

## General Terms and Conditions

### 1 Scope of application, priority

- 1.1 These General Terms and Conditions (these "**GTC**") govern the sale of products of Shockwave Medical, Inc. ("**Shockwave**") specified in Shockwave's quote (the "**Products**") to any person who purchases the Products from Shockwave (the "**Buyer**"), including by submitting a purchase order. These GTC together with an Order form a contract between Shockwave and the Buyer for the purchase of the Products ("**Contract**").
- 1.2 These GTC apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice, or course of dealing. Deviating, conflicting, or supplementary terms and conditions of the Buyer shall only become part of the Contract insofar as Shockwave has expressly agreed to their validity in the Order. This requirement for consent applies in all cases, including, for example, if Shockwave performs the delivery to the Buyer in the knowledge of any terms and conditions of the Buyer.
- 1.3 The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with, or contained in, any document of the Buyer that is inconsistent with these GTC.
- 1.4 In the event of conflict between the terms set out in the Order and these GTC, the terms set out in the Order shall prevail.

### 2 Conclusion of the Contract

- 2.1 Shockwave's quote for the Products, any samples or advertising produced or given by Shockwave, and any descriptions or illustrations contained in Shockwave's catalogues or brochures, are produced for the sole purpose of giving the Buyer an approximate idea of the Products referred to in them. They shall not constitute an offer, form part of the Contract, nor have any contractual force, unless explicitly designated by Shockwave as a product warranty or guarantee. Shockwave's quote shall only be valid for the period stated therein.
- 2.2 The Order constitutes an offer by the Buyer to purchase the Products specified in the quote in accordance with these GTC. The Buyer is responsible for ensuring that the Order is complete and accurate.

### 3 Delivery

- 3.1 The Products shall be delivered in containers suitable for transport and storage by the Buyer to the address of the Buyer specified in the Order, Incoterm 2020 DDP.
- 3.2 Shockwave shall deliver the Products to the location set out in the Order or such other location as the parties may agree ("**Delivery Location**") at any time after Shockwave notifies the Buyer that the Products are ready for dispatch.
- 3.3 The Buyer must provide its VAT identification number in the Order and must provide Shockwave with all other information and documents reasonably necessary for shipment or delivery of the Products.
- 3.4 When ordering, the Buyer must consider Shockwave's required delivery lead times. Unless otherwise specified or agreed by Shockwave, all information regarding delivery times and delivery dates provided by Shockwave is merely provisional and non-binding, and the time of delivery is not of the essence. However, Shockwave will use commercially reasonable endeavours to deliver the Products at the times specified by the Buyer in the Order.
- 3.5 Shockwave may deliver the Products in instalments and will notify the Buyer if that is the case. Any delay in delivery of an instalment, or the quality or contents of an instalment shall not entitle the Buyer to cancel any other instalment.

- 3.6 Shockwave shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event (as defined in Clause 12) or the Buyer's failure to provide Shockwave with adequate delivery instructions or any other information that is relevant to the supply of the Products.
- 3.7 If Shockwave is unable to deliver the Products (or any part of the Products), its liability shall be limited to the reasonable costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality, less the price of the Products, except to the extent such failure is caused by circumstances described in Clause 3.5. The Buyer shall mitigate such costs and expenses.

#### **4 Risk and title**

- 4.1 The (a) risk of loss of, and (b) title to, the Products shall pass to the Buyer on completion of delivery.

#### **5 Prices and payment terms**

- 5.1 Subject to Clause 5.2, the price of the Products shall be the price set out in the Order. All prices stated in Shockwave's quote are exclusive of VAT and other applicable taxes which the Buyer shall additionally pay to Shockwave at the prevailing rate subject to receipt of valid VAT or tax invoice.
- 5.2 Shockwave shall notify the Buyer in writing in advance of price changes. Price changes apply to all unconfirmed Orders received by Shockwave after the entry into force of the price change.
- 5.3 Shockwave may, by giving written notice to the Buyer at any time up to seven (7) days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to: (a) any factor beyond Shockwave's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); (b) any request by the Buyer to change the delivery date(s) or the quantities or types of Products ordered; or (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give Shockwave adequate or accurate information or instructions.
- 5.4 Shockwave may invoice the Buyer for the Products upon, or any time after, receiving the Order at the address specified in the Order.
- 5.5 The Buyer shall pay each invoice submitted by Shockwave within thirty (30) days from the invoice date in Pounds Sterling (GBP), in full and in cleared funds, and without set-off, deduction, or withholding (other than any deduction or withholding of tax as required by law), to the account specified by Shockwave in the Order Confirmation. Time for payment shall be of the essence of the Contract.
- 5.6 If the Buyer fails to make a payment due to Shockwave under the Contract by the due date, then, without limiting Shockwave's remedies under Clause 11, the Buyer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

#### **6 Intellectual property, no licence**

- 6.1 Shockwave reserves all rights to any and all intellectual property rights related to the Products, including designs, manufacturing details, all underlying technology, and product information. Shockwave's rights include without limitation: (i) the absolute entitlement to any registration granted pursuant to any applications for any patent, design, trademark or other registrable intellectual property right; (ii) all goodwill attaching to any trademarks; and (iii) the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief (and to retain

any damages recovered) in respect of any infringement, or in any other cause of action relating from ownership of any of the assigned intellectual property rights whether occurring before, on or after the date of this Contract.

