

General Terms and Conditions of Sales and Delivery of Becton Dickinson Pty Ltd

1. General information / scope

1.1 All deliveries and services from Becton Dickinson Pty Ltd ("Becton Dickinson") are effected exclusively subject to the following General Terms and Conditions Of Sale and Delivery ("General Terms"). Other terms, in particular the customer's general terms and conditions, do not apply, regardless of whether or not they were explicitly rejected by Becton Dickinson. This also applies if Becton Dickinson provides a service unconditionally in the knowledge of other general terms and conditions.

1.2 The General Terms and Conditions of Sale and Delivery of Becton Dickinson apply exclusively.

2. Offer / contract content

2.1 Only the offer explicitly designated as such in writing by Becton Dickinson is binding ("offer"). An offer is valid only for a period of four weeks from the issue date unless otherwise specified in the offer. The contract is agreed when the Customer signs the offer and returns it to Becton Dickinson within the designated time period; the date of receipt of the signed offer at Becton Dickinson is definitive.

2.2 The design and equipment characteristics contained in offers for certain models do not represent the features of the object to be delivered ("product") unless otherwise agreed. Becton Dickinson can deviate to a reasonable degree from the descriptions in the offer as long as these deviations are not fundamental or substantial in nature and do not restrict the contractual purpose.

2.3 Guarantees, especially quality guarantees, are binding for Becton Dickinson only insofar as they (i) are included in an offer or an order confirmation, (ii) are explicitly designated as a "guarantee" or "quality guarantee," and (iii) explicitly establish the obligations resulting therefrom for Becton Dickinson.

3. Delivery, delivery default, acceptance default

3.1 The Customer assumes the risk of destruction or damage of the delivered product at the time of hand-over to the Customer.

3.2 Contractually agreed delivery periods or dates apply. Moreover, information provided by Becton Dickinson regarding delivery periods or dates is non-binding only.

3.3 Becton Dickinson is not in default of delivery if, for reasons for which Becton Dickinson is not responsible, a supplier fails to effect correct or on-time delivery although obligated to do so under the terms of a covering business transaction concluded with Becton Dickinson. Becton Dickinson will make every reasonable effort to mitigate the consequences for the Customer.

3.4 Becton Dickinson is entitled to make partial deliveries as long as reasonable for the Customer, especially if delivery of the remaining products on order is ensured and the Customer will not incur substantial expenses or considerable additional costs as a result (unless Becton Dickinson agrees to pay for these costs). Each partial delivery can be invoiced separately.

3.5 Should Becton Dickinson fail to meet the binding installation date, the customer can extend their lump-sum compensation for the damage caused by the delay. The lump sum equals 0.5% of the value of the late products ('delivery value') for each full calendar week of the delay, with the total not to exceed 5% of the delivery value. Becton Dickinson retains the right to prove that the customer incurred no damage or significantly less damage.

3.6 The Customer shall be in default of acceptance if he does not accept the goods on the binding installation date agreed upon.

3.7 If the binding installation date is rescheduled once or more at the request of or due to the fault of the customer, Becton Dickinson is entitled to demand lump-sum compensation for damage caused by the default. The lump sum equals 3% of the contract value per deferral. If the newly arranged installation date is more than 8 weeks after the original binding installation date agreed, Becton Dickinson is entitled to demand storage costs in the amount of 0.1% of the contract value per week from the ninth week onwards. The customer is entitled to provide proof to the contrary that the damage incurred by Becton Dickinson is lower.

3.8 Should the customer culpably terminate the contract before the binding installation date is agreed, Becton Dickinson shall be entitled to lump-sum compensation of 4.5% of the contract value. For termination after the binding delivery date has been agreed, the lump-sum compensation is 25% of the contract value. The customer is entitled to produce counter-evidence proving that the cost of the damage is lower.

3.9 If the preferred installation date is achieved and should the customer culpably fail to agree to a binding installation date despite being requested to do so by Becton Dickinson, Becton Dickinson has the right to terminate the contract. In this case, Becton Dickinson shall be entitled to lump-sum compensation of 4.5% of the contract value. The customer is entitled to produce counter-evidence proving that the cost of the damage is lower.

