

General Terms and Conditions of Delivery

Salvia Lifetec Geräte für Medizintechnik GmbH & Co. KG

1. General terms and conditions

- 1.1. The following provisions govern the business relations between **Salvia Lifetec Geräte für Medizintechnik GmbH & Co. KG** (referred to as "Salvia" hereinbelow) and the Customer in order to ensure smooth business procedures. They apply to all work and services performed as well as to all deliveries made by Salvia to the Customer in the context of the respective business relationship, in particular also to all agreements that may be concluded in future by Salvia and the Customer.
- 1.2. Salvia shall inform the Customer of any modifications to the present General Terms and Conditions of Delivery. Should the Customer fail to object to such modifications within a period of four weeks following receipt of the corresponding notice, the modified General Terms and Conditions of Delivery shall govern the contract concluded by the Customer and Salvia.
- 1.3. Any terms and conditions of the Customer deviating herefrom, and any collateral agreements made orally shall apply only if they were acknowledged in writing by Salvia.
- 1.4. The offers made by Salvia shall not be binding upon Salvia. A contract shall have been concluded only upon Salvia having sent to the Customer written confirmation of the Customer's order, or if Salvia and the Customer sign a contract.
- 1.5. Salvia shall deliver exclusively the goods and provide the services set out in the respective contract. Any extension of the scope of such deliveries and services must be confirmed in writing by Salvia in each case.

2. Deliveries of goods and provision of services

- 2.1. The Customer is responsible for transporting the goods from the operations of Salvia; accordingly, the Customer is to bear the costs of transport, including any insurance premiums. The risk of chance destruction shall devolve to the Customer at the point in time at which the goods leave Salvia's operations, and specifically shall so devolve when they are handed over to the Customer or to the shipping agent, freight carrier or any other person contracted by the Customer. Should the delivery process be delayed by circumstances for which the Customer is responsible, the risk of chance destruction shall devolve to the Customer upon notice having been given that the goods are ready for shipment.
- 2.2. The delivery time agreed shall be deemed to have been complied with if the goods leave Salvia's operations by the agreed delivery date, or if Salvia has notified the Customer that the goods are ready for shipment.
- 2.3. Should the Customer be under obligation to procure and submit documents, records, permits, etc., or should it be obligated to take any other cooperative actions, an agreed delivery period shall not commence before the Customer has met the obligations it has entered into in this regard. Any delivery time agreed shall be extended by that period of time by which the Customer has delayed the procurement and submission of the documents, records and/or permits, or by which it has been late in performing any other cooperative actions.
- 2.4. Any delivery date announced by Salvia shall likewise be stayed should any other circumstances arise for which Salvia is not responsible such as industrial actions (strikes, lockouts), measures taken by authorities or the courts, as well as events of force majeure (such as fire, water, earthquakes, storm damages, etc.). Furthermore, Salvia shall be entitled to terminate the agreement without prior notice on exceptional grounds

(*ausserordentlich kündigen*) in the cases set out hereinabove should it be unreasonable to expect of Salvia that it continue to uphold the agreement. Salvia shall inform the Customer without undue delay should any one of the cases set out hereinabove have occurred.

- 2.5. The Customer is to safeguard that the goods are inspected, repaired and generally maintained at the intervals set out in the instruction manual. Furthermore, the Customer is to review, at all times, the expiration date of any products subject to an expiration date; once the expiration date has passed, the Customer is to replace the product subject to such expiration date. The above shall apply in particular in the event any appliances are forwarded by the Customer to its own customers.

