

## General Terms and Conditions of Sale

### 1. DEFINITIONS

“B. Braun”	- the Company who supplies Goods to the Contractual Partner.
“Conditions”	- these terms and conditions.
“Contract”	- the Contract between B. Braun and the Contractual Partner for supply of Goods including the Quotation and the Conditions.
“Contractual Partner”	- the person, firm or company to whom B. Braun agrees to supply the Goods.
“Goods”	- products agreed to be provided to the Contractual Partner by B. Braun.
"Re-Usable Surgical Instruments"	- an instrument intended for surgical use in cutting, drilling, sawing, scratching, scraping, clamping, retracting, clipping or similar procedures, without a connection to an active device and which is intended by the manufacturer to be reused after appropriate procedures such as cleaning, disinfection and sterilisation have been carried out (as defined in Medical Device Regulation 2019/08).
“Quotation”	- the quotation by B. Braun stating the price at which, and time period during which, it will supply the Goods to the Contractual Partner.

### 2. GENERAL

- 2.1 Headings are purely for ease of reference and do not form part of or affect the interpretation of the Conditions.
- 2.2 In the event of a conflict the contractual documents shall be applied in the following order:
- a) the Quotation
  - b) the Conditions
- 2.3 No other terms and conditions or warranties are to be incorporated into the Contract 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 Contract is formed.
- 2.4 The Contract will be formed upon confirmation of acceptance of the Contractual Partner's purchase order by B. Braun.
- 2.5 B. Braun may update or amend these Conditions from time to time to comply with law or to meet changing business requirements without notice to the Contractual Partner.

### 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 orders, placed by the Contractual Partner of the value of £1,000 or under, will be subject to a standard delivery carriage charge of £10 plus VAT, to be paid by the Contractual Partner to B. Braun.
- 3.4 For all orders over the value of £1,000, standard delivery will be free of charge.
- 3.5 The following charges, to be paid by the Contractual Partner to B. Braun, will apply for special delivery requirements: Next day before 10.30am - £25.00 – postcode and supply route restrictions apply
- Next day before 12 noon - £12.50 – postcode and supply route restrictions apply  
Saturday before 12 noon - £22.00 – postcode and supply route restrictions apply  
Same day – postcode and supply route restrictions apply – cost dependent on size of order

## 4. DELIVERY

- 4.1 Time is not of the essence in relation to delivery. The Contractual Partner shall have no right to damages or to cancel the order for any failure to meet any delivery times stated.
- 4.2 Contractual Partners outside of the UK shall be solely responsible for obtaining all import authorisations.
- 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 and title shall pass to the Contractual Partner upon completion of delivery of the Goods.
- 5.2 Upon risk and title passing to the Contractual Partner, payment is due to B. Braun within the specified time required, as detailed in the invoice. Any unpaid invoices will be pursued as a debt.

## 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 Contract 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 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.
- 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 Goods:

- a) correspond with their description and any applicable specification;
- b) be of satisfactory quality and fit for purpose held out by B. Braun or made known to the Contractual Partner by B. Braun.
- c) where applicable, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and
- d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of Goods.

7.2 Unless otherwise specifically agreed in writing, B. Braun 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 expressly excluded.

7.3 In the case of Goods not manufactured by B. Braun:

- a) B. Braun 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 personal firm or Company and
- b) the guarantee given to the Contractual Partner shall be limited to the guarantee (if any) which B. Braun receives from the manufacturer or supplier of the Goods to B. Braun.

## 8. MISSING AND DEFECTIVE GOODS

8.1 The Contractual Partner must inspect the Goods immediately on arrival at their premises.

8.2 In the case of missing goods or defects apparent on inspection:

- a) 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
- b) 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:

- a) 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;
- b) the Contractual Partner shall allow B. Braun 45 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 consignment 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 Save where Goods manufactured by B. Braun are held to be defective as defined in Part 1 of the Consumer Protection Act 1987, B. Braun's sole obligation in the event of any missing or defective Goods, shall be to repair or replace the Goods.

