

ArcRoyal Terms and Conditions of Purchase

Clause 1: General

1.1 These Terms and Conditions shall apply to the purchase of Goods (being any products (or services) of Seller) by Buyer (ArcRoyal® or any of its affiliates) from Seller (the other party). These Terms and Conditions shall apply to and form part of the supply contract (being the contract formed by Seller's acceptance of a Purchase Order (as defined below) or any other contract formed by the Seller and Buyer) (the "Supply Contract").

1.2 For the avoidance of doubt, it is emphasised that these Terms and Conditions are to be read in conjunction with the Supply Contract in place between Buyer and the Seller. In the event of any discrepancy or contradiction between these Terms and Conditions and the provisions of the Supply Contract shall take precedence.

1.3 In the absence of a Supply Contract, these Terms and Conditions shall constitute the sole legal instrument governing the contractual relationship between the Buyer and the Seller.

1.4 Seller has read and understands these Terms and Conditions and agrees that Seller's acceptance of or its performance in relation to a Purchase Order shall constitute Seller's acceptance of these Terms and Conditions to the exclusion of any other terms and conditions including, but not limited to, any terms and conditions of sale and/or supply of Seller. In addition, for the avoidance of doubt, the provisions of the United Nations Convention on Contracts for the International Sale of Goods, 1980 shall not apply to this Agreement.

1.5 Seller shall be obliged to take all reasonable steps to mitigate any loss that might arise out any Supply Contract.

Clause 2: Purchase Orders

2.1 Buyer shall issue a purchase order (the "Purchase Order") for Goods to Seller. Acceptance of a Purchase Order by Seller is expressly limited to the terms of the Purchase Order and to these Terms and Conditions (and any Supply Contract). Any additional or different terms and conditions including but not limited to any terms and conditions of Seller contained in any quotations or other documents relating to Goods from Seller prior to the issue of a Purchase Order are expressly excluded and shall not form part of any Supply Contract. Each Purchase Order accepted by Seller pursuant to Clause 2.2 will constitute a separate and individual Supply Contract. Date of delivery shall be specified in each Purchase Order.

2.2 Seller will forward a written acceptance of the Purchase Order within two (2) working days after Seller's receipt of said Purchase Order. In any event any performance by Seller in relation to a Purchase Order will constitute acceptance of such Purchase Order. In the event that Seller does not forward a written

ArcRoyal Terms and Conditions of Purchase

acceptance or start performance in relation to a Purchase Order within two (2) working days after Seller's receipt of the Purchase Order, Buyer shall be entitled, but not obliged, to revoke such Purchase Order without incurring any liability to Seller.

2.3 Buyer shall have the right at any time to amend or vary a Supply Contract or a Purchase Order in any respect including, but not limited to, specifications, drawings, designs, construction, time of delivery, packaging, quality, quantity and means of shipment. If Buyer amends a Purchase Order, its liability to Seller shall be limited to payment to Seller of all costs reasonably incurred by Seller in fulfilling the Purchaser Order up until the date of receipt of the notice of amendment, except where the amendment results from Seller's failure to comply with its obligations under the Supply Contract in which case Buyer shall have no liability to Seller.

2.4 Any modification to the Goods shall require the prior written consent of Buyer.

2.5 Without prejudice to or limiting any other rights or remedies Buyer may have under any Supply Contract, Seller undertakes to inform Buyer as soon as reasonably practicable if any Purchase Order cannot be fulfilled or if delivery of a Purchase Order will be delayed.

2.6 Seller shall maintain a delivery capacity that permits Seller to deliver the Goods in accordance with accepted Purchaser Orders within the lead times specified in each such Purchase Order.

2.7 The Goods provided pursuant to the Purchase Order shall conform to any specification of requirements issued by the Buyer, either in writing or otherwise, and/or to any sample, advertisement, catalogue, brochure or performance description offered by the Seller.

2.8 As a general obligation, all goods provided pursuant to the Purchase Order shall be fit for their intended purpose, shall comply with all applicable regulations, legislative provisions, and safety standards.

ArcRoyal Terms and Conditions of Purchase

Clause 3: Termination

3.1 Buyer may cancel a Purchase Order in respect of all or any part of the Goods by giving notice to Seller at any time prior to delivery or performance, in which case Buyer's sole liability shall be to pay to Seller the price for the Goods in respect of which Buyer has exercised its right of cancellation (except where the amendment results from Seller's failure to comply with its obligations under the Supply Contract in which case Buyer shall have no liability to Seller), less Seller's net saving of cost arising from cancellation.

