## Terms and Conditions of Sale

## 1. DEFINITIONS

In these Conditions, the following definitions apply: I. "Seller" means "SCALA SURGICAL LIMITED" incorporated and registered in England & Wales with company number 05596879 whose registered office is at Unit 6, Innovation Park, 89 Manor Farm Road, Alperton, Middlesex, HAO 1BA, UK. II. "Buyer" means the person/ company/ organisation/ body/ permitted similar who assigns and accepts a quotation or offer of the Seller, or whose order for the Goods is accepted by the seller. III. "Goods" or "Products" means surgical instruments of all types, sterilisation baskets of all types, services and support, including any instalment of the goods or any parts for them, which the seller is to supply in accordance with these terms and conditions. IV. "Held stock levels" means the maximum stock levels the Supplier is willing to hold at any one time.

2. GENERAL

I. An order accepted by the Seller and delivered to the Buyer is subject to these terms and conditions and supersedes/ replaces any verbal or written agreements/ conditions which may have previously applied in a contract/ arrangement between the Seller and the Buyer, and which the Buyer claims to apply or which are implied by trade/ custom/ course of dealing. II. The Seller's terms and conditions will not be substituted or modified in any manner whatsoever. III. These terms and conditions constitute the entire agreement between the Seller and the Buyer, for the supply of goods, and are deemed a Contract of Sale. IV. No terms or conditions endorsed upon, delivered with, or contained in the Buyer's order or other document will take precedence, modify, or form part of these terms and conditions simply as a result of being delivered to the Seller or referred to in any manner by the Buyer. V. By accepting delivery of the Goods and services and support described in the invoice, the Buyer agrees and accepts to be bound by these terms and conditions.

3. VALIDIT

I. A quotation made by the Seller is not a binding contract. Quotations are valid for the time specified on the Sales Quotation and are subject to withdrawal and revision at any time. Any quotation by the Seller shall remain valid (unless withdrawn) for the period stated on the quotation, but shall not exceed the date unless a further period is extended in writing by the Seller. II. Each Purchase Order for Goods by the Buyer, is an offer created by the Buyer, to purchase the Goods from the Seller subject to these terms and conditions. III. No contract for the sale of Goods shall be binding on the Seller unless the Seller has accepted an offer/ order placed by the Buyer in the form of a Sales Order which the Buyer will be notified of. IV. Carriage costs will be included at the sales order stage. V. Stock availability will be made known to the Buyer before a Sales Order is issued. Scala holds a certain quantity of stock. If the quantity requested falls outside the held stock levels, then 50% payment upfront will be charged for the unmanaged quantity. VI. If the Buyer wishes to modify or alter the original Sales Quotation, the Seller must be informed before the Sales Order is issued. VII. The Buyer has 1 (ONE) working day from the date on the Sales Order to inform the Seller in writing of any alterations/ modification of the original Offer/ Sales Order for goods that are in stock, or 3 (THREE) working days for goods that are sourced outside the United Kingdom. 4. QUOTATIONS/ PRICES

I. The prices given in quotations or any marketing documents are based on the current costs prevailing on the given date for materials, wages, carriage, freight, insurance, taxes statutory, and all other related charges whether incurred by the Seller or sub-contractors. II. If at any time there is a considerable variation in price for any reason whatsoever including Force Majeure between the date of the Sales Quotation/ Order and the potential fulfilment of the order, Scala reserves the right to renegotiate the prices or withdraw the Sales Quotation/ Order. This condition is applicable to items which are partially or fully out of stock. III. Prices quoted are against quantities specified and are subject to increase for reduced quantities. IV. All extra services will be quoted for and invoiced separately.

