

Quadrant EPP Deutschland GmbH, Vreden, Germany

General Terms and Conditions of Supply applicable to business customers

§ 1 Applicability

(1) All supplies, services and offers of the Seller shall be provided exclusively on the basis of these General Terms and Conditions of Supply. The Terms and Conditions shall constitute an integral part of all contracts concluded by the Seller with its contractual partners (hereafter referred to as "Buyers") in relation to the supplies or services offered by Seller. They shall also apply in respect of all future supplies, services or offers made to Buyers, even if they are not agreed upon separately once again.

(2) The terms and conditions of business of the Buyer or of third parties shall not apply, even if the Seller does not specifically object to their validity in relation to an individual order. Even if the Seller refers to a letter that contains the general terms and conditions of business of the Buyer or of a third party or that refers to such terms and conditions, this shall not be construed as acceptance of the validity of such terms and conditions of business.

§ 2 Offer and conclusion of contracts

(1) All offers made by the Seller shall be subject to confirmation and non-binding, unless they are explicitly designated as binding or indicate a specific deadline for acceptance. The Seller may accept orders or commissions within fourteen days of receipt.

(2) The legal relations between the Seller and the Buyer shall be governed exclusively by the written contract of sale concluded and these General Terms and Conditions of Supply. The contract shall set forth all agreements between the contractual parties relating to the contractual object. Oral commitments made by the Seller prior to conclusion of this contract shall not be legally binding and oral agreements between the contractual parties shall be replaced by the written contract, unless it is expressly clear from them that they should continue to apply with binding effect.

(3) Any supplements or amendments to the agreements reached, including these General Terms and Conditions of Supply, shall only be valid if concluded in writing. With the exception of managing directors or authorized signatories, the employees of the Seller are not entitled to conclude oral agreements that depart from these Terms and Conditions. The requirement of written form may be fulfilled by dispatch by fax, and other forms of telematic communication, including in particular email, shall not suffice.

(4) Unless agreed otherwise, any information provided by the Seller concerning the object of the supply or service (e.g. weights, dimensions, utility values, capacity, tolerances and technical data) along with representations thereof by us (e.g. diagrams and illustrations) shall only constitute average guideline values. They shall not constitute guaranteed qualitative characteristics, but shall rather amount to descriptions or designations of the supply or service. Variations and discrepancies that are customary within trade, that are made pursuant to legal provisions or that constitute technical improvements shall be permitted, along with the replacement of structural parts with equivalent parts.

(5) The Seller reserves ownership or copyright over all offers and cost proposals made by it along with the diagrams, illustrations, calculations, leaflets, catalogues, models, tools and other documentation and auxiliary material provided to the Buyer. The Buyer may not allow these items to be accessed by third parties without the express approval of the Seller either as such or in terms of their content, may not otherwise disclose information concerning such items and may not use or copy such items or allow a third party to use or copy such items. Upon request by the Seller, the Buyer shall return such items in full to the former and destroy any copies that have been made if they are no longer required by the latter during the ordinary course of business or if negotiations have not resulted in the conclusion of a contract.

§ 3 Quality of the deliverables, inspection certificates, fitness for particular purpose

(1) Unless agreed otherwise, the quality of the deliverables shall be determined exclusively in accordance with the product specifications of the Seller. § 2(4) shall apply in respect of the product specifications.

(2) The product specifications shall only constitute average guideline values. Should the Buyer require exact consistency, the Seller may issue an inspection certificate upon request by the Buyer. If the Seller issues an inspection certificate, this shall only apply for the products designated therein from the supply concerned (i.e. not for other products and/or subsequent supplies).

(3) Should the Buyer wish an inspection certificate to be issued, the Buyer shall bear the costs relating to the issue of the inspection certificate and the conduct of the corresponding tests.

(4) Unless agreed otherwise, the following shall apply with regard to the fitness of the deliverables for particular purpose:

a) Notwithstanding any tests that we have carried out in relation to our deliverables, we do not however have any specific expertise in the area of application in order to be able to assess whether our materials or products are suitable for the specific applications or products which the Buyer manufacturers or offers.

b) The choice of the most suitable synthetic material will depend upon the available data concerning chemical resistance and practical experience, although as a rule preliminary tests of the finished synthetic parts under real operational conditions (correct chemical composition, temperature and contact times along with other conditions) are necessary in order to be able to assess suitability for concrete application.

c) It shall thus be for the Buyer to test and assess the items delivered by us for suitability for and compatibility with the intended applications, processes and uses and to select the products supplied by us that, according to its own assessment, meet with the requirements relating to the specific use of its finished product.

d) Exclusively the Buyer shall be responsible for the applications, procedures or uses of the information provided by us or the items supplied by us and the resulting consequences and shall be responsible for inspecting the quality and further characteristics of its own products.

