

General Terms of Supply and Service

These terms form are an integral part of all our tenders and contracts for supplies and services (hereafter referred to as services) both in present and future business relations. Different arrangements, particularly any contradictory business conditions from our clients and additional agreements, must have our express written consent in order to become part of the contract.

1. Tender and conclusion of a contract

- 1.1 Our tenders/estimates are subject to alteration.
- 1.2 Contracts and supplements or changes to contracts with us are permitted only when we have accepted orders in writing or have agreed changes with our customers in writing or if the services ordered have been delivered or produced.
- 1.3 We reserve the right to improve or alter the delivery items as well as our documentation and information at any time provided that this is reasonable for our customers (e.g. change in shape or manufacture, colour changes etc.). The normal permitted tolerances shall apply to standard delivery items.

2. Prices

- 2.1 Our prices are net from our warehouse in Bremen, excluding transportation, packaging and other additional costs (especially insurance, customs and taxes, etc.), which will be charged for separately. Turnover tax, required by law, is not included in our prices but is listed separately in the invoice.
- 2.2 If we are delivering abroad, the customer must make all the necessary information available to us without delay (including turnover tax No., Id. No., confirmation of transport and final destination etc.).

3. Deadlines and delivery dates

- 3.1 Deadlines and delivery dates are only legally binding for us if these have been agreed in writing with our customers. The service deadlines take effect on the date on which we give our written acceptance or confirmation of the terms.
- 3.2 Acts of God and other extraordinary circumstances such as industrial action, machine breakdown, acts of state and traffic disruption, regardless of whether these circumstances have arisen with us or our suppliers, exempt us, for their duration and in cases where the service proves impossible, entirely from our service obligation. Any agreed penalty clause is likewise not forfeited under these circumstances.

4. Payment

- 4.1 Our payment terms shall apply immediately on delivery or acceptance of the service and, in any case, not later than 14 days after notification of delivery and/or invoice.
- 4.2 If the customer receives a consignment of delivery items on approval, payment is due 14 days after the delivery date.
- 4.3 Discounts and trade discounts in particular, require a separate written agreement.

5. Acceptance and removal

- 5.1 Our customers are required to collect and pay for services from the site designated by us without delay and, at the latest, within 8 working days of receipt of our notification.
- 5.2 If a customer does not collect and pay for the services as stipulated (paragraph 5.1) and fails to respond to any reminder, we can, after an appropriate set period, withdraw from the contract and demand compensation. Furthermore, we can elect either for compensation for the loss incurred or, without proof of loss, claim 10 % of the agreed price. Customers are entitled to prove that the losses we have sustained are considerably less or non-existent.
- 5.3 Customers are entitled, with the exception of specially commissioned products, to return delivery items dispatched by us as stipulated in the order, in their intact original packaging within 3 months of the delivery date. There will be an administration charge of 10% of the net value of the goods. This right is suspended if the individual packaging of the delivered items and/or the sterile seal on sterile products has been opened or damaged.
- 5.4 An administration fee, other than paragraph 5.3, is not payable on consignments sent for approval provided that the goods are returned to us within 14 days.

6. Transfer/Compensation and Retention

- 6.1 Our customers are not permitted to communicate our written agreements or any claims against us to a third party.
- 6.2 Our customers are entitled to present us only with incontestable, legally validated and established (proven) claims or to exercise the right of retention or the right to refuse services on account of these claims.
- 6.3 The existing exclusion of the right to retention/right to refuse services does not apply when we have already received part payment for services supplied not wholly in accordance with the contract, from our customer corresponding to the value of part of the provision stipulated in the contract, of if in relation to our initial suppliers, we have retained part of the payment corresponding to the value of the services provided that were not in accordance with the contract.

7. Location of execution of contract, transfer or risk and insurance

- 7.1 We supply our customers from our Bremen warehouse.
- 7.2 Part deliveries and services are permitted.
- 7.3 The risk of accidental damage to or accidental deterioration in our services passes to our customers on collection and/or payment and, in any case, at the latest on leaving our warehouse. This also applies to part services even if we have taken on other services (e.g. transportation or shipment).
- 7.4 If collection/payment or removal from our warehouse is delayed due to circumstances arising on the part of the customer, this risk shall pass to the customer as soon as the period stipulated in paragraph 5.1 has elapsed and no later.

8. Protective legislation/Reservation of ownership

- 8.1 All documentation, drawings, samples and models to which our customers have access remain our property, all copyright and/or other commercial protection rights reserved. Our documents are not to be used for any other purposes without our written approval. In particular, photocopying is not permitted, nor are documents to be transmitted to a third party. These documents must be returned to us immediately on request.
- 8.2 We reserve the right to all items supplied and/or installed by us (reserved goods) until the customer has settled all monies payable to us in accordance with the terms of the respective contracts and the business connections with the customer, either at the present time or in future, regardless of the legal grounds for the justified claims against these customers arising either from the time at which the contract was concluded or which were already in existence. The following clauses apply to this reservation of ownership:

- 8.2.1 Our customers must keep the reserved goods in an adequate condition, must store them separately and must label them immediately as when in our possession.
- 8.2.2 At our customer's request we will transfer the ownership of the reserved goods back to the customer when their value exceeds 20 % of the total value of the claims levied against the customer.