9.2 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 Goods supplied or any other losses howsoever caused.

9.3 The maximum total liability under or arising out of in connection with this Agreement will not exceed the total of the Contract value.

9.4 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.

9.5 For purpose of the Health and Safety at work etc Act 1974, B. Braun relies upon the testing examination and research carried out by the suppliers to it of proprietary equipment and component parts of the Goods.

9.6 This clause 9 shall survive termination of the contract.

## 10. RETURN OF GOODS

10.1 In cases where Goods are not defective and the Contractual Partner requests to return the Goods, B. Braun shall be under no contractual obligation to accept the return except in the event of any error on its part as to the amount or type of Goods delivered.

10.2 The return of pharmaceutical and veterinary pharmaceutical products from unlicensed and licensed premises (excluding cold chain pharmaceutical products) will only be considered if:

- a) B. Braun is notified immediately or in any event within 48 hours of receipt of the Goods by the Contractual Partner;
- b) the Goods must be returned to and received by B. Braun's Central Warehouse within 5 days of delivery of the Goods to the Contractual Partner;
- c) Goods returned to and received by B Braun's Central Warehouse after 5 days of delivery of the Goods to the Contractual Partner will be considered from licensed premises only at B. Braun's sole discretion
- d) temperature data is provided by the Contractual Partner confirming that the Goods have been stored at the licensed or labelled temperatures whilst at the Contractual Partner's premises; and
- e) the Contractual Partner must provide B. Braun with the relevant information and temperature data as well as the completed Record Form for Pharmaceutical Product Returns and prior to the actual return of the Goods

For the avoidance of doubt, return of pharmaceutical products will only be considered in compliance with this clause 10.2.

- 10.3 B. Braun is not able to accept the return of pharmaceuticals supplied to a Contractual Partner under the Cascade Exemption, in **any** circumstances.
- 10.4 B. Braun is not able to accept the return of unlicensed medicinal products (“specials”) unless this need arises due to an error by B. Braun.
- 10.5 The return of cold chain pharmaceutical products will only be considered if the return is from a Licensed Wholesale Dealer. Consideration to requests for return may be given if:
- a) B. Braun is notified within 24 hours of delivery of the Goods;
  - b) the Goods must be returned to and received by B. Braun within 3 days of delivery to the Contractual Partner; and
  - c) temperature data is provided by the Contractual Partner confirming that the Goods have been stored at the licensed or labelled temperatures whilst at the Contractual Partner’s premises.

For the avoidance of doubt, return of cold chain pharmaceutical products will only be considered in compliance with this clause 10.5.

- 10.6 The return of medical devices will only be accepted when B. Braun has been notified within 10 working days of the date of actual delivery to the Contractual Partner. Once notification has been given to B. Braun the medical devices must be returned to and received by B. Braun within 28 days of actual delivery date to the Contractual Partner.
- 10.7 Reusable Surgical Instruments supplied on a Free of Charge basis to a Contractual Partner should be destroyed by the Contractual Partner where possible and a Certificate of Disposal / proof of disposal needs to be provided to B. Braun.
- 10.8 Reusable Surgical Instruments purchased by a Contractual Partner from B. Braun must be returned within 90 days from the date of delivery to the Contractual Partner, can only be returned by the Contractual Partner and must be from the original delivery address of the Contractual Partner.
- 10.9 The return of Goods or Reusable Surgical Instruments to correct an error in delivery or ordering will only be considered if B. Braun is notified immediately or in any event within 48 hours of delivery to the Contractual Partner.

Goods and Reusable Surgical Instruments must be returned to B. Braun's Central Warehouse within 5 days of delivery to the Contractual Partner to correct an error in delivery or ordering.

