

## TERM & CONDITIONS OF SALE

Applicable to Agiris camera, equipment and accessories, sealed sources and bulk Iridium-192 pellets, radiochemicals, radiopharmaceutical sales by Best Medical Belgium SA ("Best Medical Belgium")

### **1. QUOTATIONS**

A quotation shall supersede all previous quotations relating to the same subject matter and shall become void unless a purchase order is issued by the buyer ("Buyer") specifically referencing the quotation issued by Best Medical Belgium on or before the date indicated on the face hereof, or, if no such date appears, on the sixtieth (60<sup>th</sup>) day following the date of such quotation. A quotation may be withdrawn or amended upon notice at any time prior to Best Medical Belgium's acceptance of the Buyer's purchase order.

Notwithstanding anything to the contrary in this agreement, no order of the product will be binding unless and until acceptance of the Buyer's order by Best Medical Belgium.

### **2. TERMS & CONDITIONS**

Any terms and conditions in the Buyer's order additional to or different from those appearing herein shall be deemed to be objected to by Best Medical Belgium and shall be of no effect unless accepted by Best Medical Belgium as provided herein. In the absence of prior agreement between Best Medical Belgium and the Buyer, acceptance of delivery by the Buyer of the products shall be deemed to be acceptance of these terms and conditions. In the event Buyer breaches or fails to perform any of its obligations under this Agreement and such default is not cured within a period of fifteen (15) days after notice thereof has been given to Buyer in writing by Best Medical Belgium, Best Medical Belgium may in addition to any other remedy it may have terminate this Agreement or suspend supply of product forthwith by written notice.

### **3. PRICES**

Prices and charges quoted are valid only for the transaction specified on the face hereof and, unless otherwise expressly stated, all applicable taxes and duties shall be borne by Buyer.

### **4. DELAYS**

Failure by the Buyer to accept delivery of any shipment in accordance with the delivery schedule shall entitle Best Medical Belgium to charge the Buyer for all additional expenses incurred thereby and the Buyer shall bear the risk of loss of product and expense from the original date of scheduled delivery. In the event of any product shortage arising during the period of delay, Best Medical Belgium reserves the right to allocate its products among its customers as it deems equitable.

### **5. PACKING**

All products shall be packed for shipment in accordance with standard Best Medical Belgium practice and in conformity with applicable regulations. Cost and obligation of disposal of the product and disposable shipping containers shall be borne by Buyer. Buyer will not use the containers for any material other than the original product that was shipped in the container. Buyer agrees that at all times Buyer will store and handle the product in controlled conditions and in accordance with applicable government regulations. Transport containers are and shall remain property of Best Medical Belgium. Retention of the containers more than 21 days after date of shipment is subject to additional charges, unless otherwise agreed upon in writing by both parties. Use of said containers for purposes other than to return to Best Medical Belgium is prohibited.

### **6. DELIVERY**

Delivery shall occur at the location stipulated on the face hereof. Except if otherwise set out on the face hereof, title to and risk of loss in respect of the product shall pass to the Buyer on delivery.

### **7. INVOICES AND PAYMENT**

Prices and currency shall be as set out in the quotation and payment thereof shall be made within thirty (30) days from the invoice date. Invoices may be submitted by Best Medical Belgium upon shipment of the product. Buyer shall pay interest on overdue accounts at an annual rate of fifteen percent (15%), calculated monthly, or the maximum allowed by law, whichever is the lesser. Best Medical Belgium may require payment in advance, suspend or terminate its delivery obligation without prejudice to its rights against the Buyer, if it determines in its sole discretion that the financial condition of the Buyer warrants such action.

