

BIOTRONIK AG

General purchasing terms

Section 1 General – Scope of application

- (1) Our contracts are entered into exclusively on the basis of these purchasing terms. This also applies to future transactions even though no further reference to these terms is made. Any terms of the Vendor which are at variance with these terms are hereby rejected; neither shall any such terms of the Vendor be deemed to be acknowledged by acceptance of the goods without further express rejection.
- (2) The contents of the written order alone shall apply for all agreements between us and the Supplier. Verbally issued orders or ancillary agreements shall become effective only through our written order.
- (3) Our purchasing terms shall only apply vis à vis entrepreneurs businesses, not vis à vis consumers and private individuals.

Section 2 Offer – Offer documents

- (1) The Supplier shall be under a duty to accept our order within a time limit of 2 weeks. After expiry of this time limit we shall no longer be bound to our order. By confirming the order the Supplier warrants that the ordered goods comply with the standards required by us.
- (2) We retain the rights of ownership and copyright to diagrams, drawings, calculations and other documents; they must not be made accessible to third parties without our express consent in writing. They are to be used exclusively for manufacture on the basis of our order; they are to be destroyed if not otherwise directed by us without being requested after completion of the order. They are to be kept confidential from third parties; in this regard the provision of Section 9 para. (4) shall also apply.

Section 3 Prices – Payment terms

- (1) The price shown in the order is binding. In the absence of a written agreement to the contrary, the order shall be delivered DDU Incoterms in the latest version (place as told by us), including packaging and conservation. The return of the packing shall be subject to an additional agreement.
- (2) The statutory value-added tax is not included in the price.
- (3) In accordance with the stipulations in our order we can only process invoices if they quote the order number shown there; the Supplier shall be liable for all consequences arising from non-compliance with this obligation, to the extent that he fails to prove that he does not bear responsibility for such consequences.
- (4) Unless otherwise agreed in writing, we shall pay the purchase price either within 14 days, calculated from when the goods and invoice are received, with 3% discount, or, net within 60 days of receipt of the invoice.
- (5) We shall have the rights of set-off and retention as laid down by law.
- (6) The Supplier shall not, without consent, have the right to assign any claims against us to third parties.

Section 4 Delivery period

- (1) The delivery period stated in the order shall be binding. The delivery date shall be the date of delivery at the place of delivery.
- (2) The Supplier shall be under a duty to notify us in writing without delay if circumstances occur, or become apparent to him, and, as a result of which, the specified delivery period deadline cannot be met.
- (3) We shall have the right to any claims laid down by law in the event there is a delay in delivery. In particular, we shall have the right, following the expiry of an appropriate time limit to no avail, to demand damages in lieu of performance together with repudiation. If we demand damages, the Supplier shall have the right to prove to us that the breach of duty is not due to any fault on his part.

Section 5 Passing of risk – Documents

- (1) Unless otherwise agreed in writing, delivery shall take place as defined under Section 3 (1).
- (2) The Supplier shall be under a duty to quote our exact number on all shipping papers and delivery notes; if he fails to do so, then we shall not be liable for any delays in processing.

Section 6 Investigation of defects – Liability for defects

- (1) We shall be under a duty to check the goods for any possible defects in quality or quantity within an appropriate time limit. The defect notice shall be deemed to be timely if it is reported to the Supplier within a period of 15 working days calculated from when the goods are received, or, in the case of hidden defects, when they are discovered. Timely dispatch of the defect notice to the Supplier shall suffice to comply with the time limit.
- (2) We shall have the right in full to any claims laid down by law with regard to the defects; in any event we have the right to demand, at our discretion, either that the Supplier makes good the defects or that he delivers a new item. The right to damages, particularly to damages in lieu of performance, is expressly reserved.
- (3) We ourselves shall have the right to make good any defects at the expense of the Supplier if there is imminent danger or urgent necessity.
- (4) The period of limitation shall be 36 months calculated from the passing of risk.

Section 7 Quality

- (1) The Supplier shall establish and maintain a state-of-the-art documented quality assurance system of a suitable type and on an appropriate scale. He shall prepare records, in particular with respect to his quality checks, and make these available on demand.
- (2) The Supplier hereby consents to quality audits by us or a third party commissioned by us to assess the effectiveness of his quality assurance system.
- (3) The parties intend to establish an independent set of regulations with regard to quality assurance. Such a regulation shall have priority over the minimum requirements stated here.

Section 8 Product liability - Indemnity - Liability insurance cover

- (1) To the extent that the Supplier is responsible for damage to a product, he shall be under a duty to indemnify us on demand against claims for damages by third parties insofar as the cause is to be found in his area of control and organisation and he himself is liable in relation to third parties.
- (2) Within the scope of his liability in cases of damage within the meaning of para. (1), the Supplier shall also be under a duty to refund accordingly any expenses that arise from or in connection with a recall action conducted by us. We shall inform the Supplier – so far as is possible and reasonable – about the substance and scale of recall measures to be conducted and give him the opportunity to comment. This shall be without prejudice to any other rights laid down by law.
- (3) The Supplier undertakes to maintain product liability insurance with cover of €5 million - an all-in lump sum – for every instance of personal injury and damage to property, and to verify to us on demand that such insurance, with an excess of not more than €0.5 million, has been taken out. This is without prejudice to any further claims for damages we may have.

