard to the nature of the goods. Dimensions specified by the Company are to be treated as approximate only unless the Customer specifically states in writing that exact measurements are required.
- (2) Illustrations, weights, measures, performance capabilities, application information and other data set out in the sales literature of the Company are statements of opinion and are provided for information only and form no part of the contract.

## 8 MARKING AND INSTRUCTIONS

(1) No name, mark, numbering, colouring, appearance or logo on the goods or packaging will be obscured removed or concealed by the Customer. The Customer will not repackage or alter the presentation of the goods and it will not assist, cause or enable any other party to do any of the said acts or deal in the goods or packaging which have been subject to any of the said acts.

(2) The Customer hereby acknowledges that it is under a duty to pass on to its customers (where appropriate) all instructions, information and warnings supplied by the Company with the goods.

## 9 RETURN GOODS POLICY

(1) The company shall be under no contractual obligation to accept the return of any goods by the customer except in the event of any error on the company's part as to the amount or type of goods delivered.

(2) Prior to the return of any product the customer care team must be notified. Upon acceptance of the return you will be issued with a returns number.

(3) Return of goods for any reason shall require prior consent from the company which shall be sent at the company's absolute discretion. Consideration to requests for return may be given if:

- (a) of a bona fide nature
- (b) made within 1 week (4 weeks for export customers) of actual delivery and related to unused, undamaged goods and packaging.

(4) All goods returned under this condition shall be accompanied by a return goods note quoting the following:

- (a) returns authorisation number issued by the customer care team
- (b) customer name and address
- (c) quantity, description, size, product code number and batch number
- (d) invoice number or purchase order number that the goods are received on
- (e) reason for return

(5) There will be a re-stocking charge of not less than 30% of the invoice value charged at the discretion of the company.

## **10 SHORTAGE AND DEFECTS APPARENT ON INSPECTION**

(1) The Customer shall have no right or claim for shortages of defects apparent on inspection unless:-

- (a) the Customer inspects the goods immediately on arrival at its premises and
- (b) a written complaint is made to the Company within seven days of receipt of the goods or such shorter period as the carrier's conditions (if applicable) require specifying the shortage or defect and
- (c) the Company is given an opportunity to inspect the goods and investigate any complaint before any use is made of the goods. If a complaint is not made to the Company as herein provided then the goods shall be deemed to be in all respects in accordance with the contract and the Customer shall be bound to pay the same accordingly.

(2) Whether or not the Company arranges delivery the Company shall not be responsible for defective or non-delivery of the goods nor liable for claims for loss or damage in transit which must be made by the Customer against the carrier in accordance with the carrier's conditions.

(3) All allegations of total non-delivery or any consignment of the goods must be made by notice in writing by the Customer to the carrier and to the Company within 10 days of the date of the company's advice note or invoice or other notification of despatch or such shorter time limit as may be specified in any conditions of the carrier. Failure by the Customer to give such notice shall render the Customer liable for any temporary or permanent loss of the goods and all additional costs and expenses incurred by the Company in relation to such loss.

## **11 DEFECTS NOT APPARENT ON INSPECTION**

(1) The Customer shall have no claim in respect of defects not apparent on inspection at the time of delivery unless:

- (i) a written complaint is sent to the Company as soon as reasonably practicable after the defect is noticed and no use is made of or alterations made to the goods thereafter before the Company is given an opportunity to inspect the goods in accordance with sub paragraph (4) of this Condition.
- (ii) the complaint is sent within 12 months of the date of delivery by the Company or in the case of the items not manufactured by the Company within the guarantee period specified by the manufacture of such item.

(2) The Customer shall not be entitled to any claim in respect of any repairs or alteration undertaken by the Customer without prior specific written consent of the Company nor in respect of any defect arising by reason of fair wear and tear or damage due to misuse.

(3) The Company shall not be liable for loss or damage suffered by reason of use of the goods after the Customer becomes aware of a defect or after circumstances which should reasonably have indicated to the Customer the existence of a defect.

(4) The Customer shall in making its written complaint allow the Company 30 days to inspect the goods and shall take such steps as are necessary to enable the Company to do so including returning the goods to the Company at its works in the United Kingdom if requested.

## **12 GUARANTEE**

(1) The Company only warrants that the goods will be constructed in accordance with the contract specification from sound materials and with good workmanship.

The company's sole obligation in the event of breach of such warranty shall be to repair or replace at its option any goods which are proved to have been defective at the time of despatch. The liability of the Company under this guarantee shall be limited to the invoice value of the goods replaced or repaired and the Company shall not be liable for any consequential loss or damage howsoever caused.

