

Delivery and Payment Terms and Conditions of Biomet 3i UK Ltd. (Zimmer Biomet Group company)

1. General provisions

The following terms and conditions are applicable to all our current and future offers and to contracts entered into with us. Divergent and contrary business and purchase terms and conditions of the customer are not accepted, unless we authorise them in writing.

2. Contract establishment and content

- 2.1. A contract exists only after we have made any of the following actions: 1) issued a written confirmation of order; or 2) upon delivery of the products. If a written confirmation of order is issued, such confirmation shall constitute the only authoritative version of the contract contents.
- 2.2. We reserve the right to make customary trade changes with respect to illustrations, descriptions, drawings, and measurements in our brochures, catalogues, and offers provided that 1) the contract purpose is not thereby essentially changed; 2) the quality of the reference materials is not altered and 3) the changes are reasonable for the customer.

3. Price and payment terms and conditions

- 3.1. Our prices are expressed in British pounds. Sales tax and the costs of packing, insurance, and carriage are in addition.
- 3.2. The price agreed between the parties shall be the one indicated in the order confirmation or, in case that the product has been delivered without order confirmation, the one reflected in the delivery note.
- 3.3. All prices are based on cost factors at the time of order or confirmation of order. If unpredictable increases in labour costs or costs of materials occur after the date of placement of order or confirmation of order, and if these increases lead to an increase in our procurement prices or costs, thus the execution of the order is excessively onerous, then we are entitled to adjust our prices in accordance with the cost increases. We will notify you accordingly.
- 3.4. The price adjustment provision of subsection 3.3 does not apply if the price has been explicitly confirmed as a fixed non-reviewable price.
- 3.5. Unless otherwise agreed with the customer, invoices are due and payable within 60 days from the date of the invoice. A discount on new invoices is not permissible so long as older invoices have not yet been paid or have not been paid in full.
- 3.6. When payment is not made within the agreed deadline or if circumstances exist that confirm the customer's inability to pay the invoices on time, we are entitled to perform pending orders only against advance payment, or to make performance contingent upon issuance of a security guarantee.
- 3.7. In case of default of payment by the customer, we may charge default interest on overdue sums at the applicable statutory rate that we are entitled to claim for late payments on a daily basis until payment is received.
- 3.8. The customer may offset our claims only against undisputed or legally confirmed counterclaims.

4. Delivery; shipment

- 4.1. Delivery deadlines are governed by the agreements made in the individual case. A delivery deadline has been met if the shipment is given to the carrier or shipment readiness has been established and reported.
- 4.2. Events that are unforeseeable, unavoidable and outside our control and sphere of influence and for which we do not bear responsibility, such as acts of God, war, natural disasters, strike, lockout stock shortage due to health authorities inspection or product recall and other similar events or causes release us from our obligation to perform the contract within the agreed deadline and to the extent such obstacles continue to exist. With regard to products that we do not produce ourselves, our obligation to deliver shall be subject to our correct and timely receipt of such products from our suppliers. We shall immediately inform the customer of any obstacles pursuant to this Section 4.2.
- 4.3. We are entitled to make partial deliveries provided the products covered by the order are not immediately available.
- 4.4. In the event of a delay in customer reception of the products for which the customer is responsible, we are entitled to demand compensation for damages caused to us, including any additional reasonable expenses.
- 4.5. Unless otherwise agreed between the parties, (i) we shall deliver the products to the customer at its premises, organising the transport and bearing the risk on the products until they are delivered to the customer and (ii) the customer shall bear the cost of the transport.

5. Retention of title

- 5.1. We retain title to the products we supply until we have received the full purchase price for said products.
- 5.2. If the customer does not pay the purchase price of the products on time, we will be entitled to the immediate return of the products and customer hereby irrevocably authorises us to recover the products and to enter the premises of the customer for that purpose. Demand for or recovery of the products by us does not affect other legal rights we may have.

