

## General Terms and Terms and Conditions of Service (Technical Services)

### 1. Definitions

- 1.1 “**Agreement**” means the agreement between B. Braun and the Contractual Partner for supply of Services including the Quotation.
- 1.2 “**B. Braun**” means the Company who supplies the Services to the Contractual Partner as referred to in the Quotation.
- 1.3 “**Contractual Partner**” means the person, firm or company to whom B. Braun agrees to supply the Services.
- 1.4 “**Goods**” means the products on which the Services will be performed by B. Braun for the Contractual Partner.
- 1.5 “**Quotation**” means the quotation by B. Braun stating the type of Services it will supply and Price at which, and time period during which, it will supply those Services to the Contractual Partner.
- 1.6 “**Services**” means the Services to be provided to the Contractual Partner by B. Braun as set out in the Quotation.
- 1.7 “**Terms and Conditions**” means these terms and conditions.

### 2. General

- 2.1 Headings are purely for ease of reference and do not form part of or affect the interpretation of the Terms and Conditions.
- 2.2 In the event of a conflict the contractual documents shall be applied in the following order:
  - 2.2.1 the Quotation
  - 2.2.2 the Terms and Conditions
- 2.3 No other terms and conditions or warranties are to be incorporated into the Agreement unless agreed expressly in writing by B. Braun. In particular, the Contractual Partner’s terms and conditions are expressly excluded whether provided in full, referred to in other documents and whether before or after the Agreement is formed.
- 2.4 The Agreement will be formed upon receipt of the Contractual Partner’s purchase order by B. Braun.
- 2.5 B. Braun may update or amend these Terms and Conditions from time to time to comply with law or to meet changing business requirements without notice to the Contractual Partner. Updated versions will be available on B. Braun’s website: <https://www.bbraun.co.uk> and on ServiceMe, the web-based communication tool through which the Contractual Partner may access the Services.
- 2.6 These Terms and Conditions shall not apply to services performed under the terms of a B. Braun Maintenance Contract, whether planned, preventative, or fully comprehensive. In those cases the terms of the relevant Maintenance Contract shall apply.
- 2.7 For the conditions applicable to the provision of replacement goods the Contractual Partner should refer to the then current B. Braun General Terms and Terms and Conditions of Sale at

<https://www.bbraun.co.uk> and on ServiceMe, the web-based communication tool through which the Contractual Partner may access the Services.

### 3. Prices

- 3.1 All Prices stated in the Quotation are exclusive of VAT.
- 3.2 All Prices quoted are subject to change up to the date of delivery, subject to prior written notice by B. Braun.
- 3.3 All Prices will include any relevant delivery charges, unless otherwise expressly stated to be additional on the Quotation.

### 4. Delivery

- 4.1 Time is not of the essence in relation to performance of the Services or delivery of the Goods on which the Services have been performed. The Contractual Partner shall have no right to damages or to cancel the order for any failure to meet any delivery times stated in the Quotation or purchase order.
- 4.2 Contractual Partners outside of the UK shall be solely responsible for obtaining all import authorisations and paying all import and export charges and duties.
- 4.3 If B. Braun is exporting Goods out of the UK, B. Braun will inform the Contractual Partner of the Incoterms® which will apply to the relevant delivery. In the absence of any such notification from B. Braun DAP of Incoterms® 2020 will apply.

### 5. Risk and Title

- 5.1 Risk in any Goods on which the Services are to be performed shall pass to B. Braun on receipt of the Goods by B. Braun and remain with B. Braun until returned to the Contractual Partner.
- 5.2 Unless the Goods are owned by B. Braun and covered by an existing Maintenance Contract, title in any Goods on which the Services are to be provided shall remain with the Contractual Partner and not pass to B. Braun.

### 6. Terms of Payment

- 6.1 Payment is due to B. Braun within 30 days of the invoice date.
- 6.2 Each consignment or partial delivery shall be invoiced and paid for separately.
- 6.3 No disputes arising under the Agreement nor delays in delivery beyond the control of B. Braun shall interfere with the prompt payment in full by the Contractual Partner.
- 6.4 In the event of default in payment by the Contractual Partner, B. Braun shall be entitled, without prejudice to any other rights or remedies, to suspend performance of the Services and 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.
- 6.5 The Contractual Partner has no right of set off.

### 7. Guarantee

- 7.1 B. Braun will use reasonable endeavours to ensure that the Services:
  - 7.1.1 correspond with their description and any applicable specification;