- 6.2 The sale of Products includes a non-exclusive and non-assignable license solely (a) for the benefit of the Buyer, and (b) of those intellectual property rights to the extent necessary for the Buyer to use the Products for their intended purpose.

## **7 Confidentiality**

- 7.1 **"Confidential information"** means all confidential information concerning the business, affairs, customers, clients or suppliers of a party including, in particular, Shockwave's pricing, customers, sales strategies, and all information that Shockwave or its intermediaries designate as confidential vis-à-vis the Buyer. However, Confidential Information does not include information that is publicly accessible, insofar as it has not been or will not be made accessible to the public through a breach of this confidentiality obligation by the Buyer or its employees or agents.
- 7.2 The Buyer shall keep Shockwave's Confidential information safe and secure and strictly confidential and for the period of two (2) years after termination or expiry of any agreement to which these GTC relate shall not disclose it to any person (directly or indirectly), nor use it, otherwise than to exercise its rights and perform its obligations under or in connection with the Contract, except to the extent required by applicable law, court order or a decision of a regulatory authority.

## **8 Product characteristics and product use**

- 8.1 The suitability of the Products for use and their conformity with specifications of Shockwave regarding their characteristics requires the observance of all instructions from Shockwave regarding correct storage and use as well as intended purpose. Any use deviating from that specified in the instructions for use provided by Shockwave for the relevant product can lead to injury to the health and bodies of patients and is prohibited. The Buyer shall not use Products except according to their labelling and instructions for use.
- 8.2 The Buyer shall not make any changes to any Products, including Products labelling and packaging.
- 8.3 Shockwave may perform replacements and changes to the specifications, product composition or product documentation (operating instructions, operating manuals), unless this would result in a detrimental change in the performance and effect of the Products.
- 8.4 If the Buyer considers or has reason to believe the Products present any (safety or other) risk, the Buyer shall notify Shockwave immediately. This Clause does not affect any other legal reporting obligation the Buyer may have.
- 8.5 If the Buyer receives any complaints or otherwise becomes aware of any suspected incident, defect or non-conformity of the Products, the Buyer shall notify Shockwave immediately at [complaint@shockwavemedical.com](mailto:complaint@shockwavemedical.com). In doing so, the Buyer shall at all times comply with applicable laws, and in particular, the Buyer shall not disclose any personal data to Shockwave without having an appropriate legal basis for such disclosure (e.g. explicit consent) and without complying with relevant legal requirements (e.g. regarding transparency).
- 8.6 In the event of a recall or corrective action, regardless of whether it is required by any regulatory agency or voluntarily undertaken by Shockwave, the Buyer shall cooperate with the reasonable requests of Shockwave with respect to the notification of end users and the collection, shipment, and storage of any returned Products. Shockwave will reimburse Buyer for any reasonable, directly incurred out-of-pocket costs payable to any third party in connection with providing such cooperation.
- 8.7 The Products may only be used by persons who are appropriately qualified, trained, and experienced, as explained in the product documentation (operating instructions, operating manuals) in detail.

## 9 Warranty

- 9.1 Subject to applicable law, Shockwave warrants that upon delivery and (a) for generators, for a period of three (3) years and (b) for catheters and other consumables, for a period of (i) twelve (12) months from the date of delivery or (ii) if such period is shorter, from the expiration date indicated on the packaging of such products (as applicable, the "**Warranty Period**"), the Products shall: (a) conform in all material respects with their description; (b) be free from material defects in design, material and workmanship; (c) be of satisfactory quality (within the meaning of the Sale of Products Act 1979); and (d) be fit for any purpose held out by Shockwave in their instructions for use.
- 9.2 The Buyer must inspect the Products immediately after delivery. Obvious defects must be reported to Shockwave in writing without delay, and in any event within seven (7) days after delivery. Hidden defects must also be reported to Shockwave in writing without delay, and in any event within seven (7) days after discovery of the defect and before the expiry date of the relevant product. If this report is omitted, the Products shall be deemed to be defect-free and accepted by the Buyer.
- 9.3 Subject to Clause 9.3, if: (a) the Buyer gives notice in writing to Shockwave during the Warranty Period following the procedure and timelines in Clause 9.1 that some or all of the Products do not comply with the warranty set out in Clause 9.1; (b) Shockwave is given a reasonable opportunity of examining such Products; and (c) the Buyer (if asked to do so by Shockwave) returns such Products to Shockwave's place of business at Shockwave's cost, Shockwave shall, at Shockwave's discretion, repair or replace the defective Products.
- 9.4 Shockwave shall not be liable for the Products' failure to comply with the warranty set out in Clause 9.1 if: (a) the Buyer makes any further use of such Products after giving notice in accordance with Clause 9.1; (b) the defect arises because the Buyer failed to follow Shockwave's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same; (c) the Buyer alters or repairs such Products without the written consent of Shockwave; (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or (e) the Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or (f) the Buyer fails to comply with the requirements of Clause 9.2.
- 9.5 Except as provided in this Clause 9, Shockwave shall have no liability to the Buyer in respect of the Products' failure to comply with the warranty set out in Clause 9.1.
- 9.6 The terms implied by sections 13 to 15 of the Sale of Products Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.7 These GTC shall apply to any repaired or replacement Products supplied by Shockwave.

