

General terms and conditions

1. Scope of application

For all contracts within the framework of our present and future business relations with companies in terms of § 14 BGB, legal persons of public law and public special funds, only the following conditions shall be valid unless they are expressly amended or excluded in writing.

Deviating general terms and conditions of the contracting party shall not be acknowledged and shall not be a contractual component even without our express written objection.

2. Conclusion of contract

2.1

Our offers are always non-binding. We reserve the right to make prior sale for offered stock. If contracts are concluded subject to written confirmation, the content of our confirmation letter shall apply unless the contractual partner immediately objects.

2.2

Illustrations and data on dimensions, weight, colour, material and equipment in our sales documents, catalogues and other representations are only approximate, insofar as they are not expressly designated as binding in our order confirmation. We are entitled to make changes due to technical developments unless the interests of our contract partners would be unduly impaired.

3. Prices, packaging and shipping

3.1

All prices are valid ex our business premises in Tuttlingen in euros, excluding VAT and packaging.

3.2

Unless otherwise agreed, we will select and charge for the packaging at our discretion. The contractual partners shall dispose of the packaging at their expense.

3.3

Shipment shall be at the expense and risk of the contracting party. This includes a transport insurance.

4. Delivery

4.1

Partial deliveries are permitted and may be billed separately.

4.2 Protective devices and instructions for use are provided only to the extent determined by the applicable legislation or by our explicit offer. The safety regulations of the "Verband Deutscher Elektrotechniker" (Association of German Electrical Engineers) or equivalent standards apply to all deliveries and services in the electro-medical field.

5. Delivery time, delay, impossibility

5.1

Delivery times and delivery dates are approximate and without obligation. They are only legally binding if they are expressly confirmed by us in writing.

5.2

Delivery periods begin with the dispatch of the order confirmations, but not before the receipt of all samples, documents, approvals, releases to be provided by the contract partners and compliance with other obligations from the contract, in particular also making the agreed prepayments.

5.3.

If the contractual partner is in default with an essential obligation arising from the contractual relationship, we are entitled to extend the delivery period by the period of delay.

5.4

If deadlines are not observed for reasons of force majeure, for example, mobilization, war, turmoil or similar events, for example, strikes or lock-outs, the deadlines are extended commensurately. If the performance of the contract is thereby prevented for more than six months, each party can terminate the contract by written notice.

5.5

We shall be liable in the case of delay of performance in cases of intent or gross negligence on our part or on the part of a representative or vicarious agent in accordance with the statutory provisions. In other cases of delay of performance, in which the buyer can document a damage caused to him/her, our liability is limited to the following: after three weeks have elapsed, a lump-sum delay compensation of 0.5%, but not more than 5%, of the value of the part of the delivery which can not be used as intended as a result of the delay. Any further claims on the part of the contracting party shall be excluded – even after the expiry of a time limit set for us. The above limitation does not apply to liability for injury to life, body or health. The above regulations do not entail a change of the burden of proof to the detriment of the contracting party.

5.6

If the delivery becomes impossible to us in whole or in part, we may declare in writing the cancellation of the contract with respect to the part which has not been delivered unless this would be unacceptable for the contractual partner.

5.7

We shall be liable in the case of impossibility of delivery in cases of intent or gross negligence on our part or on the part of a representative or vicarious agent in accordance with the statutory provisions. In the case of gross negligence as well, our liability is limited to the contractual, foreseeable damage provided that none of the exceptions mentioned in clause 5 of these provisions exist. In addition, liability due to impossibility is limited to damages and replacement of futile expenses to a total of 10% of the value of the delivery or service. Any further claims of the contracting party due to impossibility of performance are excluded. This limitation does not apply in cases of intent, gross negligence or injury to life, body or health. The above regulations do not entail a change of the burden of proof to the detriment of the contracting party.

6. Acceptance

6.1

The costs arising from a late acceptance (storage, insurance, protective measures, etc.) shall be borne by the contractual partner. We are also entitled to demand, without any specific proof, a payment of 0.5%, but no more than 5% of the order value per week of acceptance delay.

6.2

If the contractual partner does not accept the delivery at the time of delivery, we can set a reasonable time limit for acceptance in writing. After the expiry of the time limit, we are entitled to cancel the contract in whole or in part and to claim damages.

7. Return delivery

We only accept returns of the goods delivered by us if we have previously agreed to this. We reserve the right to reduce the credit for the returned goods due to price reductions, reduced marketability and goods storage costs. If we were not responsible for the return, we are entitled to charge 20% of the original value as processing fees in addition to the costs for the removal of desired markings. We shall be liable for return deliveries at the earliest after receipt at our plant. Transport costs shall be borne by the contractual partner.

8. Payments

8.1

Our invoices are payable within 30 days from the invoice date without any deduction. For payments within 10 days we grant 2% early payment discount. Repair invoices are to be paid without deduction. All payments are to be paid to us in euros free of any charges.

8.2

We are entitled to demand, prior to the delivery of the goods, the position of an irrevocable and confirmed letter of credit or equivalent security.

8.3

Payment by bill of exchange always requires a prior written agreement. Bills of exchange and checks shall only be accepted with the proviso that they are honoured by the bank. All costs are borne by the contractor.

8.4

In the case of delayed payment, we are entitled to demand default interest at a rate of 8 percentage points above the base rate (§ 247 BGB). We are entitled to prove that we have suffered a greater damage.

8.5

If the contractual partner is in default of payment or if special circumstances give reasonable reason to doubt their ability to pay or their creditworthiness, we can demand the immediate payment of all existing receivables including the current bills of exchange or collaterals.

