

General Terms and Conditions of PATH medical GmbH, Landsberger Str. 65, D-82110 Germering.

§ 1 Scope of applicability

1. For all contracts with PATH medical GmbH, these terms and conditions shall apply exclusively. All deviating rules and terms are contradicted herewith, any terms and conditions other than described in this document will be effective after explicit acknowledgement by PATH medical GmbH only.
2. This Terms and Conditions will remain valid for future business relationships, regardless of explicit declaration.
3. Oral deviations of these Terms shall be seen binding after PATH medicals written confirmation only. Changes of Conditions, including but not limited to this term of confirmation or the agreement on shipment dates or deadlines that can be agreed on bindingly or non-bindingly, will be valid after PATH medicals written confirmation only.

§ 2 Offer, conclusion of contract

1. Offers are subject to change and stay valid for seven (7) days at maximum. Orders are binding only with confirmation by PATH medical GmbH or by fulfillment of the order through shipment of goods.
2. The contract will be concluded based on the customer order and the sending of a letter of confirmation or by the execution of the order through PATH medical GmbH.

§ 3 Liability and Delivery

1. Delivery dates are always to be seen as approximate and not binding. A delivery is deemed to be executed on time, if the shipment left the PATH medical GmbH warehouse within the defined period of time or readiness for

dispatch was reported. In case of a possibly delayed delivery, the customer is not entitled to any right of enforcement of claims to reduction, conversion or compensation.

2. If the adherence of a delivery date is depending on timely delivery of a subcontractor of PATH medical GmbH, PATH medical GmbH is entitled to a reasonable prolongation of delivery period or to the cancellation of this contract, if these delays are beyond the control of PATH medical GmbH. The same rule applies in cases of force majeure or business disruption, including but not limited to scarceness of Raw Material or Energy, Breakdown of Machines or Tools, Strike, Lockout, Transportation Problems or any other circumstance that is beyond the control of PATH medical GmbH. In any of these events, the customer will be notified of the lacking possibility to deliver immediately.

3. If the adherence to a delivery date is depending on timely payment receipt (prepayment) or if the order is changed by the customer, this will have effect on the initially agreed on delivery date, which usually will be delayed through such actions and therefore must be rearranged.

4. PATH medical GmbH is entitled to partial deliveries.

§ 4 Customers obligation to co-operation

1. The Customer is obliged to provide PATH medical GmbH with any information necessary to manufacture the goods ordered (e.g. manufacture of prototypes, special designs, etc.) This also includes indications on the intended use and application of product for a special purpose or specific conditions under which the product is intended to be used.

2. The customer is obliged to provide any Information enabling PATH medical GmbH to recall medical devices from the field or to inform end customers of potential defects or hazards. This includes among others available distribution records for each PATH medical product sold that enable an allocation of products to end customers. The customer is obliged to create this information on its own responsibility and to retain those records for at least 10 years (or the expected product lifetime plus 2 years, whichever is longer) after sales to the end customer.

3. The customer is obliged to provide any information to PATH medical GmbH enabling it to enhance its products manufactured. This includes, but

not exclusively any information the customer becomes aware of about any product-related deficiencies concerning Identification, Labelling, Quality, Durability, Reliability, Safety, Effectiveness or Performance of a medical device. This must be reported to PATH medical GmbH promptly after becoming aware of it. Safety relevant deficiencies or incidents (e.g. adverse events) must be communicated to PATH medical GmbH immediately after becoming aware of it (see also §4.2).

4. If a medical device is serviced/repaired/modified by the customer, all actions have to be documented according to GDP (Good Documentation Practice) requirements and those records have to be retained for at least 10 years (or expected product lifetime plus 2 years, whichever is longer) and to be handed out to PATH medical GmbH upon request. This includes Information on the product affected, the root cause of failure (for repairs), Spare Parts used (including Serial/Lot Numbers, if applicable) and records of final product inspection (e.g. calibration records) as well as Information about the person performing the work and its qualification. Service, Repair and Modifications of products have to be performed following PATH medical GmbH's requirements and instructions (related to execution, qualification) only.

5. The customer is obliged to train his personnel assigned to sales and/or service of PATH medical products in accordance with national law (medical device laws) and regulations as well as on the PATH medical products and their characteristics. Upon request, objective evidence of such training and qualification shall be made available to PATH medical GmbH.

