

General Terms and Conditions of Hermann Müller Medizintechnik GmbH

(Status 07/2024, v1)

1. Scope

- 1.1. These General Terms and Conditions (GTC) of Hermann Müller Medizintechnik GmbH (hereinafter referred to as “Seller”) apply to all current and future business relationships with entrepreneurs (Section 14 of the German Civil Code), legal entities under public law or special funds under public law (hereinafter referred to as “Customer”).
- 1.2. Our general terms and conditions apply exclusively. Differing, conflicting or supplementary general terms and conditions of the customer or third parties do not apply and only become part of the contract if and to the extent that we have expressly agreed to their validity in writing. This consent requirement applies in all cases, for example even if we carry out the delivery without reservation despite knowing the general terms and conditions of the customer or third parties.

2. Conclusion of contract

- 2.1. Our offers are non-binding and subject to change. This also applies if we have provided the customer with catalogues, technical documentation (e.g. drawings, plans, calculations, estimates, references to DIN standards), other product descriptions or documents - also in electronic form.
- 2.2. An order from the customer is considered a binding contractual offer. Unless otherwise stated in the order, we are entitled to accept this contractual offer within two weeks of its receipt.
- 2.3. Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the customer.

3. Prices and payment terms

- 3.1. Unless otherwise agreed in individual cases, our prices valid at the time of conclusion of the contract shall apply, ex works, plus statutory sales tax, but excluding packaging and shipping.
- 3.2. The purchase price is due and payable within 30 days of invoicing and delivery or acceptance of the goods.
- 3.3. Once the above payment deadline has expired, the customer is in default. During the period of default, the purchase price will be subject to interest at the applicable statutory default interest rate. We reserve the right to claim further damages for default.
- 3.4. The customer is only entitled to set-off or retention rights to the extent that his claim has been legally established or is undisputed. In the event of defects in the delivery, the customer's counterclaims remain unaffected.

4. Delivery and delivery time

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- 4.1. Delivery takes place ex works, which is also the place of performance for delivery and any subsequent performance. At the customer's request and expense, the goods will be sent to another destination (sale by dispatch). Unless otherwise agreed, we are entitled to determine the type of dispatch (in particular transport company, shipping route, packaging) ourselves.
- 4.2. The delivery time is agreed individually or stated by us when the order is accepted. If this is not the case, the delivery time is approximately four weeks from the conclusion of the contract.
- 4.3. If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (unavailability of the service), we will inform the customer of this immediately and at the same time provide the expected new delivery deadline. If the service is not available within the new delivery deadline, we are entitled to withdraw from the contract in whole or in part; we will immediately reimburse any consideration already provided by the customer. A case of unavailability of the service in this sense is in particular the failure of our supplier to deliver on time if we have concluded a congruent hedging transaction.
- 4.4. The occurrence of our delay in delivery is determined by the statutory provisions. In any case, however, a reminder from the customer is required. If we are in default, the customer can - in addition to further legal claims - demand flat-rate compensation for the damage caused by the delay. The flat-rate compensation for the delay amounts to 0.5% of the delivery value for each completed calendar week of the delay, but a maximum of 5% of the delivery value of the goods delivered late. We reserve the right to prove that the customer has suffered no damage at all or only significantly less damage than the above flat rate.

5. Retention of title

- 5.1. We retain title to the goods sold until all of our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims) have been paid in full.
- 5.2. The goods subject to retention of title may not be pledged to third parties or transferred as security until the secured claims have been paid in full. The customer must notify us immediately in writing if and to the extent that third parties gain access to the goods belonging to us.
- 5.3. If the customer acts in breach of contract, in particular if the purchase price is not paid when due, we are entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for return also includes the declaration of withdrawal. We are entitled to demand the return of the goods subject to retention of title after withdrawal .

6. Warranty and notification of defects

- 6.1. The statutory provisions apply to the customer's rights in the event of material and legal defects (including incorrect and incomplete deliveries as well as improper assembly or inadequate assembly instructions), unless otherwise specified below.
- 6.2. The basis of our liability for defects is primarily the agreement made regarding the quality of the goods. All product descriptions and manufacturer information that are the subject of the individual contract or that were made public by us (in particular in catalogues or on

our website) at the time the contract was concluded are deemed to be an agreement regarding the quality of the goods.

- 6.3. If the quality has not been agreed, it must be assessed according to the statutory provisions whether a defect exists or not (Section 434 Paragraph 1 Sentences 2 and 3 of the German Civil Code). However, we accept no liability for public statements made by the manufacturer or other third parties (e.g. advertising statements).
- 6.4. The customer's warranty claims presuppose that he has complied with his statutory inspection and complaint obligations (§§ 377, 381 HGB). If a defect becomes apparent upon delivery, inspection or at any later point in time, we must be notified of this immediately in writing. In any case, obvious defects must be reported in writing within seven working days of delivery and defects not apparent upon inspection must be reported in writing within the same period of time after discovery. If the customer fails to carry out the proper inspection and/or report the defect, our liability for the undisclosed defect is excluded.

7. Liability

- 7.1. Unless otherwise stated in these Terms and Conditions, including the following provisions, we shall be liable for any breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- 7.2. We are liable for damages – regardless of the legal basis – within the scope of liability for intent and gross negligence. In the case of simple negligence, we are liable, subject to a more lenient standard of liability under statutory provisions (e.g. for due care in our own affairs), only
 - 7.2.1. for damages resulting from injury to life, body or health,
 - 7.2.2. for damages resulting from the not insignificant breach of an essential contractual obligation (obligation, the fulfilment of which makes the proper execution of the contract possible in the first place and on whose compliance the contractual partner regularly relies and may rely); in this case, however, our liability is limited to compensation for foreseeable, typically occurring damage.
- 7.3. The liability limitations arising from paragraph 2 also apply to breaches of duty by or on behalf of persons whose fault we are legally responsible for. They do not apply if we have fraudulently concealed a defect or provided a guarantee for the quality of the goods and for customer claims under the Product Liability Act.

8. Limitation period

- 8.1. Deviating from Section 438 Paragraph 1 No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material and legal defects is one year from delivery. If acceptance has been agreed, the limitation period begins with acceptance.
- 8.2. If the goods are a building or an item that has been used for a building in accordance with its usual use and has caused its defects (building material), the limitation period according to the statutory provisions is five years from delivery (Section 438 Paragraph 1 No. 2 BGB). Other special statutory provisions on limitation periods also remain unaffected (in particular Section 438 Paragraph 1 No. 1, Paragraph 3, Sections 444, 479 BGB).
- 8.3. The above limitation periods under sales law also apply to contractual and non-contractual claims for damages by the customer that are based on a defect in the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. The limitation periods under the Product

Liability Act remain unaffected in any case. In all other respects, the statutory limitation periods apply exclusively to claims for damages by the customer in accordance with Section 7.

9. Final provisions

- 9.1. These General Terms and Conditions and the contractual relationship between us and the customer are subject to the law of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
- 9.2. If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our place of business in Ulm. However, we are also entitled to bring an action at the customer's general place of jurisdiction. Mandatory statutory provisions on exclusive places of jurisdiction remain unaffected.
- 9.3. Should individual provisions of these General Terms and Conditions be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The statutory provisions shall take the place of the invalid provision.