8.6

The contractual partner can only set off claims which are undisputed or legally binding.

9. Conformity of the goods

9.1

The contractual partner shall examine the goods delivered by us immediately upon receipt. Any detected lacks of conformity which have been established must always be reported to us in writing without delay, that is, within one week of notice at the latest. Failure by the contractual partner to do so results in the loss of the right to invoke the lack of conformity.

9.2

If the goods delivered by us are not in accordance with the contract, we can remedy the lack of conformity, even in the case of major deficiencies, at our option by rectification or replacement delivery within four weeks after request by the contractual partner.

9.3 If we do not remedy a lack of conformity in a timely manner (section 9.2), the contractual partner can reduce the purchase price commensurately. If the breach of contract is essential, they may set a final deadline and, upon its expiry, require the termination of the contract.

10. Liability

10.1

We are liable in cases of intent and gross negligence on our part or that of a representative or vicarious agent, as well as in the case of a slightly negligent injury to life, body or health according to legal regulations. Furthermore, we are only liable according to the Product Liability Act or due to culpable violation of essential contractual obligations or insofar as we have fraudulently concealed the defect or have assumed a guarantee for the quality of a delivery item. However, our liability to compensate for the culpable violation of essential contractual obligations is limited to the foreseeable damage typical for the contract.

10.2

In all other cases, we shall be liable for damages intentionally caused by us or through one of our legal representatives or by a leading vicarious agent. However, in this respect, we shall only be liable for the typically foreseeable damage if the damage was not intentionally caused. Liability under the Product Liability Act remains unaffected. This also applies to liability for culpable injury to life, body or health. In case of a guarantee, we are liable according to the legal regulations.

10.3

Unless otherwise agreed, compensation claims against us from breach of duty are excluded.

10.4

Insofar as we provide technical advice and recommendations without special remuneration, these are based on careful examination. If this consultation is not part of the contractually agreed scope of services which we owe, no liability for it shall be assumed. The customer is solely responsible for checking whether the goods ordered or the goods we are proposing are suitable for the purpose for which they are intended by the purchaser.

10.5

The purchaser shall ensure that the requirements of the product liability law, in particular the medical product law, are adhered to. In particular, they shall ensure that only persons having the appropriate professional qualifications handle the products. We would like to point out that these duties are prosecuted under Section 43 of the Medical Devices Act. In so far as they resell the products within the framework of their business, they shall also ensure that the purchaser is properly instructed.

11. Statute of limitations

11.1

The limitation period for all claims and rights of the contracting party for breach of contract shall be one year. The limitation period of one year also applies to all claims for damages against us which are connected with the defect, irrespective of the legal basis of the claim.

11.2

The limitation period of one year shall also apply to claims for damages of any kind that are not related to a defect. It shall not apply if the defect has been fraudulently concealed and in the cases of injury to life, body, health or freedom, claims under the Product Liability Act, gross negligent breach of duty or breach of essential contractual obligations. The above regulations do not entail a change of the burden of proof to the detriment of the contracting party.

12. Reservation of title

12.1

All delivered goods remain our property until the complete fulfilment of all our claims against the contractual partner arising from the business relationship.

12.2

If there are specific requirements for the effectiveness of the retention of title in the country of destination, or if certain measures are to be taken, the contractor must point these out and is responsible for their compliance. If, in accordance with the regulations of the country of destination, a retention of title is ruled out, the contractor shall assist us with all measures necessary to protect and secure our property in the country of destination.

12.3

During the existence of the retention of title, a pledge or security transfer on the part of the contractor is prohibited.

12.4

The contractual partner is entitled to sell the goods in the ordinary course of business. In the event of a resale of the goods delivered by us, the contractual partner herewith assigns to us their claim from the resale against the customer with all subsidiary rights without any need for further explanations. The assignment includes any claims for balances, but only in the amount corresponding to the price of the delivery item invoiced by us. The claim portion assigned to us shall take priority.

12.5

The contractual partner is obligated to store the goods delivered by us with care and to insure them against theft, fire and water damage as well as other risks for the time up to the complete purchase price payment at their expense. The contractual partner assigns claims against the insurance companies to us as of now. We accept this assignment.

12.6

In the case of seizures, confiscations or other disposals or interventions by third parties, the contractual partner shall notify us without delay.

12.7

Insofar as the realizable value of all security rights to which we are entitled exceeds the amount of all secured claims by more than 10%, we shall, at the request of the contractual partner, release a corresponding portion of the security rights. In doing so, we have the choice of which security rights to release.

13. Sales documents

13.1

In our catalogues, drawings and other documents, we reserve the right to property and copyrights. These documents may not be made accessible to third parties, copied or otherwise used without our express written consent.

13.2

Any responsibility for consequences arising from misprints or other mistakes are only assumed by us if gross negligence or intent has been proven.

14. Collection of data

We are entitled to electronically store and process data in accordance with legal regulations in connection with business transactions.

15. Place of performance and jurisdiction, partial invalidity

15.1

The place of performance for all contractual obligations and the court of jurisdiction is Tuttlingen.

15.2

For these general terms and conditions as well as for the entire legal relationship between the purchaser and us, the law of the Federal Republic of Germany or the reference norms of international private law apply under exclusion of the UN purchase law.

15.3

Should one of these provisions or a provision under other agreements be or become invalid in the general terms and conditions, the validity of all other provisions or agreements shall remain unaffected.

16. Application

These provisions shall apply from January 01, 2017. All previous conditions are hereby revoked.