

BECTON, DICKINSON U.K. LIMITED

GENERAL CONDITIONS OF SALE

2015 EDITION

1 Definitions

In these Conditions:

“Buyer” means the person, firm, company or authority to which Goods are supplied subject to these Conditions.

“Company” means Becton, Dickinson U.K. Limited, company number 852702.

“Conditions” means these terms and conditions.

“Contract” means a contract between the Company and the Buyer for the sale and purchase of Goods in accordance with these Conditions.

“Goods” means goods supplied by the Company to the Buyer on the basis of these Conditions.

“Price List” means the standard price list for the Goods issued by the Company from time to time as amended from time to time.

“Specification” means any specification modifying the Company's goods to which the Company expressly agrees in writing.

2 Basis of Contract

- 2.1 These Conditions shall apply to and be incorporated into all contracts for the sale of goods by the Company to the Buyer, except to the extent there is another signed written agreement between the parties whose terms are clearly expressed to prevail over the terms set out herein. All other terms and conditions are excluded, including any terms and conditions which the Buyer may purport to apply under any purchase order or similar document or which could be implied by trade custom, practice or course of dealing.
- 2.2 An order for Goods constitutes an offer by the Buyer to purchase Goods pursuant to these Conditions to the exclusion of all other terms and conditions and shall be subject to acceptance by the Company. An order shall only be accepted by the Company when the Company accepts the offer set out in the order by dispatching the Goods to the Buyer, at which point the Contract shall come into existence.
- 2.3 Any variation to these Conditions (including any special terms agreed between the parties) shall be inapplicable unless agreed in writing signed by the Company. Subject to Clause 4.1, no particulars, statements or descriptions, whether contained in any advertising matter, catalogues, brochures, price lists or otherwise provided by the Company concerning the Goods, nor any oral representations by any employee, agent or representative of the Company shall form part of the Contract or these Conditions or be treated as a representation on the part of the Company. Where the Company issues a quotation for goods or issues a price list for goods it shall not constitute an offer.

3 Cancellation

- 3.1 The Contract may not be cancelled by the Buyer except with the written consent of the Company.
- 3.2 The Company, at its option, may cancel the Contract without liability by serving written notice to the Buyer in the event that it becomes illegal under the laws of any applicable jurisdiction for the Company to supply the Goods to the Buyer.

4 Goods

- 4.1 The Goods are described in the Company's applicable published materials, as modified by any applicable Specification.
- 4.2 Where Goods are produced to a Specification requested by the Buyer, the Buyer shall indemnify the Company against all liabilities, costs, expenses, damages and losses suffered or incurred by the Company in connection with any claim made against the Company for infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Specification.
- 4.3 The Company reserves the right to alter or vary Goods (including any Specification) if required by any applicable statutory or regulatory requirements.

5 Prices and Minimum Order Values

- 5.1 Prices, unless specified separately, will be those quoted in the Price List in force at the date the relevant Goods are dispatched and are subject to variation by the Company without notice prior to the dispatch of the relevant Goods. Additional delivery charges may be applicable for certain Goods or quantities of Goods as shown in the Price List or otherwise communicated by the Company. All prices are exclusive of value added tax (VAT). The Buyer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 5.2 Where the Buyer orders less than the minimum order quantity for any Goods specified in the Price List, the Company may refuse to accept such order.

6 Payment

- 6.1 The Company shall invoice the Buyer on dispatch of the Goods. The Buyer shall pay the invoice in full and in cleared funds not later than thirty (30) days from the date of the invoice (**“Due Date”**). The Company reserves the right to close the account or withhold further supplies of Goods if a Buyer fails to settle the invoice by the Due Date, without prejudice to any existing rights the Company may have in respect of any such unpaid invoice. Payment shall be made to a bank account nominated by the Company. Time shall be of the essence for payment under this Clause 6.
- 6.2 Without prejudice to Clause 6.3, if the Buyer disputes any part of the invoice the Buyer shall notify the Company in writing as soon as reasonably practicable, and pay the balance of the invoice which is not in dispute by the Due Date for payment in accordance with this Clause 6.
- 6.3 If the Buyer fails to make a payment, when due, of any sum payable by it under the Contract, then the Buyer shall pay interest on such sum from the Due Date until the actual payment (both before and after judgement) at that annual rate which is the rate provided for under the Late Payment of Commercial Debts (Interest) Act 1998 and all applicable subordinate legislation as amended from time to time. The Buyer will reimburse the Company for all costs and expenses (including legal costs) incurred in the collection of any overdue amount.
- 6.4 If in the opinion of the Company the credit-worthiness of the Buyer deteriorates before delivery of Goods, the Company, in its sole discretion, may require full or partial payment of the Price prior to delivery of Goods or the provision of security for payment by the

Buyer in a form acceptable to the Company. The Company will notify the Buyer of this requirement.

