

Terms and Conditions of Purchase

Balda Medical GmbH, hereinafter referred to as “purchaser”

§ 1

General notes/ Scope of validity

The terms and conditions of purchase apply to all present and future deliveries and services commissioned by the purchaser.

Differing, contradictory or supplementary General Terms and Conditions of Business of the contractor do not constitute a part of this contract even if the purchaser is aware of them, unless their validity is explicitly agreed in writing.

§ 2

Offer, offer documents, orders, order confirmation

Offers must be submitted in duplicate by the contractor. They are binding and free of charge. The contractor must meet the requirements of the query or the invitation to tender with regard to quantities, quality and specifications and expressly point out any deviation from them.

Orders and delivery calls must be submitted in writing. This can be done by data transmission or machine-readable data storage media. Any new developments in electronic communication technology can be actively used, provided the purchaser agrees thereto and they are defined as legally binding.

Orders and delivery calls must be confirmed by the contractor within five days, otherwise the purchaser is entitled to cancel.

§ 3

Prices, invoices and payment

The prices agreed are fixed prices, not including the VAT valid at the time of the agreement; they include free delivery and packing. If the price can not be fixed exactly when the order is placed, it must be given by the contractor when the order is confirmed. If the purchaser does not object within eight working days, the price is considered to have been accepted. If the price is not fixed when the order is placed and is not stated until the order is confirmed by the contractor, the purchaser has the right to cancel the contract within five working days without incurring pecuniary claims or other claims for damages by the contractor.

Invoices must be issued in duplicate stating the purchaser order number, part number and part description. VAT must

be shown separately. Invoices which are not issued in the proper form cannot be processed and will be returned to the contractor. Any delay in payment caused as a result of this is the responsibility of the contractor and does not involve the purchaser in any payment of interest for delay or claims for damages. The contractor must furnish all supporting documents (e.g. certificates of origin) which are necessary for the purchaser to obtain Customs and other benefits.

Payment will be made by the purchaser strictly on the 15th of the month following delivery with a 3% discount or net within 90 days of the following 15th of the month, by cheque or money transfer or electronic payment at the discretion of the purchaser. Payment periods begin from the moment the goods are delivered and the invoice is received by the purchaser in the correct form. Satisfactory payment by the purchaser on no way prejudices complaints of defects and claims for damages. If in certain cases advance payments have been agreed, prior to receiving the advance payment, the contractor has to give the purchaser a directly enforceable guarantee, which includes a waiver of the benefit of objection and a note of payment on first demand. The contractor can only make legally effective assignments of debts against the contractor with the consent of the latter.

§ 4

Delivery dates, delivery delays, Acts of God

The delivery date given in the order from the purchaser is binding. The moment the goods arrive at the purchaser's premises is relevant for determining fulfilment of delivery dates or delivery deadlines. If carriage-paid delivery to the purchaser has not been agreed, the contractor must have the goods ready in time, taking into account the standard time for loading and dispatch.

If, after the contract has been finalised, meeting the exact delivery date laid down in the contract becomes unrealistic or even only probably unrealistic for the contractor due to operating trouble, a lack of raw products, semi-finished products or as a consequence of Acts of God, they must inform the purchaser immediately and in sufficient time to enable the latter to meet their delivery deadlines in some other way. If this notification is omitted or is sent too late, the contractor is liable to the purchaser for any delays and the consequences thereof.

The contractor is obliged to compensate the purchaser for any damages caused by delay. Acceptance of the delayed goods does not imply that the purchaser will forego any damages caused by delay.

Acts of God, industrial action, rioting, official measures or other unforeseen, unavoidable and serious events release the contractor for the duration of the disturbance and its circumstances from their liabilities. This is also the case when these events take place at a time when the

contractor concerned has fallen behind schedule. The contractual partners are obliged, within the limits of what is just and reasonable, to provide the necessary information without delay and to adjust their obligations in the light of the changed circumstances in good faith.

§ 5

Compensation

If the delivery is later than the delivery date in the contract, the purchaser is entitled to subtract 0.5% of the total agreed price for each day commenced after the agreed delivery date up to a maximum of 10% of the total price of the order. The contractor is explicitly allowed to provide evidence that the purchaser has incurred no damage or substantially less damage than claimed.

This is without prejudice to the claims of the purchaser for fulfilment and for further compensation.

