

General Purchasing Terms and Conditions of Medela AG (AEB)

1. General

- 1.1 These General Terms and Conditions of Purchase are valid for all contractual relations between the Company Medela AG (the Buyer) and its suppliers.
- 1.2 In order for matters to be binding for both parties, these must be agreed in writing. Until then the withdrawal from negotiations shall remain possible without this resulting in financial consequences.
- 1.3 Through the acceptance of an order by the Supplier in which reference is made to these "General Terms and Conditions of Purchase", these shall become an integral part of the agreement. Third-party general terms and conditions of business, such as general terms and conditions of supply of the Supplier, shall not be recognized, not even if this is not specifically excluded.

2. Ordering and contractual conclusion

- 2.1 Orders shall only be binding if they have been issued or confirmed by the Buyer in writing. Each order must be confirmed in writing by the supplier within 5 working days following receipt of the order. The agreement shall be considered to have been concluded when the order confirmation signed by the Supplier and corresponding to the order is received by the Buyer.

3. Prices

- 3.1 Insofar as not otherwise agreed, the specified prices shall be considered fixed prices. These also encompass all agreed performances and apply irrespective of the place of performance.

4. Delivery deadline and consequences of delay

- 4.1 The delivery shall be due on the agreed date of delivery at the place of performance. In the event of delayed delivery for which the Supplier is responsible, additional transport costs, extra costs, express costs and any other possible financial consequences or losses resulting from the delayed delivery must be borne by the Supplier. The withdrawal of the Buyer in accordance with Fig. 7 shall remain reserved.
- 4.2 In the event of a contractual penalty being agreed for the event of delayed delivery, then this shall comprise 3% per week of delay, although totalling not more than 20% of the price of the delayed delivery. In the event of the Supplier being late with a partial delivery, then the contractual penalty rates shall be calculated on the basis of the price of the entire performance owed by the Supplier whose utilisation is impaired by the delay in the partial delivery. The rights of the Buyer to pursue claims for compensation shall remain reserved.
- 4.3 The Supplier may plead the absence of necessary performances to be rendered by the Buyer only if he has demanded these in good time. 4.4 Partial deliveries and premature deliveries greater than 7 days may be made only with prior approval.

5. Transport, transfer of risk, insurance and packaging

- 5.1 Special transport methods and routes must be agreed. Insofar as not otherwise agreed in individual cases, the deliveries shall be performed DDP (Incoterms 2000).
- 5.2 Risk shall be transferred following delivery at the place of performance to a person of the Buyer authorised to receive such deliveries.
- 5.3 Insofar as the conclusion of a transport insurance policy is required, this must be agreed in advance.
- 5.4 The Supplier shall bear full responsibility for proper packaging. Damage suffered by the transport goods attributable to inadequate or unsuitable packaging as well as the financial consequences, losses or additional costs thereby incurred by the Buyer shall be borne wholly by the Supplier. The packaging must be marked with the article number of the Buyer incl. drawing index, designation and quantity. The Supplier must draw attention to the need to exercise special care when removing ancillary constructions etc.
- 5.5 The article number of the Buyer together with the drawing index as well as the material identification must be confirmed on all documents (delivery notes, invoices).

6. Guarantee

- 6.1 In his capacity as a specialist, the Supplier guarantees that the object of the delivery is not encumbered by any defects which reduce its value or impair its suitability for the intended use, that the object of the delivery possesses the warranted characteristics and corresponds to the statutorily prescribed performances and specifications. The Supplier undertakes to perform suitable quality controls on an ongoing basis. The object of the delivery must comply with the statutory regulations in force at the place of performance.
- 6.2 The guarantee period shall be 24 months following the delivery of the object of the delivery to the place of performance.
- 6.3 Should it become apparent during the guarantee period that the object of the delivery is defective (cf. Fig. 6.1), then the Buyer shall be entitled to demand that the defect be rectified on the spot or the subsequent delivery of defect-free goods at the expense of the Supplier. In urgent cases the Buyer shall be entitled, following notification of the Supplier, to rectify the defect himself or to cause this to be rectified by a third party at the expense of the Supplier.
In the event of the Supplier, despite the granting of a reasonable period of grace -insofar as this is not futile from the outset - fails to perform or fails to perform properly the demanded rectification or replacement delivery, then the Buyer shall be entitled at the expense of the Supplier to rectify the defect himself or to cause this to be rectified or to procure replacement. In each instance the Buyer shall be entitled to pursue further damages.
- 6.4 The Supplier shall be liable for suppliers as for his own performances.
- 6.5 The guarantees granted by the Supplier for replacement deliveries and rectifications shall have the same scope as those granted for original deliveries.

