

## Standard Conditions of Purchase of Weinmann Geräte für Medizin GmbH+Co.KG, Hamburg as 15.07. 2005

### § 1 General Terms

1. Our Standard Conditions of Purchase shall apply on an exclusive basis. No Vendor terms that are inconsistent with or diverge from our Standard Conditions of Purchase will be accepted unless we provide express written confirmation. Our Standard Conditions of Purchase shall apply even if we accept supplies of Vendor without any reservation regardless of our being aware of any Vendor terms that are inconsistent with or diverge from our Standard Conditions of Purchase.
2. Only orders submitted in writing are legally binding. Orders made orally or by telephone require our subsequent written confirmation in order to be legally binding. The same applies for oral agreements and changes to the contract.
3. Orders, calls for delivery as well as their modifications and additions can also be made electronically or by data transfer or by machine-readable data carriers. E-mails encrypted in accordance with the electronic signature law (Signaturgesetz) correspond to written form.

### § 2 Offers

1. If the Vendor submits an offer to us in response to our inquiry, he has to point out in detail any deviations in his offer from our inquiry, including systems and drawings, our production samples, specifications, technical conditions and quality guidelines (hereafter referred to altogether as "Specifications"); otherwise our specifications are regarded as a substantial component of the vendor's offer.
2. Reimbursements for visits or the drafting of offers, projects, etc. are not granted.

### § 3 Purchase Orders

1. Upon receipt of a purchase order but not later than within 10 working days, Vendor shall accept the purchase order in writing. If a purchase order is accepted later than that, then the Contract shall be considered in effect unless we voice our opposition within five working days of receiving Vendor's acceptance of order.
2. Vendor agrees to state our purchase order number on every Vendor-provided document, including, without limitation, any acceptance of order, invoice, shipping document, bill of delivery, test report, voucher, and certificate. Responsibility for any consequences (delay, misrouting or returns) caused by non-compliance with this duty shall rest with the Vendor.
3. If the Vendor accepts the order placed by us with deviations, he also has to point out details of the deviations. A Contract is entered into only if we have agreed to the deviations in writing.
4. We can demand modifications to the delivered object even after conclusion of a contract to the extent that this is reasonable for the Vendor. At this contract modification, the effects on both parties, particularly with regard to additional or reduced expenses and delivery deadlines, have to be given adequate consideration.
5. All title and copyright to illustrations, drawings, calculations and other supporting documents shall be reserved. Illustrations, drawings, calculations and other supporting documents may be used only for manufacturing to our order. This material must be returned to us once an order has been processed.

### § 4 Prices and Payment

1. Prices set forth in a purchase order shall be binding. Absent any written agreement to the contrary, any prices quoted shall include the shipping costs set forth in § 5 Section 8 below. If no prices are indicated in the order, Vendor's list prices with the customary deductions at the time of the order are valid.
2. Payment arrangements shall be made on a case-by-case basis. Absent any payment arrangement, we will pay the purchase price within a 14-day period from delivery and receipt of invoice, subject to a 2% discount, or net within a 30-day period from the due date and receipt of invoice.
3. We may set off claims and retain funds within the scope allowed by the law. In case of defective supplies, we may also reject payment of three times the amount required to eliminate the defect.
4. Vendor may not assign or have another party collect accounts receivable without our written consent, which we may withhold in order to protect our legitimate interests. § 354 a HGB (German business law) shall remain unaffected.
5. Our payment shall not involve acceptance of any terms and prices. Payment dates shall influence neither Vendor's liability for defects nor our right to make a complaint in respect to a defect.

### § 5 Delivery

1. Any delivery date set forth in a purchase order shall be binding. To the extent that Vendor is obliged to provide certificates of origin or technical certificates, these shall be furnished together with the goods at the agreed date of delivery or at the latest 10 calendar days after delivery. The furnishing of such certificates shall be an essential part of Vendor's obligation to perform. Whether a term of delivery has been met shall be determined using the date of arrival at the agreed delivery address.
2. Vendor agrees to notify us without delay of any circumstances or threatening circumstances Vendor becomes aware of and that entail non-compliance with the agreed delivery date. If the notification is timely, an adequate extension can be granted under consideration of our operational interests. If the Vendor does not inform in a timely manner, he cannot claim a hindrance to delivery.
3. Vendor can claim non-appearance of required documents or supplemental parts to be delivered by us only if he has sent us a timely written reminder of said documents and parts and we have not made them available within a reasonable period.