3. Warranty

- 3.1. The warranty granted by Salvia shall be subject exclusively to the following provisions. Should Salvia produce goods for the Customer in the context of a contract as to work and services (*Werkvertrag*) (in particular where development contracts are concerned), the following warranty provisions shall be applied only at that point in time at which the goods are sent to the Customer by Salvia, with the request that the Customer accept the goods as being in accordance with contractual requirements (*Abnahme*). Until that point in time, exclusively the general statutory provisions governing the general impairment of performance (*Leistungsstörungsvorschriften*) shall apply.
- 3.2. Salvia warrants that the goods it delivers are free of any defects. The warranty is based on the pre-requisite that any defects or damages to the goods were not caused by improper handling, improper storage (in particular where weather impacts or effects arising from the area and objects surrounding the goods' storage site are concerned) or the failure of the Customer to inspect, repair and generally maintain the goods, or its failure to do so properly, and is likewise based on the pre-requisite that such defects or damages were not caused by the transport of the goods. Furthermore, the warranty does not cover the usual attrition or wear and tear of the goods, nor their consumption (in particular where disposable articles are concerned).
- 3.3. As a matter of principle, the warranty period shall amount to 24 months. Should the Customer have procured the goods for resale, the warranty period shall commence on the date on which the Customer submits its invoice to its customers. However, the warranty period shall end at the latest at the end of the 27th month following the point in time at which the warranty period commences in accordance with statutory provisions. Should the Customer not resell the goods delivered by Salvia, the commencement of the warranty period shall be governed by the statutory provisions.
- 3.4. Under the warranty, the Customer shall initially be entitled solely to the subsequent fulfillment of contractual obligations (*Nacherfüllung*). In the context of such subsequent fulfillment, Salvia shall have the right to remedy the defect (referred to hereinbelow as "After-Sale Repairs") or to send new goods. Salvia shall bear the expenditures incurred in subsequently fulfilling contractual obligations, in particular the costs of transport, travel, work and materials. Salvia shall bear the costs of transport and travel only up to the location to which the goods originally delivered were to be delivered. After-Sale Repairs shall be performed at the Salvia works. The Customer is to send the goods to Salvia for such After-Sale Repairs. Should the Customer fail to comply with this obligation, this shall release Salvia from its warranty obligation.
- 3.5. Should the subsequent fulfillment of contractual obligations (*Nacherfüllung*) fail (after the second, unsuccessful attempt), or should Salvia refuse to subsequently perform, or should it be unreasonable to expect of either Salvia or the Customer that they subsequently fulfill their contractual obligations, or should the After-Sale Repair be impossible, the Customer shall have the right to reduce the purchase price and/or the remuneration or to rescind the contract where the defective goods are concerned.

- 3.6. Should the Customer be a merchant, the Customer is to inspect the goods delivered to it by Salvia, immediately upon their delivery, for any obvious defects and for any defects that are not obvious and apparent, as well as regarding shortfalls in the amounts delivered, and is to inform Salvia immediately (but not later than fourteen (14) days following delivery) in writing of any obvious defects and damages or of defects and damages that are not obvious and apparent, as well as of any shortfalls. Should the Customer fail to inform Salvia within fourteen (14) days of any obvious defects and damages or of defects and damages that are not obvious and apparent, as well as of shortfalls, any and all of the claims the Customer may have in this regard shall be excluded. Should the Customer not be a merchant, its obligation to inspect the goods delivered shall be governed by statutory provisions.
- 3.7. Should the goods delivered by Salvia be returned in the context of the warranty granted, the Customer is to use the special packaging used by Salvia for the original delivery in order to avoid any transport damages.

4. Permits, compliance with statutory provisions

- 4.1. Should any permits be required from authorities, or any other permits, including without limitation permits licensing the goods or authorizing their distribution or operation, the Customer shall not distribute or operate the goods without having obtained such permits as required. Accordingly, the Customer shall procure the required permits prior to any re-distribution or operation of the goods. Furthermore, in re-distributing the goods or operating them, the Customer is to comply with the statutory provisions, ordinances and other legal safety regulations (*sicherheitsrechtliche Vorschriften*) relevant in each case. Should the Customer fail to comply with its obligations in this regard, it is to release Salvia from any and all claims resulting from a violation.
- 4.2. Salvia shall manufacture the goods in accordance with the Council Directive of the European Communities 93/42/EEC, to the extent the goods owed are governed by the Directive and unless the Parties have agreed otherwise.