3.2 Buyer may, without liability to Seller, terminate a Supply Contract immediately by notice to Seller, if Seller (i) shall commit a breach of the Supply Contract, which is not (in the opinion of Buyer) capable of remedy; or (ii) shall commit a breach of the Supply Contract, which is capable of remedy but Seller fails to remedy the same within thirty (30) days of a notice from Buyer specifying the breach and requiring it to be remedied.

3.3 If either party becomes insolvent, or liquidation or insolvency proceedings of any nature (including any analogous proceedings in any jurisdiction outside Ireland) are commenced or threatened in relation to that party or that party makes any voluntary composition with its creditors or an encumbrancer takes possession or a receiver is appointed over any of the property or assets of that party, the other party shall, without liability to that party, be entitled to terminate the Supply Contract forthwith by written notice.

3.4 Termination of any Supply Contract under this Clause 3 shall be without prejudice to the accrued rights and liabilities of the parties and shall not affect the coming into or continuance in force of any provision which is expressly or by implication to come into or to continue in force after such termination.

3.5 Buyer may terminate any Supply Contract in the manner stated elsewhere in these Terms and Conditions.

Clause 4: Delivery Dates, Delay and Force Majeure

4.1 Delivery dates and quantities shall be as set out in the Purchase Order. Seller acknowledges that delivery times and quantities are of the essence and Buyer may reject and/or return at Seller's expense any delivery of Goods or part thereof received before or after the delivery date or in excess of the quantity specified in the Purchase Order.

4.2 Unless otherwise specified by Buyer, all Goods will be supplied directly to Buyer's facility in Kells, Co. Meath, Ireland.

ArcRoyal Terms and Conditions of Purchase

4.3 No changes shall be made to the lead times for any batch of Goods without the prior written consent of the Buyer.

4.4 Seller agrees to take all actions necessary and appropriate to ensure that Goods are received by Buyer as required under the relevant Supply Contract. Seller will inform Buyer promptly of any occurrence which will or may result in any delay of delivery at any time or which will or may result in Seller's inability to fulfill the quantities specified in the Purchase Order. Seller shall also advise Buyer in writing of corrective measures which Seller is taking to minimize the effect of such occurrence.

4.5 If Seller fails for any reason whatsoever to effect delivery consistent with the delivery dates specified in the Purchase Order, Buyer shall be entitled to recover from Seller all actual, consequential and incidental losses and damages including, but not limited to, losses and damages relating to and arising out of incremental cost of labour, transportation, production changes and storage.

4.6 If the parties agree on a buffer stock to be maintained by the Seller, Seller is obliged to notify Buyer at monthly intervals of the latest status of this stock.

Clause 5: Packaging and Shipping

5.1 Goods shall be suitably, carefully and appropriately packed in accordance with Buyer's requirements as the same may be amended or replaced from time to time and in accordance with the instructions of Buyer.

5.2 If the Incoterm "FOB" or "EXW" has been agreed between Buyer and Seller in relation to Goods, all consignments will be shipped by the transport provider and by the mode of transport prescribed by Buyer.

5.3 Seller will provide support to Buyer to ensure that transportation of the Goods is undertaken in the most cost-effective way.

5.4 Seller will give the following data to the transport provider in writing:-
- shipping location and loading depot - quantity and type of loading units - gross weight and storage area requirements - date of delivery - delivery depots.

5.5 In case of shipment by road Seller shall notify readiness of the Goods for dispatch to the transport provider. Such notification must arrive at the transport provider in due time to ensure compliance with the agreed delivery date.

5.6 If Seller fails to comply with Clause 5.4, any losses suffered by Buyer as a result of such failure shall be reimbursed in full by Seller.

ArcRoyal Terms and Conditions of Purchase

5.7 Delivery notes must be made in writing. With regard to documents accompanying Goods (physical or electronic documents), Seller shall comply with Buyer's guidelines.

5.8 Seller shall include packaging and labelling instructions which comply with appropriate laws and regulations for the countries for which the Goods are destined.

5.9 A packing note quoting the number of each Purchase Order must accompany each delivery or consignment of the Goods and must be displayed prominently.

