

Terms and Conditions of Dr. Langer Medical GmbH

1. General, scope

- 1.1 These Terms and Conditions of Dr. Langer Medical GmbH (hereinafter: "Dr. Langer") shall apply to all business relationships with companies (section 14 German Civil Code (BGB)), legal persons under public law, or public law special funds (hereinafter: the "Customer").
- 1.2 Deviating or supplementary Terms and Conditions of the Customer shall only be deemed an integral part of any contract if Dr. Langer has expressly agreed to their applicability.

2. Offer and contract conclusion

- 2.1 Dr. Langer reserves the right to make changes concerning the goods or services (e.g. weights, measurements, use values, capacity, tolerances, technical data, product descriptions) and representations thereof (e.g. drawings and illustrations) insofar as such changes do not alter the contractual item significantly or improve its quality and the alterations or deviations are reasonably acceptable to the Customer.
- 2.2 The Customer shall not, without the express consent of Dr. Langer, make catalogues, technical documentation (e.g. drawings, plans, evaluations, calculations, references to DIN standards), other product descriptions or documents, including in electronic format, accessible to third parties, make the contents known to third parties or use same itself or through third parties for purposes other than ordering products from Dr. Langer and using or reproducing products from Dr. Langer.

3. Prices and payment

- 3.1 Unless otherwise agreed prices shall be ex works from Dr. Langer in Waldkirch (EXW, Incoterms[®] 2010). Packaging is not included in the price. All price information is stated net of VAT.
- 3.2 To the extent that the agreed prices are based upon Dr. Langer's list prices and if delivery takes place more than four months after the conclusion of the contract, Dr. Langer's list prices applicable at the time of delivery shall apply (less any agreed percentage or fixed discount).
- 3.3 Unless payment in advance has been agreed, payment shall be due without any discounts immediately upon delivery or, for work contracts, upon acceptance of the work, and shall be made by bank transfer. Payment shall always be made in advance for deliveries abroad unless otherwise agreed. The Customer shall be in default 14 calendar days after delivery and issue of invoice without necessity of a reminder.
- 3.4 Dr. Langer shall not assume any liability for the accuracy of cost estimates unless otherwise agreed. Should performance not be possible without exceeding the cost estimate by more than 15%, Dr. Langer shall immediately inform the Customer of this. Furthermore section 650 German Civil Code (BGB) shall apply.
- 3.5 In the event of Customer defaulting payment of any invoice, all invoices for all deliveries made/services rendered by Dr. Langer shall become immediately due for payment. In this case Dr. Langer shall be entitled to require pre-payment or security for future orders. Section 321 BGB shall otherwise remain unaffected.
- 3.6 Offsetting counterclaims of the Customer or the retention of payments due to such claims shall only be permitted if the counterclaims are undisputed or have become res judicata, or in the case of reciprocity of these claims with the claims of Dr. Langer.

4. Tracing the products

If the Customer resells a medical product, for each medical product the Customer shall be obligated to keep records of Customer's clients and the location of the products and shall impose the same obligations upon their clients and ensure that the clients can be contacted as quickly as possible in the event of a product recall or other corrective measures.