- 10.10 For the avoidance of doubt, unless defective, the returns of Goods as detailed in sections 10.2, 10.5, 10.6 10.7 and 10.8 must be unused, undamaged and in the original undamaged packaging. The Goods must be the same batch as originally supplied by B. Braun and are not falsified/counterfeit. All Goods are individually assessed by B. Braun before being authorised for return.
- 10.11 The return of Goods under sections 10.2 and 10.5 will **only** be accepted in the event that they are uplifted and transported by B. Braun and in no other circumstances.
- 10.12 Return of other Goods for any reason shall require prior consent from B. Braun which shall be sent solely at the discretion of B. Braun. To obtain consent, B. Braun must be notified in accordance with these Conditions. Consideration to requests for return may be given if:

- a) of a bona fide nature;
- b) made within 10 working days of actual delivery; and
- c) unless defective, the Goods must be unused, undamaged and in the original undamaged packaging. The Goods must be the same batch as originally supplied by B. Braun and not falsified/counterfeit.

10.13 On the Contractual Partner contacting B. Braun to request a return, the Contractual Partner will be issued with a returns authorisation number by B. Braun.

10.14 Goods returned will be subject to the following charges:

- a) for palletised items there will be a standard charge of £75.00 per pallet for any returns uplifted by B. Braun;
- b) for the return of a small parcel there will be a £15.00 charge per parcel; and
- c) if a request for a return is after 10 working days, B. Braun reserves the right to apply a discretionary re-stocking charge.

In the event of a return resulting from an error on the part of B. Braun in relation to the amount or type of Goods delivered, no charges under this clause 10.13 will apply.

## 11. CANCELLATION POLICY

11.1 In the event of cancellation before delivery and if returned after delivery where products are not defective, there will be a re-stocking charge of not less than 30% of the invoice value charged at the discretion of B. Braun.

11.2 Cancellation of an order will only be agreed by B. Braun, at its sole discretion, on condition that all costs and expenses incurred by B. Braun up to the time of cancellation and all loss of profits and other loss or damage resulting to B. Braun by reason of such cancellation will be reimbursed by the Contractual Partner to B. Braun forthwith.

## 12. TERMINATION

12.1 B. Braun may, without prejudice to any other right or remedy which may be available to it, terminate this Agreement immediately by written notice to the Contractual Partner if:

12.1.1 the Contractual Partner defaults in any of its payment obligations;

12.1.2 the Contractual Partner commits a material breach of this Agreement which breach is irremediable, or which breach (if remediable) is not remedied within ten (10) Business Days after the service of written notice from B. Braun requiring it to do so;

12.1.3 The Contractual Partner suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

12.1.4 The Contractual Partner commences negotiation with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal or enters into any compromise or arrangement with its creditors; or

12.1.5 the Contractual Partner defaults in any of its payment obligations;

- 12.1.6 the Contractual Partner defaults in any of its payment obligations;
  - 12.1.7 the Contractual Partner commits a material breach of this Agreement which breach is irremediable, or which breach (if remediable) is not remedied within ten (10) Business Days after the service of written notice from B. Braun requiring it to do so;
  - 12.1.8 The Contractual Partner suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
  - 12.1.9 The Contractual Partner commences negotiation with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal or enters into any compromise or arrangement with its creditors; or
  - 12.1.10 The Contractual Partner suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 12.2 Upon termination of this Agreement, however caused:
- 12.2.1 without prejudice to any other rights or remedies of the Contractual Partner, the Contractual Partner shall pay to B. Braun on demand;
    - 12.2.1.1 all sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 6.4; and
    - 12.2.1.2 any costs and expenses incurred by B. Braun in recovering the Products and/or in collecting any sums due under this Agreement (including any storage, insurance, repair, transport, legal and remarketing costs).
- 12.3 Termination of this Agreement shall be without prejudice to the rights and obligations of the parties accrued up to the date of termination.

## 13. SPECIFICATIONS

B. Braun reserves the right to alter or change the specification and dimensions of the Goods supplied within reasonable limits having regard to the nature of the Goods. Dimensions specified by B. Braun are to be treated as approximate only unless the Contractual Partner specifically states in writing that exact measurements are required.

