

# Terms and Conditions of Sale / Greiner Bio-One North America, Inc.

## 1. General

- 1.1 The present General Terms and Conditions of Sale ("GTC") shall exclusively apply to all business relations of Greiner Bio-One North America, Inc. ("GBO") pertaining to the sale of goods or services (collectively hereinafter referred to as "Deliverables") by GBO to any purchaser thereof ("Buyer"). Any contradicting, deviating, or additional terms and conditions of Buyer, terms in its purchase order or any other contracts with Buyer shall be invalid. Any agreements, modifications, and amendments deviating from these GTC are only valid as an exception for the transaction if they are confirmed and signed by an authorized representative of GBO in writing.
- 1.2 These GTC explicitly apply for any purchase orders placed by Buyer ("Purchase Orders"), contracts with Buyer, and all transactions between Buyer and GBO entered into in the future, even if these GTC are not referred to separately on a case-by-case basis. Any contracts and confirmations must be in writing to be binding. The written form required under these GTC may also be fulfilled by e-mail or facsimile.
- 1.3 All general sale offers (including price lists) by GBO are deemed an invitation to Buyer to place a Purchase Order and shall be subject to confirmation by GBO in order to be binding and shall not obligate GBO to make delivery. Buyer's Purchase Orders and any contracts with Buyer subject to these GTC shall become effective upon the first to occur of written confirmation or upon delivery of the Deliverables by GBO.
- 1.4 All prices and fees, unless otherwise agreed, shall be understood as net prices exclusive of any sales and use tax or other taxes or duties. Prices are exclusive of any packaging fees, transport costs, minimum quantity fees, and processing charges.
- 1.5 Cancellations of any Purchase Order must be made prior to shipping for standard Deliverables or within seventy-two (72) hours of order confirmation for non-standard Deliverables (i.e., made to order, custom, or orders of large quantities). GBO may approve a cancellation after seventy-two (72) hours for a non-standard item so long as Buyer agrees to pay the cost of any Deliverables produced including components or raw materials ordered for production as of the date of cancellation in addition to a five percent (5%) cancellation fee.
- 1.6 GBO has a no return goods policy except in the event of technical or administrative/shipping claims. GBO reserves the right to deny credit or impose penalties for unauthorized returns. Technical Claims are thoroughly investigated and validated by GBO's Quality Assurance Specialists. Buyer will be credited upon notification from GBO after completion of its investigation.
- 1.7 Machinery, equipment, and tools, as well as manufacturing resources, are the property of GBO, regardless of whether (a) Buyer has made a cost contribution thereto and (b) the proposals and designs regarding the Deliverables originate from Buyer.
- 1.8 Instructions in brochures, user manuals, and other product information provided by GBO ("Instructions") must be strictly

followed. The instructions for use define a field of application for the Deliverables ("Intended Use"). Without prior written consent of GBO, the Deliverables must not be used and/or handled outside the Intended Use and/or other Instructions. Furthermore, the Deliverables must not be combined with other products and/or substances. GBO hereby expressly warns against the use and/or handling of the Deliverables and/or combination with other products and/or substances without prior written consent of GBO. Buyer is obliged to strictly adhere to the content of the documents made available to it regarding the Deliverables and may not amend them. Insofar as a contractual territory is agreed, the Deliverables may only be used within such territory. Buyer shall inform all further buyers (customers) or users accordingly. GBO shall not be responsible and does not assume any liability in respect of any incorrect and/or insufficient information contained in technical documents, product descriptions, sales brochures, instruction manuals, or any other documents prepared by Buyer, which are in any manner provided or made available to the end-customer or user. The same shall also apply if GBO shall have authorized or given its consent to such documents, because such authorization or consent shall be limited merely to the layout and compliance with corporate identity and shall not pertain to content.

