

# General terms and conditions of sales, delivery and payment

Drive Medical GmbH & Co. KG; 88316 Isny / Allgäu

## Section 1 General information

1. These conditions of delivery and payment are a component of all offers and agreements regarding deliveries and services performed by us and also of current and future business relationships. The involvement of outside terms and conditions is hereby expressly excluded.
2. Official agreements including the involvement of other terms and conditions must be made in writing to be effective.
3. If terms and conditions other than ours should become a part of the contract and subject us to worse conditions in a fundamental provision than according to the following conditions, we are entitled to withdraw within a reasonable time period.
4. If Incoterms are used, the Incoterm 2000 version applies.

## Section 2 Offer and conclusion of contract

1. Offers without an expiration date are subject to change without notice. They represent a demand on the customer to make an offer in turn for concluding the contract.
2. Agreements are formed solely by means of our written confirmation of order or by executing the order.
3. Verbal agreements or agreements via telephone which were not made by one of our CEOs or authorized officers of the company are only binding for us if they are confirmed in writing. The authority of our employees is limited in this respect.

## Section 3 Prices

Our conditions and price lists (plus statutory VAT, freight and packaging costs) valid at the time of the order are applied and subject to an increase in price for the time of delivery necessitated by an increase in price of essential preliminary products.

## Section 4 Transfer of risk and delivery

1. Delivery is made free ex works (EXW). Upon provision/assignment of the goods, the risk of accidental loss/deterioration is transferred.
2. Freight costs: For deliveries at or above a net value of goods of 150.00 euros, delivery is made free of charge within Germany. For a net value of goods under 150.00 euros, freight costs are 12.90 euros per order.
3. If delivery dates or periods are indicated in the order confirmation, these are considered to be non-binding, as a general rule.
4. We are entitled for operational reasons to make partial deliveries or provide partial performance of services provided this does not place an unacceptable burden on the customer. Rights of default or a warranty for defects remain limited to the respective partial deliveries.
5. Following phase-out of the product line, provision of replacement parts is guaranteed for a period of 3 years. Upon request and review of feasibility, replacement parts can be provided beyond this time frame.
6. If goods are also not taken delivery of or accepted after a previously established reasonable time period, we are authorized to withdraw from the agreement and charge compensation for damages in lieu of delivery at a rate of 20% of the total order. The right to assert claims for greater damages or proof of lesser damages are not hereby excluded.
7. In the event of significant, demonstrable worsening of the customer's financial situation, we are entitled to make further deliveries only upon advance payment, declare all unpaid invoiced amounts immediately payable and to request cash payment or a payment bond in lieu of bills which have been accepted on account of payment.

## Section 5 Force majeure

1. Cases of force majeure, in particular, strikes, lockouts, war, lack of raw materials and energy, occurrences beyond our control which affect the normal operation of plant and machinery and normal functioning of transport as well as interference by means of jurisdictional sovereign acts will suspend the contract obligations of the parties for the period of the interruption and to the extent of the consequences thereof, including the conditions that make the execution of the affected business uneconomical for a foreseeable time. This also applies if our suppliers experiences one of the above-mentioned cases of force majeure and another delivery option is not available or only available under unacceptable conditions.
2. If the resultant delays should extend beyond a period of six weeks, both contract partners are entitled to withdraw from the contract in view of the affected scope of service.
3. Claims for compensation by the customer are excluded in cases of force majeure.

## Section 6 Payment

1. Invoices are payable upon receipt.
2. Payments made via check or bill are accepted only upon prior written agreement; any additional costs thus incurred are paid by the payer. If the payment deadline has passed, we calculate late interest at standard bank rates, however at least 8% above the prime rate. Documents in documentary transactions are to be drawn up in euros or the equivalent amount in the contract currency. Payments are to be made in euros or in the equivalent amount in the contract currency.
3. Retention of payments or offsetting of any counterclaims if the counterclaims are undisputed by us or are assessed to be legally binding.

## Section 7 Condition, warranty

1. The order alone defines the contractual specifications of the goods. Customary and minor technical unavoidable deviations as well as wear that is inherent to the nature of the goods do not represent a deficiency. Customary and minor technical unavoidable deviations as well as wear that is inherent to the nature of the goods do not represent a deficiency. Any warranty becomes void upon modifications to the goods which extend beyond installation according to the state of the art and our installation and classification information.
2. Goods are to be inspected after receipt and apparent defects are to be indicated promptly, no later than 8 days after receipt of the goods. In the event of complaints, all required information on the use of the goods is to be provided and aids, if applicable, are to be surrendered.