I. Unless otherwise agreed in writing by the Buyer and the Seller, payment shall be made in full in British Pound Sterling (GBP) without deduction of any kind whatsoever when the order is placed. II. Credit terms may be offered to satisfactory credit vetting of the Buyer by the Seller. The offer of credit will be at the sole discretion of the Seller. III. Where credit is offered, the term is clearly stated at the bottom of the Invoice. Payment for the price of the Goods plus VAT (Value Added Tax), including all other applicable costs and charges shall be due by the Date specified on the Invoice. IV. Remittance must be sent to remittance@scalasurgical.co.uk with every payment otherwise your account may be put on hold until invoices can be correctly reconciled. V. In cases where credit is not offered, payment shall be made in advance before the release of Goods by the Seller. Any additional charges such as conversion rate fees, bank charges, payment processing fees will be borne by the Buyer. VI. In the case of default in payment, or in the case of a non-standard product, and at the complete discretion of the Seller, the right is reserved to render proforma invoices to include an estimate for all charges due, and can be adjusted when the actual costs are known. These proforma invoices are to be paid prior to the dispatch of the goods. VII. In the case of instalment deliveries, the Buyer shall pay all proportionate payments in advance. VIII. The Seller shall be entitled to hold an account for any late payments and a surcharge of 3% on overdue invoices from the date when the payment became due on a day-to-day basis, until the date of full payment of the invoice will be applied. IX. In the event, where payment is not received on the due date, the outstanding sum will be liable to an administration fee/ collection cost following which, an application to commence legal proceedings for recovery of the debt will be made without prejudice to the Seller's rights to receive payments on the due dates. The Buyer agrees to pay all such additional costs/ charges/ expenses and legal fees for recovery of the unpaid debt. X. The Seller reserves the right to suspend credit terms and request payment for goods prior to delivery, in case of delay or default in any payment. The Seller will not be in breach of these terms and conditions by exercising this right. XI. The Seller reserves the right to invoice any samples on a sale or return basis.

6. TITLE

TITLE in the Goods shall not pass to the Buyer until unless full payment has been made to the Seller. 7. SPECIFICATION AND PERFORMANCE

I. All weights, illustrations, photographs, descriptions, performance figures and dimensions given in quotations, brochures, catalogues, price lists, on the internet or any marketing literature or any other physical or electronic documents are intended to be used as a guide and is an approximation only, and shall not be binding on the Seller or form part of these Terms and Conditions. II. The Seller reserves the right to alter product specifications or designs at any time without prior notice and without liability for such changes. III. The Seller may offer a close size/ variant to the requested product. The Buyer however will be advised before an alternative product is offered, giving the Buyer the option to (a) accept the alternative goods, (b) subject to Clause 3 part IV, wait for delivery for the import (c) cancel part of/ the entire Purchase Order. IV. Any products which have been greatly altered from the specification illustrated or listed will be advised to the Buyer before being supplied.

I. Goods are not liable for warranty or any other condition or guarantee if the total price has not been paid by the due date. Payment within the due date is the essence of the contract. II. It shall be understood that all of the Goods which the Seller manufactures/ distributes are intended for Surgical use within the Healthcare Segment, and should be used by qualified Healthcare Professionals only for its intended purpose. The Seller does not accept responsibility for any other implied or represented usage, nor does the Seller accept responsibility for the misuse of any of its Goods. III. All Products branded with the original "Scala Surgical" logo and other traceable markings which are supplied by the Seller are guaranteed for 1 year/ 300 reprocessing cycles (whichever comes first) against faulty workmanship and materials, so long as the Buyer provides a valid copy of the Seller's invoice as proof of purchase. IV. This Warranty does not cover consumable parts, or the general wear and tear of any Product (such as cutting edges) as these will deteriorate over time. V. Any and all Products which do not bear the original "Scala Surgical" logo and any of its original markings are deemed as Foreign Products, and, are not covered by any Term or Condition within this Warranty. VI. The Buyer must take every precaution to ensure that only original "Scala Surgical" products are returned, otherwise Foreign Products returned to the Seller may also be destroyed. The Buyer will not hold the Seller responsible for such products. VII. All custom-made Products which are produced from the Buyers patterns, drawings, specifications etc., will not be covered by this Warranty. VIII. The "Scala Surgical" logo does not imply any specific country of manufacture or origin. The products are branded for ascertaining those products are produced to a recognised international standard and quality approved by the Seller. IX. Products and services which are provided by the Seller of those companies for which the Seller acts as a distributor/ agent etc., will be covered by the quarantees of those said companies. X. All risks of the represented companies will be the liabilities of those companies. XI. If the Buyer opts to place an order for "Unbranded" Goods, the Buyer must make this clear on each of their Purchase Orders. In doing so, the Buyer accepts all of the associated risks and consequences this may carry, and will not hold the Seller responsible whatsoever. There is a no return policy on "Unbranded" Goods regardless of their condition and these Terms and Conditions will not provide cover to the Buyer under any circumstances for such Products. 9. DELIVERY