5. Due date, payment terms and default

- 5.1. Unless otherwise agreed by Salvia and the Customer, Salvia's invoices shall be due for payment immediately upon their being received by the Customer. Any deliveries of goods and provision of services that Salvia may make abroad shall be paid for by an irrevocable and confirmed letter of credit issued by a major bank of the Federal Republic of Germany, payable to the benefit of Salvia against submission of the documents to the said major bank. Any checks, bills of exchange or other means of payment will be accepted only on account of performance. The date on which the amount is credited to Salvia's account shall be deemed to be the date on which the Customer has made payment. To the extent that any costs and/or fees are generated in the context of cashing or honoring bills, checks or other means of payment, such costs shall be borne by the Customer.
- 5.2. The prices quoted by Salvia are understood as net of statutory turnover tax (where applicable) and packaging. To the extent that customs and/or other duties should accrue, the Customer is to bear such charges. Should a delivery be made within the European Union, the Customer is to provide its international turnover tax ID number to Salvia.
- 5.3. Cases of default and default interest shall be governed by statutory provisions.
- 5.4. Should the Customer be a merchant, the Customer shall be allowed to set off only those of its claims that have been recognized by the declaratory judgment of a court or that are undisputed claims, and shall be allowed to exercise rights of retention only with regard to such recognized or undisputed claims.

- 5.5. The goods delivered shall be subject to the extended reservation of title of Salvia. Ownership of the goods shall devolve to the Customer only at that point in time at which all of the claims connected to the sale have been satisfied by the Customer, regardless of the cause in law of these claims and regardless of whether or not the Customer has made payments for any claims that have been specified. In the case of a current account, the reservation of title shall serve as security for the current balance due to Salvia.
- 5.6. The Customer is permitted to use the goods delivered in its manufacturing procedures or to process them, provided this is done on commission for Salvia, who will retain title to the goods also where they are used in manufacturing procedures or are processed. The goods shall be so used or processed at no charge and without any obligation for Salvia. This shall apply mutatis mutandis in the event of the goods being used by the Customer for manufacturing, or their being combined or mixed with other movable objects not belonging to Salvia. In such event, Salvia shall be entitled to co-ownership in the new object, in the relation that the invoice value of the goods delivered to the Customer by Salvia has to the other goods used by the Customer at the time it used them in manufacturing, combined them or mixed them.
- 5.7. By way of securing all of Salvia's claims, also its future claims, under the business relationship, the claims of the Customer as arising from a resale of the goods shall be assigned to Salvia automatically as a result of the contract being concluded by Salvia and the Customer; this shall be the case regardless of whether the goods are sold without being processed or after having been processed, and regardless of whether they are sold to one or several buyers. The Customer shall be authorized to collect these assigned claims also after their assignment unless Salvia revokes the above collection authorization. This shall not affect Salvia's right to itself collect the claim. However, Salvia enters into obligation to not collect the claim for as long as the Customer complies with its payment obligations in due and proper manner and does not default on its payments. Should the Customer default, however, it shall be under obligation to, at the request of Salvia, identify to Salvia its claim under the resale and to provide the name and address of its customer to Salvia. Furthermore, the Customer shall be under obligation to surrender to Salvia all documents and information that are required to collect the claim, while informing its customer of the assignment.
- 5.8. The Customer is not authorized to pledge the goods delivered and/or to transfer them by way of security. The Customer is to inform Salvia immediately of any pledges, seizures and other dispositions by third parties.
- 5.9. Should the value of the securities in place for Salvia exceed its total claims by more than 20%, Salvia shall be under obligation, at the request of the Customer or of a third party whose interests have been adversely affected by such excess security, to release securities of its choice.