4. Force majeure

Should Becton Dickinson be prevented from performance of its contractual obligations due to force majeure, such as mobilization, war, terrorism, riots, natural catastrophes, epidemics, pandemics, fire, or other unforeseeable circumstances beyond the control of Becton Dickinson, such as strikes or legal lock-outs, disrupted operations or transport, or difficulty procuring raw materials, the agreed delivery date is deferred in accordance with the duration of the delivery hindrance plus appropriate lead time. Becton Dickinson will notify the customer as soon as possible regarding the beginning and expected end of such circumstances. Should the hindrance last two months or longer, both parties can withdraw from the contract.

5. Commissioning

5.1 The customer confirms the operational handover of the product in the protocol for equipment handover and commissioning.

5.2 The operational handover and commissioning is considered to be completed when the specified functions offered have been or can be demonstrated in an operational test, if and insofar that the customer does not comply with their obligations or cooperation in preparation for commissioning despite written requests by Becton Dickinson, inclusive of deadline.

5.3 Commissioning and handover takes place on the agreed date or immediately following notification of readiness for commissioning by Becton Dickinson. Defects identified during commissioning of which Becton Dickinson has been notified shall be rectified by Becton Dickinson within a reasonable period. Non-substantial defects (i.e. defects that do not significantly impair the intended use of the product) shall not be cause for failed commissioning. Commercial use of the product by the customer before successful commissioning shall only be possible after staff have been trained and following written authorisation from Becton Dickinson.

6. Prices, payment terms

- 6.1 Unless otherwise agreed, prices are in AUD and include packing and shipping. Any sales tax due will be invoiced separately at the applicable legal rate.
- 6.2 Payment terms are based on the specific offer.
- 6.3 If the payment due date is exceeded, customer is in default of payment without any additional reminder. Prompt payment is determined by the date funds are credited to the specified account
- 6.4 The customer may only set off claims or assert a right of retention provided that such claims are undisputed or established as legally binding.

7. Warranty rights

- 7.1 In the event of a properly reported defect, Becton Dickinson will, at its discretion, subsequently repair the defect or replace the delivery. Subsequent performance is effected without recognition of a legal obligation. In the event of a repair, the remaining portion of the original period of limitation will begin with the return of the repaired product. The same applies in the event of a subsequent delivery.
- 7.2 In the event of failure to fulfill the warranty, the customer can withdraw from the contract. Alternatively, the customer can demand an appropriate reduction in the sales price should Becton Dickinson so agree.
- 7.3 Other claims for defects, regardless of type, shall not apply, subject to any limited damage claims set forth in clause 8.
- 7.4 The customer is responsible for the reasonable costs of unjustified damage claims (e.g., if the product was not defective); the same applies if Becton Dickinson wrongfully grants warranty rights without being obligated to do so.
- 7.5 The period of limitation for claims is twelve months from the date of delivery. This limitation shall not apply, however, if (i) a defect was fraudulently concealed or (ii) a guarantee for the quality of a product was transferred (in which case the guarantee scheme and limitation period resulting therefrom apply where appropriate). In the event of damage claims, this limitation does not apply in the following cases: (i) injury to life, limb, or health; (ii) malice; and (iii) gross negligence on the part of entities or executives of Becton Dickinson.
- 7.6 If, in an individual case, delivery of used products was agreed upon, claims for defects, regardless of type, shall not apply, subject to any limited damage claims set forth in clause 8.

8. Liability

- 8.1 In the case of simple negligence, Becton Dickinson is liable only for damages resulting from the violation of essential contractual obligations whose fulfillment enables proper performance of the contract in the first place and adherence to which the contracting party regularly relies and may rely upon; in this case, however, Becton Dickinson is liable only for typically foreseeable damages. This limited liability likewise applies for damages caused through gross negligence by employees or representatives of Becton Dickinson who are not entities or executives of Becton Dickinson.
- 8.2 In cases covered by clause 8.1, liability is limited to the purchase price of the affected delivery.
- 8.3 In cases covered by clause 8.1, the period of limitation is two years from the date the claim arose and the customer learned of the circumstances justifying the

claim. Regardless of such knowledge on the part of the customer, the claim expires three years after the event that caused the damage. The period of limitation for damage claims as a result of defects is based on clause 7.5.