I. The Seller will make every effort to deliver the order in a timely manner. The delivery date will be on the Sales order issued by the Seller. The delivery date shall not include the time period required for delivery by the courier. The Seller accepts no responsibility or liability of any kind for failure to deliver within the Buyer's required time period. II. If the delays in the completion of deliveries are beyond the control of the Seller, the Buyer will not be entitled to cancel the order or refuse delivery. The Seller reserves the option to supply all orders in partial shipments and to issue separate invoices for each shipment. III. If the Seller cannot complete fulfilment of the order as referred to in Clause 9.II, there will be a grace period of 28 working days from the date of delivery mentioned on the Sales Order. The Buyer reserves

the right to cancel that specific line item affected by the delay. This right does not entitle the Buyer to cancel the remainder of the order or the row. IV. If the Buyer is unwilling to collect their delivery 7 days after being informed that their goods are ready for collection from the warehouse of the Seller in the United Kingdom, there will be a daily storage charge of 3% of the total sales order value applicable every day (including weekends). All risk and liability for the Goods such as loss or damage shall pass to the Buyer. V. The Buyer shall indemnify and keep indemnified the Seller against all loss including loss of profit, costs including the cost of storage and all labour and materials used, damages, charges or expense incurred by the Seller as a result of such extension of time, delay or failure. VI. The Buyer accepts and agrees that no signature is required as proof of Delivery as long as GPS coordinates and/ or a picture of the Goods inside the Buyer's premises is recorded. VII. If the Buyer has opted to be kept notified, then the courier company will notify the Buyer of the expected delivery date and time. If the Buyer has not received their delivery on the expected date, then the Buyer must inform the Seller within 1 (ONE) working day in writing. The Seller will not be held responsible if the Buyer does not adhere to the deadline of 1 (ONE) working day. VIII. The Seller will not be liable for any delay in delivery or failure to perform any of its obligations under these terms and conditions, if the delay or failure results from events or circumstances beyond/ outside its reasonable control. These circumstances or reasons include but are not limited to; A. acts of God, B. restrictions by governments/ authorities, C. fire, D. flood, E. strikes, F. industrial disputes, G. lock outs, H. accidents, I. breakdown of plant or machinery, J. shortage or K. unavailability of raw materials, L. explosions, M. war, N. force majeure, O. any other cause beyond the control of the Seller. Under any of the above circumstances or situations that prevents the delivery, transportation or acceptance of the Goods, the Seller shall be entitled to a reasonable extension of time to fulfil all obligations. If the delay persists, the Seller may without liability on its part, suspend, cancel, extend the time for delivery or terminate the sale. **10. RISK** 

Risk in the Goods shall pass to the buyer upon receipt of the Goods. Where the Buyer chooses to collect the Goods, risk will pass when the Goods are entrusted to it or set aside for collection, whichever happens first.

11. DAMAGE, LOSS IN TRANSIT AND SHORTAGES

I. Goods which are lost or damaged in transit may be replaced, repaired or the cost of the goods refunded at the Seller's discretion. The Seller shall not incur any liability further than the value of the goods irrespective of any damages or otherwise to the Buyer. II. Any claims for damages, short or incorrect deliveries must be reported by the Buyer to the Seller in writing within 2 (TWO) working days from the date of receipt of the Goods. If no written intimation is received within the given time frame, the Buyer is deemed to have accepted the Goods and the claim will not be entertained. III. The Seller has the right of discretion and may or may not bear all expenses for carriage of any Goods collected for replacement due to damage in transit.

12. RETURNING OF GOODS

This Clause is subject to all parts in Clause 8. I. For any return to be processed, the Buyer must inform the Seller in writing within 3 (THREE) working days of delivery of the unused Products, for any faults in material or workmanship with clear photographic evidence of the failures found. II. Returns are accepted due to poor material, poor workmanship or Seller error.

III. Any returns due to Buyer/ Customer error are subjected to a restocking fee of 20%. IV. Returns are not warranted as a result of abuse, misuse, improper care, improper storage, handling, inadequate maintenance, modification, re-branding, or due to additional etching or laser marking requested by the Buyer. V. Unbranded Products cannot be returned for credit or exchange. VI. The Seller may replace, repair or credit "Scala Surgical" branded Products in part or full at its own discretion. VII. Any products which are returned without a Return Request will not be processed and may be destroyed. VIII. Goods cannot be accepted back if the Goods are: A. ordered specifically to fulfil an open order, B. produced as specials, C. discontinued lines, D. have been used, E. have been modified or altered in any way, F. without its original packaging. IX. For approved returns, the Seller will send a Return Request to the Buyer which must be printed off and placed inside the package for return to the Seller within 2 (TWO) working days. On receipt by the Seller, the Seller reserves the right to evaluate all incoming returned Goods prior to any action being taken. X. Price deduction may be made depending on the age and condition of the Goods. XI. The Seller may, at their discretion, refuse to accept goods back for part/ full credit or replacement. The Seller is not obliged to accept any Goods back that are damaged in any way. XII. Any goods authorised for return by the Seller are sent at the Buyer's own risk. The Seller shall not be liable for goods which are not received due to non-delivery or damage caused by any delivery service the Buyer has used to return the Goods. XIII. The Buyer shall bear the costs for Insurance and Carriage of the returned Goods. 13. LEGAL CONSTRUCTION