4. In case of delayed supplies, we may charge for each full week of delay a penalty equal to 1% of the order value, as a maximum, however, 5% of the order value. We reserve the right to charge a penalty not later than five days after receiving the delayed supplies.
5. We reserve the right to claim further damages on the basis of delay, and any penalty due shall be charged against such further damages. It should be noted here that as an assembling and manufacturing factory, we are heavily dependent on on-time delivery. The mere lack of a small part or a necessary certificate may cause substantial manufacturing and delivery delays and entail damage that is by far beyond the order value.
6. We shall not be obliged to accept delivery before the agreed delivery day. In case of early acceptance, the agreed delivery day shall still be used to determine the due date of Vendor's payment claim.
7. We accept only the quantity and number of items we have ordered. Partial or over-deliveries are permissible only with our advance agreement. If partial delivery is made, the remaining quantity to be delivered has to be indicated.
8. Unless otherwise agreed in writing, delivery shall be free domicile, including insurance and packaging. The place of performance shall be the designated place of receipt. Absent such designation, this will be our place of business or, where an order is placed by a branch, the domicile of that branch.
9. Where we have individually agreed to bear the transport risk, we do not wish any transport insurance cover. We will not pay any insurance premiums charged by Vendor or any forwarder.
10. Any packaging may be returned to Vendor at Vendor's risk and expense.
11. Force majeure and industrial actions release us and Vendor from liability for the duration of the trouble and to the full extent of their effect. The contracting parties are obliged to provide immediately, insofar as it can be expected under the circumstances, the required information and to adapt in good faith their obligations to the changed conditions. We are completely or partially released from accepting ordered delivery/service and have the right to withdraw from the contract if, from an economic point of view, the delivery/service is no longer usable by us because of the delay caused by the force majeure or the industrial action.

### § 6 Quality of Supplies

1. If Vendor has reservations about the type of execution we desire, he is to immediately inform us of his reservations in writing.
2. The goods we order may be subject to additional quality conditions laid down in an order. Goods ordered must comply with any foreign and domestic legal provisions applicable from time to time, any pertinent rules and regulations, as well as any documents that are in support of an order, such as drawings or descriptions, samples, specifications, or conditions of acceptance.
3. All goods must comply with the latest state of safety regulations and, when delivered, must have passed official acceptance tests and been approved for their intended purpose.
4. Vendor is obliged to the extent that it is economically and technically possible to use environmentally-friendly products and procedures for his deliveries/services and also for subcontracting or supplementary services by third parties. Vendor is liable for the ecological friendliness of the delivered products and for all resultant damages which arise from the violation of his legal obligations regarding product disposal.
5. Vendor shall use a quality management system according to the latest state of technology which by type and scope is suitable to ensure that the goods comply with our technical order conditions. Vendor undertakes to record any test runs, identifying the test date and test type as well as the person that has run the test, and the results of each quality test. The results of any tests, measurements, and controls shall be preserved for a period of ten years. Insofar as we consider this necessary, Vendor will enter into a corresponding quality assurance agreement with us.
6. We may at any time inspect and have copied any documents related to the results of such tests, measurements and controls. To the extent that we are required by authorities or customers to disclose our course of manufacture and our testing documents in order to verify specific requirements, Vendor agrees to have such authorities or customers or ourselves exert the same rights in Vendor's premises and to give all reasonable assistance.
7. In the following cases, Vendor shall automatically send us first article test reports for components that are based on dimensional drawings: during the sampling process prior to first series delivery and, after product modification, prior to first series delivery; prior to first series delivery if dispatching from a new manufacturing site; prior to first series delivery if employing new machinery; if modifying processes or restarting manufacture upon a complaint or after a three-year manufacturing stop.
8. To the extent required and depending on our chosen transport channel, supplies must include information of the hazardous goods for the safety adviser on how to classify, pack, identify and mark the goods.
9. To the extent agreed, supplies must include certificates of origin including the right customs tariff number or technical certificates.
10. Vendor agrees to have any upstream suppliers agree in the same way.