7 Terms of Dispatch and Delivery

- 7.1 Goods will be delivered CPT (as defined by Incoterms 2010) to the address in the United Kingdom as notified to the Company on the purchase order or as notified to the Company by the Buyer when the Buyer places the order and confirmed by the Company.
- 7.2 Times or dates quoted by the Company for delivery of Goods are intended as estimates only and time shall not be of the essence. The Company shall not be liable in any way for any direct or indirect loss, damage or expense (including loss of profits and liability to third parties) suffered or incurred by the Buyer as a consequence of any delay in delivery.
- 7.3 The Company reserves the right to deliver Goods by instalments in any sequence and to tender a separate invoice in respect of each instalment. Where Goods are delivered by instalments, the original Contract shall become severable and each instalment shall be deemed to be the subject of a separate Contract. No default or failure by the Company in respect of one or more instalments shall entitle the Buyer to treat the Contract in respect of another instalment as repudiated or to claim damages under it.

8. Acceptance

- 8.1 On receipt of the Goods the Buyer shall immediately inspect and examine the Goods, and within ten (10) days of delivery shall give written notice to the Company of any alleged shortage or alleged defect. The Buyer shall be deemed to have accepted the Goods if no such written notice is served on the Company within ten (10) days of the date of delivery. After acceptance the Buyer shall not be entitled to reject any Goods which are not in accordance with the Contract.
- 8.2 The Buyer shall permit the Company to inspect any Goods alleged to be defective or damaged or any cases or packing in any consignment where shortage is alleged to have occurred and, if so requested by the Company, the Buyer shall return the same to the Company.
- 8.3 If the Buyer fails to comply in any respect with Clause 8.1 or 8.2, the Goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods. If the Buyer, having complied with Clause 8.1 or 8.2, establishes to the Company's reasonable satisfaction that the Goods are not in accordance with the Contract or are defective, the Buyer's sole remedy in respect thereof shall be limited to the Company, as it may elect, making good any shortage, replacing such Goods or refunding all, or part of, the Contract price against return of the Goods. Any returns of Goods must be made in accordance with Clause 9. This Clause 8 shall apply to any repaired or replacement Goods supplied by the Company.
- 8.4 Except as provided in this Clause 8, the Company shall have no liability to the Buyer in respect of the failure of any Goods to comply with the Contract. The Company does not give any representations, warranties or undertakings in relation to Goods other than those set out in these Conditions, and any representation, warranty or condition that might be implied or incorporated into a Contract (including the terms implied by sections 13 to 15 of the Sale of Goods Act 1979) is excluded from each Contract to the fullest extent permitted by law.

9. Return of Goods to the Company

- 9.1 No Goods will be accepted for return unless accompanied by the Company's "Application for Customer Return of Product Form" available on request from the Company. Such Goods must be returned to the Company carriage-paid at the Company's instruction only and must be securely packed in their original shipping cartons. The transit risk in all Goods returned to the Company, other than collection by the Company's representative, shall be the Buyer's unless: (a) a carrier nominated by the Company for the purpose is used; and (b) on the day the Goods are dispatched, written notice is sent by post or handed to the Company's representative giving the Buyer's name and address, the number of packages, the contents of each package and, where applicable, the name and address of the carrier. Each package shall contain a clear indication of the Buyer's name and address and a list of the contents.
- 9.2 Where Goods are returned directly to the Company's representative, documentation must be supplied and receipted stating the Buyer's name, address, the date and details of the Goods returned.
- 9.3 Goods returned without the prior written approval of the Company may, at the Company's absolute discretion, be returned to the Buyer or retained at the Buyer's cost without prejudice to any rights or remedies the Company may have.

10. Property and risk

- 10.1 For the purposes of this Clause 10.1, "Delivery" shall take place when the Goods are delivered to the first carrier. Risk in the Goods shall pass to the Buyer on Delivery. Property and ownership in the Goods, notwithstanding delivery of the Goods to the Buyer, shall not pass from the Company until: (a) the Buyer has paid the Company in full therefore pursuant to Clause 6 (Payment); and (b) no other sums are then outstanding from the Buyer to the Company on any account whatever, whether or not such sums have become due for payment.
- 10.2 While property in the Goods remains with the Company pursuant to this Clause, the Buyer shall: (a) hold the Goods on a fiduciary basis only and as bailee for the Company; (b) store the Goods in good condition and separately from its own Goods and those of any other person so that they remain readily identifiable as the Company's property; and (c) insure the Goods to their full value against "All Risks" to the reasonable satisfaction of the Company; provided that the Buyer may sell the Goods in the ordinary course of its business, but may not otherwise deal with, sell, part with possession of, consume or otherwise dispose of the Goods until title to them has passed to the Buyer pursuant to Clause 10.1.
- 10.3 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in Clause 11.2, or the Company reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Company may have, the Company may at any time require the Buyer to deliver up the Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order

to recover them. The Buyer gives the Company irrevocable authority to enter its premises without notice for the purpose of collecting and removing the Goods in accordance with this Clause 10.3.