(2) Unless otherwise specifically agreed in writing the Company does not warrant the fitness or suitability of any goods supplied for any particular purpose or application and the implied warranties and conditions contained in sections 13,14 and 15 of the Sale of Goods Act 1979 and any other condition or warranty implied by trade custom or usage are hereby expressly excluded.

(3) It shall be the obligation of the Customer at its expense to determine which of the goods or parts thereof are defective and to separate or detach them and to install the repaired or replacement goods if so requested by the Company.

(4) In the case of goods not manufactured by the Company;

(i) the Company gives no assurance or guarantee whatsoever that the sale or use of the goods will not infringe the patent design right registered design copyright or other industrial property rights of any other person firm or Company and

(ii) the guarantee given to the Customer hereunder shall be limited to the guarantee (if any) which the Company receives from the manufacturer or supplier of the goods.

## **13 LIABILITY**

(1) Save where goods manufactured by the Company are held to be defective as defined in Part 1 of the Consumer Protection Act 1987 the Company shall not in the absence of negligence of its employees be liable in respect of death or personal injury and under no circumstances whatsoever shall the Company be liable for consequential loss, loss of profits, damage to property, wasted expenditure or cost of mitigation arising out of or occasioned by any fault or defect in the goods supplied hereunder.

(2) The company's liability in respect of items not manufactured by the Company shall be limited to the liability of the supplier thereof to the Company.

(3) For purpose of the Health and Safety at Work etc. Act 1974 the Company relies upon the testing examination and research carried out by the suppliers to it of proprietary equipment and component parts of the goods.

#### **14 CONFIDENTIAL INFORMATION**

All drawings, documents and other information supplied by the Company are supplied on the express understanding that copyright is reserved to the Company and that the Customer will not without written consent of the Company either give away loan exhibit or sell any such drawings or extracts therefrom or copies thereof or use them in any way except in connection with the goods for which they are issued.

#### **15 CUSTOMER'S DRAWINGS**

(1) The Customer shall be solely responsible for ensuring that all drawings advice and recommendations given to the Company either directly or indirectly by the Customer or by the customer's own advisors or consultants are accurate correct and suitable. Examination or Consideration by the Company of such drawings advice or recommendations shall in no way limit the customer's responsibility hereunder unless the Company specifically agrees in writing to accept responsibility.

(2) The Customer shall indemnify the Company from and against all actions claims costs and proceedings which arise due to the manufacture of goods to the drawings and specifications which are at fault or where it is alleged that they involve an infringement of a patent registered design, design right, copyright or other exclusive right.

#### **16 INSOLVENCY**

If the Customer shall become bankrupt or under the provision of Section 123 of the Insolvency Act 1986 is deemed to be unable to pay its debts or compounds with creditors or in the event of a resolution being passed or proceedings commenced for the administration or liquidation of the Customer (other than for a voluntary winding up for purpose of reconstruction or amalgamation) or if a Receiver or Manager is appointed of all or any part of its assets or undertaking the Company shall be entitled to cancel the contract in whole or in part by notice in writing without prejudice to any right or remedy accruing to the Company.

#### **17 FORCE MAJEURE**

The Company shall not be under any liability for any delay loss or damage caused wholly or in part by an act of God government restriction condition or control of laws rules or regulations of the country of origin of the goods non -arrival of imported goods inability to obtain transport or loading facilities or by reason of any act done or not done pursuant to a trade dispute whether such dispute involved its employees or not or by reason of any other act matter or thing beyond its reasonable control.

## **18 SUB-CONTRACTORS**

The Company shall be entitled to appoint one or more sub-contractors to carry out all or any of its obligations under the contract.

## **19 LEGAL**

- (1) The Contract shall be governed and interpreted exclusively according to the law of England and shall be subject to the jurisdiction of the English Courts only.
- (2) The schedules to the Uniform Law on International Sales Act 1967 shall not in any circumstances apply to the contract.

## **20 QUALITY REGISTRATION**

Whilst all products manufactured by the B. Braun Medical Ltd. group of companies are manufactured to the requirement of ISO 9001 Quality Assurance systems, and all factored products are preferentially obtained from suppliers registered to ISO 9001 Quality Assurance systems, some factored products may fall outside the scope of our BSI registration. Customers requiring information relating to the scope of registration with regard to specific products may contact our Customer Services Department who will confirm registration details of product suppliers.

(All B. Braun Medical Ltd. companies are registered under the ISO 9001s Quality Assurance systems.)

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