

**TRADING TERMS**

The following document is a summary of the B. Braun Australia Pty Ltd (B. Braun) "Trading Terms and Conditions" and applies to customers ordering directly from B. Braun. Placement of an order with B. Braun by you ("the customer") shall be deemed as acceptance of B. Braun's Terms and Conditions of sale, unless other contractual arrangements are in place. B. Braun may vary these terms at any time by giving you written notice.

**1. ORDERING**

- 1.1. B. Braun business hours are 8.00am– 5.00pm Monday to Friday (EST)
- 1.2. Customer Service (Order/Enquiry) Ph: 1800 251 705 Fax: 1800 628 045 Email: customerservice.au@bbraun.com
- 1.3. All orders below the net value of \$300.00 (exclusive of GST) will incur a \$50.00 (+ GST) handling charge unless any previous arrangement is in place.
- 1.4. Scheduled medicines listed under the "Poisons & Therapeutic Goods Act 1966" will only be supplied to licensed & authorised (customers/personnel/sites)
- 1.5. Surcharge: B. Braun reserves the right to apply additional surcharges under special circumstances

**2. PRICING**

- 2.1. All prices are exclusive of GST.
- 2.2. B. Braun will supply all customers with a Tax Invoice showing the GST component.
- 2.3. If GST is payable by B. Braun on any sale, the buyer will pay to B. Braun an amount equal to the total invoice price including the GST component.
- 2.4. The prices and specification of B. Braun products are subject to change without notice.

**3. DELIVERY CONDITIONS**

- 3.1. It is the intention of B. Braun to despatch stock line items ordered before 1.00pm EST for Hospital Care and other commodity products, and 4.30pm EST for Surgical Instruments (Monday to Friday) on the same day. Stock line orders placed after these cut-off times will be despatched the following day. B. Braun is not liable for any failure to supply the goods at the delivery time quoted on any grounds (including negligence by B. Braun or its agents). B. Braun may decline to accept an order, or cancel an order at its discretion.
- 3.2. Orders accepted for delivery are subject to the customer's account being current and within its credit limit.
- 3.3. B. Braun will supply all standard deliveries free into store by a carrier of B. Braun's choice (subject to clause 1.3). Urgent orders requiring goods and services outside specified turnaround times may incur additional costs. Urgent orders should be communicated by telephone to B. Braun Customer Service. B. Braun is not liable to the customer for any failure to comply with these terms if the failure (directly or indirectly) arises out of any circumstances which are not within B. Braun's reasonable control.
- 3.4. The risk of damage and/or the loss of any goods passes to the customer upon delivery of the goods.
- 3.5. The Customer is not authorised to resell, resupply or distribute, or to authorise or permit any other person to resell, resupply or distribute, any goods supplied by B. Braun unless the Customer has first entered into a distribution arrangement with B. Braun, in which case the customer's dealings with the goods will be governed by the terms of that arrangement and these trading terms. The customer must indemnify B. Braun's directors, employees and agents against all loss, damage and liability (including legal costs and expenses) incurred by B. Braun, its directors, employees and agents arising out of or relating to any such unauthorised resale, resupply or distribution.
- 3.6. The customer acknowledges that ownership of the goods delivered by B. Braun to the customer will not pass to the customer until such time as the goods supplied by B. Braun have been paid in full. Notwithstanding anything in this clause, risk in the goods will pass to the customer at the date of delivery.

**4. RETURN OF GOODS**

- 4.1. Section 5.65 of the Australian Code of Good Manufacturing Practice (GMP) for Medicinal Products (the "Code") issued 16th August, 2002 by the Therapeutic Goods Administration, prohibits B. Braun from re-issuing or re-using returned goods where, among other factors, there is any doubt whatsoever as to these products being maintained in the required special storage conditions. This regulatory requirement defines B. Braun's ability to accept returned products, and therefore, with the exception of surgical instruments, we only accept returns of goods for credit that have resulted from a B. Braun error.
- 4.2. No return of product will be accepted without prior authorisation. A separate "Return Authority" (RA) number must be issued by a B. Braun Customer Service Representative prior to the return of goods.
- 4.3. Any goods returned with an RA will incur a restocking fee of 15% of the original price charged, unless as a result of a B. Braun error.