## 2. Terms of delivery

- 2.1 Generally, the Incoterms 2020 shall apply to deliveries:
  - Pick-up: FCA in Monroe, NC
  - Delivery: DAP at selected site
- 2.2 Unless expressly otherwise agreed in writing, irrespective of the agreed Incoterms, the relevant transport costs shall be charged to Buyer; *provided, however*, GBO reserves the right to select the carrier. If the address provided by Buyer for the shipment is incorrect, Buyer shall also be responsible for all additional shipping charges/fees set by the carrier and an administrative fee set by GBO to reprocess the shipment. Buyer shall be responsible for the costs of customs clearance for imports as well as any formalities and the costs thereof (such as product registration, operating licenses) and related costs. GBO shall be responsible for the costs of export customs clearance.
- 2.3 Shipping claims must be reported and noted on the delivery receipt within ten (10) business days of receipt of shipment to [office@us.gbo.com](mailto:office@us.gbo.com). If inside damage is discovered, a statement describing the damage and photos must be submitted within ten (10) days and must include when and where the damage was discovered. GBO reserves the right to deny claims not received within ten (10) business days or without required documentation.
- 2.4 GBO may deliver, for reasons of packaging, up to two percent (2%) more or less of the quantity ordered without being in breach of contract. In such event, the quantity delivered shall be charged.

# Terms and Conditions of Sale / Greiner Bio-One North America, Inc.

- 2.5 In case GBO does not deliver in time, Buyer must set a reasonable cure period for the delivery in writing. GBO is only liable for default based on gross negligence or willful misconduct. For avoidance of doubt, if Buyer refuses acceptance of any Deliverables specified in a binding Purchase Order, Buyer shall nevertheless make full payment of the purchase price amongst other damages incurred by GBO related to such breach. If GBO stores the Deliverables, it does so at the risk and expense of Buyer and at Buyer's request, GBO shall insure the Deliverables at Buyer's expense. Upon Buyer's failure to accept the Deliverables within seven (7) days of GBO's tender, GBO is entitled to rescind the contract and claim damages for non-fulfillment.
- 2.6 In case of default due to force majeure, which include without limitation, strikes, lock-outs, disease, epidemics, pandemics, natural disasters, Acts of God, industrial disputes, interruption of production in GBO's factories or at the facilities of GBO's suppliers or subcontractors, or in case of default of GBO's suppliers or subcontractors, governmental import or export restrictions, or other sovereign measures not attributable to and beyond the control of GBO, the delivery period shall be automatically extended for the duration of such disruption. If such disruption shall last for longer than sixty (60) days, both parties shall be entitled to cancel the contract subject to these GTC. In this event, Buyer shall not be entitled to claim damages, and GBO is discharged from its duty to perform.
- 2.7 GBO shall be entitled to make partial deliveries and render partial services.
- 2.8 In the event of any actual or threatened civil or criminal proceedings due to the delivery of the Deliverables, GBO is entitled at any time to suspend deliveries or cancel them completely. In such cases, Buyer shall not be entitled to claim damages.
- 4.2 GBO shall be free to transmit invoices either by mail or electronically.
- 4.3 Buyer shall be liable for all expenses, including back-tax payments arising as a result of incorrect information provided by Buyer.
- 4.4 Within the framework of an ongoing business relationship, GBO reserves the right to raise the price of the Deliverables as is necessary based on general price changes beyond GBO's control (such as exchange-rate fluctuations, currency regulations, customs changes, a significant rise in costs of materials and manufacture).
- 4.5 Invoice amounts shall be paid within the time limits set forth by GBO in writing to Buyer by wire transfer to GBO's account, free of any charges and fees. If no specific time limits have been set by GBO, all invoice amounts shall be paid within thirty (30) days following receipt of the invoice by wire transfer to GBO's account, free of any charges and fees.
- 4.6 All payments shall be made at Buyer's risk and expense. Buyer's payment obligation is fulfilled with payment irrevocably credited to GBO's account.
- 4.7 Retention or offsetting by Buyer based on any counterclaims whatsoever is prohibited.
- 4.8 In the event of payment default and/or deterioration in Buyer's credit rating, notwithstanding any further rights of GBO, GBO shall be entitled, at its discretion, to any one or more of the following: (i) cancel the contract or suspend further deliveries to Buyer; (ii) shorten Buyer's payment period; (iii) demand payment in advance; (iv) collect interest on all late payments at the highest rate permitted by law; or (v) request security in the value of the delivery. A defaulting Buyer shall bear all expenses related to the collection and recovery of the outstanding invoice amounts.

