

GENERAL TERMS AND CONDITIONS OF PURCHASE**1. DEFINITIONS**

B.Braun	The purchaser of the Goods and/or Services.
Business Day	Monday to Friday (inclusive) excluding public holidays and days on which banks close for business in Dublin.
Conditions	These terms and conditions as amended from time to time in accordance with clause 14.
The Contract	The contract between B. Braun Hospicare Ltd. and the Supplier for the supply of Goods and/or Services including The Conditions and any other documents expressly agreed to be incorporated into the Contract in accordance with clause 2.2.
Goods	Products agreed to be supplied to B Braun Hospicare Ltd by the Supplier.
Services	The services, agreed to be provided to B. Braun Hospicare Ltd by the Supplier.
Supplier	The person or firm or company from whom B Braun Hospicare Ltd purchases the Goods and/or Services.

2. INTERPRETATION

- 2.1** In the event of a conflict, the contractual documents shall be applied in the following order:-
- These Terms and Conditions;
 - Any other documents expressly agreed in writing by each of the parties.
- 2.2** No other terms and conditions are to be incorporated into the Contract unless agreed expressly in writing by B.Braun Hospicare Ltd. In particular, the Supplier's terms and conditions are expressly excluded whether provided in full, referred to in other documents and whether before or after formation of the Contract.
- 2.3** Headings are purely for ease of reference and do not form part of or affect the interpretation of the Conditions

3. PRECONTRACT OBLIGATIONS

Prior to the commencement of the Contract, the Supplier shall be responsible for satisfying itself of the feasibility of B.Braun Hospicare Ltd. requirements.

4. SUPPLY OF GOODS

- 4.1** The Supplier shall ensure that the Goods shall:
- Correspond with their description and any applicable specification;
 - be of merchantable quality (within the meaning of the Sale of Goods Act 1980) and fit for any purpose held out by the Supplier or made known to the Supplier by B.Braun Hospicare Ltd, expressly or by implication, and in this respect B.Braun Hospicare Ltd relies on the Supplier's skill and judgment
 - where applicable, be free from defects in design, materials and workmanship and remain so for 12 months after delivery
 - Comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 4.2** The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 4.3** B.Braun Hospicare Ltd. shall have the right to inspect and test the Goods at any time before delivery.
- 4.4** If following such inspection or testing B.Braun Hospicare Ltd considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 4.1, B.Braun Hospicare Ltd shall inform the Supplier and the Supplier shall immediately take such remedial action as necessary to ensure compliance.
- 4.5** Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and B.Braun Hospicare Ltd shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 4.6** Following inspection, either before or after delivery of the Goods, B.Braun Hospicare Ltd reserves the right to reject any Goods which do not conform with the requirements of the Contract, in full or in part.
- 4.7** Without prejudice to any other right or remedy which B.Braun Hospicare Ltd may have, if any Goods are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of this Contract, the Company shall be entitled to avail itself of any one or more of the following remedies at its discretion: (a) to rescind the order for the Goods; (b) the Goods may be returned to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier; (c) at B.Braun Hospicare Ltd option to give the Supplier the opportunity at the Supplier's expense either to remedy the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled; (d) to refuse to accept any further deliveries of the Goods without any liability to the Supplier; (e) to carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract; and (f) to claims such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.
- 4.8** The Goods shall be delivered, carriage paid, to B.Braun Hospicare Ltd. place of business or to such other place of delivery as is agreed by B.Braun Hospicare Ltd in writing prior to delivery of the Goods.
- 4.9** The date for delivery shall be specified in the B.Braun purchase order, or if no such date is specified then delivery shall take place within 28 days of B.Braun Hospicare Ltd order.
- 4.10** The Goods shall remain at the risk of the Supplier until delivery to B.Braun Hospicare Ltd. is complete (including off-loading and stacking) when ownership of the Goods shall pass to B.Braun Hospicare Ltd

5. SUPPLY OF SERVICES

- 5.1** For the duration of this Contract, the Supplier shall provide the Services to B.Braun Hospicare Ltd in accordance with the terms of the Contract.
- 5.2** The Supplier shall meet any performance dates for the Services specified by B.Braun Hospicare Ltd to the Supplier.