(5) Unless agreed otherwise, the quality of the products supplied by us is not sufficient for usage within medical applications, and in particular usage for implantable medical devices and products regulating the restoration or maintenance of vital bodily functions.

§ 4 Prices and payment

(1) The prices shall apply for the scope of services and supply stated in the order confirmations. Additional or special services will be charged for separately. Prices are stated in EURO ex works and do not include packaging, statutory value added tax or customs duties, charges or other public levies for exported supplies.

(2) Where the agreed prices are based on the Seller's list prices and the supply is to be made more than four months after conclusion of the contract, the prices charged shall be the list prices of the Seller that are valid upon delivery (as the case may be, less an agreed percentage or lump-sum discount).

(3) Unless expressly agreed otherwise, amounts invoiced shall be paid within thirty days without any deduction. The date of payment shall be determined with reference to receipt by the Seller. Cheques shall only be deemed to constitute payment after they have been cashed. In the event that the Buyer fails to make payment before the due date, any outstanding amounts shall attract interest at a rate of 5% per annum from the due date; the foregoing shall be without prejudice to the right to charge higher interest and to claim damages as a result of default.

(4) Amounts may only be offset against the counterclaims of the Buyer and payment may only be withheld on account of such claims where the counterclaims are undisputed or have been established with legal effect.

(5) The Seller shall be entitled to effect or provide any outstanding supplies or services solely following payment in advance or the provision of a guarantee in the event that circumstances come to its attention after conclusion of the contract that are liable to reduce significantly the creditworthiness of the Buyer and on account of which the payment by the Buyer of any outstanding claims of the Seller under the contractual relationship in question (including other individual orders for which the same framework contract applies) may be jeopardized.

§ 5 Delivery and delivery times

(1) Deliveries shall be made ex works.

(2) Any periods or deadlines prospectively by the Seller for supplies or services shall in all cases only be approximate, unless a fixed period or deadline has been expressly warranted or agreed upon. Where shipment has been agreed, the delivery periods and deadlines shall relate to the time the material is handed over to the transport company, freight forwarder or other third party charged with transportation.

(3) Without prejudice to its rights resulting from default by the Buyer, the Seller may require the Buyer to extend the periods for delivery or performance or defer the deadlines for delivery or performance by a duration equivalent to the period for which the Buyer failed to comply with its contractual obligations towards the Seller.

(4) The Seller shall bear no liability for any inability to effect supply or for supply delays that are caused by force majeure or any other event that was unforeseeable upon conclusion of the contract and is beyond the control of the Seller (e.g. breakdowns of all types, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lockouts, shortages of labor, energy or raw materials, difficulties in the procurement of the necessary administrative licenses, executive action or non-delivery, late delivery or incorrect delivery by suppliers). Where such events render delivery or performance significantly more difficult or impossible for the Seller and the impediment is not temporary in nature, the Seller shall be entitled to withdraw from the contract. If an impediment is temporary in nature, the periods for delivery or performance shall be extended or the deadlines for delivery or performance shall be deferred by the duration of the impediment in addition to

a reasonable run-in period. In the event that acceptance of the supply or service is no longer reasonable for the Buyer as a result of the delay, it may withdraw from the contract by issue of a prompt written declaration to the Seller.

(5) The Seller shall only be entitled to make partial deliveries if:

- the partial delivery may be used by the Buyer in relation to the intended purpose specified in the contract;
- the supply of the remaining goods ordered has been secured, and;
- no significant additional work or extra costs thereby arise for the Buyer (unless the Seller has declared that it is willing to cover these costs).

(6) In the event that the Seller is late in effecting supply or providing a service or if it is unable on any grounds to effect supply or provide a service, the liability of the Seller shall be limited to the payment of damages in accordance with § 9 of these General Terms and Conditions of Supply.

§ 6 Place of performance, dispatch, packaging, transfer of risk, acceptance

(1) Unless specified otherwise, the place of performance for all obligations resulting from the contractual relationship shall be Vreden, Germany. If the Seller is also required to carry out installation, the place of performance shall be the location at which installation is to occur.