§ 6

Changes to the contract

The purchaser can demand subsequent changes in the quality, delivery or performance within the framework of the contractor's technical capabilities. The purchaser is obliged to inform the contractor of such required changes immediately.

§ 7

Transfer of risk, dispatch and customs duty

In the case of deliveries that include mounting or assembly as well as in the case of services, risk transfers upon acceptance; for deliveries without mounting or assembly it is transferred when the goods are received at the location determined by the purchaser.

Unless otherwise agreed, the packing and dispatch costs shall be met by the contractor. If the price calculation is ex-works or ex-warehouse, the goods must be sent at the lowest cost unless the purchaser has prescribed a particular form of haulage. The contractor is liable for any extra costs due to non-compliance with the dispatch instructions.

If the price calculation is carriage free, the purchaser can also define the form of haulage. The contractor must bear any extra costs if faster haulage is required to meet delivery deadlines.

Each delivery must be accompanied by a packing slip or delivery note containing details of the content and the complete order number. Notification of dispatch must be given immediately, containing the identical information.

The shipment must be carried out in the manner and with the packaging specified by the contractor and with the prescribed identification marking and delivery papers. If

required, the purchaser will return packaging to the contractor on a freight collect basis. Shipment of goods takes place strictly at the cost and risk of the contractor. For deliveries from foreign countries where customs duties must be paid and for the transportation of machines and plant equipment of any kind, the contractor must contact the purchaser with regard to import duties and transport arrangements.

§ 8

Inspection for faults

Incoming deliveries to the purchaser shall be inspected only with regard to faults to the packaging, the identity and obvious transport damage. The contractor does not require the purchaser to carry out an immediate examination and complaint about obvious faults to the individual objects. However, the purchaser is obliged to perform examinations and make any complaints within a time limit of four weeks after receiving the goods.

§ 9

Warranty

If faulty goods have been delivered, the contractor will be afforded the opportunity to sort them out and repair them or deliver replacements, unless the purchaser cannot reasonably be expected to accept this. If the contractor cannot carry this out or is not able to do it promptly, the purchaser can cancel the contract or claim damages for non-fulfilment of the contract and return the goods to the supplier at the supplier's cost. In pressing cases, by agreement with the contractor, the purchaser can carry out the repairs or have them performed by a third party. In all of these cases the costs are borne by the contractor. In any event, a fixed charge of € 85.00 Net will be raised against the supplier for each claim processed by the Purchaser.

If the same goods are delivered again in a faulty condition, the purchaser is entitled to cancel future deliveries after a written reminder that there has been another faulty delivery.

The warranty is valid for 24 months after receipt of the goods. In the case of machines and plant equipment it begins after commissioning by the purchaser.

§ 10

Environmental protection

The contractor's company meets the recognised environmental and labour protection, accident prevention and all occupational protection regulations, management systems and safety regulations as well as all valid statutory requirements of the Federal Republic of Germany, the EU and of those of the state providing the services, particularly

DIN EN ISO 9001 and DIN EN ISO 14001. Above all, the contractor must act with due care for the environment and in consideration of the following characteristics:

- Dispatch of EU safety data sheets for raw materials and supplies with initial delivery and subsequently at least once a year, as well as in the event of any changes to the safety data sheets;
- The relevant environmental and labour protection regulations must be met;
- Motivation of all employees within the contractor's firm to implement environmental protection measures;
- Considerate handling of resources with the production methods employed;
- The development of environmentally sound products as well as the prevention and reduction of environmentally harmful manufacturing methods;
- commitment to the environmentally sound disposal of waste produced during manufacturing.
- The contractor shall inform the purchaser regarding any special, not generally recognised treatments and or disposal requirements for each delivery or service.

§ 11

Industrial Property Rights

The contractor guarantees the purchaser that the industrial property rights of third parties will not be damaged by the execution of the contract or by the delivery and utilisation of the object of delivery or services. The contractor indemnifies the purchaser from any third-party claims that might arise from damage to industrial property rights. This means that the contractor shall also bear any costs that may be necessary pertaining to documentation of the observance of third-party industrial property rights.

§ 12

Reservation of ownership

The contractor reserves rights of ownership to all delivered goods until complete payment has been made. All deliveries are considered to constitute a single delivery transaction. In the event of open accounts, the reserved ownership acts as security for the receivables balance.

