

General sales and delivery terms

1. DEFINITIONS

- 1.1 General conditions are understood to mean these general conditions of sale and delivery.
- 1.2 The seller is understood to mean Medica Europe B.V., having its registered office in Oss.
- 1.3 The buyer or customer is understood to mean every natural person, partnership or legal entity who enters into a contract with Medica Europe B.V.
- 1.4 The term 'in writing' shall have the following meaning: by letter, fax or e-mail.
- 1.5 Insofar as these general terms and conditions are also drawn up in a language other than English, in the event of any conflict the English text shall always prevail.

2. APPLICABILITY OF THESE CONDITIONS

- 2.1 These conditions apply to all offers, contracts and other legal relationships between the seller and the buyer in which the seller undertakes to deliver goods to the buyer.
- 2.2 The seller explicitly rejects the general conditions of the buyer or any other general conditions.
- 2.3 If, for whatever reason, any clause of these general conditions is not valid, these conditions nevertheless remain in force for the rest.
- 2.4 If, for whatever reason, any clause of these general conditions or the contract is not valid, the parties shall negotiate the content of a new condition, which must be as close as possible to the content of the original clause.
- 2.5 Departures from these conditions will only be valid if expressly agreed to in writing by the seller.

3. OFFERS AND CREATION OF THE CONTRACT

- 3.1 All offers of the seller shall be free of obligation, even if they contain an acceptance period.
- 3.2 A contract with seller is first created once the seller has confirmed the order in writing.
- 3.3 The order confirmation by seller is deemed to be accurate, unless within five days after the date of the order confirmation the buyer has lodged and the seller has received written objections.
- 3.4 The buyer may only make a claim on the basis of supplementary or contrary conditions if such supplementary or contrary conditions have been confirmed by the seller in writing.

- 3.5 Any contract will be concluded under the resolutive that the buyer, according to the credit insurance company or the seller, will be sufficient creditworthy.
- 3.6 Any offer made or undertaking given by a representative of the seller shall only be binding insofar as the latter confirms this in writing.
- 3.7 Any samples or examples supplied and / or shown with the offer are considered to be indicative only unless otherwise agreed in writing.

4. PRICES

- 4.1 The prices are calculated on the basis of the prices and conditions applicable on the date the order was received by the seller. Unless explicitly stated otherwise in writing, all prices in offers are excluding VAT.
- 4.2 The price is based on Free Carrier, Oss, The Netherlands (FCA, Incoterms® 2010, as described under 'Delivery sub b'), unless explicitly, in writing, otherwise agreed.
- 4.3 Any price cited by the seller shall be based on the existing monetary conditions, labour costs, procurement prices, the prices of material and raw material, duties, taxes and other levies, subsidies and the like prevailing at the time the contract concerned is concluded. In the event that one or more of these cost price components increase after conclusion of the contract but before the relevant goods have been delivered, the seller shall be entitled to pass on any reasonable price increase to the buyer.
- 4.4 If it is agreed that a payment discount is to be granted, this will be in the manner indicated by the seller, either by the granting of a discount on the invoice in question or by a credit note after receipt of payment. The amount of the discount, and the articles on which the discount is granted, will always be indicated by the seller. Any payment discount wrongly granted will be charged.
- 4.5 For Free Carrier deliveries (FAC, Incoterms® 2010, as described under 'Delivery sub b'), € 20,71 document costs will be added per shipment to the invoice.
- 4.6 All deliveries and collections are based on pallet exchange unless agreed otherwise in writing. Exchange can be arranged at delivery or collection of the goods. Vos Logistics BV will keep a record of pallets credited/debited on the basis of the CMR receipts. Class A euro pallets not exchanged or returned can be invoiced once per 6 months for € 10,00 each.

5. DELIVERY PERIOD

- 5.1 Unless otherwise agreed in writing, the stated delivery period shall under no circumstances be deemed to constitute a fatal date.
- 5.2 The seller shall not be in default in respect of such delivery time until the buyer notifies it in writing that it is in default, in doing so stipulates a reasonable period of time within which the seller has the opportunity to effect delivery, and the latter still fails to do so.