(2) The mode of shipping and packaging shall be chosen at the reasonable discretion of the Seller.

(3) Risk shall transfer to the Buyer at the latest at the time the deliverable is handed over (with effect from the start of the loading process) to the transport company, freight forwarder or other third party charged with transportation. This shall also apply in the event that partial deliveries are made or if the Seller has also acquired other services (e.g. shipping or installation). In the event that shipment or handover is delayed as a result of circumstances caused by the Buyer, risk shall transfer to the Buyer from the day on which the deliverable is ready for dispatch, provided that the Seller has notified this fact to the Buyer.

(4) Storage costs after the transfer of risk shall be borne by the Buyer. In the event of storage by the Seller, the storage costs shall amount to 0.25% of the amount invoiced for the deliverables to be stored for each completed week. The foregoing shall be without prejudice to the right to invoke demonstrably higher or lower storage costs.

(5) Shipments shall only be insured by the Seller against theft, breakage, damage caused during transportation, by fire or by water or any other insurable risks at the express wish of the Buyer and at the cost of the latter.

(6) Where acceptance is required, the item purchased shall be deemed to have been accepted if:

- delivery and, where also required of the Seller, installation has or have been concluded; or
- although the Seller had notified the Buyer of the fiction of acceptance under this second paragraph of § 6 (6) requesting it to accept the deliverables, twelve working days passed since Seller's delivery or installation or the Buyer started to use the item purchased (e.g. placed the equipment supplied into service) and in this latter case six working days passed since delivery or installation, and the Buyer failed to accept the deliverables within the relevant aforesaid period for a reason other than a defect intimated to the Seller that renders impossible or significantly impairs usage of the item purchased.

§ 7 Warranty, quality defects

(1) The deliverables shall be carefully inspected promptly after delivery to the Buyer or to the third party designated by it. They shall be deemed to have been approved unless a written objection to a defect relating to an evident defect or any other defect that was recognizable upon a prompt, careful inspection is intimated to the Seller within seven working days of delivery of the deliverable or otherwise within seven working days of discovery of the defect or, if earlier, of the time when the defect became evident for the Buyer during normal use of the deliverable without closer inspection. § 2(3), sentence 3, shall apply for the purpose of determining compliance with the requirement of writing for the objection to a defect. If so requested by the Seller, the deliverable objected to shall be sent back to the Seller carriage paid. In the event of a justified objection to a defect, the Seller shall reimburse the costs of the cheapest means of transport; this shall not apply insofar as the costs are higher on the grounds that the deliverable is situated at a location other than that of specified usage.

(2) In the event that the deliverables feature quality defects, the Seller shall be obliged and entitled in the first instance to rectify the fault or supply a replacement at its discretion, which choice must be made within a reasonable period. In the event that such action is unsuccessful, i.e. that the rectification of the defect or supply of a replacement is impossible, unreasonable, refused or unduly delayed, the Buyer may withdraw from the contract or reduce the purchase price by a reasonable amount.

(3) The Seller may refuse to rectify the defect or supply a replacement in particular if rectification or replacement would only be possible at disproportionate cost. Such costs shall be deemed to be disproportionate if they exceed 25% of the purchase price for the deliverable.

(4) If a defect was caused by the fault of the Seller, the Buyer may claim damages, subject to the prerequisites laid down in § 9.

(5) In the event that the construction parts of other manufacturers are defective and the Seller is unable to rectify these due to licensing or other reasons, the Seller shall at its choice exercise the claims under warranty against the

manufacturers and suppliers on behalf of the Buyer or assign such claims to the Buyer. Warranty claims against the Seller shall only arise in relation to such defects subject to fulfilment of the further prerequisites and in accordance with these General Terms and Conditions of Supply if the judicial enforcement of the aforementioned claims against the manufacturer and suppliers was unsuccessful or would be futile, for example on the grounds of insolvency. The statute of limitations period for the warranty claims at issue of the Buyer against the Seller shall be suspended for the duration of the litigation.

(6) The warranty shall lapse in the event that the Buyer alters the deliverable without the consent of the Seller or arranges for it to be altered by a third party, as a result of which the rectification of the defect is rendered impossible or unreasonably difficult. The Buyer shall under all circumstances bear the additional costs of rectifying the defect arising as a result of the alteration.

(7) Any parts replaced under warranty shall become the property of the Seller.