Should goods that have been delivered by the purchaser to the contractor be combined with other articles to create a new, unified item, or if the other article becomes the main item, the contractor is obliged to transfer a proportion of the co-ownership rights to the purchaser, insofar as it is owner of the main item. If the purchaser resells the delivered goods, according to the terms of the contract, it thereby transfers all rights to receivables from its customer as sustained from the sale, to the contractor, until such time as complete payment of its outstanding accounts has

been rendered. The purchaser is obliged to disclose to the contractor details of all such sales to third-party purchasers and to provide the contractor with all such information and documentation as is necessary in order for it to assert its claims.

The contractor will release the security that it holds if the value exceeds that of the receivables to be secured by 20%.

The treatment and processing of the goods by the contractor is always undertaken in the name of and on behalf of the purchaser. If processing should occur with articles not belonging to the purchaser, the purchaser gains partial ownership of the new item proportionate to the value of the goods delivered by the purchaser compared to the other processed articles. The same applies if the goods are incorporated with other articles and goods that do not belong to the purchaser.

§ 13

Tools, models, patterns

The purchaser is the owner of all tools, models, patterns, forms, data, drawings, illustrations, and calculations, insofar as they are intended for the manufacture of parts on behalf of the purchaser, even if these were manufactured or acquired by the contractor. The contractor acts on behalf of the purchaser and the means of production are only provided to the contractor on a loan basis. The costs of the means of production shall be borne by the purchaser in compliance with the agreement. The contractor hereby assigns the rights to recover possession of all means of production on its business premises or otherwise in its possession to the purchaser. This also applies to all means of production that come into its possession on its business premises or otherwise, after the point in time of the transfer of title. The above regulation is equally applicable if the contractor should replace the purchaser's means of production from its own funds. The contractor is obliged to mark the purchaser's means of production as property of the purchaser, and to demonstrate said marking on request. The contractor may not make available or use on behalf of third parties any means of production belonging to the purchaser, or items manufactured with same, without the written permission of the purchaser. Even in the event that, for whatever reason, the contractor becomes the owner of the means of production previously owned by the purchaser, the purchaser may still demand return of said means. The contractor cannot exercise any right to retention whatever in this respect.

§ 14

The assignment of contracts to third parties

Contracts may not be assigned to third parties without the written agreement of the ordering party and, if done, this

would entitle the ordering party to cancel the contract in whole or in part as well as to claim damages.

§ 15

Assignment of receivables

The assignment of receivables is only allowed with the prior written consent of the ordering party.

§ 16

Secrecy

The contractor will treat the means of production of the purchaser, its manufacturing methods, its orders and all related characteristics or the contractual relationship as business secrets. Drawings, samples, models, templates or similar items may not be given to or otherwise be made available to unauthorised third parties. The reproduction of such items is only permitted within the framework of internal corporate requirements and copyright laws.

§ 17

Special terms

We request details of the country of origin with your order conformation in compliance with EU directive 3351/83 (insofar as we are not already in possession of a standard declaration from yourselves). Our complete order details are to be quoted on all letters, dispatch notes, package addressing and invoices. Deliveries and services will only be acknowledged if they are carried out in accordance with an order note issued by us. Our orders may not be used either for reference, advertising or similar purposes without our explicit permission.

§ 18

Additional regulations

Insofar as order conditions contain no specific regulations, statutory regulations shall apply.

§ 19

Withdrawal

The purchaser is authorised to cancel the contract without notice for important reason. An important reason would be given if, for example, the assets of the contractor should be subject to insolvency or the contractor's assets should be seized for other reasons.

§ 20

Final clauses

The law of the Federal Republic of Germany shall apply. The provisions of the UN convention on international purchasing contracts shall not apply.

If the contractor is a businessman, legal person under public law or acting on behalf of public funds, the legal venue for any dispute pertaining to this contract shall be that of the registered office of the purchaser. The same applies, if the contractor has no general legal venue in the Federal Republic of Germany, or place of residence or habitual domicile is unknown at the time of the lawsuit. Should individual provisions of this contract with the contractor, including these terms and conditions of purchase be found to be partially or entirely ineffective, this is without prejudice to the effectiveness of the remaining provisions of this contract. A provision that is found to be either partially or completely ineffective shall be replaced with a provision that is commercially as similar as possible to the ineffective provision.

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