These terms and conditions shall be governed and construed by all respects in accordance with the Laws of England & Wales and the parties submit to the exclusive jurisdiction of the County Court, High Court and Supreme Court in London. If any term or condition 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 Terms and Conditions hereof shall continue in full force and effect. If there is any conflict between Incoterms and this contract, then the Terms and Conditions of the contract prevail. Failure or delay by the Seller in enforcing or partially enforcing any term or condition does not constitute a waiver of any of its rights under this contract. Each right or remedy of the Seller under these terms and conditions is without prejudice to any other right or remedy of the Seller, whether or not under this contract. In case of any dispute, any notice to be served by either of the parties must be in writing addressed to that party at its registered office or principal place of business.

14. INTELLECTUAL PROPERTY RIGHTS/PATENTS AND TRADEMARKS

All Intellectual Property Rights produced from or arising as a result of the performance of these terms and conditions so far as not already vested become the absolute property of the Seller. In any contract covered by these terms and conditions, the Buyer accepts and agrees that no licence, whether granted expressly or implicitly, under any Letters Patent, Registered Designs or Trademarks, is granted by the Seller in respect of the equipment and undertakes hereby not to register any Patent, Registered Design or Trademark in respect of any goods on offer by the Seller. The Seller accepts no liability when producing goods to the Buyer's specifications or patterns if the specifications or patterns infringe any patents or registered design laws. Any patents or registered designs which are infringed are the sole responsibility of the Buyer, and the Seller shall not be liable to any penalties or costs. If the Buyer is aware or it comes to his knowledge that a design etc. infringes a known registered design or patent, the Buyer is under immediate obligation to inform the Seller in writing.

15. SPECIAL CONDITIONS APPLICABLE TO SALE OF GOODS OUTSIDE THE U.K.

I. Any order accepted by the Seller for shipment outside the U.K., is conditional upon the Buyer ensuring that full and adequate documentation to enable the goods to enter the Country of Buyers choice is prepared in accordance with the requirements of the Country to which the goods are being dispatched. II. ny expense incurred by the Buyer in raising the correct documentation must be borne by the Buyer. The liability for any loss to the Seller, caused by the incorrect preparation and presentation of documents, shall be recovered from the Buyer.

16. TITLE/ BANKRUPTCY

In the event where: I. the Buyer becomes insolvent, or, II. the Buyer's business goes into administration, or, III. if a petition or receiving order in bankruptcy should be made against the Buyer, or, IV. a court order is made for recovery of monies, or, V. a resolution passed for the winding up of the Buyer's business (except for the purposes of reconstruction and amalgamation), or, VI. they become unable to pay their debts, VII. the Buyer irrevocably authorizes the Seller to enter upon the Buyer's premises without notice and repossess any Goods on which they retain TITLE. Until ownership of the Goods passes to the Buyer, where payment is due, the Buyer will be liable for any damages to the Goods that are in the Buyer's possession. The Buyer is obliged to insure the Goods for their full price against all risks until full and final payment is made to the Seller. The TITLE of any Goods supplied by the Seller will remain with the Seller and the Goods will remain the property of the Seller until full and final payment has been made by the Buyer.

17. EXCLUSION OF LIABILITY

Except as otherwise expressly mentioned in these conditions, the Seller shall have no liability of any kind whatsoever to the Buyer in respect of any loss or damage (whether direct, indirect or consequential) suffered by the Buyer in respect of any: a) unbranded goods and /or b) all branded goods which have been defaced or altered in any manner whatsoever. The Buyer agrees to indemnify, hold harmless and defend the Seller against any and all liabilities, claims, penalties, forfeitures, suits and legal costs and expenses including costs of defence, settlement, counsel fees, which may be incurred or any violation of government laws, statutes, regulations or orders to the extent that such problems/ issues/ damages were caused by: I. breach/violation of any of these terms or conditions, II. any wilful act or omission by the Buyer or the Buyer's employees, officers, directors, agents or assigns.

18. BUSINESS TO BUSINESS TRANSACTIONS

The Buyer contracts and agrees that (unless otherwise agreed) he contracts with the Seller in the course of his business and not as a consumer. Any typographical, clerical or any other error or omission in any document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

19. NON-DISCLOSURE

The Buyer agrees and accepts to abide by the terms of the Non-Disclosure Agreement (NDA) which forms an integral part of these Terms and Conditions of Sale.

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