5.3 In providing the Services, the Supplier shall:

- a) co-operate with B.Braun Hospicare Ltd in all matters relating to the Services, and comply with all instructions of B.Braun;
- b) perform the Services with reasonable skill and care in accordance with best practice in the Supplier's industry, profession or trade;
- c) use personnel who are suitably qualified and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- d) ensure that Services conform with all descriptions and specifications detailed by B.Braun Hospicare Ltd;
- e) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- f) comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services;
- g) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- h) use the best quality goods, materials, standards and techniques, and ensure that all goods and materials supplied and used in the Services or transferred to B.Braun Hospicare Ltd, are free from defects in workmanship, materials and design;
- i) obtain, and at all times maintain, all necessary licences and consents, and comply with all applicable laws and regulations;
- j) observe all health and safety rules and regulations and any other security requirements that apply at any of B.Braun Hospicare Ltd premises;
- k) hold all materials, equipment and tools, drawings, specifications and data supplied by B.Braun Hospicare Ltd to the Supplier ("the **Customer Materials**") in safe custody at its own risk, maintain the Customer Materials in good condition until returned to B.Braun, and not dispose or use the Customer Materials other than in accordance with B.Braun Hospicare Ltd written instructions or authorisation;
- l) Not do or omit to be done anything which may cause B.Braun Hospicare Ltd to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that B.Braun Hospicare Ltd may rely or act on the Services.

6. EXCLUSION/LIMIT OF LIABILITY

- 6.1** Notwithstanding clause 6.2, the Supplier shall indemnify and keep indemnified, B.Braun Hospicare Ltd in full against all direct or indirect loss (which for the avoidance of doubt will include loss of profit and management time) incurred by B.Braun Hospicare Ltd in connection of this Agreement.
- 6.2** Subject to clause 6.4 neither party will in any circumstances have any liability (whether direct or indirect) for:-
 - a) Loss of business opportunity;
 - b) Loss of goodwill;
 - c) Any consequential loss or damage.
- 6.3** 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.
- 6.4** The parties hereby acknowledge and agree that the limitations of liability referred to in clause 6 are fair and reasonable, reflected in the level of charges and fees charged pursuant to this Agreement and the relevant insurance covers maintained by the Supplier.
- 6.5** The maximum total liability arising under or arising out of in connection with this Contract will not exceed the sum of €1,000,000 or the total of the contract value whichever is the greater.
- 6.6** This Clause 6 shall survive termination of the contract.

7. INSURANCE

During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, employer's liability insurance, product liability insurance and public liability insurance, to cover the liabilities that may arise under or in connection with the Contract, and shall, on B.Braun Hospicare Ltd request produce both the insurance certificate giving details of cover and the receipt of the current year's premium in respect of each insurance.

8. TERMINATION

- 8.1** B.Braun Hospicare Ltd shall have the right at any time to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work on the Contract shall be discontinued.
- 8.2** Without limiting its other rights or remedies, B.Braun Hospicare Ltd may terminate the Contract with immediate effect by giving written notice to the Supplier if:
 - a) the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 28 days of receipt of notice in writing to do so;
 - b) the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
 - c) The Supplier makes any 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 the purpose of amalgamation or reconstruction);
 - d) An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier;
 - e) The Supplier ceases, or threatens to cease, to carry on business
 - f) The Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
 - g) B.Braun Hospicare Ltd reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
- 8.3** Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.
- 8.4** On termination of the Contract for any reason, the Supplier shall return all Customer Materials. If the Supplier fails to do so, then B.Braun Hospicare Ltd may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 8.5** Termination for any reason shall not affect the parties' rights and remedies accrued prior to termination.