- 7.1.2 are performed with reasonable skill and care by appropriately qualified and experienced individuals; and
- 7.1.3 comply with all applicable statutory and regulatory requirements relating to the maintenance, repair, packaging, storage, handling and delivery of the Goods on which the Services are to be performed.
- 7.2 Unless otherwise specifically agreed in writing, B. Braun does not warrant the fitness or suitability of any Goods on which the Services are performed 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 expressly excluded.
- 7.3 In the case of Services not performed by B. Braun, the guarantee given to the Contractual Partner shall be limited to the guarantee (if any) which B. Braun receives from the supplier of the Services to B. Braun.
8. Missing and Defective Goods
- 8.1 The Contractual Partner must inspect the Goods on which the Services have been performed immediately on arrival at their premises.
- 8.2 In the case of missing Goods or defects apparent on inspection:
- 8.2.1 a written complaint must be made to B. Braun by the Contractual Partner within seven days of receipt of the Goods specifying the shortage and/or defect; and
- 8.2.2 B. Braun shall be given an opportunity to inspect the Goods and investigate any complaint before any use is made of the Goods.
- 8.3 In the case of defects not apparent on inspection:
- 8.3.1 the Contractual Partner shall send a written complaint to B. Braun as soon as reasonably practicable after the defect is noticed and ensure no use is made of or alternations made to the Goods thereafter;
- 8.3.2 the Contractual Partner shall allow B. Braun 30 days to inspect the Goods and shall take such steps as are necessary to enable B. Braun to do so including returning the Goods to B. Braun at its head office in the United Kingdom if requested.
- 8.4 In any potential case of a product being defective pursuant to Part 1 of the Consumer Protection Act 1987, the Contractual Partner must send the complaint within 12 months of the date of delivery by B. Braun or in the case of the items not manufactured by B. Braun, within the guarantee period specified by the manufacturer of such item.
- 8.5 Any complaints made outside of the periods specified in clause 8 will not be considered.
- 8.6 All allegations of total non-delivery of any of the Goods must be made by notice in writing by the Contractual Partner to B. Braun within 10 days of the specified delivery date. Failure by the Contractual Partner to give such notice shall render the Contractual Partner liable for any temporary or permanent loss of the Goods and all additional costs and expenses incurred by B. Braun in relation to such loss.
9. Liability
- 9.1 B. Braun's sole obligation in the event of any defective or missing Services shall be to repeat the performance of the Service on the relevant Goods.

- 9.2 B. Braun's sole obligation in the event of any missing or defective Goods, shall be to repair or replace the Goods.
- 9.3 B. Braun shall not be liable in respect of consequential loss, loss of profits, damage to property, loss of goodwill, loss of business opportunity, wasted expenditure, cost of mitigation arising out of or occasioned by any fault or defect in the Services or the Goods on which the Services were performed, or any other losses howsoever caused.
- 9.4 The maximum total liability under or arising out of in connection with this Agreement will not exceed the total of the Agreement value.
- 9.5 Nothing in this Agreement shall exclude or limit either party's liability for death or personal injury resulting from negligence or their fraudulent acts, omissions or statements or for infringement of a third party's intellectual property rights.
- 9.6 This clause 9 shall survive termination of the contract.
10. Cancellation Policy
- 10.1 In the event of cancellation before performance of the Services and before receipt by B. Braun of the Goods, there will be no charge to the Contractual Partner.
- 10.2 For cancellation of an order before performance of the Services but after receipt by B. Braun of the Goods there will be a handling charge of 30% of the invoice amount for that Service.
11. Specifications
- B. Braun reserves the right to alter or change the specification of the Services supplied within reasonable limits having regard to the nature of the Goods on which the Services are to be performed.
12. Confidential Information
- 12.1 Each party shall treat the Agreement as private and confidential and neither party shall publish or disclose any particulars without the prior written consent of the other with the exceptions of 12.2 below.
- 12.2 The obligations expressed in 12.1 above shall not apply to any information:
- 12.2.1 Which is, or subsequently comes into, the public domain other than by breach of this clause.
- 12.2.2 The disclosure of which is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction;
- 12.2.3 Which comes into the possession of one of the Parties prior to its disclosure by the other, or which is acquired lawfully and in good faith from an independent third party.
- 12.3 On the conclusion or termination of the Agreement both Parties shall destroy all copies of confidential information obtained from the other and the obligations relating to the confidentiality shall continue for a period of 10 years.
- 12.4 The Contractual Partner shall not, without the prior written consent of B. Braun, advertise or make known to any third party that B. Braun provides Goods to the Contractual Partner.
13. Data Protection
- 13.1 B. Braun is a Healthcare Company and thereby holds Personal Data and Sensitive Personal Data, each as defined in the Data Protection Act 2018 and UK General Data Protection

Regulation (EU) 2016/679 (“UK GDPR”). The Contractual Partner warrants it does and will continue to comply with the provisions of the Data Protection Act 2018 and any successor legislation including, but not limited to, the UK GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018, and any other applicable law relating to privacy (“the Data Protection Legislation”) in handling any such data received by the Contractual Partner. The Contractual Partner confirms that it is a Data Processor (as defined in the Data Protection Legislation) in relation to any Personal Data or Sensitive Personal Data it receives from B. Braun.