- 5.3 If the time for delivery is exceeded, the buyer shall not be entitled to cancel or terminate the contract, unless the time for delivery is exceeded with more than 16 weeks, without the buyer being entitled to any compensation.
- 5.4 The stated delivery period commences at such time as the relevant contract is concluded, the seller is in possession of all documents and details to be provided by the buyer and the seller has also accepted any security for payment which may have been agreed or have received any prepayment.
- 5.5 The seller shall not be liable for any harm due to late delivery if and insofar as this is attributable to circumstances beyond seller's control and sphere of risk, which is deemed to include late or non-compliance on the part of its suppliers or the transport company it engages.

6. DELIVERY

- 6.1 Delivery of goods will take place Free Carrier, Oss, The Netherlands (FCA, Incoterms® 2010, as described under Delivery sub b'), unless explicitly agreed otherwise, in writing.
- 6.2 The seller is entitled to deliver an order in part shipments and to send the buyer a separate invoice for each part shipment. The seller shall be entitled to demand payment for each partial delivery before proceeding with any other.
- 6.3 The seller is entitled to postpone new shipments until the buyer has fulfilled all outstanding (payment) obligations vis-à-vis the seller.
- 6.4 In the event that the buyer has not picked up the goods at the time that these are ready to be picked up, the goods will be stored at the expense and risk of the buyer. The seller shall be entitled to consider the contract as dissolved with immediate effect, all this while reserving all other rights of the seller.
- 6.3 In the event that parties have agreed that the seller will store the goods it is to deliver for the buyer, either in its own storage space or in that of a third party, delivery will take place at the time of their storage.

7. PRODUCT RECALL

- 7.1 The seller may impose the obligation on the buyer to remove goods that he has brought onto the market and which are defective, or in which a defect threatens to manifest itself, from the market within a reasonable period of time to be stipulated by seller.
- 7.2 For the purpose of implementing a potential product recall, the buyer shall maintain adequate records of its sales of the goods to customers for the agreed period(s). Such records shall include dates and quantities of shipments, batch numbers and other information which would allow an expeditious recall. The costs of any product recall shall be born by the party who is to be considered as liable for such recall.

8. RETENTION OF TITLE (to German customers a different regulation applies, see clause 21)
- 8.1 The goods delivered by the seller to the buyer will remain the property of the seller until all that is owed for the supply of those goods, including any costs, damages and interest, as well as any amount payable due to the buyer's failure to comply with his obligations pursuant to this contract or any other, is paid in full.
- 8.2 The buyer is entitled to dispose of the goods delivered in the normal course of its business. Outside of this, as regards goods which have not yet been paid for, the buyer is not entitled to grant a pledge on the goods to third parties, let or sell the goods to third parties or in any other way grant a qualified right thereon or dispose thereof without the permission of the seller.
- 8.3 At the first request of seller, the buyer is obligated to provide security for the amount(s) owing, both for existing and future claims.
- 8.4 Upon resale of the goods delivered the buyer is obligated to reserve title in the manner described above.
- 8.5 The buyer is obliged to keep and/or render the goods subject to retention of title in seller's favour identifiable and to keep them separate from each other and from other products held by the buyer.
- 8.6 The buyer has a duty of care with regard to the goods covered by the retention of title and must insure them and keep them insured against all of the risks customary in the sector.
- 8.7 The buyer shall at all times help the seller exercise its right of ownership. As long as retention of title applies, the buyer shall have a duty to grant seller access to his buildings and premises.
9. ACCEPTANCE & COMPLAINTS
- 9.1 Upon receipt of the goods, the buyer is to inspect the goods for any visible and/or immediately observable defects and whether the goods have been delivered in accordance with the contract and the seller's packing list. The buyer is obligated to inform the seller thereof in writing within 2 working days after delivery, indicating the number of the packing list and – if applicable – the series and batch numbers of the delivered goods. In the event of failure to lodge complaints within the term of 2 working days, the delivered goods are deemed to be fully in accordance with the contract between parties.
- 9.2 Defects which could not reasonably be observed within the given period, must be reported in writing to the seller immediately upon observation and at the very latest within six weeks after delivery of the products.
- 9.3 Deviations and differences in quality, colour or finishing which are relatively minor,
which are common in the trade or technically cannot be avoided cannot be a ground for complaints.
- 9.4 If the buyer has reported a complaint to seller in a timely manner and seller has

acknowledged this complaint, the seller has no other obligation to the buyer than, at seller's own discretion, to take back the good and to replace it with another good, or to credit the purchase price (proportionally).