### 3. Transfer of risk

The risk of loss passes to Buyer according to the Incoterms agreed upon. The loss or damage to the Deliverables after the risk has passed to Buyer, shall not release Buyer from its obligation to pay the purchase price. If dispatch or shipment is delayed for reasons for which Buyer is responsible, the risk of loss shall pass to Buyer from the date of readiness for dispatch. Risk of loss shall also pass to Buyer if the Deliverables are made available to Buyer and Buyer unjustifiably refuses acceptance. Any storage expenses incurred after the risk of loss has passed shall be payable by Buyer.

### 4. Prices, payment terms and invoicing

- 4.1 The prices are fixed by GBO, or according to GBO's current price list at time of the placement of the Purchase Order. The prices of GBO do not include sales or use tax. All taxes of any kind levied by any federal, state, municipal, or other governmental authority, which tax GBO is required to collect or pay with respect to the production, sale, or shipment of Deliverables sold to Buyer shall be the responsibility of Buyer.

### 5. Intellectual property

Buyer acknowledges that the Deliverables are the intellectual property of GBO. GBO reserves all rights, including rights of ownership, in respect of (i) the Deliverables including all improvements thereto; (ii) manufacturing processes; (iii) filling and utilization processes; (iv) know how, inventions and improvements; and (v) copyrights, intellectual property rights, and applications for intellectual property rights. This includes all technological improvements, changes to structure or design of the Deliverables or components of the Deliverables. Contracts subject to these GTC shall not grant any license to GBO's intellectual property. Buyer shall not be entitled to incorporate trademarks of GBO into its (registered) corporate name.

### 6. Warranty

- 6.1 Unless otherwise agreed in writing, the Deliverables shall conform with the description, samples, or requirements in the contract subject to these GTC. GBO MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING

## Terms and Conditions of Sale / Greiner Bio-One North America, Inc.

IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THE IMPLIED WARRANTY OF TITLE AND AGAINST INFRINGEMENT. BUYER'S EXCLUSIVE REMEDY AGAINST GBO, AND GBO'S SOLE OBLIGATION, FOR ANY AND ALL CLAIMS, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL BE LIMITED TO GBO'S REPLACING DELIVERABLES THAT DO NOT CONFORM TO SPECIFICATIONS OR, AT GBO'S OPTION, REFUNDING THE PURCHASE PRICE.

- 6.2 GBO shall not be liable for the Deliverables if, upon formation of the contract Buyer knew or should have known of a defect or material breach.
- 6.3 GBO shall not be liable for any use of the Deliverables or changes made to the Deliverables outside of the Intended Use and/or other Instructions.
- 6.4 The warranty period shall be the shelf life of the Deliverables but no longer than one year.
- 6.5 Buyer must immediately, upon receipt of delivery at the place of destination, inspect the Deliverables or have it inspected. This also applies if models or samples were delivered in advance. Buyer has no claim for damages for non-conforming Deliverables if it fails to notify GBO immediately after it has or should have discovered the non-conformity or a defect, specifying the nature of the contractual breach. Buyer shall notify GBO no later than three (3) months of delivery about a non-conformity or defect or otherwise forfeits its rights to make a claim hereunder.
- 6.6 In case of delivery of non-conforming Deliverables, Buyer shall provide GBO a reasonable cure period to fulfill its obligations. If GBO has not cured, is not willing or is unable to fulfill its obligations, Buyer may: (i) demand the diminution in value at time of delivery; or (ii) rescind the contract subject to these GTC. However, if GBO remedies a defect in fulfillment of its obligations, or if Buyer refuses to accept performance by GBO, Buyer may neither reduce the price nor rescind the contract subject to these GTC. If Buyer is unable to return the Deliverables in the same condition as that in which it was received and accepted it shall lose the right to rescind the contract or to claim replacement from GBO.
- 6.7 Deliverables for which damages are claimed shall not be returned, repaired, or destroyed without GBO's express written consent.
- 6.8 Buyer represents and warrants that any medical device product purchased from GBO will be used by or on the order of a physician, dentist, veterinarian, or other descriptive designation of any other medical practitioner on staff and licensed by the law of the jurisdiction in which he/she practices.