- 10.4 Any sale by the Buyer permitted by Clause 10.2 shall, as between the Buyer and its customer, be effected by the Buyer as principal and not as agent, but as between the Buyer and the Company the Buyer shall have a fiduciary duty to account to the Company for the proceeds of any such sale up to the total amount outstanding to the Company, and pending such accounting shall hold the proceeds on trust for the Company.

11 Default by the Buyer

- 11.1 If the Buyer becomes subject to any of the "Default Events" listed in Clause 11.2, or the Company reasonably believes that the Buyer is about to become subject to any of them and notifies the Buyer accordingly, then, without limiting any other right or remedy available to the Company, the Company may cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Company without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due and payable.
- 11.2 Each of the following is a "Default Event": (a) the Buyer fails to pay for the Goods in accordance with Clause 6; (b) the Buyer fails to pay any other debt due and payable to the Company by the relevant due date; (c) the Buyer commits a material breach of these Conditions or the Contract (and for the avoidance of doubt, any breach of Clauses 6, 13 and 20 will be considered a material breach); (d) any distress or execution is levied upon any of the Buyer's goods; (e) a petition is presented, order made, meeting convened, resolution passed or any step is taken by any person (including the Company) with a view to the winding up (whether solvent or insolvent) of the Buyer, or the Buyer ceases or threatens to cease to carry on all or a material part of its business; or (f) the Buyer stops or suspends or threatens to suspend payment of all or a material part of its debts, or is unable to pay its debts, or is deemed unable to do so under section 123 of the Insolvency Act 1986 or any analogous legislation in any jurisdiction.
- 11.3 Termination of a Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

12 Limitation of Liability

- 12.1 Nothing in a Contract or these Conditions shall restrict or exclude the Company's liability: (a) under Part 1 of the Consumer Protection Act 1987; (b) in respect of fraudulent misrepresentation; (c) for death or personal injury caused by negligence; (d) arising under Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or (e) any other liability of the Company which may not be lawfully excluded or limited.
- 12.2 Subject to Clauses 8 and 12.1, the provisions of this Clause 12 set out the entire liability of the Company (including any liability for the acts or omissions of its employees, officers, agents and sub-contractors) to the Buyer under or in connection with a Contract, including for any representation, statement or tortious act or omission (including negligence), and any services performed by the Company in connection with a Contract.
- 12.3 Subject to Clause 12.1, the Company shall not be liable to the Buyer for any: (a) loss of profit, business, revenue, anticipated savings or goodwill, in each case whether direct or indirect; or (b) any type of special, indirect or consequential loss or damage (including business interruption).
- 12.4 Subject to Clause 12.1, the Company's total liability arising under or in connection with a Contract, or its contemplated performance, shall be limited to the Contract price.
- 12.5 Each exclusion or limitation of liability in Clauses 12.1 to 12.4 shall be construed as a separate and independent exclusion. If any exclusion is found by a court or competent authority of any jurisdiction to be void or unenforceable, the parties shall negotiate in good faith to replace such void or unenforceable exclusion with a valid exclusion which, as far as possible, has the same legal and commercial effect as that which it has replaced, and the legality, validity and enforceability of the remainder of these Conditions in that jurisdiction shall not be affected.

13 Trade Compliance

- 13.1 The Company and the Buyer agree to comply fully with all applicable laws, including but not limited to export control laws, governing trans-border sales, re-sales, shipments and transfers of Goods. The Company's obligation to supply Goods is contingent upon receiving any required governmental authorisations.
- 13.2 If a licence or consent of any government or other authority is required for the acquisition or use of the Goods, the Buyer shall obtain the licence and consent at its own expense and if requested produce evidence of it to the Company on demand. Failure to obtain any licence or consent does not entitle the Buyer to withhold or delay any payment of the price of Goods. Any additional expenses or charges incurred by the Company resulting from such failure shall be paid by the Buyer.

14 Set off and counterclaim

- 14.1 The Buyer shall not be entitled to withhold payment of any invoice after its Due Date by reason of any right of set off or counterclaim which the Buyer may have or allege to have against the Company or for any other reason whatsoever.
- 14.2 The Company may, without limiting any other rights or remedies that it may have, set off any amount owed to it by the Buyer against any amount which it owes to the Buyer.