Clause 6: Transfer of Risk

Save as otherwise agreed between the parties, the time at which the risk of damage to or loss of the Goods shall pass to Buyer shall be in accordance with the Incoterm agreed in the Supply Contract/Purchase Order or as otherwise agreed by Buyer. If no Incoterm is specified in the Supply Contract/Purchase Order or has been otherwise agreed by Buyer, the Goods shall be deemed to be sold "FOB".

Clause 7: Defective Products and Returns

7.1 Goods shall be delivered to Buyer subject always to its right of inspection, which shall be carried out within a reasonable time following receipt of delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent. If any Goods or any portion thereof delivered to Buyer (or its customers) is defective or otherwise fails to conform to the corresponding specification or to any of the warranties provided to Buyer, whether at the time of delivery of subsequently, Buyer may reject and return any such Goods.

Goods shall be considered defective if it, or any part of it

- (i) is agreed between the parties to be defective;
- (ii) does not demonstrably conform to its specification or comply with the applicable warranties detailed in Clause 9; or
- (iii) is not packaged in a manner adequate to preserve and protect the Goods (in each case a "Defective Good").

7.2 Goods which are not Defective Goods may be returned by Buyer at any time for credit only up to 90 days from the date of receipt of the Goods by Buyer.

7.3 If Seller prohibits Buyer from re-sterilising any Goods contained in any shipment of Goods (or part thereof) using ETO, Buyer reserves the right to return any such Goods unopened at any time for full credit.

7.4 Seller shall bear responsibility for all costs associated with customer returns,

ArcRoyal Terms and Conditions of Purchase

including any freight charges, on any Defective Goods. Seller shall issue the appropriate credit for the Goods returned to Seller by Buyer or any of its customers.

7.5 If the same Goods are repeatedly supplied in a defective condition, Buyer shall upon notice be entitled to terminate not only the applicable Supply Contract, but also any other Supply Contract for the same or similar Goods.

Clause 8: Price of Goods and Payment Terms

8.1 The price of the Goods shall be as stated on the Purchase Order and unless otherwise stated shall be exclusive of any applicable value added tax (which shall be payable by Buyer subject to receipt of a VAT invoice) and unless otherwise agreed by Buyer shall be inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods together with any duties, imposts or levies other than VAT.

8.2 No increase in the price of any Goods the subject matter of a Purchase Order shall be made unless agreed in advance by the Buyer in writing.

8.3 Unless otherwise agreed by Buyer, payment of invoices for Goods delivered in accordance with the terms and conditions of any Supply Contract will be made in full within 45 days following delivery. The relevant Purchase Order number must be quoted on all invoices.

8.4 Payment remittances shall be made by bank transfer.

8.5 Where Goods are not supplied in accordance with the Supply Contract, Buyer shall be entitled to withhold payment of the respective invoice until Seller has fulfilled its obligations in full.

8.6 Payment by Buyer for any Goods does not indicate nor constitute acceptance of such Goods.

8.7 Should the addresses of the place of shipment, the recipient of payment or the party making out the invoice deviate from the address of the party receiving the Purchase Order, such deviation has to be expressly agreed in writing by Buyer in advance.

8.8 All pricing quoted to Buyer shall be EXW Buyer's agreed facility for delivery of Goods.

Clause 9: Warranties

9.1 Seller warrants that for the period detailed in Clause 9.2 (the "Warranty Period") Goods shall (i) be free of defects in material, workmanship and infestations; (ii) conform to the agreed specifications, drawings, samples or

ArcRoyal Terms and Conditions of Purchase

descriptions; (iii) be free from design defects; (iv) and be of satisfactory quality and fit for the particular purpose intended by Buyer. Seller further warrants that, unless otherwise agreed with Buyer, it shall comply with all laws, regulations and regulatory requirements relating to the Goods and to the performance of Seller's duties and responsibilities.

9.2 For all Goods the Warranty Period begins on the date of delivery and ends on the sooner of:- (i) the expiry of any warranty provided to end-customers of the Goods, or products, into which the Goods are incorporated; or (ii) the seventh (7th) anniversary of the delivery date.

Clause 10: Indemnity

10.1 Seller shall indemnify and keep indemnified Buyer against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by Buyer as a result of or in connection with:-
(i) any claim made against Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of Seller, its employees, agents or subcontractors;
(ii) any claim made against Buyer by a third party arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Supply Contract by Seller, its employees, agents or subcontractors; or
(iii) any claim made against Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with Defective Goods.