5. Delivery and default

- 5.1 Delivery shall be ex works from Dr. Langer (EXW, Incoterms[®] 2010) which is also the place of performance. The goods may be delivered to another destination if requested by the Customer at Customer's expense (sale to a place other than the place of performance).
- 5.2 The delivery dates stated by Dr. Langer for delivery/providing other services shall be non-binding. If the goods are to be delivered, delivery times and dates shall relate to the time when the items purchased leave Dr. Langer's warehouse or when Dr. Langer notifies the Customer that the items are ready to ship.
- 5.3 The prerequisites for Dr. Langer's adherence to delivery dates are that all commercial and technical questions between the parties have been clarified and that the Customer has fulfilled all its obligations such as providing the required official certifications or permits, or making advance payments. If this is not the case the delivery date shall be appropriately extended. This shall not apply provided Dr. Langer is responsible for the delay.
- 5.4 Dr. Langer shall only be permitted to make partial deliveries if such partial deliveries are reasonable for the Customer, in particular in terms of the contractually agreed intended use, if the delivery of the remaining ordered goods is guaranteed and this will not incur any significant additional expenditure or extra costs for the Customer.
- 5.5 If Dr. Langer is delayed in delivering goods or providing a service or if it is impossible for Dr. Langer to deliver the goods or provide a service, for any reason whatsoever, Dr. Langer's liability to pay damages shall be limited in accordance with section 7 of these Terms & Conditions.
- 5.6 If, after conclusion of the contract the Customer requests a later delivery date than the one which had been agreed upon, payment shall be made as if the delivery was carried out on time on the original delivery date.
- 5.7 Dr. Langer shall not be liable for the impossibility of delivery or for delivery delays in the event and to the extent that same were caused by force majeure (e.g. natural disasters, war, civil unrest) or other events which were not foreseeable at the time the contract was concluded (e.g. operational disruptions of all types, transport delays, strikes, lawful lock-outs, lack of labour, power or raw materials, difficulties in obtaining necessary official permits, governmental measures or missing, incorrect or late deliveries from suppliers) for which Dr. Langer is not responsible. Dr. Langer shall immediately inform the Customer of such events. If such events make it significantly more difficult or impossible for Dr. Langer to deliver goods or provide services and the hindrance is not merely temporary, Dr. Langer shall be entitled to rescind the contract. In the event of temporary hindrances dates/periods for delivery of goods or the provision of services shall be extended or postponed for the duration of the hindrance plus a reasonable start-up period. If it cannot be reasonably be expected for the Customer to accept the delivery or service due to the delay, the Customer shall be entitled to rescind the contract by way of sending a written declaration to Dr. Langer.

6. Retention of title

- 6.1 Dr. Langer shall retain the title to goods supplied by Dr. Langer until all claims of Dr. Langer from the entire business relationship with the Customer have been satisfied in full, in particular until all balances are settled (current account reservation).

- 6.2 The Customer is obligated to carefully store, maintain and repair the delivered goods which are subject to retention of title at its own expense, and to insure such goods against fire, water damage, burglary and theft. The Customer is obligated to immediately inform Dr. Langer of any damage to the goods subject to retention of title. Dr. Langer shall be shown the insurance policy on request. The Customer hereby assigns to Dr. Langer in advance all claims against the insurance provider resulting from the insurance policy. Dr. Langer hereby accepts this assignment. If the Customer has insufficiently insured the delivered items, Dr. Langer shall be entitled but not obligated to insure the delivered items at the expense of the Customer.
- 6.3 In the event of attachment or other third party seizures of the goods subject to retention of title the Customer shall immediately inform Dr. Langer of this.
- 6.4 The Customer shall be entitled to sell the goods subject to retention of title in the ordinary course of business provided the Customer is not in default of payment. Goods subject to retention of title shall not be pledged or title thereto transferred as collateral. The Customer hereby assigns the claims arising from the resale or on another legal basis (in particular, transfer of title to the end customer, taking out insurance, claims in tort, civil offenses and other unlawful acts) regarding the goods subject to the retention of title as collateral in full to Dr. Langer. Dr. Langer hereby accepts this assignment. Dr. Langer shall revocably authorise the Customer to collect the claims assigned to Dr. Langer on Dr. Langer's behalf in its own name. If the Customer breaches the contract, in particular if the Customer is in default regarding the payment of a claim for payment, Dr. Langer shall be entitled to notify the third party debtor of the assignment or to require the Customer to disclose the assignment and to be provided with the information and documentation required for the collection of the claims by the Customer.
- 6.5 If the Customer defaults on payment, Dr. Langer shall be entitled to rescind the contract and require the Customer to return the goods subject to retention of title without needing to set a reasonable grace period for rectification. After the goods have been returned Dr. Langer shall be authorised to utilise the goods. The right to assert additional claims for compensation shall remain unaffected by the foregoing.
- 6.6 Should the value of collateral or any other securities provided to Dr. Langer in accordance with the above provisions exceed the amount of Dr. Langer's claims by more than 10% Dr. Langer shall be obligated to release this excess value. Dr. Langer shall be entitled to choose which securities to release.
- 6.7 If the law of the country where the delivered items are located does not allow for retention of title or only in a restricted format, Dr. Langer shall reserve the right to retain other rights to the delivered items. The Customer shall be obligated to cooperate with all required measures (e.g. registration) to realise the retention of title or other rights in place of retention of title and to protect these rights.