15 Force Majeure

- 15.1 If the Company is prevented from or delayed in delivering any Goods by an event of Force Majeure (as defined in Clause 15.2), the Company shall be entitled to cancel or suspend deliveries of such Goods without prejudice to its rights to payment for any Goods already delivered. The Company shall not be liable for any loss or damage arising directly or indirectly through or in consequence of such Force Majeure.
- 15.2 "Force Majeure" means any event or circumstance not within the reasonable control of the Company, including, without limitation to the generality of the foregoing, industrial action, war, governmental action or regulation, act of God, riots or non-availability of stocks or materials. Either party may terminate a Contract if an event of Force Majeure continues for a period of six (6) months.

16 Intellectual Property and Data Protection

- 16.1 Unless otherwise agreed in writing, all Goods may be sold or re-sold by Buyer only in the packages and packaging in which the Goods were supplied by the Company and in no case may any trade mark other than the trade mark carried by the Goods at the time of delivery be marked on or applied in relation to the Goods by the Buyer.
- 16.2 No right or licence is granted under the Contract to the Buyer under any patent, trade mark, copyright, registered design or other intellectual property right, except the right to use or re-sell the Goods.
- 16.3 The Company collects, uses and discloses personal data for purposes connected with the Contract, e.g. order handling, payments, etc. Data may be collected from individuals or from other (e.g. published) sources. In order to operate effectively as a member of the

global Becton, Dickinson and Company ("BD") group of companies, the Company may for these purposes transfer this data to any country worldwide in which BD's companies, or third party providers that process data on their behalf (e.g. centralised data centres), do business, including the United States. Laws and practices relating to the protection of personal data may differ, and such laws may not offer the same level of protection outside the European Economic Area. By transacting with the Company, Buyer confirms and agrees, in its own right and on behalf of all of its employees (whom the Buyer shall duly inform), that this use, disclosure and transfer of personal data is permitted. Such persons have the right to access personal data that the Company holds and to update or amend any personal data. For further information, please contact the Company.

17 Notices

- 17.1 Any notice required or permitted to be given pursuant to these Conditions shall be in writing and served by special delivery or by hand. The Buyer shall serve any such notice on the Company at the Company's registered office as detailed on invoices or such other address as the Company may from time to time notify to the Buyer. The Company may serve any such notice on the Buyer at the address notified to the Company or in default of notification to the address from which the Goods were ordered or if the Buyer is a company at the Buyer's registered office.
- 17.2 A properly addressed notice sent by special delivery shall be deemed to have been given two days after the date of posting. A properly addressed notice served by hand shall be deemed to be given upon delivery at the relevant address if it is delivered no later than 17.00 on a business day or if it is delivered later than 17.00 hours on a business day or at any time on a day which is not a business day, at 08.00 hours on the next business day.

18 Relationship of the parties

- 18.1 Nothing in these Conditions shall constitute or be deemed to constitute a partnership between the parties, nor, except as expressly provided, shall it constitute or be deemed to constitute any party the agent of any other party for any purpose.
- 18.2 Subject to any express provisions to the contrary in these Conditions, the Buyer shall have no right or authority to and shall not do any act, enter into any contract, make any representation, give any warranty, incur any liability, or assume any obligation, whether express or implied, of any kind on behalf of the Company or bind the Company in any way.
- 18.3 Except as expressly provided for in the relevant Contract, nothing in these Conditions shall be construed as the Company granting the Buyer agency or distribution rights in respect of the sale or distribution of the Goods. For the avoidance of doubt, any sale of Goods as between the Buyer and a third party shall be effected by the Buyer as principal and not as agent or distributor of the Company and the Buyer shall not hold itself out as being an agent or distributor of the Company.

19 Assignment

- 19.1 The Buyer may not assign, sub-contract or in any way dispose of its rights and obligations under a Contract without the prior written consent of the Company.
- 19.2 The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under a Contract.

20 Entire Agreement

- 20.1 Without prejudice to the generality of Clause 2, each Contract constitutes the whole agreement between the parties relating to the subject matter of that Contract and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.
- 20.2 By making an offer in accordance with Clause 2.2, the Buyer acknowledges that it has not been induced to enter into a Contract by any representation or warranty other than those contained in these Conditions, and agrees that it shall have no remedy in respect of any other such representation or warranty except in the case of fraud.

21 Miscellaneous Provisions relating to these Conditions

- 21.1 Any term of these Conditions which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision hereof.
- 21.2 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. Subject to Clause 8.1, 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.
- 21.3 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 in writing and signed by an authorised representative of the Company.
- 21.4 All Contracts shall be non-exclusive and shall not confer any distribution or agency rights unless otherwise specifically agreed in writing.
- 21.5 In these Conditions the following rules shall apply: (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (b) a reference to a **party** includes its personal representatives, successors or permitted assigns; (c) a reference to a **statute** or **statutory provision** is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; (d) any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and (e) a reference to **writing** or written includes faxes but not e-mails.
- 21.6 A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract or these Conditions.
- 21.7 These Conditions and all Contracts shall be governed by and construed in accordance with English law and subject to the non-exclusive jurisdiction of the English Courts.