## 14. MARKING AND INSTRUCTIONS

- 14.1 No name, mark, numbering, colouring, appearance or log on the Goods or packaging will be obscured, removed or concealed by the Contractual Partner.
- 14.2 The Contractual Partner 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 Goods or packaging which have been subject to any of the said acts.
- 14.3 The Contractual Partner hereby acknowledges that it is under a duty to pass on to its Contractual Partners (where appropriate) all instructions, information and warnings supplied by B. Braun with the Goods.

## 15. CONFIDENTIAL INFORMATION

- 15.1 Each party shall treat the Contract 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 15.2 below.
- 15.2 The obligations expressed in 15.1 above shall not apply to any information which: -
- a) Is or subsequently comes into the public domain other than by breach of this clause;
  - b) The disclosure of which is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction;
  - c) 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.
- 15.3 On the conclusion or termination of the Contract 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.
- 15.4 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.

## 16. DATA PROTECTION

- 16.1 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.
- 16.2 The Contractual Partner shall: -
- 16.2.1 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.
- 16.2.2 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;
- 16.2.3 ensure all Personal Data is kept secure and take all measures required pursuant to Article 32 of the GDPR;
- 16.2.4 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;
- 16.2.5 subject to clause 16.2.4, 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 GDPR. For the avoidance of doubt, the Contractual Partner shall be liable for the acts and/or omissions of any sub-processor;

- 16.2.6 assist the Controller to comply with requests from individuals exercising their rights under Chapter III of the GDPR including, but not limited to access, rectification, erasure or objection to the processing of their Personal Data;
- 16.2.7 assist the Controller with compliance of its obligations pursuant to Articles 32 – 36 inclusive of the GDPR including, but not limited to security and data breach obligations and notifying the Controller of any Personal Data breach;
- 16.2.8 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;
- 16.2.9 make available to the Controller all information to demonstrate its compliance with these obligations in this Clause 16 and submit to audits by the Controller (or by a third party instructed to conduct an audit by the Controller);
- 16.2.10 in relation to 16.2.9, inform the Controller if, in its opinion, the Controller's instructions would breach Union or Member State law;
- 16.2.11 ensure that any data or Personal Data will not be held outside the EU;
- 16.2.12 ensure that there are adequate processes, systems, antivirus or other protection applications in place to prevent any loss or corruption of data.
- 16.2.13 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 16.

## 17. INSOLVENCY

- 17.1 Without limiting its other rights or remedies, B. Braun shall be entitled to cancel the contract, in whole or in part, by notice in writing if:
  - a) 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);
  - b) An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Contractual Partner;
  - c) The Contractual Partner ceases, or threatens to cease, to carry on business;
  - d) 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.

## 18. 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.

## 19. FORCE MAJEURE

- 19.1 B. Braun shall not be in breach of the Contract 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.
- 19.2 B. Braun shall use reasonable endeavours to mitigate the effect of a Force Majeure event on the performance of its obligations.

## 20. WAIVER

- 20.1 The parties acknowledge that no failure or delay by the other in exercising any right, power or privilege under this Contract 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.
- 20.2 The terms of this Contract and the rights, powers and privileges under it may only be waived or modified by an agreement in writing between the parties.

## 21. SEVERANCE

If any provision or part-provision of the Contract 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 Contract.

## 22. VARIATION

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

## 23. GENERAL

The rights and remedies of B. Braun set out in these 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.

## 24. GOVERNING LAW AND JURISDICTION

- 24.1 The Contract, 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 that each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle and such dispute or claim.
- 24.2 The schedules to the Uniform Law of International Sales Act 1967 shall not in any circumstances apply to the contract.

## 25. ENTIRE AGREEMENT

- 25.1 This Contract 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 Contract 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 Contract.

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

## 26. THIRD PARTY RIGHTS

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

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

## 27. NOTICES

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

27.2 A notice or any other communication given in connection with this Contract 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.