9. Defects

- 9.1 The customer must report any defects to us within eight calendar days of receipt of services. Concealed defects must be reported within eight calendar days of detection.
- 9.2 The customer must give us the opportunity to compensate for the defect within an allotted time span. We can choose either to repair the defect, deliver a defect-free item or to manufacture a new article.
- 9.3 Spare parts are the property of our company if the respective customer does not insist on his right before subsequent action is taken.
- 9.4 If the subsequent action fails, cannot be expected of our customer or us or is feasible only at unreasonable costs, the customer can withdraw from the contract or the fee will be reduced without compromising any claim to compensation.
- 9.5 Customers claims against us for reimbursement of costs incurred by the subsequent action, particularly transportation, mileage, working and material costs are excluded if the costs increase because the services are subsequently delivered to a location other than the customer's head office unless delivery to that location is deemed essential for the purpose for which the services are intended.
- 9.6 Legal recourse instigated by the customer against us is valid only in so far as the customer and his purchasers are not affected by any of the arrangements arising from defect-related claims and rights. See also paragraph 9.5 for the extent of legal recourse instigated by the customers against us.
- 9.7 Subject to paragraph 10, claims arising from defects do not apply when the services are not used properly by the customer or by a third party appointed by the customer, or if the services are not processed correctly. This applies in particular to the incorrect use and processing of implants, implant connections, anchorage systems for prostheses and/or defective upper constructions by the customer or a third party appointed by him as well as for defects arising from failure to comply with the attached insertion instructions/instructions for use.
- 9.8 Liability for the defect is (subject to paragraph 10) also excluded if this occurs as a result of wear and tear. Natural wear and tear resulting in reduced usability should be expected, particularly as regards the use of tools and instruments supplied by us (e.g. rotating instruments and forceps) according to the frequency of use.
- 9.9 The period for reporting material defects and defective title is limited to one year starting with the transfer of risk. This does not apply if and in so far as longer deadlines are stipulated in accordance with §§ 438, para. 1 No. 2, 479 para. 1, 634a para. 1 No. 2, 651 BGB, the defect was maliciously concealed or if one of the cases of liability specified in paragraph 10.1 applies.
- 9.10 Our obligation regarding payment of compensation is based on paragraph 10.
- 9.11 No burden of proof to the customer's disadvantage is associated with the aforementioned regulations.

10. Liability

- 10.1 Claims for compensation and costs (hereafter referred to as compensation) lodged by the customer against us, regardless of legal grounds, are excluded unless they concern the terms of the product liability legislation, intentional or grossly negligent breach of contractual or legal obligations by us, an adverse effect on the customer's health of physical injury to the customer arising from breach of obligation on our part, the transfer of a guarantee for certain properties/characteristics in relation to our services or the infringement of essential contractual obligations by us.
- 10.2 In cases of infringement of essential contractual obligations by us, customer compensation against us is limited to foreseeable damage specific to the contract provided that deliberate or gross negligence is not involved, no adverse effect on health or physical injury is involved and the transfer of a guarantee for certain properties/characteristics in relation to our services is not comprised by us.
- 10.3 Any compensation claims lodged by our customers against us due to delayed delivery are limited in the respective amount stipulated on the tender for the services in question unless the delay is due to deliberate or grossly negligent breach of obligation by us.
- 10.4 A breach of obligation by us applies equally to our legal representative or vicarious agents.
- 10.5 The customer assumes exclusive liability for infringements to patents and other protected third parties for services produced in accordance with drawings, samples or details provided by the customer, thus exempting us from third party liability. This does not effect our obligation to refer customer to the recognisable breach of legislation governing third party protection.
- 10.6 Paragraph 9.11 applies accordingly.

11. Data protection

We are entitled to store relevant data relating to our customers within the scope of our business dealings on computer and to process and use these data for commercial purposes in accordance with data protection legislation.

12. Court of jurisdiction, case law and partial ineffectiveness

- 12.1 The sole court of jurisdiction for all disputes arising directly or indirectly from the terms of the contract between our customers, and us or from documents, bills of exchange and cheques is Bremen (Bremen City Court). We nevertheless reserve the right to choose to take a complaint against a customer to the court having jurisdiction over his head office.
- 12.2 We are governed by the laws of the Federal Republic of Germany excluding the United Nations Committee on International Trade.
- 12.3 Should individual terms of a contract relating to supplies and services be or become unworkable, the remainder of the contract of which these terms form an integral part is still valid.

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