

## GENERAL TERMS AND CONDITIONS OF SUPPLY

### 1. Application

- 1.1. These terms and conditions apply to the supply of all Goods and any Services provided by the supplier to any Client
- 1.2. The Client shall place an order (a “Purchase Order”) for the Goods and any Services via the Contractor Website. A Purchase Order constitutes an offer by the Client to purchase the Goods and any Services in accordance with these terms and conditions.
- 1.3. For each Purchase Order, the Contractor shall provide a Contractor Offer in the form of a proforma invoice for the supply of the Goods and any Services in the relevant Purchase Order.
  - 1.4. A Contract shall be deemed to come into existence if the Client accepts the Contractor Offer by confirming by email or other printed means. Orders will not be considered as accepted until an email or other printed conformation has been received and payment by the Client pursuant to (a) or (b) above has been agreed by the contractor
- 1.5. The terms of the Contract between the Contractor and the Client shall be the terms of the relevant Purchase Order together with these terms and conditions. In case of any conflict, these terms and conditions shall prevail.
- 1.6. Contract Formation
  - 1.6.1. The Client shall place a Purchase Order for the Goods and any Services through the Contractor Website. Each Purchase Order shall include the terms required and no other terms.
  - 1.6.2. The Client shall specify in each Purchase Order:
    - a) the types of Goods required;
    - b) the quantity of each of the types of Goods required;
    - c) a preferred date for delivery, (n.b. Delivery ex-works shall normally be two

months)

- d) any specific instructions for delivery;
- e) the address for delivery;
- f) the name and contact details for enquiries; and
- g) the intended method of payment.
- h) any special medical regulations which must be followed
- i) any special instructions, such as hand markings of packages, which must be followed.
- j) agreement to the terms and conditions of the purchase order.

1.6.3. Any Client may request the following Services be supplied in relation to Goods ordered and which shall be specified in the relevant Purchase Order:

- a) transportation from the Contractor's factory gate to a specified location;
- b) packaging;
- c) insurance;
- d) customs clearance;
- e) any additional testing required; and
- f) third party inspections to ensure that Goods meet the specification.

1.6.4. Risk in the Goods will transfer at the date agreed between Client and Contractor, but shall in any event not be earlier than delivery of the Goods to Client or to a shipping agent engaged by or on behalf of the Client.

1.6.5. Clients that have submitted a Purchase Order for more than 1000 units of pulse oximeters **for an individual country** may also request the following Services in the

relevant Purchase Order:

- a) customisation; and
- b) The contractor to provide required document for clients' local individual country licensing submission.

Within two business days of receipt of a Purchase Order describing items and quantities requested, lead time required, required medical regulations and all client details needed for the order, the Contractor shall provide a Contractor's Offer in the form of a proforma invoice which includes the Client Price of the goods as well as the cost of all additional services requested and offered, such as shipping charges, bank charges and providing acceptable payment options. If the service request is not in the contractor's professional field and if medical regulations, as described by the client, are not standard, then the proforma invoice may take longer than two days.

The Client shall be entitled to accept or reject the Contractor Offer, or may continue dialogue before accepting or rejecting subsequent offers. Once the client agrees to make payment in accordance with the proforma invoice the order shall be considered accepted and cannot then be cancelled.

1.12 If the Client accepts the Contractor Offer by an email confirmation or other printed method, and making payment according to the agreement the Contractor shall provide the Goods and any Services pursuant to the terms of the relevant Purchase Order and these terms and conditions.

## 1.7. Price and Payment

1.7.1. The Contractor shall provide the Goods and any Services to the Client at the prices stated in the Contractor Offer.

1.7.2. Whenever any sums of money shall be recoverable from or payable by the Contractor to the Client, the same may be deducted from any sum due or which at any time thereafter may become due to the Contractor under any Purchase Order.

## 1.8. Delivery

1.8.1. Delivery of the Goods and any Services shall be in accordance with the Client's requirements as specified in the relevant Purchase Order and the terms of the Contractor Offer accepted by the Client.