(8) No warranty claims shall be available in the event of merely negligible deviations from the agreed quality or in the event of merely negligible impairment of usability.

(9) In the event that used items are supplied by agreement with the Buyer in a specific individual case, any warranty for quality defects shall be excluded.

§ 8 Intellectual property rights

(1) By this clause (§ 8), the Seller warrants that the deliverable is free from intellectual property rights or third party copyright. Each contractual partner shall inform the other contractual partner promptly in writing in the event that any claims are brought against it in relation to the breach of such rights.

(2) In the event that the deliverable infringes an intellectual property right or third party copyright, the Seller may at its choice and cost either alter or exchange the deliverable to the effect that no third party rights are infringed any longer, notwithstanding which the deliverable continues to fulfil the functions agreed upon under contract, or procure a right of usage for the Buyer by concluding a license agreement. If it is unable to do so within a reasonable period, the Buyer shall be entitled to withdraw from the contract or to reduce the purchase price by a reasonable amount. Any damages claims of the Buyer shall be subject to the limitations set forth in § 9 of these General Terms and Conditions of Supply.

(3) In the event that products of other manufacturers that are supplied by the Seller infringe legal rights, the Seller may at its choice exercise its claims against the manufacturer and its own suppliers on behalf of the Buyer or assign such claims to the Buyer. In such an eventuality, claims against the Seller shall only arise in accordance with this clause (§ 8) if the judicial enforcement of the aforementioned claims against the manufacturers and the Seller's suppliers was unsuccessful or would be futile, for example on the grounds of insolvency.

§ 9 Liability to damages due to fault

(1) The liability of the Seller to pay damages on any legal basis whatsoever, including in particular as a result of impossibility, default, deficient or incorrect supplies, breach of contract, breach of duties during contractual negotiations and under tort shall be limited in accordance with this clause (§ 9) insofar as such liability is subject to the Seller's fault.

(2) The Seller shall bear no liability in the event of simple negligence on the part of its officers, legal representatives, employees or other auxiliary agents, provided that the breach does not relate to material contractual duties. Material contractual duties shall include the duty of prompt supply and installation of the deliverable in a fault-free condition along with the duties to provide advice and protection and exercise proper care, which should enable the Buyer to use the deliverable according to contract or aim to protect the life and bodily integrity of the staff of the Buyer or to protect its property against significant damage.

(3) Insofar as the Seller is liable to pay damages on this basis in accordance with § 9(2), such liability shall be limited to losses that the Seller foresaw upon conclusion of the contract as a possible consequence of a breach of contract or that it should have foreseen had it applied due diligence. In addition, direct losses and consequential loss resulting from defects within the deliverable shall only be eligible for compensation insofar as such losses may typically be expected in the event of usage of the deliverable in the proper manner.

(5) The exclusions and limitations of liability set forth above shall apply to the same extent in favor of the officers, legal representatives, employees and other auxiliary agents of the Seller.

(6) Insofar as the Seller provides technical information or advice and such information or advice does not form part of the scope of performance agreed to under contract that is due from it, it shall be provided for zero consideration subject to an exclusion of any liability.

(7) The restrictions under this clause (§ 9) shall not affect the liability of the Seller due to intentional conduct, for guaranteed quality features, resulting from loss of life, personal injury or damage to health or under the Product Liability Act.

§ 10 Title Retention

(1) The title retention regulated below is intended to secure any current or future claims of the Seller against the Buyer arising out of the business relationship in existence between the contractual parties.

(2) The goods delivered by the Seller to the Buyer shall remain the property of the Seller until all claims secured have been paid in full. The goods and such goods that take their place in accordance with this clause which are covered by the title retention shall hereafter be referred to "goods subject to retention of title".

(3) The Buyer shall safely store the goods subject to retention of title for the Seller for zero consideration.

(4) The Buyer shall be entitled to process and sell the goods subject to retention of title in the course of ordinary business activities until the occurrence of an enforcement event (paragraph 9). Pledges and collateral assignments are not permitted.