### 7. Vigilance Reporting System for Distributors of Medical Devices (applicable if Buyer is also a GBO Dealer)

- 7.1 The Vigilance Reporting System for Distributors of Medical Devices aims to ensure the protection of health and safety of patients and users.

- 7.2 Buyer shall be under a duty to inform GBO immediately of any incident regarding the Deliverables. GBO shall be responsible for taking further action and, in the course thereof, is also under a duty to report the incident to the competent authorities in accordance with applicable regulations.
- 7.3 Buyer shall comply with the instructions of GBO in matters related to the investigation and reporting of any incident.
- 7.4 In case of a notifiable incident concerning the Deliverables, Buyer may only communicate with the competent authorities with GBO's prior written consent. Buyer shall keep GBO regularly informed of any direct contact with authorities.

### 8. Vigilance Recall System for Medical Devices (applicable only if Buyer is also a GBO Dealer)

- 8.1 Buyer is aware that GBO is under a duty to be able to trace individual Deliverables including those sold to Buyer's customers (users). Buyer shall be under a duty to keep records enabling GBO to trace individual Deliverables sold to Buyer. Buyer shall be under a duty to retain such records for a period of ten (10) years, commencing from the date of delivery to Buyer's customer. Buyer must ensure a corresponding system with its own customers. Buyer shall take all necessary steps to support GBO to identify at all times the location of individual Deliverables or the customers of such Deliverables. Such obligation is not affected by the termination of the contract subject to these GTC with Buyer.
- 8.2 GBO shall initiate a product recall if there is a risk that the use of the Deliverables could result in death, serious bodily injury, or impairment of health of a user.
- 8.3 Buyer shall be responsible for informing its customers of relevant recall procedures as such are provided by GBO. Buyer's customer(s) shall confirm the receipt and acknowledge the information provided via facsimile or e-mail to Buyer within a period of ten (10) days. Otherwise, the customer must be informed again by Buyer. Buyer shall collect such confirmations and deliver them to GBO.

### 9. Liability

- 9.1 IN NO EVENT SHALL GBO HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE DELIVERABLES SOLD HEREUNDER, NOR SHALL GBO HAVE ANY LIABILITY, EITHER DIRECTLY OR BY WAY OF CONTRIBUTION OR INDEMNITY, FOR DIRECT, SPECIAL, INCIDENTAL, TORT OR CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES OF ANY KIND WHATSOEVER, SUCH AS, BUT NOT LIMITED TO, PROPERTY DAMAGE, LOSS OF PROFIT, DAMAGES BASED ON LOSS OF USE OF THE PRODUCT, REGARDLESS WHETHER THE CLAIM FOR ANY SUCH DAMAGES BE BASED ON BREACH OF WARRANTY, EXPRESS OR IMPLIED, BREACH OF CONTRACT, TORT, OR OTHERWISE.
- 9.2 If GBO produces the Deliverables in accordance with specifications, drawings, specimens or other documents

# Terms and Conditions of Sale / Greiner Bio-One North America, Inc.

provided by Buyer, which infringe upon rights, in particular intellectual property rights, of third parties, Buyer shall indemnify and hold harmless GBO and its representatives in full. At GBO's request, Buyer shall make advance payments for anticipated reasonable attorney's fees and legal costs of investigation and proceedings.

## 10. Confidentiality

- 10.1 All information disclosed by GBO within the framework of a contract subject to these GTC shall be deemed confidential unless, at the time of disclosure, it is expressly identified as non-confidential or, by its nature, is clearly non-confidential. All rights in the confidential information shall be reserved to GBO and title thereto shall continue to be held by GBO.
- 10.2 Nothing in these GTC or in a contract between GBO and Buyer shall be interpreted as granting or transferring any rights to confidential information by transferring ownership rights in the Deliverables.
- 10.3 No confidential information may be disclosed to third parties without GBO's prior written consent.
- 10.4 Publications of Buyer in respect of or in connection with Deliverables require GBO's prior written consent.
- 10.5 The duty of confidentiality will survive the termination or expiry of a contract subject to these GTC.