6. Conditions for returns and exchanges

- 6.1. Without prejudice to the rights existing under Section 7, all Zimmer Biomet dental products, except products that require special storage conditions such as membranes, biomaterials and human tissue products, are accepted for return and/or exchange if:
 - The sterile packaging of the returned products has not been opened,
 - The products are in saleable condition (products that are no longer part of Zimmer Biomet product range cannot be exchanged); and
 - The products have a shelf life of at least 6 months.
- 6.2. If the above conditions are met, the company will provide full credit (through the issuance of a credit note or a corrective invoice) for products returned within 30 days from delivery date or product exchange as specified in Section 6.3 and 6.4 below.
- 6.3. The customer may only return the products to exchange them for other products of the same category (e.g. implants for implants, implant prostheses for implant prostheses, etc.).
- 6.4. Products that form part of a special offer shall not be credited (whether through the issuance of a credit note or a corrective invoice) but they will be accepted for exchange. Products that form part of a kit may neither be credited (whether through the issuance of a credit note or a corrective invoice) nor exchanged.
- 6.5. Products are returned at the cost and risk of the customer. They must be returned to Zimmer Biomet distribution center or local warehouse by a traceable delivery method (e.g. courier service such as UPS, DHL, Fedex, TNT, etc). The reason for the return must be indicated.
- 6.6. Only in the case where the products need to be returned to us due to our error in the preparation and/or delivery, we will bear the cost and risk related to the return of the products. In these cases, we will need to authorise and organise the pick up of the products.

7. Warranty

- 7.1. As far as dental implants and restorative components are concerned the customer will have the rights and benefits foreseen in the Lifetime Implant Warranty Program of the manufacturer: <http://www.zimmerbiometdental.com/Warranty/>. The limitation of liability clause foreseen in Clause 8 of the referred manufacturer's warranty shall apply to the extent permitted by the law applicable to these terms and conditions. The Lifetime Implant Warranty Program applies to all products implanted on or after January 1, 2016.
- 7.2. Regarding products supplied by us excluded or not covered from the warranty mentioned in Section 7.1 above, the following shall apply:
- 7.3. The products will have a warranty for the term specified in the warranty document attached to each product.
- 7.4. If during the warranty period the products are proven to be defective, the customer must inform us immediately explaining the defects and returning to us the defective products. Before returning the products, the customer must sterilise the same.
- 7.5. At our discretion, we may furnish defect-free replacements or issue a credit note or a corrective invoice for the value of the defective products. These shall be the sole remedies for the customers.
- 7.6. If the products are proven to be defective, we shall bear the costs to return the products.

8. Liability

- 8.1. We shall only be liable, whether as a result of breach of contract, tort or otherwise, for: direct damages caused by an attributable and negligent breach of a material contractual obligation, but only up to the amount of the invoice value of the relevant product that gave rise to the liability. Nothing in this Agreement shall limit or exclude our liability for (a) fraud or fraudulent misrepresentation; (b) any breach of the obligations implied by Section 12 Sale of Goods Act 1979 or Section 2 Supply of Goods and Services Act 1982; (c) any liability that cannot be excluded under mandatory law (in particular, product liability laws) and (d) death or personal injury resulting from our negligence.
- 8.2. Subject to Section 8.1, we shall not be liable for any of the following losses or damage: (i) any loss of actual or anticipated profits, (ii) loss of revenue, (iii) loss of anticipated savings, (iv) loss of business, (v) loss of reputation, (vi) loss of, damage or corruption of data or (vii) any indirect or consequential loss or damage howsoever caused, whether such loss or damage was foreseeable or in the contemplation of the parties and whether based on a claim in contract, negligence, breach of statutory duty or otherwise.
- 8.3. We shall not be liable for damages occurring as a result of unauthorised processing of our products or combination of our products with third-party components or if our operating instructions and references to our user instructions and manuals are ignored in the processing and/or combining. This applies particularly if our products are combined with third-party supplier components that are not certified by us for this purpose.

9. Closing provisions

- 9.1. If one provision of the contract is or becomes null and void, the validity of the other provisions of the contract shall not be affected.
- 9.2. The construction, validity and performance of this contract and all non-contractual obligations arising from or connected with this contract shall be governed by the laws of England and Wales.
- 9.3. The Courts of London of England and Wales shall have jurisdiction to solve any dispute or controversy (including non-contractual disputes) between us and the customer. In our discretion, the customer may also be sued before the Courts and Tribunals of its domicile.