Incorrect performance of the order or incorrect invoicing can never lead to a claim for compensation vis-à-vis the seller.

- 9.5 Complaints about the invoice must be notified to seller within 7 working days after invoice date.

10. CANCELLATION OF ORDERS

- 10.1 Cancellation of the order shall only take place with the explicit written permission of the seller.
- 10.2 Goods which have been specially made or composed by seller for the buyer, or specially ordered for the buyer from the suppliers of seller, will not be taken back by the seller, unless explicitly agreed otherwise, in writing.

11. RETURN SHIPMENTS

- 11.1 Return shipments of goods delivered by the seller are only accepted if the goods in questions are in the original packaging and in faultless condition.
- 11.2 Goods may only be returned at the expense and risk of the buyer after prior written approval of seller.
- 11.3 Goods for which there is an expiry date, will be taken back subject to conditions prevailing at the sellers or which are common within the industry at that time.
- 11.4 Returns and complaints can never be a reason to suspend the payment obligation.

12. PACKAGING

- 12.1 Durable packaging, for which the seller may or may not charge a deposit, remains the property of the seller. Any amounts charged will have the character of deposits. If the packaging which is returned has the marking, labels or notes affixed by the seller and is in good condition, the amounts charged will be compensated, subject to any compensation for wear and tear determined by the seller.
- 12.2 If the packaging is not received by the seller within six month after delivery, the seller may charge the buyer a rental price for the use thereof.

13. LIABILITY

- 13.1 Except in the case of legal liability pursuant to provisions of mandatory law and a deliberate act or omission, or gross negligence on the part of seller, any liability of seller for any damage is excluded. Liability for any indirect or consequential damage of any kind, including loss of profit and business interruption loss or loss

- ensuing from late delivery or incorrect advice and liability for loss of goods or damage to goods during transport, is expressly excluded.
- 13.2 In all cases where seller is obliged to pay compensation for damages, the aggregate liability of seller to buyer under any theory or ground shall at all times be confined to the net invoice value of the goods concerned or to that part of the net invoice value to which a claim for compensation is directly or indirectly related. Total compensation for damages payable by seller shall in no event exceed € 1.000.000,- per event, whereby a series of related events will be considered as a single event.
- 13.3 The buyer shall indemnify seller against any claim made by a third party in respect of which seller is not liable under these terms and conditions.
- 13.4 The buyer indemnifies seller against all claims from third parties for product liability stemming from defects in products provided by the buyer to third parties that consisted of or included goods and/or materials provided by seller.
- 13.5 It is buyer's responsibility to determine whether the goods are suitable for its intended use.
- 13.6 All claims against seller other than those which have been acknowledged by seller shall lapse by the mere expiry of 12 months following the origin of that claim.

14. FORCE MAJEURE

- 14.1 The seller is never liable for the consequences of a shortcoming which in accordance with the provisions of Section 6:75 of the Dutch Civil Code (force majeure) cannot be attributed to the seller. In any event, the following circumstances will not be at the risk and expense of the seller: cessation of work within the business of the seller, its suppliers or transporters; government measures; fire, unrest, mobilisation, sanctions, embargo's, boycotts, war; illness in the business of the seller, its suppliers or transporters, as well as all other circumstances which the seller could not reasonably foresee over which it has no influence.
- 14.2 In cases of force majeure the obligations of delivery and other obligations of the seller are suspended. If the period in which the seller finds it impossible to fulfil his obligations is longer than three months, then both parties are entitled to dissolve the contract without legal intervention, and without creating an obligation to compensate.
- 14.3 If in the event of force majeure the seller has already partially fulfilled his obligations, or is only able to partially fulfil his obligations, he is entitled to invoice separately for that which has already been delivered, or that part which is deliverable and the other party is bound to pay this invoice as if it were a separate contract.