- 4.4. The RA number must accompany each item returned for credit. Any goods received by B. Braun without an RA number, or which do not comply with the requirements of the Code must be destroyed by B. Braun in accordance with the Code.
- 4.5. Claims for short shipments, damaged goods, or over shipment of goods must be made within fourteen (14) days from receipt of goods. If the customer has not made an application within this time the customer will be deemed to have accepted the shipment and cannot make any further claims. If there is an over shipment, the customer must immediately inform B. Braun within 48 hours.
- 4.6. If a product is believed to be faulty, the goods should be isolated and the B. Braun Customer Service Department advised of the alleged fault. A sample from the batch concerned will be evaluated by the Quality Assurance Dept, and if found to be faulty, an RA number will be provided.
- 4.7. Return of any hazardous goods must be made in properly packaged bags (i.e., "double bagged") and a "Bio-hazardous" warning sticker applied to the inner packaging. All paperwork must be attached separately. Where applicable, cleaning of any items must be completed in accordance with AS 4187 before the return is organised.
- 4.8. Non Stock items ordered at customer request will not be accepted for return. Should any order be cancelled after the items have been manufactured then all charges including shipping, freight and insurance will be billed to the customer.
- 4.9. Goods will not be accepted for return when:
  - a) The return is not due to a B. Braun error.
  - b) The return delivery is not accompanied by a B. Braun RA number.
  - c) The goods are returned in packaging that is damaged, written upon or is otherwise marked and in an un-sealable condition.
  - d) The goods are returned in opened packages / cartons.
  - e) The request for return is not received within 14 days of the invoice date
  - f) The goods are returned more than 14 days after the RA number has been issued.
  - g) In addition to the above points, scheduled medicines listed under the "Poisons & Therapeutic Goods Act 1966" may not be returned unless specific prior arrangements are agreed between B. Braun Australia and the customer. The term Schedule drugs has been used to cover other products such as Gelofusine & possibly IV fluids and other medicines we support in the future, which may come under a schedule other than S4.

**5. GOODS WITH EXPIRY DATES**

- 5.1. Any concern as to the expiry period remaining on goods received must be conveyed to B. Braun within fourteen (14) days from receipt of goods. Under no circumstances will B. Braun accept the return of stock which has expired, or has less than 12months shelf life unless prior agreement has been arranged.

**6. INVOICE DISCREPANCIES**

- 6.1. The customer must notify B. Braun Customer Service, or Accounts Receivable, within fourteen (14) days following receipt of any invoice regarding any amounts under dispute or requiring clarification.

**7. ACCOUNTS**

- 7.1. Accounts Receivable can be contacted on phone (61 2) 9629 0200 or fax (61 2) 9629 9444
- 7.2. B. Braun terms of trade are thirty (30) days net after end of month of invoice unless otherwise specified in writing by B. Braun's Managing Director or Financial Controller.
- 7.3. B. Braun must provide a valid tax invoice in respect of any GST included in any payment to be made under or in connection with the terms.
- 7.4. B. Braun may require immediate payment of all unpaid monies (whether or not actually due and payable) if B. Braun considers (in its discretion) that the customer's credit worthiness has become unsatisfactory, or if the customer cannot pay its debts as they fall due, or if the customer becomes subject to any other bankruptcy or insolvency event.
- 7.5. "GST" has the same meaning in these terms as in the "GST Law", as defined in the A New Tax System (Goods and Services Tax) Act 1999.
- 7.6. B. Braun reserves the right to charge interest at the prevailing rates on any overdue amounts. The customer acknowledges and agrees that interest will accrue on any accounts not paid by the due date at the rate charged by B. Braun's bankers on overdraft accounts exceeding \$100,000 plus a margin of 2%. Interest will accrue on a daily basis from the due date for payment until the date the account is paid in full.
- 7.7. B. Braun's invoice / statement of account will be communicated to the customer at the address specified in the application form, or such address as is notified to B. Braun in writing by the customer from time to time, and shall be deemed to be received by the customer at the expiry of three (3) days after the time of posting by pre-paid ordinary post.
- 7.8. B. Braun may cease selling goods to the customer at any time, without prior notice to the customer.