Section 9 Protected rights

- (1) The Supplier warrants that no rights of third parties will be infringed in connection with his delivery.

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- (2) If claims are made against us for this reason by third parties, then the Supplier shall be under a duty to indemnify us against such claims on demand in writing; without the consent of the Supplier we shall not have the right to enter into any kind of agreements with third parties, nor, in particular, to reach any settlement.
 - (3) The indemnification duty on the part if the Supplier shall apply to all expenditure that is necessarily incurred by us from or in connection with claims made by a third party.
 - (4) The period of limitation shall be 10 years calculated from the time the contract is entered into.
- (3) The Supplier warrants adherence to the provisions concerning the "secure supply chain" as expressed in particular in Regulation SR 946.203. This means in particular that the Supplier shall ensure that goods to be produced, placed in storage or prepared for transport are only produced or kept at secure facilities, the transport is safe, the goods are protected from unauthorised access and the personnel charged therewith is appropriately trained. The Supplier shall also draw the attention of his business partners to the obligations in this regard.
 - (4) The Supplier undertakes to adhere to all applicable export/import provisions, as well as to any associated embargo provisions, trade embargos and sanctions. To this end, the Supplier shall ensure that the organisational measures in place are such that in particular the formalities of the EU and, insofar as applicable, the relevant U.S. provisions are observed.

Section 10

Retention of title - Parts made available - Tools - Confidentiality

- (1) To the extent we make parts available to the Supplier, we shall retain title thereto. Processing or conversion by the Supplier shall be carried out for us. If the goods subject to our retention of title are processed with other objects not belonging to us, then we shall acquire co-ownership of the new item in proportion to the ratio of the value our item (purchase price plus value-added tax) to the other processed objects at the time of processing.
- (2) If the item made available by us is inseparably mixed with other objects not belonging to us, then we shall acquire co-ownership of the new item in proportion to the ratio of the value of the item subject to retention of title (purchase price plus value-added tax) to the other objects mixed-in at the time of the mixing. If the mixing takes place in such a manner that the item of the Supplier is to be regarded as the main item, then it is deemed to be agreed that the Supplier transfers co-ownership on a pro rata basis; the supplier shall preserve for us the sole or joint ownership.
- (3) We shall retain title to tools; the Supplier shall be under a duty to use the tools exclusively for the manufacture of the goods ordered by us. The Supplier shall be under a duty, at his own expense, to insure tools against fire, water and theft damage at the replacement value. At the same time, the Supplier, here and now under these purchasing terms, assigns all claims for compensation, resulting from this insurance policy, to us; we hereby accept this assignment. The Supplier shall be under a duty to carry out on our tools any servicing or inspections that might prove necessary, as well as all maintenance and repairs, in good time and at his own expense. He shall immediately inform us of any malfunctions; should he be at fault in failing to do this, then this shall be without prejudice to any claims for damages. Where the ownership of tools is transferred from the Supplier to us but the tools themselves remain with the Supplier, we hereby agree under these purchasing terms the following provision concerning possession: the Supplier is in possession and the ownership lies with us. The Supplier shall not have any right of retention of any kind whatsoever.
- (4) The Supplier shall be under a duty to keep all diagrams, drawings, calculations and other documents he receives strictly confidential. They may only be disclosed to third parties with our express consent in writing. The undertaking as to confidentiality shall also apply after fulfilment of this contract; it shall lapse when and to the extent the production knowledge contained in the diagrams, drawings, calculations and other documents has become generally known.

Section 11

Export/import provisions

- (1) The supplier shall furnish verifications of origin requested by us with all details required and make them available without delay. The same shall apply analogously for verifications under value-added tax law in the case of deliveries from outside and within the EU.
- (2) The Supplier shall inform BIOTRONIK without delay if a delivery is wholly or partly subject to export restrictions.

Section 12

Place of jurisdiction - Place of performance - Choice of jurisdiction

- (1) If the Supplier is a general merchant, our place of business shall be the place of jurisdiction; however, we shall also have the right to institute proceedings against the Supplier at the court where he is domiciled.
- (2) Unless otherwise provided for in the order, our place of business shall be the place of performance.
- (3) If individual provisions of these terms are or become ineffective, then these ineffective provisions shall be replaced by that effective provision that comes closest to the commercial goal. The ineffectiveness of one provision shall result in the ineffectiveness of all terms.
- (4) Swiss law shall apply and the provisions of the CISG are excluded.

NOTE

By acknowledging the conditions set out here, the Supplier gives his consent, until revoked, to the storage and processing of his data in electronic form to the extent this is required for the proper conduct of contractual relations.

Bülach, July 2010
BIOTRONIK AG