## 11. Compliance (applicable only if Buyer is also a GBO Dealer

Buyer undertakes at all times during the contractual relationship with GBO to comply with the Greiner Code of Conduct for Suppliers and Business Partners [https://www.gbo.com/fileadmin/user\\_upload/Downloads/Other/s/20180205\\_Code\\_of\\_Conduct\\_for\\_suppliers\\_and\\_business\\_partners\\_EN.pdf](https://www.gbo.com/fileadmin/user_upload/Downloads/Other/s/20180205_Code_of_Conduct_for_suppliers_and_business_partners_EN.pdf), as amended, plus all applicable laws and provisions, in particular the US Foreign Corrupt Practices Act of 1977 (as amended), as well as the applicable anti-trust, competition and anti-corruption laws. Neither Buyer, nor those persons acting in its name, in particular executives, employees or representatives, shall make or offer improper payments or gifts in either direct or indirect form to third parties, including their employees or executives, or to public officials, representatives of a governmental agency or authority or those of a political party or a candidate of the latter. Buyer undertakes that its own agents/partners shall comply with comparable principles to those of the Greiner Code of Conduct. GBO reserves the right to audit Buyer at any time during business hours further to prior written notice to verify compliance to the terms of the said Code of Conduct and all applicable laws and rules. In the event of non-compliance, GBO reserves the right to terminate the contract subject to these GTC at any time with immediate effect through written notice to Buyer.

## 12. Miscellaneous

- 12.1 GBO and its affiliates shall be entitled to undertake offsetting claims which may or may not be due and payable, including future claims, held by GBO against Buyer.

- 12.2 Buyer is not entitled to assign any claims to third parties arising out of or in connection with any contract with GBO without GBO's prior written consent and any assignment in violation of this provision is null and void.

- 12.3 Nothing in these GTC and contracts subject to these GTC shall establish a partnership, company or joint venture of any type. Neither GBO nor Buyer shall be entitled to act as representative of the respective other party for any purpose whatsoever and/or to commit the respective other party or to give undertakings on behalf of the other party. In the event of termination of the contract, Buyer shall not be entitled to any consideration, indemnification, or remuneration of costs, expenses, or investments related to the Deliverables.

- 12.4 If a provision of these GTC or of any contract subject to these GTC is or becomes illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of these GTC, nor the validity or enforceability of any other provision of these GTC. The invalid provision shall be replaced in good faith with a valid, legal, and enforceable provision the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision.

- 12.5 These GTC and all contracts subject to these GTC shall be governed by the laws of the State of North Carolina, without regard to its choice of law principles. Neither the United Nations Treaty on the International Sale of Goods nor any other existing or future bilateral or international treaties shall be applicable to this contract.

- 12.6 Place of jurisdiction for all disputes arising out of or in connection with these GTC and the contracts subject to these GTC shall be in a state or federal court situated in Charlotte, North Carolina. Buyer hereby irrevocably consents to the exclusive personal jurisdiction of such courts. Buyer waives any objection based on *forum non conveniens* or any objection to venue of any such action.

- 12.7 GBO applies privacy policy according to its Data Privacy Statement at [https://www.gbo.com/en\\_US/data-privacy.html](https://www.gbo.com/en_US/data-privacy.html).

- 12.8 If applicable to the Purchase Order, subcontract, or bill of lading, the affirmative action clause for disabled workers (41 CFR 60-741.4), the equal opportunity clause in Section 202 of Executive Order 11246 (41 CFR 60-1 through 60-50), and the affirmative action clause for covered veterans (41 CFR 6-300) are hereby incorporated herein by reference. Buyer agrees to comply with 29 CFR Part 471, Appendix A to Subpart A. Buyer shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

[End of Document]