9. CONFIDENTIALITY AND DATA PROTECTION

- 9.1** 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 those detailed in 9.2 below.
- 9.2** The obligations expressed in 9.1 above shall not apply to any information which
- Is or subsequently comes into the public domain other than by breach of this clause.
 - The disclosure of which is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
 - 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.
- 9.3** So far as it may be necessary for the performance of the Contract, each party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract.
- 9.4** 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.
- 9.5** The Supplier shall not, without the prior written consent of B.Braun Hospicare Ltd, advertise or make known to any third party that the Supplier provides Goods and/or Services to B.Braun Hospicare Ltd.
- 9.6** B.Braun Hospicare Ltd. is a healthcare company and thereby holds Personal Data and special categories of Personal Data as a Controller, each as defined in the Data Protection Acts 1988 to 2018 and European Union General Data Protection Regulation 2016/679 ("GDPR") ("Data Protection Legislation"). Any such data received by the Supplier shall be handled as though it is a 'processor' as defined under the Data Protection Legislation and in strict accordance with all Data Protection Legislation requirements. The Supplier warrants that it will comply with the Data Protection Legislation and any related or replacement legislation and/or regulations.
- 9.7** The Supplier shall:-
- a) Only process Personal Data, including but not limited to employee data, on instructions by the Controller. For the purposes of this Contract the Controller is B. Braun Medical Limited.
 - b) Ensure any personnel used by the Supplier to process Personal Data are subject to a duty of confidentiality or is under an appropriate statutory obligation of confidentiality;
 - c) Ensure all Personal Data is kept secure and take all measures required pursuant to Article 32 of the GDPR;
 - d) 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 Supplier must inform the Controller of any changes and provide the opportunity to object;
 - e) subject to Clause d, where the Supplier engages another processor for carrying out specific processing activities on behalf of the Controller, the Supplier shall ensure the same data protection obligations as set out in this Contract shall be imposed on that processor by way of contract, 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 Supplier shall be liable for the acts and/or omissions of any sub-processor;
 - f) 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;
 - g) 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;
 - h) 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;
 - i) Make available to the Controller all information to demonstrate its compliance with these obligations in this Clause 9 and submit to audits by the Controller (or by a third party instructed to conduct an audit by the Controller);
 - j) In relation to (i), inform the Controller if, in its opinion, the Controller's instructions would breach Union or Member State law;
 - k) Ensure that any data or Personal Data will not be held outside the EU;
 - l) Ensure that there are adequate processes, systems, antivirus or other protection applications in place to prevent any loss or corruption of data.
 - m) The Supplier 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 contract and/or breach of statutory duty in relation to this Clause 9.

10. SUB-CONTRACTING AND ASSIGNMENT

The Supplier shall not, without the prior written consent of B.Braun Hospicare Ltd, sub-contract or assign any of its rights or obligations under the Contract. The Supplier shall be responsible for the acts, defaults and omissions of its sub-contractors as if they were his own.

11. FORCE MAJEURE

- 11.1** Neither party shall 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.
- 11.2** The Supplier shall use reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.
- 11.3** If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 30 Business Days, B.Braun Hospicare Ltd may terminate the Contract immediately by giving written notice to the Supplier.
- 11.4** For the avoidance of doubt, industrial action or other personnel issues encountered by the Supplier shall not be deemed an event of Force Majeure.

12. WAIVER

A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13. 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.

14. VARIATION

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

15. GENERAL

The rights and remedies of B.Braun Hospicare Ltd 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 Hospicare Ltd at common law or under statute.

16. GOVERNING LAW AND JURISDICTION

16.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of Ireland.

16.2 Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

17. ENTIRE AGREEMENT

17.1 This Contract constitutes the whole agreement and understanding of the parties in relation to its subject matter and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

17.2 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.

18. THIRD PARTY RIGHTS

No term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any legal entity who is not party to this Agreement.

19. NOTICES

19.1 Any notice to be given under this Agreement may be: delivered personally; sent by email; or sent by pre-paid registered post or recorded delivery.

19.2 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.