10.2 In connection with the Goods or otherwise, if Seller's employees, agents, sub-contractors or other representatives ("Seller's Agents") are on or present at any premises of Buyer, Seller is and shall remain responsible for the acts and omissions of Seller's Agents within or about Buyer's premises and agrees to indemnify and hold Buyer harmless against liability for damage to property or injury or death to persons arising out of acts or omissions of Seller's Agents whether pursuant to a Supply Contract or otherwise.

10.3 In the event of a claim by a third party against Buyer (a "Third Party Claim"), which may be the subject of indemnification provided for in this Clause 10, Buyer shall provide written notification thereof to Seller. Seller shall provide Buyer with such reasonable assistance in the response and prosecution of any defence as Buyer may request.

10.4 The provisions of this Clause 10 shall survive the termination or expiry of any Supply Contract.

ArcRoyal Terms and Conditions of Purchase

Clause 11: Destination of Goods, Advertising

11.1 Seller shall mark the Goods as required by Buyer. This does not affect Seller's freedom to place effectively and in an easily visible manner its trade mark or logo on the Goods.

11.2 Seller confirms, agrees and acknowledges that all materials, equipment and tools, drawings, specifications, and data supplied by Buyer to Seller (the "Buyer Materials") and all rights in the Buyer Materials are and shall remain the exclusive property of Buyer. Seller shall keep Buyer Materials in safe custody at its own risk, maintain them in good condition until returned to Buyer, and not dispose or use the same other than in accordance with Buyer's written instructions or authorisation.

11.3 Seller shall not use any of Buyer's proprietary names, logos, trade names, trade marks or service marks without the prior written consent of Buyer.

11.4 Without Buyer's prior written consent, Seller shall not advertise or publish in any manner through any medium of marketing or advertising that Seller has contracted to or has been supplying Goods to Buyer.

11.5 Infringement of any of the obligations set out in this Clause 11 shall entitle Buyer to terminate any Supply Contract and/or demand surrender of anything which is obtained by way of such infringement and/or to claim indemnification of such loss as has been suffered by Buyer.

Clause 12: Confidentiality

12.1 Seller and Buyer each commit themselves to treat as business secrets and to keep confidential all commercial and technical information of the other party which comes to their knowledge during the course of their business relationship unless such information is or becomes public knowledge without fault of the party receiving such information.

12.2 Drawings, models, patterns, samples, Buyer's materials and similar objects shall not be disclosed or otherwise made available to third parties without the prior written consent of the party which owns them. Reproduction of such items is permitted only if agreed in writing with the party which owns them and is in all cases subject to compliance with the applicable laws of copyright.

12.3 Seller shall include obligations equivalent to Clause 12.1 and 12.2 in all contracts with sub-contractors and will ensure that all sub-contractors are contractually obliged to comply with the same.

12.4 The terms of this Clause 12 shall survive the expiration or termination of any Supply Contract.

ArcRoyal Terms and Conditions of Purchase

Clause 13: Insurance

13.1 Seller shall procure and maintain at its sole expense insurances with reputable and financially responsible insurance companies, which adequately cover Seller's liability against Buyer and third parties. Buyer is entitled to require certain insurance coverages and amounts to be taken out by Seller.

13.2 Seller shall provide to Buyer certificates or memoranda of such insurances and renewals thereof signed by the issuing company or agent or other information respecting such insurance at any time promptly upon Buyer's request. Such policies shall provide for cancellation only upon 30 days prior written notice to Buyer.

13.3 Buyer's examination of, or failure to request or demand any evidence of insurance hereunder, shall not constitute a waiver of any requirement of this Clause 13 and the existence of any insurance shall not limit Seller's obligation under any Clause hereof.

13.4 Save to the extent to which the Seller is not obliged to do so pursuant to any applicable Incoterm under Clause 5, Seller will cause any carrier engaged by Seller to insure all shipments of Goods.

Clause 14: General / Miscellaneous

14.1 No amendment, modification, termination or waiver of any provision of these Terms and Conditions, and no consent to any departure by either party therefrom, shall under any circumstances be effective unless the same shall be in writing and signed by both parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Seller in any event, case or occurrence, shall of itself entitle Seller to any other or further notice or demand in any similar or other circumstances.

14.2 The headings of the various Clauses of these Terms and Conditions are solely for convenience and shall not be used for the purposes of interpreting the same.