(5) If the goods subject to retention of title are processed by the Buyer, it is agreed that the processing shall occur on behalf of the Seller as the manufacturer and that the Seller shall directly acquire ownership or - if processing involves the materials of more than one owner or the value of the processed items is higher than the value of the goods subject to retention of title - joint ownership (fractional share of ownership) over the newly created item in proportion with the value of the goods subject to retention of title compared to the value of the newly created item. In the event that no such acquisition of ownership by the Seller should occur, the Buyer hereby transfers its future ownership or - in the proportion specified above - joint ownership over the newly created item as collateral to the Seller. If the goods subject to retention of title are amalgamated with other items into a unitary item or inseparably mixed and if one of the other items is to be regarded as the principal item, insofar as the principal item belongs to the Seller, the Seller shall transfer to the Buyer a pro rata share of joint ownership of the unitary item in the proportion stipulated in sentence 1.

(6) In the event that the goods subject to retention of title are sold on, the Buyer hereby assigns to the Seller as collateral the resulting claim against the new buyer - in the event of joint ownership of the Seller of the goods subject to retention of title, pro rata in line with the joint ownership share. The same shall apply for other claims that take the place of the goods subject to retention of title or otherwise arise in relation to the goods subject to retention of title, such as e.g. insurance claims or claims under tort in the event of loss or destruction. The Seller irrevocably authorizes the Buyer to collect in its own name the claims assigned to the Seller. The Seller may only revoke this collection authority following an enforcement event.

(7) In the event that third parties seek to seize the goods subject to retention of title, in particular by pledge, the Buyer shall promptly refer them to the Seller's ownership rights and inform the Seller of this fact in order to enable it to enforce its ownership rights. Insofar as the third party is unable to reimburse the Seller for the court or out-of-court costs arising in this regard, the Buyer shall bear liability for such costs towards the Seller.

(8) Upon request, the Seller may at its choice release the goods subject to retention of title and the items or claims taking their place, where their value exceeds the value of the secured claims by more than 50%.

(9) In the event that the Seller withdraws from the contract following a breach of contract by the Buyer - including in particular payment default - (enforcement event), the Seller shall be entitled to demand the surrender of the goods subject to retention of title.

§ 11 Statute of limitations

(1) Notwithstanding § 438(1), no. 3 BGB (Civil Code), the general statute of limitations period for claims relating to quality defects and defective title shall extend to one year after delivery. If acceptance has been agreed upon, the statute of limitations period shall commence upon acceptance.

(2) However, if the goods are comprised of structural works or an item that has been used for structural works in accordance with its standard manner of usage, which it has caused to be defective (building materials), according to statutory provisions the statute of limitations period amounts to 5 years from delivery (§ 438(1), no. 2 BGB (Civil Code)). The foregoing shall also be without prejudice to special statutory provisions concerning claims in rem to surrender of third parties (§ 438(1), no. 1 BGB (Civil Code)), those applicable in the event of malice on the part of the Seller (§ 438 Abs. 3 BGB (Civil Code)) and recourse claims against suppliers in the event that final delivery is made to a consumer (§ 479 BGB (Civil Code)).

(3) The statute of limitations periods under the law of sale specified above shall also apply to damages claims by the Buyer under contract or tort that are based on defective goods, unless the operation of standard statutory limitations (§§ 195, 199 BGB (Civil Code)) would have resulted in a shorter statutory limitations period in the specific individual case. The foregoing shall be without prejudice under all circumstances to the statutory limitations periods under the Product Liability Act. Otherwise, damages claims of the Buyers in accordance with § 9 shall be governed exclusively by the statutory limitations periods.

§ 12 Final provisions

(1) The place of jurisdiction for any disputes arising out of the business relationship between the Seller and the Buyer shall be, at the choice of the Seller, either Vreden, Germany or the registered office of the Buyer. The exclusive place of jurisdiction for claims against the Seller shall be Vreden, Germany. The foregoing shall be without prejudice to mandatory statutory provisions concerning exclusive jurisdiction.

(2) The relations between the Seller and the Buyer shall be governed exclusively by the law of the Federal Republic of Germany. The United Nations Convention on Contracts of International Sale of Goods of 11 April 1980 (CISG)

shall not apply.

(3) In the event that the contract or these General Terms and Conditions of Supply contain any regulatory gaps, the legally valid regulations that the contractual partners would have agreed upon, taking account of the economic aims of the contract and the purpose of these General Terms and Conditions of Supply, had they been aware of the regulatory gaps shall be deemed to have been agreed upon in order to fill these gaps.

NB:

The Buyer acknowledges that the Seller has saved data pertaining to the contractual relationship pursuant to § 28 of the Federal Data Protection Act for the purpose of data processing and reserves the right to transfer the data to third parties insofar as necessary for compliance with the contract (e.g. insurance).