

General Terms and Conditions of Purchase of HA2 Medizintechnik GmbH

I. Scope of application

1. All deliveries, services and offers of our suppliers are effected exclusively on the basis of these General Terms and Conditions of Purchase (GTCP). They form an integral part of all contracts we conclude with our suppliers for the deliveries and services they offer. They also apply for all future services, offers and deliveries between the same parties without the need for this to be stated again.
2. Our GTCP apply exclusively. Deviating, conflicting and supplementary general terms and conditions of our suppliers or third parties shall not apply and thus only form a part of the contract(s) if and to the extent that we have expressly consented to their application in writing. This requirement for consent shall apply in all cases, for example even if we accept the supplier's or third party's deliveries without reservation in the knowledge of their general terms and conditions.

II. Offer and order

1. The supplier's offers are free of charge for us.
2. The supplier must confirm each order in writing within seven (7) days including the binding price and delivery period (acceptance). Delayed acceptance shall be deemed a new offer and require acceptance by us in any case.
3. Any deviating confirmation terms must be highlighted. We similarly have the right to revoke the order.
4. Verbal pledges, ancillary agreements, information, etc., (including agreements) are only binding if they are subsequently confirmed in writing by us or if we have waived the requirement for the written form in writing.
5. Changes made by the supplier to the specifications listed in the order, e.g., materials, tolerances, test methods, etc., are not permitted without our advanced written approval.

III. Prices, payment conditions, invoice details

1. The price stated in the order is binding. It includes all the supplier's expenses, including delivery, transport and packaging to the shipping address specified in the contract.
2. Provided no individual arrangements have been made and confirmed in writing, payment shall be effected after receipt of the invoice within 14 days with a 3% discount or within 30 days net.
3. The payment deadline commences upon receipt of the valid, VAT-compliant invoice in duplicate. The statutory provisions shall apply for default in payment.
4. Payments by us do not constitute acknowledgement of the services as being in accordance with the contract, but rather are subject to the reservation of subsequent claims.
5. We shall be entitled to set-off rights and rights of retention as well as the defence of non-performance of the contract to the extent provided by law. In particular, we are entitled to withhold due payments as long as we are still entitled to claims from incomplete or defective performances against the seller.

IV. Terms of delivery, transfer of risk, packaging, shipping

1. The delivery dates/periods specified in the order are binding. The proper receipt of the goods at the delivery address (place of performance) specified in the order is decisive for the compliance. If the supplier is responsible for the failure to meet the agreed delivery dates/periods, the supplier shall be in default without further reminder.
2. Delivery of 98% up to 105% of the ordered quantity of goods is accepted as fulfilment of the delivery obligation.
3. The risk only passes to us, even in the case of dispatch by the supplier, once the goods are handed over at the place of performance.
4. Unless agreed otherwise, goods can be only accepted Monday to Thursday from 8 a.m. to 3 p.m. and Friday from 8 a.m. and 2 p.m. (CET).
5. The supplier is obliged to include the exact order number and delivery item on all shipping documents and delivery notes. Should it fail to do so, we are not responsible for any delays in processing and payment.
6. We must be informed immediately in the case of delivery delays of any kind, with specification of the reason and expected duration of the delay.

7. In the case of delayed delivery, even due to force majeure, we are entitled to the statutory claims without limitations.
8. The supplier must package the goods professionally in a manner befitting their nature and the selected mode of transport at its own expense.
9. The supplier also bears all additional costs such as tolls, forwarding agents' fuel surcharges, other fees, taxes, insurance costs and customs duties.
10. If the goods are delivered on EUR-pallets, other pallets subject to exchange or disposable pallets, the supplier guarantees the perfect quality of these pallets. Exchange pallets will only be provided for pallets in perfect quality. The supplier shall also instruct the delivering forwarding agent to accept the equivalent number of exchange pallets from us. Pallet accounts must be balanced after three months at the latest.
11. In the case of delivery of hazardous substances in the sense of the German Ordinance on Hazardous Substances (GefStoffV), the supplier must make the corresponding safety data sheet and all the data required for its preparation available to us in German. The same applies for the delivery of products where it is not possible to exclude the release of such hazardous substances during use.