**8. PAYMENT BY CREDIT CARD**

- 8.1. B. Braun accepts payment by Visa and MasterCard.
- 8.2. Credit card details are only accepted on placement of an order.
- 8.3. The credit card will only be charged when the goods are despatched.

**9. LIABILITY**

- 9.1. To the extent permitted by law, B. Braun
  - 9.1.1. expressly excludes all implied warranties, conditions, liabilities or representations in relation to the goods or their quality, state, condition or fitness for any particular purpose or the correctness of the information advice or other services concerning the goods, whether statutory or otherwise and whether imposed at law or equity;
  - 9.1.2. limits its liability for any breach of any condition or warranty that cannot be excluded at law, at the option of B. Braun:
    - i) in the case of goods:
      - a) repairing or replacing those goods; or
      - b) paying the cost of having those goods repaired or replaced; and
    - ii) in the case of services:
      - a) resupplying those or equivalent services or;
      - b) paying the cost of having the services resupplied;
      - c) will not be liable for any indirect, consequential, special or exemplary damages, loss of revenue, economic loss, loss of anticipated profits or loss of data or information arising in connection with these terms;
      - d) will not be liable for any damages arising from claims of third parties for injury, death or property damage suffered as a result of the use of the goods, or failure of B. Braun to warn, or to adequately warn, against the dangers of the goods or failure of B. Braun to instruct, or to adequately instruct, about the safe and proper use of the goods.
- 9.2. Notwithstanding anything in these terms, the maximum liability of B. Braun in connection with these terms for any and all claims, whether under a warranty, indemnity claim or otherwise, will not exceed the price of the goods delivered.

**10. WARRANTY**

- 10.1. B. Braun warrants that each product it manufactures is free from defects in materials or workmanship. Product distributed by, but not manufactured by B. Braun is warranted by its manufacturer. Except to the extent required by law, there are no other expressed or implied warranties, including any warranty of merchantability or fitness for a particular purpose. B. Braun's sole obligation and the Purchasers exclusive remedy for breach of any warranty shall be, at B. Braun's option, to repair or replace the product. B. Braun shall not be liable for incidental or consequential damages.
- 10.2. All B. Braun consumable products are supplied for single use only and must not be reused, to do so will excuse the manufacturer from any warranty or liability.
- 10.3. Please contact B. Braun if you have any particular questions in relation to manufacturer's warranty.

**11. COPYRIGHT**

- 11.1. The contents of all or any of the product catalogues may not be reproduced without the written permission of B. Braun.

**12. GOVERNING LAW**

- 12.1. These terms are governed by the law in force in New South Wales, Australia and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts which may hear appeals from those courts.

**13. CREDIT REPORTING**

- 13.1. The customer hereby authorises B. Braun to obtain from a credit reporting agency a credit report containing personal information about the customer in relation to commercial credit provided by B. Braun in accordance with s18K(1)(b) of the Privacy Act, 1988 (Cmwltth) (the "Act") and to obtain a report containing information from a person or business which provides information about the commercial credit worthiness of a person in relation to credit provided by B. Braun, in accordance with s18L(4) of the Act. The customer further authorises B. Braun in terms of s18N(1)(b) of the Act to disclose information of a report received by it pursuant to this clause and to exchange information with other credit providers for the purpose of notifying other credit providers of a default by the customer; assessing an application for credit by the customer; and assessing the creditworthiness of the customer.
- 13.2.