3. If the goods contain a defect at the time of the transfer of risk or if they are missing guaranteed characteristics, we will remedy the goods within 14 days after they are received or we will deliver goods free of defects. In the event of failure of the repair or subsequently delivered goods, statutory regulations apply.
4. Our instructions for use are to be made accessible to the user. The customer shall release us from any claims for injuries to third parties due to failure to observe this obligation.
5. Warranty claims expire one year after delivery, unless we have intentionally failed to disclose the defect.
6. We charge according to our price lists for services which we provide based on unjustified deficiency claims in the absence of price quotations according to usual and reasonable rates.

## Section 8 Liability

1. Compensation claims against us are excluded unless fundamental contractual obligations have been violated or there have been intentional or grossly negligent actions or loss of life, physical injury or damage to health.
2. Compensation claims due to damage to the customer's property are limited to the contractually typical damage that can be anticipated at the time of conclusion of the contract.
3. We are not liable for willful or grossly negligent actions of our agents, unless these actions concern a violation of essential contractual obligations.
4. The customer releases us from third-party claims if he is responsible for the damage.
5. Violations of ancillary obligations entitle withdrawal from the contract only in the case of culpable activities.

## Section 9 Reservation of proprietary rights

1. The delivered goods remain our property until payment in full of all receivables against the customer.
2. In the event of a payment delay, we are entitled to repossess the goods at the customer's expense after we have rescinded the contract after an appropriate grace period. If the reserved goods are in the possession of a third party, we may demand the relinquishment of the claim for return from the customer in respect of the third party. In the event of a payment delay by the customer, we may demand that the customer identify the reserved goods in an externally identifiable manner as being our property. In exercise of this right, we are permitted to enter the customer's premises during normal business hours.
3. The customer is not permitted to pledge the reserved goods or assign them as collateral. If third parties should lay claim to the goods, in particular attachments, the customer will promptly notify us and inform the third party of our prior claim. The customer shall be responsible for any costs and possible damage to the reserved goods.
4. The customer is entitled to process or combine the reserved goods with other goods within the scope of normal business operations. In this case, we acquire co-ownership of the new goods in the amount of the proportionate value of the reserved goods and the combined or newly produced goods. The customer assigns to us the accounts receivable which arise vis-à-vis its customers or payers in proportion to the value of the co-ownership.
5. The customer remains authorized with regard to receivables collection, although our authority to collect the receivables ourselves remains unaffected. We will not exercise this right, provided the customer fulfills its contractual obligations.
6. If payments are suspended, an application is filed for bankruptcy or a bankruptcy is initiated, and/or an in-court or out-of-court settlement, the right to re-sale, use or installation of the goods subject to the said reservation and the authorization to collect the ceded payable amounts; this authorization also expires in the event of a protest of a check or a bill of exchange.
7. If the value of the securities exceeds the debt to be paid by the customer by more than 20%, we will release additional securities upon request.

## Section 10 Returns

Goods can be returned only with our consent, indicating the reason for the return. Returned goods without a copy of the delivery slip or invoice are not taken back. Returns (in original packaging and in brand-new condition) are credited at 90% of the value of the goods. Articles which were delivered more than 3 months ago, which are based on a special order or which were damaged or modified by the buyer may not be returned. Transport is at the sender's cost and risk.

## Section 11 DISPOSAL

The disposal and recovery of packaging and old equipment must take place in accordance with the legally applicable provisions. Devices which come under the scope of the Electrical and Electronic Equipment Act (ElektroG) and the Batteries Act (BattG) are correspondingly labeled. Our WEEE registration number is: DE33275322

## Section 12 Use of personal data

Customer data are stored in accordance with section 33 of the German Federal Data Protection Act and are only processed within the company.

## Section 13 Place of execution, place of jurisdiction, applicable law

1. Place of execution is always our registered office.
2. Place of jurisdiction is Ravensburg. We are entitled to also utilize the general place of jurisdiction at our discretion.
3. Any business relationship is subject to German civil and commercial law, excluding the provisions of the UN Sales Law Convention (CISG).

## Section 14 Effectiveness of the provisions

1. If individual terms and conditions become ineffective, the remaining provisions are not affected.
2. In place of the ineffective provisions or in order to fill the gap, a reasonable provision shall be applied which is what the parties would have wanted if they had considered the point upon conclusion of the contract.