- 8.4 The above liability limitations apply to all damage claims regardless of the legal grounds with the exception of customer damage claims resulting from (i) malice; (ii) product liability law; (iii) fraudulently concealed defects; (iv) defects related to which a guarantee of quality had been assumed (in which case the guarantee scheme and limitation period resulting from the guarantee apply where appropriate); (v) injury to life, limb, or body; or (vi) gross negligence by entities or executives of Becton Dickinson.
- 8.5 To the extent that the liability of Becton Dickinson is excluded or limited, this also applies to the personal liability of its representatives, employees, and agents.

9. Intellectual property rights

All intellectual property rights related to the delivered products are retained by Becton Dickinson or, where applicable, its suppliers or subcontractors, including companies associated with Becton Dickinson or affiliates of Becton Dickinson, and belong exclusively to Becton Dickinson or its suppliers or subcontractors, where applicable. This includes copyrights, patent rights, trademark rights, international design rights, know-how, rights to trade names, database rights, and exclusive licensing rights.

10. Retention of title

- 10.1 Becton Dickinson retains ownership of delivered products until receipt of all payments resulting from the business relationship ("conditional good"). Should a current account relationship exist within the framework of the business relationship, Becton Dickinson retains title of the goods until receipt of all payments from acknowledged balances.
- 10.2 The customer is not entitled to hypothecation or chattel mortgage for the duration of the retention of title. In the ordinary course of business, the customer is entitled to process and/or resell the conditional good; in so doing, however, the customer immediately assigns to Becton Dickinson, until all its claims have been satisfied, the claims against the customer's contractual partner resulting from the further sale in the amount of the final invoice amount (including value-added tax). At the request of Becton Dickinson, the customer is required to immediately provide Becton Dickinson all information and hand over all documents that are required to assert all rights of Becton Dickinson against the contractual partners of the customer. The customer is not entitled to hypothecate the assigned claims or use them as security.
- 10.3 In the event of a breach of contract, especially payment default, Becton Dickinson is entitled to repossess the conditional good. In the event of default on payment, no previous deadline needs to be set. For the purpose of repossessing the conditional good, Becton Dickinson may enter the premises of the customer during normal business hours. Other claims to which Becton Dickinson is entitled remain unaffected.
- 10.4 After repossession of the conditional good, Becton Dickinson is entitled, after prior declaration of the threat, to redeem it appropriately; the proceeds will be credited towards the amount owed by the customer less reasonable redemption costs.
- 10.5 The customer is not entitled to sell the conditional good to contractual partners who have excluded or limited assignment of payment claims directed against them. If the conditional good was further

processed with objects not belonging to the customer, assignment is effected only in proportion to the co-ownership of the further processed object in accordance with clause 10.7.