7. Damages and limitations of liability

- 7.1 Dr. Langer shall not be liable for losses caused by simple negligence except in the case of breaches of fundamental contractual obligations. Fundamental contractual obligations shall be defined as obligations the performance of which characterize the contract and which actually enable the proper implementation of the contract.
- 7.2 Insofar as Dr. Langer is not culpable of intentional acts or omissions, Dr. Langer shall only be liable for damage reasonably foreseeable at the time the agreement was concluded.
- 7.3 Liability in accordance with the German Product Liability Act shall not be affected by the foregoing; this shall also apply in the event of liability due to culpable (schuldhaft) injury to life, body or health. Dr. Langer shall be liable in accordance with the statutory provisions when providing a guarantee.
- 7.4 Claims for damages in accordance with the above sections 7.1-7.3 shall become time-barred within the statutory limitation periods.

8. Warranty

- 8.1 Should the goods or services from Dr. Langer prove defective, Dr. Langer shall be obligated to rectify the defects at its own discretion by eliminating the defect or by providing a replacement delivery. Any expenditure required for subsequent performance, in particular transport costs, labour costs and material costs, shall be borne by Dr. Langer; this shall not apply in the event that costs are increased because the items delivered are to be found at a location other than the place of intended use.
- 8.2 Dr. Langer shall be entitled to make the subsequent performance owed conditional on the Customer paying the due purchase price. The Customer shall, however, be entitled to retain a reasonable amount of the purchase price proportional to the defects.
- 8.3 Should subsequent performance fail, the Customer may reduce the purchase price or rescind the contract. The Customer shall not, however, be entitled to rescind the contract due to an insignificant defect. The Customer may in addition demand damages in accordance with section 7. Liability for any further warranty claims is hereby excluded.
- 8.4 If the Customer makes changes to or allows a third party to make changes to the contractual items without the consent of Dr. Langer, the Customer shall bear any additional costs of defect rectification caused by such alterations. Likewise the warranty provided by Dr. Langer shall lapse if the Customer alters or allows a third party to alter the contractual items without the consent of Dr. Langer and defect rectification is rendered impossible or unreasonable as a result.
- 8.5 With the exception of bad faith and subject to section 7.4, the limitation period for defect claims shall be 12 months calculated from delivery or, if acceptance is required, from acceptance.
- 8.6 Should the Customer forward a piece of equipment during the warranty period that is free of defects, Dr. Langer shall be entitled to demand a reasonable service fee from the Customer to compensate for expenditure incurred, unless the Customer did not know that the item was free of defects and the Customer is also not responsible for its lack of knowledge. Dr. Langer's right to assert additional claims for compensation shall remain unaffected by the foregoing.

9. Information and technical advice

Information and recommendations from Dr. Langer shall be non-binding and exclude all liability unless Dr. Langer expressly imposed an obligation upon itself in writing to provide information and recommendations. The Customer shall determine for itself whether a product is fit for the specific purpose of the Customer. Advice and information from Dr. Langer shall not represent any warranted characteristics for Dr. Langer's products.

10. Applicable law and jurisdiction

- 10.1 This contract is subject to German law excluding the UN Convention on Contracts for the International Sale of Goods.
- 10.2 The courts responsible for Emmendingen shall have jurisdiction. In addition Dr. Langer shall be entitled to assert its claims in the courts responsible for the general jurisdiction of the Customer.

Dr. Langer Medical GmbH, Fabrik Sonntag Haus 4a, 79183 Waldkirch,
As at: 06/2015