### § 7 Acceptance and Claims arising from Defect Supplies

1. The cost of any acceptance test required by contract or by the authorities shall be borne by Vendor. Vendor shall inform us of acceptance test dates at no less than two weeks' notice.
2. We agree to inspect supplies within a reasonable period of time so as to check them for any deviation from the agreed quality. Any apparent defect shall in any event be deemed notified if our notice is dispatched to Vendor within five days from receipt of supplies. A hidden defect shall in any event have been notified in time if our notice to Vendor is dispatched within five days from our detecting the hidden defect.

3. In case of defective supplies, we may fully raise any relating claims provided for by the law.
4. The period of limitation for claims arising on the basis of defective supplies shall be no less than 36 months from the passing of risk; any statutory periods that are in excess of this 36-month time period shall remain unaffected. The period of limitation shall be suspended from our notifying a defect and shall not run any further until Vendor has expressly rejected any warranty duty or expressly agreed to remedy the defect notified. If a notice relates to a defective component of a product, then suspension of the period of limitation shall apply to the defective component only.
5. If we submit complaints during the guarantee period about delivery/service including non-achievement of guaranteed data and a lack of guaranteed properties, immediately upon receipt of our notice, the Vendor must correct or replace the defective parts or re-deliver, whichever we choose, and must do this at no charge, including any additional costs, to us. Vendor bears all expenses in connection with the determination and elimination of defects including those that we incur, especially inspection costs, installation and dismantling costs, time and materials costs as well as transport and miscellaneous costs for sending back unsatisfactory parts and the re-delivery of parts free of defects. This also applies to any increased expenditure resulting from transport of goods to a different location than the original place of delivery.
6. We have the right to cancel the contract and reduce payment if Vendor has been unsuccessful before the expiration of an adequate period determined by us for rework or new delivery. We reserve the right to enforcement of damage claims in any event.
7. If Vendor does not fulfill his obligations with regard to liability for faulty goods within an adequate period determined by us, we can take the required measures ourselves at his expense and risk or have them taken by a third party. In urgent cases and after consultation with Vendor, we may do the rework ourselves or allow a third-party to carry it out. We may eliminate minor defects – in fulfilling our damage reduction obligation – without prior agreement and without limiting Vendor's liability for faulty goods. We may charge Vendor for the required expenditure. The same applies if unusually high damages threaten.
8. If we receive a claim on a defect in our product that can be traced back to Vendor's goods, § 478, §479 of the BGB (Civil Code) apply with regard to our right to recourse against Vendor.

#### § 8 Product Liability and Insurance; Return of Goods

1. If a product damage is within Vendor's control, then Vendor shall indemnify us on first demand from any claim for damages that may be raised by a third party, provided that such claim has been caused within Vendor's sphere of control and organization and further provided that Vendor is liable vis-à-vis that third party.
2. Vendor's indemnity duty shall include the duty to pay any expenses pursuant to Sections 683, 670 of the German Civil Code to the extent arising from or in connection with a recall action we had to conduct, unless a claim is based on Section 830, 840 of the German Civil Code in combination with Section 426, 254 of the German Civil Code. To the extent feasible and reasonably tolerable, we will inform Vendor about the type and scope of any recall action and allow Vendor to give comments.
3. We may compromise with third parties that have suffered loss or damage; Vendor's indemnity duty shall remain unaffected as long as a compromise is commercially reasonable and adequate.
4. Vendor undertakes to carry product liability insurance with the sum insured being an all-inclusive € 2,500,000 per claim (personal or property damage). As components delivered might also be integrated into aircraft and spacecraft, we recommend that Vendor should take out extra liability insurance for such integration.
5. We may return to Vendor at Vendor's risk and expense any goods or goods components used to create products which our customers are entitled to return to us in accordance with environmental law.

#### § 9 Our Liability

1. Vendor's damage compensation claims against us, regardless of legal justification, are excluded for slight negligence. This exclusion of liability does not apply to damage compensation claims which are based on material breach of contract by us. Furthermore, this liability exclusion does not apply in cases of injury to life, body and health.
2. In case of slight negligence in material breach of contract and gross negligence of ordinary vicarious agents, damage claims are limited to compensation considered at the contract signing as foreseeable, typical damage.
3. As far as our liability is excluded or restricted, this also applies to the personal liability of our salaried employees, work force, representatives and vicarious agents.