15. PAYMENT

- 15.1 Unless explicitly agreed otherwise, in writing, payment must be made by the buyer to the seller within 30 days from invoice date.
- 15.2 The buyer will be legally in default vis-à-vis the seller if the payment has not been received within the aforementioned time period.
- 15.3 In the event of late payment the buyer will owe the seller interest of 1.5% per month, or part of a month.
- 15.4 All costs involved in collecting the amount due, both judicial and extrajudicial are at the expense of the buyer. In addition, in such case the seller is entitled to charge the buyer administration costs. The extrajudicial collection costs, including administration costs, will be set by the parties as being at least 15% of the principal claim, with a minimum of €250,- , to be increased by the VAT owing thereon. If the seller can prove that it has incurred higher costs, that were necessary in all fairness, then these, too, shall be eligible for compensation
- 15.5 If the buyer believes it has a counterclaim on the seller, set-off of that counterclaim with the claim of the seller is not permitted, unless the claim of the buyer on the seller has been acknowledged by the seller in writing and the seller has permitted set-off in writing.
- 15.6 At any rate, the entire purchase price shall fall due with immediate effect in the event that the buyer fails to effect timely payment or if he goes bankrupt, is granted a suspension of payments, is placed in the care of a guardian, his possessions are attached, he dies insofar as he is a natural person, or in the event that the buyer's business is liquidated or dissolved.
- 15.7 Upon or after entering into the contract and before its implementation, seller will be entitled to demand a guarantee from the buyer that both the payment obligations and any other obligations arising from this contract will be fulfilled. Refusal by the buyer to provide the required security gives seller the right to suspend its obligations and ultimately, without any notice of default or legal intervention, the right to dissolve the contract wholly or partially, without prejudice to his right to compensation for any damages suffered by him.

16. SUSPENSION AND TERMINATION

- 16.1 In the event that the buyer fails to comply with his obligations pursuant to a contract into which he has entered, or fails to do so properly or on time, if there are grounds to fear that this will occur, or in the event that the buyer applies for a suspension of payments, files for bankruptcy or liquidates his business, seller shall be entitled to suspend or terminate the contract concerned without the need to give notice of default or for judicial intervention, and it shall not have a duty to provide any form of compensation.
- 16.2 Any claim on the part of seller pertaining to a part of the contract which has already been executed, or harm suffered as a result of its suspension or termination, which shall be deemed to include loss of profit, shall fall due with immediate effect.

17. INTELLECTUAL PROPERTY RIGHTS

- 17.1 The seller or seller's manufacturer retain all intellectual property rights related to delivered goods, even if the goods have been developed or composed specifically for the buyer.
- 17.2 The buyer is not permitted to modify all or part of any goods supplied. The buyer shall not affix any other trademark to the goods, to use the relevant mark in any other way, or to register it in his own name.
- 17.3 The buyer will immediately alert seller if a third party infringes or threatens to infringe the intellectual property rights of the seller or if third parties adopt the position that goods of seller infringe their own intellectual property rights.

18. DATA PROTECTION

- 18.1 The seller processes personal data in accordance with laws applicable to the protection of personal data ("**Data Protection Laws**") for the purpose of the execution of a contract with the buyer. Personal data provided to the seller by the buyer, will only be used for this purpose. Should seller requires the services of third parties for carrying out or processing certain tasks, the Data Protection Laws will be complied with.

19. COMPLIANCE

- 19.1 The buyer represents and warrants that it is not subject to any trade sanctions imposed by the U.S., EU and/or UN and that it is in compliance and shall comply with all applicable laws and regulations relating to trade restrictions and/or export controls (including trade sanctions imposed by the US, EU and/or UN) and shall provide evidence of compliance with the foregoing as the seller may reasonably request from time to time.