13.2 The Contractual Partner shall: -

- 13.2.1 only process Personal Data as defined by the Data Protection Legislation, including but not limited to employee data, as amended or replaced, on instructions by the Controller as defined in the Data Protection Legislation. For the purposes of the Agreement the Controller is B. Braun.
- 13.2.2 ensure any Personnel used by the Contractual Partner to process Personal Data are subject to a duty of confidentiality or is under an appropriate statutory obligation of confidentiality;
- 13.2.3 ensure all Personal Data is kept secure and take all measures required pursuant to Article 32 of the UK GDPR;
- 13.2.4 only use a sub-processor with the prior written consent of the Controller. That consent may be specific or general. Where consent is general, the Contractual Partner must inform the Controller of any changes and provide the opportunity to object;
- 13.2.5 subject to clause 13.2.4, where the Contractual Partner engages another processor for carrying out specific processing activities on behalf of the Controller, the Contractual Partner shall ensure the same data protection obligations as set out in this Agreement shall be imposed on that processor by way of Agreement, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of UK GDPR. For the avoidance of doubt, the Contractual Partner shall be liable for the acts and/or omissions of any sub-processor;
- 13.2.6 assist the Controller to comply with requests from individuals exercising their rights under Chapter III of the UK GDPR including, but not limited to access, rectification, erasure or objection to the processing of their Personal Data;
- 13.2.7 assist the Controller with compliance of its obligations pursuant to Articles 32 – 36 inclusive of the UK GDPR including, but not limited to security and data breach obligations and notifying the Controller of any Personal Data breach;
- 13.2.8 on the instructions of the Controller, delete or return all the Personal Data to the Controller after the end of the provision of services relating to processing, and delete existing copies unless Union or Member State law requires storage of the Personal Data;
- 13.2.9 make available to the Controller all information to demonstrate its compliance with these obligations in this Clause 13 and submit to audits by the Controller (or by a third party instructed to conduct an audit by the Controller);
- 13.2.10 in relation to 13.2.9, inform the Controller if, in its opinion, the Controller’s instructions would breach Union or Member State law;
- 13.2.11 ensure that any data or Personal Data will not be held outside the EU;

13.2.12 ensure that there are adequate processes, systems, antivirus or other protection applications in place to prevent any loss or corruption of data.

13.2.13 The Contractual Partner shall indemnify the Controller and keep the Controller indemnified against all and any losses and damage (including reasonable legal costs) in relation to negligence, breach of Agreement and/or breach of statutory duty in relation to this Clause 13.

## 14. Insolvency

14.1 Without limiting its other rights or remedies, B. Braun shall be entitled to cancel the Agreement, in whole or in part, by notice in writing if:

14.1.1 the Contractual Partner makes a voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for purpose of amalgamation or reconstruction);

14.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Contractual Partner;

14.1.3 The Contractual Partner ceases, or threatens to cease, to carry on business;

14.1.4 B. Braun reasonably apprehends that any of the events mentioned above is about to occur in relation to the Contractual Partner and notifies the Contractual Partner accordingly.

## 15. Sub-Contractors

B. Braun shall be entitled to appoint one or more sub-contractors to carry out all or any of its obligations under the Contract.

## 16. Force Majeure

16.1 B. Braun shall not be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure results from events, circumstances or causes beyond its reasonable control (a "Force Majeure event").

16.2 B. Braun shall use reasonable endeavours to mitigate the effect of a Force Majeure event on the performance of its obligations.

## 17. Waiver

17.1 The Parties acknowledge that no failure or delay by the other in exercising any right, power or privilege under this Agreement shall operate as a waiver of such right, power or privilege nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise.

17.2 The terms of this Agreement and the rights, powers and privileges under it may only be waived or modified by an agreement in writing between the Parties.

## 18. Severance

If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable whilst retaining the original balance of risk and reward between the Parties. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

## 19. Variation

Except as set out in these Terms and Conditions, no variation of the Agreement, including the introduction of any additional terms and conditions, shall become effective unless it is agreed in writing and signed by B. Braun.

## 20. General

The rights and remedies of B. Braun set out in these Terms and Conditions shall be in addition, and without prejudice to any other rights and remedies which may be available to B. Braun at common law or under statute.

## 21. Governing Law and Jurisdiction

21.1 The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including not-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle and such dispute or claim.

21.2 The schedules to the Uniform Law of International Sales Act 1967 shall not in any circumstances apply to the contract.

## 22. Entire Agreement

22.1 This Agreement constitutes the whole agreement and understanding of the Parties in relation to its subject matter and contains all of the terms and conditions applicable to it. This Agreement supersedes any previous arrangement, negotiations, understanding, representations, undertakings, understandings (including any information or data set out in any sales and marketing literature), or agreement between them; whether express or implied, written or oral relating to the subject matter of this Agreement.

22.2 Each party acknowledges that, in entering into this Agreement, it has not relied on any statement, representation, assurance or warranty (whether made negligently or innocently) other than those expressly set out in this Agreement and has no rights and remedies in respect thereof.

## 23. Third Party Rights

23.1 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

23.2 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to this Agreement.

## 24. Notices

24.1 Any notice to be given under this Agreement may be delivered personally; sent by email; or sent by pre-paid first-class post or recorded delivery.

24.2 A notice or any other communication given in connection with this Agreement is deemed to have been received at the time of actual delivery if hand delivered, transmission if sent by email, or on the second business day after posting if sent by pre-paid first class post or recorded delivery.