v. Contractual penalty

In the event of default on delivery, we are entitled to demand a contractual penalty of 0.5% of the delivery value for each commenced week of culpable failure to meet the deadline (failure to deliver by the agreed delivery date), but for maximum 5% of the delivery value. The contractual penalty shall be offset against the default damage to be compensated by the supplier.

vi. Retention of title

The transfer of ownership of the goods to us shall be unconditional and without regard to the payment of the price. If, however, we accept an offer from the seller to transfer title on condition of payment of the purchase price in exceptional cases, the seller's retention of title shall expire at the latest upon payment of the purchase price for the goods delivered. We shall remain authorised to resell the goods in the ordinary course of business even before payment of the purchase price with advance assignment of the claim arising therefrom (alternatively validity of the simple reservation of title extended to the resale). This excludes all other forms of retention of title, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.

vii. Warranty claims

1. The supplier is obliged to ensure all deliveries and services are free from defects.
We are not obliged to examine the goods or to make special enquiries about any defects at the time of conclusion of the contract. We shall also be entitled to unlimited claims for defects if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.
2. The statutory provisions (Sections 377 and 381 of the German Commercial Code (HGB)) shall apply to the commercial duty of inspection and notification of defects with the following proviso: our duty to inspect is limited to defects which become apparent during our incoming goods inspection under external examination including the delivery documents or which are recognisable during our quality control in the random sampling procedure. Our obligation to give notice of defects discovered at a later point in time remains unaffected.
3. Notwithstanding our duty to inspect, a notice of defect is considered to be in good time if sent within a period of ten (10) working days, calculated from receipt of the goods or, in the case of hidden defects, from their discovery.
4. Claims for defects shall become time-barred after 36 months. The limitation period commences with the transfer of risk, i.e., the delivery or acceptance of the goods, insofar as services are owed under a contract for work and services. Longer statutory or contractually agreed limitation periods shall remain unaffected.
5. In the event of material defects and defects of title, we shall be entitled to the statutory claims without limitations. In any case, we are entitled to demand the supplier rectify the defect or deliver a new item at our discretion. The right to compensation, especially the right to compensation instead of performance, is expressly reserved.

6. We are entitled to rectify the defect ourselves or have it remedied by third parties at the expense of the supplier if it is no longer possible to notify the supplier of the defect and the existing damage due to the particular urgency and it is no longer possible or it is unreasonable for us to set a reasonable deadline for the remedy.

VIII. Product liability

1. The supplier shall be responsible for all claims asserted by third parties for personal injury or property damage attributable to a defective product supplied by them and shall be obliged to indemnify us against any liability resulting therefrom.
2. If we are obliged to carry out a recall action towards third parties due to a defect in a product supplied by the supplier, the supplier shall bear all costs associated with the recall action. We will inform the seller – as far as possible and reasonable – about the content and scope of recall measures and give them the opportunity to comment. Further legal claims remain unaffected.

IX. Property rights

1. In accordance with paragraph 2, the supplier shall be responsible for ensuring that no third-party industrial property rights are infringed by goods they deliver.
2. The supplier is obliged to indemnify us against all claims made by third parties against us due to the infringement of industrial property rights referred to in paragraph 1 and to reimburse us for all necessary expenses in connection with this claim. This shall not apply insofar as the supplier proves that it is neither responsible for the infringement of industrial property rights nor should have been aware of the infringement at the time of delivery if it had exercised due commercial care.

X. Place of performance, legal venue and applicable law

1. Should any provisions be or become invalid, the remainder of the conditions shall remain unaffected.
2. The place of performance for all obligations arising from the contractual relationship between us and the supplier is the registered office of our company.
3. The legal venue is, at our discretion, our registered office. This also applies for proceedings involving documents, bills of exchange and cheques.
4. The law of the Federal Republic of Germany shall apply for these GTCP and all contractual relationships between the parties. The applicability of the UN Convention on Contracts for the International Sale of Goods is hereby excluded.