6. Liability

- 6.1. Salvia shall be held liable for any damages of the Customer, regardless of their cause, only in the event of intent or gross negligence of its legal representatives, its executives or the persons it employs in the performance of its obligations (*Erfüllungsgehilfen*). This shall apply in particular in the event of obligations under the main agreement, under ancillary agreements or pre-contractual obligations being violated, in the event of default, in the events of deficiencies and consequential damages caused by defects, in the events of initial incapacity and later impossibility of performance, and in the event of tort. The above restrictions shall not apply should a so-called "cardinal obligation" have been violated (contractual obligation the adherence to which is a pre-requisite for the fulfillment of the contractual purpose, and in the fulfillment of which the contractual partner as a general rule may trust).

- 6.2. To the extent Salvia is held liable for damages suffered by the Customer, this liability shall be limited, in terms of its amount, to those damages foreseeable by Salvia, for which Salvia's liability shall be limited to the amount of EUR 1,000,000.00 (one million Euros). These limitations of liability shall not apply should the damage be based on the fact that a legal representative of Salvia or a Salvia executive has acted intentionally or grossly negligently, or that any other employee or person employed by Salvia in the performance of its obligations (*Erfüllungsgehilfe*) has intentionally or grossly negligently violated a "cardinal obligation". If the Customer is not a merchant, the limitation of liability shall not apply, also in those cases in which a person employed by Salvia in the performance of its obligations (*Erfüllungsgehilfe*) has intentionally or grossly negligently violated an obligation that is not a "cardinal obligation".
- 6.3. The above exclusions and/or restrictions of liability shall not apply wherever the *Produkthaftungsgesetz* (ProdHG, German Product Liability Act) is applied, nor shall they apply to any damages resulting from the fact that no representations were made, nor to damages to life, limb or health.

7. Confidentiality

- 7.1. Should Salvia make known to the Customer and/or hand over to it any business or trade secrets (including information and knowledge of the bases, work methods, manufacturing, new developments, improvements, etc.), the Customer shall treat these as strictly confidential and may make them accessible to third parties (including employees, suppliers, sub-contractors) only in the scope required for the implementation of the respective agreement. Furthermore, the Customer is to make such third parties aware of the confidentiality of these matters and is to place them under obligation to maintain such confidentiality. The confidentiality obligation shall continue in force also after the agreement has ended. In all other regards, the confidentiality obligation refers to the entirety of all business and trade secrets, regardless of whether these were identified as confidential or not.
- 7.2. For any violation of Clause 7.1. hereof, the Customer shall be under obligation to pay to Salvia liquidated damages in the amount of EUR 25,000.00. Salvia shall be free to claim any further-reaching damages. The Customer has the right to prove that no damage has occurred, or that the damage is lesser in scope.

8. Final provisions

- 8.1. The present agreement shall be governed exclusively by the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods dated April 11th, 1980 is excluded, as is the application of German conflict of law provisions.
- 8.2. Amendments and/or modifications of an agreement must be made in writing. This shall apply likewise to any waiver of the requirement as to the written form.
- 8.3. Should a provision of an agreement or of the present General Terms and Conditions of Delivery be or become invalid, this shall not affect the validity of the remaining provisions of the agreement or of the present General Terms and Conditions of Delivery. By contrast, the invalid provision shall be replaced, by way of an amending interpretation of the agreement, by that valid provision that comes as close as possible to the economic objective recognizably pursued by the parties to the agreement. The same shall apply to the remediation of any omissions.
- 8.4. Should the Customer be a merchant, a legal entity under public law or special assets (*Sondervermögen*) under public law (Section 38 paragraph 1 of the *Zivilprozessordnung* (ZPO, German Code of Civil Procedure)), or should the Customer have no general venue

in Germany (Section 38 paragraph 2 of the German Code of Civil Procedure), the exclusive place of jurisdiction for any and all disputes among the parties arising from or in conjunction with the agreement or from or in conjunction with the present General Terms and Conditions of Delivery shall be the registered seat of Salvia. The place of performance for the entirety of all work performed and services provided by Salvia and the Customer shall be the registered seat of Salvia.