### **8. PRODUCT WARRANTY**

Best Medical Belgium makes the following warranties with respect to its products:

- Agiris Sealed Sources and bulk Iridium-192 pellets: shall conform to current Best Medical Belgium specifications and shall be free from any material defect in workmanship or materials for a period of one (1) year from the date of delivery. Buyer must keep sealed sources clean and dry.
- Agiris camera equipment, accessories and replacement parts: Agiris camera shall be free from any material defect in workmanship or materials for a period of six (6) months from delivery. Agiris camera replacement parts supplied during the original warranty period shall be warranted until the expiry of such warranty period or ninety (90) days from the date of shipment, whichever is the later.
- Radiopharmaceuticals shall materially comply with Best Medical Belgium specifications in the package insert.
- Radiochemicals: shall materially comply with Best Medical Belgium specifications at the time of delivery.

General Terms of Warranty : Buyer will promptly inspect the product upon receipt of delivery and notify Best Medical Belgium (within seven (7) days of receipt) of any alleged defects, damage, or shortage, at time of delivery. All warranty obligations of Best Medical Belgium shall cease and have no effect if the products are subject to accident, abuse, misuse, combination, alteration, neglect or not used/operated or stored in accordance with Best Medical Belgium specifications. Best Medical Belgium will repair, or at its sole discretion, replace defective products or parts thereof. All labour costs incurred during the warranty period during normal service personnel working hours will be borne by Best Medical Belgium. The labour costs of warranty service outside such hours shall be borne by the Buyer.

If requested by Best Medical Belgium, defective products must be held for Best Medical Belgium's inspection or be returned. All transport costs of returned product shall be borne by Buyer. Notwithstanding the foregoing Best Medical Belgium provides no warranty for products not of its manufacture but where possible extends to the Buyer the warranty extended by third party suppliers or manufacturers.

Best Medical Belgium may request, at its cost, the return of any product in respect of which a warranty claim is made.

**Buyer acknowledges that Best Medical Belgium is manufacturing and supplying product to meet specification. Except as expressly set out in this Agreement, Best Medical Belgium hereby disclaims all other warranties or conditions whether expressed or implied, statutory or otherwise, including but not limited to any implied warranties of merchantability or fitness for a**

**particular purpose, use or application. Best Medical Belgium provides no warranty whatsoever with respect to products not of its manufacture.**

### **9. PRODUCT INFORMATION**

Buyer acknowledges that it has received and is familiar with Best Medical Belgium's labeling, product expiry (if applicable), literature and instructions concerning the product and shall distribute such information to those of its employees, agents or customers who handle, process or sell such product.

### **10. LIMITATION OF DAMAGES, LIABILITY AND INDEMNITY**

BEST MEDICAL BELGIUM'S LIABILITY TO THE BUYER FOR DAMAGES, HOWSOEVER CAUSED, SHALL NOT EXCEED PAYMENT ACTUALLY RECEIVED BY BEST MEDICAL BELGIUM FOR THE PRODUCT FURNISHED, OR TO BE FURNISHED, AS THE CASE MAY BE, AND IN NO EVENT SHALL BEST MEDICAL BELGIUM BE LIABLE FOR INDIRECT, CONTINGENT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF REVENUES OR PROFIT, LOSS OF USE, LOSS OF BUSINESS OPPORTUNITY) WHETHER ARISING IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, BREACH OF STATUTORY DUTY OR OTHERWISE AND REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

#### **A) Indemnity by Buyer**

Buyer agrees to indemnify, defend and hold Best Medical Belgium, its agents, directors, officers and employees harmless from, all claims, actions, costs, expenses and damages (including without limitation reasonable attorneys' fees) arising out of: (i) representations or claims by Buyer with respect to the product that are not authorized by Best Medical Belgium; (ii) Buyer's, its employees' or representatives' negligent acts or omissions, in connection with the compounding, use, sale, marketing, promotion or distribution of the product; (iii) any failure by Buyer or its employees and representatives to comply with governmental regulatory or licensing requirements relating to the product; provided, however, in each case Best Medical Belgium provides Buyer prompt notice of any such claim, permits Buyer to assume sole control of the defense thereof and provides all reasonable assistance in connection with the defense of such claim. Best Medical Belgium will have the right to retain its own counsel at its own cost and to participate in such defense.