20. APPLICABLE LAW AND JURISDICTION

- 20.1 These conditions and any offers, contracts and other legal relationships subject to these general conditions are exclusively governed by and construed in accordance with Dutch law, including book 6, Title 5, Section 3. The application of the United Nations Convention on Contracts for the International Sale of Goods (1980) [CISG] shall be excluded.
- 20.2 The parties will always try to resolve any disputes relating to any agreement through proper consultation.
- 20.3 The competent court in 's-Hertogenbosch has exclusive jurisdiction to hear disputes between the seller and the buyer, unless the seller would elect to submit the dispute to the competent court of the country in which the buyer is domiciled.
- 20.4 Disputes between the seller and buyers who are established outside the European Union will be settled by means of arbitration of the International Chamber of Commerce under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one arbitrator. The place of arbitration will

be 's-Hertogenbosch, the Netherlands. The arbitral procedure shall be conducted in the English language.

As a deviation from clause 8 the following applies to German customers:

21. EIGENTUMSVORBEHALT

- 21.1 Wir behalten uns das Eigentum an den gelieferten Waren bis zur vollständigen Tilgung aller uns aus der Geschäftsverbindung zustehenden und noch entstehenden Forderungen, gleich aus welchem Rechtsgrund, vor.
- 21.2 Der Kunde ist zur Verarbeitung unserer Erzeugnisse oder deren Verbindung mit anderen Erzeugnissen im Rahmen seines ordnungsgemässen Geschäftsbetriebes berechtigt. An den durch die Verarbeitung oder Verbindung entstehenden Gegenständen erwerben wir zur Sicherung unserer in Ziffer 1 genannten Ansprüche Miteigentum, das der Kunde uns schon jetzt überträgt. Der Kunde wird die unserem Miteigentum unterliegenden Gegenstände unentgeltlich verwahren. Die Höhe unseres Miteigentumsanteils bestimmt sich nach dem Verhältnis des Werts unseres Erzeugnisses und dessen durch die Verarbeitung oder die Verbindung entstandenen Gegenstandes.
- 21.3 Wir gestatten unseren Kunden widerruflich die Weiterveräußerung im gewöhnlichen Geschäftsgang. Dieses Recht erlischt im Falle einer Zahlungseinstellung. Der Kunde tritt uns schon jetzt alle ihm aus der Weiterveräußerung zustehenden Forderungen mit Nebenrechten ab. Die abgetretenen Forderungen dienen der Sicherung aller Ansprüche nach Ziffer 1. Der Kunde ist zum Einzug der abgetretenen Forderungen berechtigt, solange wir diese Ermächtigung nicht widerrufen haben. Die Einziehungsermächtigung erlischt auch ohne ausdrücklichen Widerruf, wenn der Kunde seine Zahlungen einstellt. Auf unser Verlangen hat uns der Kunde unverzüglich schriftlich mitzuteilen, an wen er Ware veräußert hat und welche Forderungen ihm aus der Veräußerung zustehen, sowie uns auf seine Kosten öffentlich beglaubigte Urkunden über die Abtretung der Forderungen auszustellen.
- 21.4 Zu anderen Verfügungen über die in unserem Vorbehaltseigentum oder Miteigentum stehenden Gegenstände oder über die an uns abgetretenen Forderungen ist der Kunde nicht berechtigt. Pfändungen oder sonstige Rechtsbeeinträchtigungen der uns ganz oder teilweise gehörenden Gegenstände hat der Kunde uns unverzüglich mitzuteilen.
- 21.5 Wir sind jederzeit berechtigt, die Herausgabe der uns gehörenden Waren zu verlangen, wenn der Kunde mit einer Zahlung in Verzug kommt oder sich seine Vermögenslage wesentlich verschlechtert. Machen wir von diesem Gebrauch, so liegt- unbeschadet anderer zwingender Gesetzesbestimmungen - nur dann ein Rücktritt vom Vertrag vor, wenn wir dies ausdrücklich erklären.
- 21.6 Übersteigt der Wert der für uns bestehenden Sicherheiten unsere Forderungen insgesamt um mehr als 20%, so werden wir auf Verlangen des Kunden insoweit Sicherungen nach unserer Wahl freigeben.
- 21.7 Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten gilt ausschließlich deutsches Recht.



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