- 10.6 After assignment, the customer remains entitled to collect the claims. The right of Becton Dickinson to collect the claims itself remains unaffected. Becton Dickinson will not collect the claims as long as the customer meets his payment obligations from the proceeds collected, does not default on payment, and in particular, has not applied to initiate insolvency proceedings, and has not ceased making payments. In any of the above circumstances, Becton Dickinson can demand that the customer disclose the assigned claims and their debtors, provide all information that is required for collection, hand over the related documents, and advise the debtors of the assignment. In this case, the customer loses the right to collect the claims.
- 10.7 Processing or altering of the conditional good by the customer is always done on behalf of Becton Dickinson. If the conditional good is processed or altered using objects that do not belong to Becton Dickinson, Becton Dickinson acquires co-ownership of the new item in proportion with the value of the conditional good to the other processed or altered objects at the time of the processing or alteration; the same conditions apply to the resulting new item as to the conditional good.
- 10.8 If the conditional good is inseparably mixed or joined with objects not belonging to Becton Dickinson, Becton Dickinson acquires co-ownership of the new item in proportion with the value of the conditional good to the other objects at the time of mixture or joining. If the mixture or joining is done such that the customer's item is considered principal item, the customer transfers co-ownership proportionally. The customer will hold the resulting sole or joint title for Becton Dickinson.
- 10.9 The customer is obligated to handle the conditional good with care and, at his own expense, to sufficiently insure it for its replacement value for the duration of retention of title against any type of destruction, especially fire, water, and theft. The customer is obligated to identify the conditional good as the property of Becton Dickinson as well as to designate in its account books the assigned claims as owed to Becton Dickinson.
- 10.10 The customer is obligated to bear the costs of maintenance and inspection work during the retention of title including if this work is performed by Becton Dickinson.
- 10.11 Becton Dickinson must be immediately notified of attachments, seizures and other interventions by third parties relative to the conditional good or the assigned claims. Furthermore, the customer must notify this third party of the retention of title. If the third party is unable to reimburse Becton Dickinson for judicial and extrajudicial costs of an action, the customer is liable for the resulting loss to Becton Dickinson.

11. Security interest

In consideration of Becton Dickinson supplying the Product to the Customer:

- a) the Customer agrees Becton Dickinson may register its security interest in the Product and all of the Customer's present and future rights in relation to the Product on the Personal Property Securities Register established under the PPSA; The customer's financier may also register its interest against the security.

- b) the Customer grants to Becton Dickinson a purchase money security interest (PMSI) and agrees that any Product sold by Becton Dickinson to the Customer pursuant to this Agreement will immediately be subject to Becton Dickinson's PMSI without the need for any further action or agreement by any party.
 - c) the Customer agrees the Product, and all of the Customer's present and future rights to the Product, are subject to a continuing security interest in the form of a PMSI in favour of Becton Dickinson for the Customer's obligations to pay for the Product pursuant to this Agreement.
 - d) the Customer agrees (to the extent permitted under section 115 of the PPSA), that it waives its rights under sections 95 and 96 of the PPSA including its right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to the security interest created by this deed.
 - e) the Customer must promptly, on any request by Becton Dickinson, execute all documents and do anything reasonably required by Becton Dickinson to ensure the PMSI created by this deed constitutes a perfected security interest over the Commencement Product.
 - f) Becton Dickinson will remove the PMSI once the ROWA system has been completely paid for.
 - g) at any time any amount is payable by the Customer to Becton Dickinson or the Customer has possession or control of any Product, the Customer must not in relation to any financing statement registered by Becton Dickinson under the PPSA:
 - (i) require Becton Dickinson or permit any person other than the Customer to require Becton Dickinson to register a financing change statement; or
 - (ii) lodge a change demand or permit any person to lodge a change demand
 - (iii) enter into or accept, or allow any other person to enter into or accept, a financing change statement in relation to any financing statement relating to the Customer.
- 12. Other / final provisions**
- 12.1 The customer may not assign, in whole or in part, the rights and obligations incumbent upon him in connection with deliveries or services without previous written permission from Becton Dickinson. Becton Dickinson is permitted to assign the rights and obligations in connection with deliveries or services, especially to associated companies as stipulated in § 15 of Corporate Law.
 - 12.2 Unless otherwise stipulated, place of performance of all obligations from the contractual relationship is domicile of Becton Dickinson. If Becton Dickinson is liable for installation, the place of performance is the location where the installation must be done.
 - 12.3 The sole place of jurisdiction for all disputes arising from or in connection with a delivery is Australia. However Becton Dickinson is entitled to bring action against the customer at the former's domicile.
 - 12.4 All legal relations between Becton Dickinson and the customer are governed exclusively by the laws of New South Wales, Australia.
 - 12.5 In the event individual provisions of these general terms are or become invalid, the validity of the remaining clauses remains unaffected.

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