#### **B) Indemnity by Best Medical Belgium**

Best Medical Belgium will indemnify, defend and hold Buyer, Buyer's agents, employees, directors and officers harmless from and against all losses, liabilities, expenses (including reasonable attorneys' fees) and damages arising (i) out of any failure by Best Medical Belgium to comply with governmental regulatory and licensing requirements relating to the product; or (ii) from or relating to any injury to or loss, solely to the extent that such injury or loss is finally determined to have been caused by a defect in the product prior to the passage of title to the product to Buyer; provided that in each case Buyer gives Best Medical Belgium prompt notice of any claim, permits Best Medical Belgium to assume sole control of the defense thereof and provides all reasonable assistance in connection with the defense of such claim.

Notwithstanding the foregoing, liability for bodily injury, or death, shall be determined by the applicable law, but each of Best Medical Belgium and the Buyer agrees to indemnify and hold the other harmless in respect of that portion of such liability attributable to its conduct or that of its directors, officers, agents and employees.

### **11. PATENT INDEMNITY**

Best Medical Belgium shall defend any suit or proceeding brought against the Buyer based on a claim that any product, or parts thereof, manufactured or furnished by Best Medical Belgium hereunder constitutes an infringement of any patent provided notice thereof is promptly given to Best Medical Belgium and all necessary authority and assistance in settling and defending such claim is given to Best Medical Belgium by the Buyer if it is determined or agreed that the product constitutes such an infringement. Best Medical Belgium shall, at its sole discretion and expense, procure for Buyer the right to continue using such product or parts, replace the same modified so that it becomes non-infringing or remove said product or parts and refund an appropriate portion of the purchase price. The foregoing shall constitute Best Medical Belgium's entire liability for patent infringement.

### **12. GENERAL**

- Except as otherwise set out herein, neither party may assign or cancel an accepted order for product without the written consent of the other party.
- This agreement shall be governed and construed in accordance with laws of Belgium (without reference to its principles on conflicts of laws).
- In the event of any conflict between these terms and conditions and those appearing on the face hereof, the latter shall rule.
- Failure by Best Medical Belgium to exercise any of its rights with respect to the supply of products to the Buyer, shall not constitute a waiver or forfeiture of such rights.
- Any of the provisions of these terms which are determined to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability in such jurisdiction, without rendering invalid or unenforceable the remaining provisions hereof and without affecting the validity or enforceability of any of the terms in any other jurisdiction.

### **13. FORCE MAJEURE**

Best Medical Belgium shall not be liable to the Buyer for failure to perform or delay in performing its obligations herein arising from unforeseen circumstances or from causes beyond its reasonable control, including but not limited to: acts of God, flood, power failure, explosion, fire, casualty or accident, or war, revolution, acts of terrorism, riot, civil commotion, acts of public enemies, blockage or embargo, or any law, order or proclamation of any government or regulatory body, failure, inability or incapacity of suppliers or usual suppliers to have available for supply sufficient raw materials, equipment or machinery, interruption of or delay in transportation, strike or labour disruption, or other cause, whether similar or dissimilar to those above enumerated, beyond the commercially reasonable control of Best Medical Belgium. Best Medical Belgium shall promptly notify the Buyer and shall exert commercially reasonable efforts to eliminate, cure or overcome such event and to resume performance of its obligations. Any incremental cost incurred by Best Medical Belgium to supply product from an alternative supplier (if available) may be invoiced to Buyer. Buyer shall have the option of accepting such supply arrangement, failing which supply of the product by Best Medical Belgium may, without liability, be suspended or reduced by Best Medical Belgium during the period of Force Majeure. Best Medical Belgium reserves the right to allocate its products among its customers, as it deems equitable.

### **14. AGREEMENT**

These terms and conditions shall constitute the entire agreement between Best Medical Belgium and the Buyer for the supply of the products. No representation, promise, agreement or condition in respect of the products shall be binding on either party unless contained herein. Except for the correction of stenographic or clerical errors, and notwithstanding anything in the Buyer's order to the contrary, no amendment of these terms and conditions shall be of any effect unless agreed to in writing by Best Medical Belgium.