- 1.8.2. The Client shall request a delivery (ex works incoterms) of not less than 8 weeks for orders of less than 2000 units from the date when the funds from the client have been received. Orders for quantities for over 2000 shall have be by special agreement. The first order over 1000 pcs quantities will require 3 months production lead time.
- 1.8.3. The delivery date ex-works shall be as follows:
- a) if the volume of Goods ordered by the Client and by other customers is within the 2000 units and if the delivery date requested by the Client is later than 8 weeks the delivery date shall be the delivery date requested by the Client;
  - b) if the volume of Goods ordered by the Client and by other customers exceeds 2000 units, the delivery date shall be subject to the decision of the Lifebox: and
  - c) if the Client requires a delivery date earlier than as specified in Clause 4.3, the Contractor shall endeavour (but shall not be obliged) to deliver on the delivery date requested by the Client, subject to the Contractor's minimum manufacturing capability and the volume of orders from other customers.
- 1.8.4. The Contractor shall notify the Client of the Delivery Date.
- 1.8.5. If the Contractor fails to deliver the Goods (ex-works INCO terms, this is the shipping date from the manufacturer) by the Delivery Date the Client has the right to terminate the relevant Purchase Order or, in consultation with the Contractor, specify a revised delivery date.
- 1.8.6. When delivery is requested as a Service, delivery of the Goods shall be made to the address for delivery specified in the relevant Purchase Order.
- 1.8.7. Unless specifically requested in a Purchase Order, the Goods shall be delivered to the address for delivery during normal working hours.
- 1.8.8. Title to the Goods will pass to the Client on delivery ex-works.
- 1.8.9. Risk in the Goods shall pass to the client upon delivery.
- 1.8.10. Signature of any delivery note or other documentation presented for signature in

connection with delivery of the Goods is evidence only of the delivery, not evidence of the actual quantity, quality or condition of the Goods delivered.

1.8.11. If the address provided by the client on the contractor's website is incorrect causing the carrier to be unable to deliver the goods' to the client on time, the contractor has the right to take the necessary steps to correct the situation. The client shall be responsible for all additional charges and the contractor cannot be held liable.

## 1.9. Quality standards and defective products

1.9.1. The Contractor warrants that the Goods shall:

- a) conform with the requirements of Schedule 2;
- b) be free from errors and any material defects in materials and/or workmanship;
- c) be of satisfactory quality;
- d) have been manufactured, packaged and stored in accordance with Good Industry Practice; and
- e) comply with all required medical regulations, as shown on the purchase request, in the territories in which the Client intends to use the Goods

1.9.2. If within 7 days of receipt by the Client any of the Goods supplied to the Client by the Contractor (whether relating to the whole or only part of the quantity of Goods requested under a Purchase Order) are found not to comply with any of the warranties the Client shall be entitled (without prejudice to any other rights and/or remedies available to it) at its sole option to:

- a) notify the Contractor of the supply of such defective Goods;
- b) reject the defective Goods and return them to the Contractor at clients expense.
- c) request that the Contractor:
  - i. replaces the defective Goods within normal lead times following a notification of a request for replacement, with costs of such replacement being borne by the contractor.

In the event that the defect was due to an error by Acare then the cost of shipping shall be refunded.

If the error was not the result of an error by Acare than Acare shall not be held liable.

1.9.3. If within the warranty period, of receipt by the Client any of the Goods are found not to comply with any of the warranties , the Client shall be entitled (without prejudice to any other rights and/or remedies available to it) to request that the Contractor replaces the defective Goods within normal lead times following notification of a request for replacement, return the goods to the Contractor at the clients expense but with all other costs of such replacement being borne by the Contractor, providing the product defect is not caused by abnormal use, abuse or natural disaster.

1.9.4. Warranty provisions do not apply where errors or other defects were caused by modifications to the Goods by the Client where such modifications did not have the prior agreement of the Contractor.

When the unit has been damaged by abnormal use, abuse or natural events, the contractor reserves the right to not sending replacement units until the client agrees to pay for the repair and shipping and the funds have been deposited with the Contractor.

1.9.5. The Contractor warrants that any Services provided shall:

- a) conform with the requirements of the relevant Purchase Order;
- b) be of satisfactory quality; and
- c) shall be provided to the Client at no more than the cost to the Contractor of providing the Services.

## 1.10. Liability

1.10.1. The Contractor and no other, is liable for any and all claims that may result from the purchase or use of the Goods.