7. Withdrawal

- 7.1 In the event of the Supplier falling into arrears with respect to the delivery or the guarantee works in accordance with Fig. 6.3, and if a reasonable period of grace has also passed without success, then the Buyer shall be entitled to withdraw from the Agreement and may refuse to accept the delivery, without the Buyer thereby incurring any costs.
- 7.2 Should it prove even prior to the delivery deadline that the Supplier is likely to fail to meet the delivery deadline, then the Buyer shall likewise be entitled to withdraw from the Agreement and may refuse to accept the delivery, without the Buyer thereby incurring any costs.

- 7.3 The Buyer shall furthermore be entitled to withdraw from the Agreement if it appears likely during the course of the manufacture that the object of the delivery will not be suitable.
- 7.4 The rights of the Buyer to pursue claims for compensation shall remain reserved.

8. Product Liability, indemnity, Liability insurance

- 8.1 In the event of the Supplier being responsible or sharing responsibility for the product damage caused by a defective and/or faulty product, then the Buyer shall reserve the right to take recourse wholly or to a reasonable extent against the Supplier. If it is possible to demonstrate without doubt that the product damage is attributable to the defective and/or faulty product of the Supplier, then the Supplier shall undertake to indemnify the Buyer against third-party claims for damages upon first demand. These regress claims of the Buyer shall be subject to the same limitation periods as the third-party claims arising out of product liability against the Buyer.
- 8.2 Within this framework the Supplier shall also be obliged to reimburse any possible costs resulting from or incurred in conjunction with a recall action conducted by the Buyer. We shall inform the Supplier - insofar as this is possible and reasonable - about the content and scope of the recall measures which are to be performed, and shall provide him with an opportunity to respond to this matter.
- 8.3 The Supplier undertakes to maintain a product liability insurance policy with a flat-rate guarantee sum of at least CHF 5 million per incident of injury to persons / damage to property. In the event of the Buyer being entitled to further claims for damages, then these shall remain unaffected. The Buyer shall reserve the right at any time to demand a corresponding insurance certificate from the Supplier.

9. Legal warranty

- 9.1 The Supplier must ensure that no third-party property rights (patents, samples, models etc.) are violated by the supply and utilisation of the offered objects. If necessary, he shall fully indemnify the Buyer.

10. Intellectual property rights concerning documents and confidentiality

- 10.1 All rights to documents (such as drawings etc.) and the objects represented therein which the Buyer hands over to the Supplier within the framework of a supply relationship shall be retained by the Buyer. The Supplier shall not be entitled to use these documents for any purpose other than for the manufacture and supply of the object of the delivery to the Buyer. In particular, he shall not be entitled to use these for third-party orders, to publish these or to make these accessible to third parties in any other manner. Upon request, all documents together with all copies or reproductions thereof must be returned to the Buyer without delay.
- 10.2 The Supplier must handle the order and the works or deliveries associated therewith with confidentiality.
- 10.3 Technical documents of the Supplier or his subcontractors shall be treated with confidentiality by the Buyer. These shall remain the intellectual property of the Supplier or of the subcontractor.

11. Invoicing and terms and conditions of payment

- 11.1 Separate invoices must be drawn up for each order, specifying the order number.

- 11.2 If not otherwise agreed, payment shall be performed within 30 days. The payment period shall begin upon receipt of the invoice, or if the goods are received following the receipt of the invoice, on the date on which the goods are received.
- 11.3 In the absence of the prior written consent of the Buyer, the Supplier shall not be entitled to assign his claims against the Buyer wholly or partially, or to dispose thereof in any other manner.

12. Force majeure

- 12.1 The contracting parties shall not be liable for any failure to fulfill their contractual obligations as a consequence of events deemed to be "force majeure." The term "force majeure" refers to circumstances that occur following the conclusion of the agreement which are unforeseeable and objectively unavoidable.
- 12.2 The contracting party who invokes reasons of "force majeure" shall be obliged to notify the other party without delay about the occurrence thereof and the likely duration of the delay. If this notification is not provided or if it is provided late, then the party in question shall be liable vis-a-vis the contracting party for the resulting additional costs and financial consequences.
- 12.3 The Supplier shall upon demand present an attested confirmation to the Buyer concerning the circumstances which he considered to have constituted force majeure.

13. Data protection

- 13.1 Within the framework of the settlement of the order, the Buyer shall be entitled to process personal data. The Supplier in particular agrees that the Buyer may also make such data available to third parties for the purpose of settling and maintaining the business relationships. The Supplier shall take appropriate measures to ensure the data is protected.

14. Concluding provisions

- 14.1 Swiss law shall be applicable.
- 14.2 The place of performance for deliveries and payments shall be the place of destination specified by the Buyer, insofar as this is not otherwise agreed, Baar. The place of jurisdiction shall be the registered domicile of the Buyer. The Buyer shall, however, also be entitled to pursue claims against the Supplier at his registered domicile.

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