14.3 References to statutory provisions shall be construed as references to those provisions as respectively amended, extended, re-enacted or consolidated (whether before or after the date hereof) from time to time and shall include any provisions of which they are re-enactments (whether with or without modification) and shall also include any orders, regulations, instruments or other subordinate legislation made from time to time under those provisions.

ArcRoyal Terms and Conditions of Purchase

14.4 These Terms and Conditions shall be read and construed in accordance with the provisions of the Interpretation Act, 2005.

14.5 If any provision hereof or any part provision is or is held by any competent court or authority to be invalid or unenforceable, such provision or part provision will be deemed severed and omitted, the remaining portions hereof continuing in full force and effect. If required, Buyer and Seller shall replace such invalid or unenforceable provision with a valid and enforceable provision having similar economic consequences, provided that the content of the Terms and Conditions is not materially altered.

14.6 No course of dealings between Seller and Buyer or any delay or omission of Buyer to exercise any right or remedy granted under these Terms and Conditions shall operate as a waiver of such rights, and every right and remedy of Buyer provided herein shall be cumulative, concurrent and in addition to any other further rights and remedies available at law or in equity.

14.7 Seller agrees to permit Buyer or its representatives to inspect all documents, instruments, books and records relating to any Supply Contract or the Goods which are the subject of such Supply Contracts during regular business hours upon forty-eight (48) hours notice. Seller agrees to maintain all such records for at least seven (7) years after the last delivery of the Goods to Buyer, unless otherwise agreed or unless a longer period is otherwise required by law.

14.8 Seller shall not assign the benefit of any Supply Contract in whole or in part to any third party without the prior written consent of Buyer. Buyer may assign the benefit of any Supply Contract to any of its affiliates or to a third party without prior written consent of the Seller.

Clause 15: Anti-Bribery

The Seller undertakes it or any of its subsidiaries or any of their respective directors, officers, employees or agents or any other Person acting on their behalf has directly or indirectly made any bribes, rebates, payoffs, influence payments, kickbacks, illegal payments, illegal political contributions, or other payments, in the form of cash, gifts, or otherwise, or taken any other action, in violation of the Foreign Corrupt Practices Act of 1977, the UK Bribery Act of 2010 or any other anti-bribery or anti-corruption Law (collectively, the “Anti-Bribery Laws”). Neither the Seller nor any of its subsidiaries is or has been the subject of any investigation or inquiry by any governmental body with respect to potential violations of Anti-Bribery Laws.

ArcRoyal Terms and Conditions of Purchase

Clause 16: Medical Device Regulation

Seller shall comply with all obligations applicable to it relating to the regulation of medical devices, including all obligations under the Medical Device Directive 93/42/EEC (“MDD”) and the Medical Device Regulation (EU) 2017/745 (“MDR”), and its obligations as manufacturer pursuant to Article 22 MDR. Seller agrees to the following obligations:

- The devices applicable CE marking of conformity will appear on the labelling of the procedure pack and therefore the Seller assumes responsibility for the Goods in accordance with the MDD and/or the MDR.
- Seller will maintain the CE marking for the Goods necessary to comply with the MDD and/or the MDR and will inform Buyer of any changes that affect the CE marking of the Goods.
- Seller is responsible for handling complaints, including any reporting requirements relating solely to the Goods in accordance with the applicable requirements.
- Where a non-conformity with the Goods- has been identified by Seller, the responsibility to recall a batch of products rests with the Seller.

Buyer hereby confirms its compliance with ISO 13485 and confirms that it is MDD certified.

Clause 17: Governing Law and Jurisdiction

The terms of each Supply Contract and any non-contractual obligations arising out of or in connection with each Supply Contract shall be governed by and construed in accordance with the laws of Ireland (excluding Northern Ireland) and the parties hereby submit to the exclusive jurisdiction of the Courts of Ireland to settle any disputes which may arise out of or in connection with each Supply Contract or its or performance and accordingly that any suit, action or proceedings including any proceedings relating to non-contractual obligations so arising may be brought in such courts. The United Nations Convention on International Contracts for the Sale of Goods does not apply to this Agreement or to any sales made pursuant to this Agreement.

Clause 18: Acceptance of the Terms and Conditions

Seller hereby accepts and acknowledges the Buyer’s Vendor Code of Conduct and acknowledges that it forms part of this Agreement. The Buyer’s Vendor Code of Conduct is available here: [20201021 - OM Vendor Code of Conduct 2020.pdf \(owens-minor.com\)](#)