

§ 1 Validity of the Conditions

1. These "General Terms and Conditions" (T&Cs) exclusively apply to all deliveries, services and offers from INVIDIA Medical GmbH & Co. KG.

The T&Cs therefore also apply to all future business relationships, even if they are not explicitly agreed again. These conditions are considered accepted at the latest when the goods or services are received.

INVIDIA Medical hereby expressly objects to any reference to or counter-confirmation by the customer with reference to his terms and conditions.

2. Deviations from these Terms and Conditions shall only be effective if they are confirmed in writing by the vendor.

3. Any legal declarations are only valid in written form. The written form may thereby not be replaced by a simple electronic form (§ 127 III BGB).

Necessary is the qualified, electronic form (§ 126 a BGB).

4. The vendor is responsible for the compliance with the relevant German regulations, which are decisive unless otherwise agreed and as far as products made in Germany are exported.

The observance and compliance with the relevant foreign trade provisions (e.g. import licenses, foreign exchange transfer permission etc.) and those of the country to which delivery is to be made falls within the sphere of responsibility of the buyer.

§ 2 Offer and Conclusion of Contract

1. All offers of the vendor are subject to change and non-binding. Letters of confirmation and all orders require the vendor's confirmation in writing or by telefax to be legally valid. The same applies to amendments, modifications or subsidiary agreements.

2. drawings, illustrations, dimensions, weights or other performance data are only binding if explicitly agreed upon in writing.

§ 3 Prices

Prices in quotes and price lists are to be understood unpacked in Euro, Ex Works Emmingen-Liptingen "EXW" (Incoterms ® 2010), excluding freight, insurance, customs, fees and other public charges as well as VAT.

The prices applicable on the date of delivery shall apply.

§ 4 Delivery and Performance Time

1. The delivery dates and deadlines indicated by the vendor are non-binding unless explicitly agreed upon writing otherwise.

2. The vendor is not responsible for delays in delivery and performance owing to force majeure as well as owing to events which make it significantly difficult or even impossible to deliver; this shall include subsequent difficulties in procurement of material, operational disturbances, strikes, lock-outs, lack of personnel, lack of means of transport, official orders, etc. - even if they occur with their suppliers or the latter's sub-suppliers, even in the event of bindingly agreed periods and deadlines.

These circumstances authorise the vendor to postpone the delivery or service for the duration of the impediment and for a reasonable lead-time, or to withdraw from the contract in full or in part due to the non-fulfilled section of the agreement.

3. If the hindrance lasts longer than three months, the purchaser shall be entitled, after setting a reasonable extension period, to revoke the contract for the part that has not yet been fulfilled.

4. Provided that the vendor has to represent the disregard of obligingly promised time limits and deadlines, or is in default, the buyer is entitled to a default reparation at the rate of 1.0% for every complete week of delay, in total, nevertheless, at most up to 10% of the invoice value of the delivery affected by the default and performance.

All further claims are excluded, unless default is due at least to gross negligence.

§ 5 Custom-made Items

The calculation for custom-made products is based on prime cost.

Products manufactured to custom specification cannot be taken back.

Orders for goods manufactured to specification may only be cancelled with the explicit prior written consent of the vendor.

The vendor is not obliged to check property rights of provided samples, drawings or other documents for custom-made products.

The responsibility rests entirely with the purchaser.

Purchaser shall be liable to the vendor for all losses and damages suffered by vendor resulting from unknowingly infringing a third party's industrial property rights when customizing products on purchaser's request.

§ 6 Shipping / Transfer of Risk

The risk will pass to the purchaser as soon as the shipment is handed over to the shipper or has left the warehouse.

If the dispatch becomes impossible without the vendor being to blame for, the risk passes to the purchaser with the vendor's message of readiness for dispatch.

The vendor shall be entitled to insure the consignment against breakage, transport damage and fire damage at the buyer's expense, unless the purchaser expressly refuses to accept this insurance.

§ 7 Warranty

1. The vendor guarantees that the products are free from manufacturing and material defects. The warranty period is 12 months.
2. The period of warranty starts with the transfer of risk.

3. The Customer is obliged to inspect the goods on receipt of delivery and to advise the vendor in writing within ten days of receipt of the goods of any faults or defects.
4. The buyer must examine the products without any delay upon receipt and has to notify the vendor straightaway in writing of defects, as per §377 HGB.
5. In the event of a notification by the purchaser that the products have a defect, the vendor may demand at its own discretion, that;
 - a) the damaged part is sent in for repair and then shipped back to the purchaser;
 - b) the purchaser keeps the faulty part/s available and a service technician of the vendor will go to the purchaser in order to have the parts repaired on site.
6. If rectification fails after a reasonable period, the purchaser can, at its own discretion, demand reduction of the remuneration or cancellation of the contract.
7. No liability shall be accepted for normal wear, tear and missuses.
8. Warranty claims against the vendor are entitled only to the direct purchaser and are not transferable.
9. No warranty claims shall be accepted for used goods.
10. Further and additional warranty provisions and notes in the instructions for use for the products must be observed.