## 10 Liability

- 10.1 The restrictions on liability in this Clause 10 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 10.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Products Act 1979; or (d) defective products under the Consumer Protection Act 1987.
- 10.3 Subject to Clause 10.1, Shockwave's total liability to the Buyer shall not exceed £25,000.
- 10.4 Subject to Clause 10.1, the following types of loss are wholly excluded: (a) loss of profits; (b) loss of sales or business; (c) loss of agreements or contracts; (d) loss of anticipated savings; (e) loss of use or corruption of software, data or information; (f) loss of or damage to goodwill; and (g) indirect or consequential loss.
- 10.5 This Clause 10 shall survive termination of the Contract.

## **11 Termination**

- 11.1 The Contract shall continue in full force and effect until the earlier of: (a) the Products are accepted (or deemed accepted) by the Buyer, at which point the Contract shall automatically expire; or (b) its termination in accordance with this Clause or Clause 13.1.
- 11.2 Without limiting its other rights or remedies, Shockwave may terminate this Contract with immediate effect by giving written notice to the Buyer if: (a) the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of the Buyer being notified in writing to do so; or (b) the Buyer fails to pay any amount due under the Contract on the due date for payment.
- 11.3 Without limiting its other rights or remedies, Shockwave may either terminate the Contract with immediate effect or suspend provision of the Products under the Contract or any other contract between the Buyer and Shockwave if: (a) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; (b) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or (c) the Buyer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy; or (d) Shockwave reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.
- 11.4 On termination of the Contract for any reason the Buyer shall immediately pay to Shockwave all of Shockwave's outstanding unpaid invoices and interest and, in respect of Products supplied but for which no invoice has been submitted, Shockwave shall submit an invoice, which shall be payable by the Buyer immediately on receipt.
- 11.5 Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 11.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## **12 Data protection**

- 12.1 The parties acknowledge that each party is a separate and independent controller of personal data disclosed by each party to the other party pursuant to this Agreement.
- 12.2 Each party shall be individually and separately responsible for complying with the obligations that apply to it as a controller under applicable data protection laws, in particular (and without limitation) all necessary transparency and lawfulness requirements.
- 12.3 Shockwave (or as the case may be, its Affiliates) is processing information relating to an identified or identifiable natural person (the "Personal Data") of the Buyer and its employees in order to manage its relationship with its contractors and for the sole purpose of the performance of the GTC and shall retain the data for the duration of the GTC and upon termination, for the relevant statutory limitation periods. Should these Personal Data be disclosed to third parties located outside of the country for its or their legitimate interests in such manner as permitted by applicable laws, Shockwave has established contractual arrangements and security safeguards within Shockwave and with third parties to ensure an adequate level of data protection at least as required by applicable laws.
- 12.4 With regards to the data protection regulation, the Buyer's personnel or any data subject has the right to access, modify, rectify, erase its Personal Data and to request a restriction of processing of its Personal Data by sending an email at the following address: [privacy@shockwavemedical.com](mailto:privacy@shockwavemedical.com). The Buyer undertakes to inform its personnel or where applicable, any agent under its authority, about their rights under the data protection regulation for the processing of their Personal Data and how to exercise them.

### 13 Force majeure

- 13.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from an event, circumstance or cause beyond a party's reasonable control ("**Force Majeure Event**"). In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for three (3) months, the party not affected may terminate the Contract by giving thirty (30) days' written notice to the affected party.

### 14 Choice of law and jurisdiction

- 14.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 14.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

### 15 General

- 15.1 In these GTC: (a) any words following the terms "**including**," "**include**," "**in particular**," "**for example**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms; and (b) a reference to "**in writing**" or "**written**" includes email.
- 15.2 No variation of this Contract shall be effective unless it is in writing and signed by both parties (or their authorised representatives).
- 15.3 Shockwave may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract. The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Shockwave.
- 15.4 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.5 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this Clause 15.4, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 15.6 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 15.7 Any notice given to a party under or in connection with the Contract shall be in writing and shall be sent by reputable courier or email to that party's address specified in the Confirmed Order and shall be deemed as received if sent by courier, at the time and date of the signature (or electronic equivalent) of the courier or recipient confirming delivery or receipt, and, if sent by email, a single acknowledgement of receipt from one of the recipients. This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.



15.8 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.