#### § 10 Proprietary Rights

1. Vendor guarantees that no proprietary third-party rights will be violated in connection with Vendor's delivering of any goods.
2. If a third party does raise a claim against us based on the violation of proprietary rights, then Vendor, on first demand, shall hold us harmless against such third-party claim. Vendor's indemnity duty shall include any expenses we necessarily incur from or in connection with a third party raising a claim against us based on the violation of its proprietary rights.

3. We are entitled to obtain, at Vendor's expense, approval from the authorities for use of the delivered goods and services concerned.
4. As for the conclusion of settlements with third parties that have suffered loss or damage, § 8 Section 3 shall apply analogously.
5. On request, Vendor shall inform us about Vendor's using any published or non-published proprietary rights or proprietary rights applications of Vendor or any licensor of Vendor in respect of any item that is part of Vendor's supplies.

#### § 11 Reservation of Title and Buyer-Furnished Property

1. Any broadened or extended reservation of title of Vendor shall be excluded.
2. We retain title to any components we may furnish to Vendor. Any processing or transforming work of Vendor shall be for our benefit. If goods that are subject to retention of title are processed or treated together with anything we do not own, then we shall acquire joint ownership of the new object in accordance with the proportion between the value of our property and the value of the object processed at the time of processing.
3. If an object we have furnished to Vendor is irrevocably mixed with objects we do not own, then we shall acquire joint ownership of the new object in accordance with the proportion between the value of our object and the value of the object mixed as given on the date of mixing. If mixing is made such that the object owned by Vendor is the primary object, then we agree with Vendor conferring on us joint ownership on a pro rata basis, and Vendor shall keep that object in custody either as exclusive property or as joint property.
4. We retain title to any tools we may furnish to Vendor, and Vendor agrees to use such tools only to manufacture goods we have ordered. Vendor, at Vendor's expense, shall carry out in a timely manner any maintenance and inspection work that may be required. Vendor shall immediately notify us of disruptions. If Vendor culpably fails to do so, then we shall be entitled to claim damages.
5. Each year, Vendor shall provide us no later than at the end of the first week of January with a list of any components and tools we may have furnished to Vendor, with December 31<sup>st</sup> of the preceding year being the cut-off date of that list.

#### § 12 Confidentiality

1. Vendor shall keep strictly confidential any illustrations, drawings, calculations and other supporting material we may furnish to it. Vendor's confidentiality duty shall survive upon the parties completing this Contract, and it shall cease to be effective if and to the extent that Vendor is in a position to show in advance that any manufacturing know-how contained in any material we have furnished to it is already in the public domain.
2. Notwithstanding Section 1 above, Vendor may disclose illustrations, drawings, calculations and other material and information it has received from us, provided that such disclosure is required for any third-party manufacturing process. In that event, Vendor shall identify to us in advance the name and address of that third party. In addition, Vendor shall have that third party agree to keep such material strictly confidential. If the third party violates the duty of confidentiality, Vendor shall assign to us any related claims.
3. If Vendor violates one of the aforementioned confidentiality obligations, he must pay to us a penalty for breach of contract that appears just to us; in the event that agreement cannot be reached between the contracting parties, Hamburg District Court will conduct a judicial review. Our right to claim damages beyond the penalty for breach of contract is not excluded by enforcement of the breach of contract penalty.

#### § 13 Data Privacy

Vendor is advised in accordance with Section 33 of the Federal Data Protection Act (Bundesdatenschutzgesetz) that we will store its data. Vendor's data will be processed in compliance with the Federal Data Protection Act.

#### § 14 Place of Jurisdiction and Applicable Law; Final Clauses

1. If Vendor is a merchant or a legal person under public law or a public separate fund, then the place of jurisdiction shall be at our place of business; however, we shall be entitled to sue before the courts at Vendor's domicile.
2. Any legal relations with Vendor shall be governed exclusively by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
3. In addition, the INCOTERMS as amended from time to time shall apply.
4. If individual parts of these general purchase conditions should be deemed of no effect, the validity of the remaining provisions is not affected.
5. If Vendor suspends payment, a temporary insolvency administrator will be appointed for him and insolvency proceedings involving his assets will be initiated or if there are protests or complaints regarding check payment against him, we are entitled to withdraw partly or completely from the contract without subjecting ourselves to any claims based on our withdrawal.

Weinmann Geräte für Medizin GmbH+Co. KG ■ P.O.Box 54 02 68 ■ D-22502 Hamburg ■ Germany