§ 8 Retention of Title

1. The vendor retains title to the products that are delivered until the purchase price and all further debts arising from the business relationship with purchaser have been paid.
2. Products covered by this retention of title must not be pawned, be given to third parties as security or used in any other way for rights of third parties.

The purchase only has the right to resell the parts as part of his normal and legal business. The purchaser shall procure that the retention of title agreed herein will be upheld to the extent possible; purchaser hereby assigns to vendor the purchase price claim resulting from the resale of the good in full amount.

The purchaser has to name the clients upon request.

The vendor hereby accepts the assignment.

3. Upon the purchaser's demand, the vendor releases securities in case the value of the securities exceeds the value of the claims by more than 10 % and the security right is divisible.

4. The buyer shall assist the vendor in taking any measures necessary to protect the vendor's ownership and title to the product in the country concerned.

The buyer shall inform the seller immediately risks to the vendor's ownership arise. This applies especially to disposals of third parties or authority measures.

§ 9 Payment

1. If not specifically agreed otherwise, the issued invoices shall be payable by advanced payment.

2. The vendor has the right - in spite of other terms of the purchaser - to use payments as settlements of other, older open invoices.

If costs and interests have accrued already, the purchaser is entitled to set the payment off against the costs and subsequently against the interests and lastly against the main service.

3. A payment shall only be considered made when the vendor is able to access the amount.

Payment by check shall be deemed credited when the check has been honored.

4. Should the purchaser fall behind schedule, the vendor is entitled to demand interest - as from the concerning date - amounting to 8 percentage points beyond key interest rate as overall compensation as per § 288 II BGB.

5. For customer-specific parts (special manufacture) or versions thereof, the vendor shall generally be entitled to demand a prepayment amounting to two thirds of the purchase price, payable prior to 3 weeks before start of production at the latest.

§ 10 Payment in Advance and Security Deposit

If the financial situation of a customer worsens significantly after finalizing a contract and the possibility arises that payment cannot be made, or if such a situation existed prior to finalizing a contract and was only recognized later, then all further deliveries shall be made on a prepayment basis only or after the deposit of security.

§ 11 Limitation of Liability

Claims against any kind of damage cannot be made towards persons of the staff of the vendor unless already damaged product has been supplied deliberately or with culpable negligence.

§ 12 Default of Acceptance of Goods

In case the purchaser is more than one month behind in taking over shipments after the vendor has informed the purchaser about the readiness for dispatch, the vendor can claim a stocking charge of 1% of the amount invoiced.

§ 13 Return of Goods

Each return of goods requires the prior written authorization of the vendor.

The computed value minus handling charges of min. 40% and additional possible costs, will be credited.

The return of goods shall be free of charge for the vendor.

Custom-made products, modified products, discontinued product lines as well as articles which are not listed in the sales documents of the vendor shall be deemed non-returnable and are expressly excluded from the right of return.

§ 14 Data Recording

The purchaser agrees to personal data relating to his order being recorded and processed for purposes of the business transactions in accordance with the relevant statutory provisions.

§ 15 Non-Disclosure

1. The parties mutually commit themselves to treat the entire knowledge and information, especially technical details as well as all documentation acquired in the course of the cooperation, as strictly confidential.

This obligation shall apply irrespectively of whether the information has been shared orally or in written.

2. This obligation of confidentiality shall not apply if and so far the items of information are demonstrably a matter of general knowledge,

or if the information becomes publicly without the fault of the party bound to secrecy,

or if the information is rightfully received from a third party,

or if the receiving party already possessed the information before the other party transferred it,

or if the information must be disclosed due to obligatory statutory provisions or orders by a court

or official authority.

3. The obligation of non-disclosure still persists after expiration or termination of a contract or an order.

§ 16 Applicable Law, Place of Jurisdiction, Partial Invalidity

1. These terms of business and all the legal relations between the contractor and the customer will be governed by the law of the Federal Republic of Germany.

2. In so far as legally permissible, Tuttlingen shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship.

3. In the event of a provision in these business conditions or a provision in the context of other agreements proving to be or becoming ineffective, the effectiveness of all other provision or agreements remains unaffected.

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