1.10.2. Nothing in these terms and conditions shall be deemed to limit the Contractor's

liability in respect of:

- a) damages arising from death or personal injury;
- b) Losses due to its fraud; or
- c) otherwise to the extent that such limitation is not permitted by Applicable Laws.
- d) Insurance

1.11. The Contractor shall maintain insurance on customary terms prevailing on the insurance market from time to time, and with reputable insurers lawfully carrying on business in the country in which the Contractor has its principal place of business, for the following types of insurance:

- a) product liability; and
- b) public liability.

## **2. Force Majeure**

2.1. Neither the Contractor nor the Client will be liable for any breach of these terms and conditions caused by matters beyond that party's reasonable control, including acts of God, fire, lightning, explosion, war, disorder, terrorism, flood, industrial disputes (not involving the Contractor Personnel), or weather of exceptional severity, (a "Force Majeure Event") provided however that the non-performing party is without fault in causing the breach or the breach could not have been prevented by reasonable precautions and the non-performing party continues to use its best efforts to recommence performance, whenever and to whatever extent possible and without delay. The affected party shall use its best endeavours to avoid or minimise the effects of an event of Force Majeure.

2.2. Should a Force Majeure Event prevent or materially impair performance by a party of its obligations under these terms and conditions for a period of more than sixty (60) days, either party shall be entitled, without prejudice to its other rights and remedies under these terms and conditions or at law, to terminate any Purchase Orders under these terms and conditions by written notice to the other party without penalty or liability.

### **3. Assignment, Novation and Sub-Contracting**

- 3.1. The Client may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under these terms and conditions and any Purchase Order.
- 3.2. The Contractor may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under these terms and conditions or any Purchase Order without the Client's prior written consent.
- 3.3. Notices
  - 3.3.1. Any notice or other communication given to a party under or in connection with these terms and conditions or any Purchase Order shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery, commercial courier or fax.
  - 3.3.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to above; if sent by pre-paid first-class post or recorded delivery, within seven days after posting or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, 24 hours after transmission.
- 3.4. Variations
  - 3.4.1. No variation of these terms and conditions shall be effective unless it is in writing and is dated and signed by a duly authorized representative of each party.

### **4. No waiver**

- 4.1. No Waiver, forbearance or delay enforcing any of the provisions of these terms and conditions by either of the parties shall affect or prejudice the rights of such party under these terms and conditions, nor shall any waiver by either of the parties of any breach of these terms and conditions by the other party be deemed to constitute a waiver of any continuing or subsequent breach by that party. Any waiver must be in writing to be effective.

These terms and conditions and the documents referred to in these terms and conditions supersede any previous written or oral Agreement between the parties in relation to the

matters dealt with in these terms and conditions and constitute the entire agreement between the parties relating to the subject matter of these terms.

## **5. Entire Agreement**

5.1. These terms and conditions and the documents referred to in these terms and conditions supersede any previous written or oral Agreement between the parties in relation to the matters dealt with in these terms and conditions and constitute the entire agreement between the parties relating to the subject matter of these terms and conditions at the date of these terms and conditions. Each party acknowledges that it has not been induced to enter into these terms and conditions by, and does not rely on, any representation, warranty or undertaking not expressly incorporated into these terms and conditions. No party shall have any remedy in respect of any statement, representation or warranty (whether negligently or innocently made) of any person (whether or not party to these terms and conditions) other than as expressly set out in this Agreement. Nothing in this Clause shall however operate to limit or exclude any liability for fraud.

## **6. Severability**

6.1. If any provision of these terms and conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these terms and conditions had been executed with the invalid, illegal or unenforceable provision eliminated. In the event of a decision by a court of competent jurisdiction of invalidity so fundamental as to prevent the accomplishment of the purpose of these terms and conditions, the parties shall immediately commence good faith negotiations to remedy such invalidity in such a way that, as amended, it is valid and legal and to the maximum extent possible carries out the original intent of the parties as to the provision or provisions in question.

No person or entity who is not a party to these terms and conditions shall have rights to enforce any term of these terms and conditions.

## **7. Governing Law and Jurisdiction**

7.1. These terms and conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation, including any question regarding its existence, validity or termination, (including non-contractual disputes or claims) shall be governed by and construed in accordance with the applicable laws. If the applicable law is not agreed then it shall be decided by the ICC.

## **8. Third Parties**

8.1. No person or entity who is not a party to these terms and conditions shall have rights to enforce any term of these terms and conditions.