§ 5 Subject to alterations

Unless otherwise agreed in the individual contract, PATH medical GmbH reserves the right to technical, color or functional alterations of the products to the delivery, provided that the individually agreed upon requirements are substantially met and the changes are reasonable for the customer.

§ 6 Pricing and Payment Terms

1. The Pricing is declared in EURO ex works PATH medical GmbH, exclusive of value added tax (VAT) and exclusive packaging and shipping costs (EXW according to Incoterms 2010). The Pricing is not binding for repeat order.

2. Partial Shipments are seen as individual transactions and therefore will be billed separately.
3. In case of the customer ordering a maximum number of goods (blanket order) and calls them off of PATH medical GmbH on defined Dates in subsets (call order), PATH medical is obliged to fulfill such call order to the agreed conditions only if the overall amount of call orders does not exceed the blanket orders overall volume. For those orders exceeding the blanket order, PATH medical GmbHs regular listing prices shall apply unless the two parties do not agree otherwise.
4. Invoice amounts are due upon date of delivery of goods and payable within 14 days without discount. Payment Terms differing from this conditions have to be confirmed in writing on the invoice by PATH medical GmbH.
5. Is customer in delay of payment, PATH medical reserves it's right to charge default interest of 8% above base rate. Those default interests also apply without dunning letter in case over overdue payment. PATH medicals right of enforcement in case of higher damages remains untouched by this ruling.
6. If the customer is in arrears with respect to a claim or partial claim, PATH medical GmbH is entitled to carry out further deliveries only against prepayment, to make all outstanding invoices due immediately and to make further deliveries dependent on the position of an appropriate security.
7. Upon full payment, all goods remain PATH medical GmbH property. This reservation of proprietary rights extinguishes with full payment of bills. The customer is not obliged to dispose of such reserved property. If the reserved property vanishes through processing of delivered goods, customer transfers the co-ownership of the good created through processing to PATH medical GmbH by agreeing to this terms and conditions. The hand-over will be replaced by the customer's obligation to coffer the good created through processing for PATH medical GmbH without further costs. The customer is obliged to treat the products thoroughly until transfer of ownership. In particular, customer is obliged to insure the goods at replacement value against theft, fire and water damage at his own expense. Until transfer of ownership, the customer shall notify PATH medical GmbH without delay in writing if the delivered item is seized or subject to other interventions by a

third party. If the third party is not in a position to repay PATH medical GmbH the judicial and extrajudicial costs of a lawsuit, the customer is liable in full for the deficit of PATH medical GmbH.

8. The Customer is only obliged to count against with claims recognized by declaratory judgement or undisputable claims, or if the customer is Merchant, to execute trader's right of retention based on such claims.

§ 7 Packaging, Shipment, Passing of Risk

1. The Goods will be packed in line with the industry standard. The costs of such packaging will be charged to the customer.

2. Unless agreed on otherwise, the way of shipment remains in PATH medical's discretion.

3. The risk of destruction of the good is passed on the customer as soon as PATH medical GmbH handed over the good to the carrier. This also remains valid in the exceptional case of PATH medical taking over transport costs. If shipment is delayed on customer's premises, the risk is passed on to the customer at the point of readiness for dispatch.

4. PATH medical GmbH is not obliged to insure or let insure the products against transport damage, unless a corresponding obligation has been assumed by PATH medical GmbH in an individual contract.

§ 8 Tooling

If Prototypes are built for a specific customer, PATH medical GmbH is entitled to charge corresponding cost fractions of the manufacture of the prototype to such customer, separate of the value of the prototype. Based on the compensation of cost fractions, the customer does not obtain any proprietary or exploitation rights nor any property rights to the prototype.

§ 9 Letter of Complaint, Warranty

1. The customer is obliged to investigate the good immediately after receipt and to claim any deficiency in written form, unless they are not detectable.

2. In case of a deficiency, PATH medical GmbH is obliged to remediation or subsequent delivery of its own choice. Exceeding claims of the customer are excluded. In the event of a two-sided commercial transaction, the buyer's

rights of defects presuppose that the customer has properly complied with the inspection and complaint obligations owed pursuant to § 377 HGB.

3. Claims for manufacturing defects by the customer become statute barred within 12 months after delivery of the products to the customer. The legal statutory period of limitation shall apply to claims for damages in case of willful intent, gross negligence or in the event of injury to the customer's life, body or health which are based on an intentional or negligent breach of duty by PATH medical GmbH. Insofar as the law - e.g. In accordance with §§ 478, 479 BGB (German Civil Code) – mandatory defines longer periods, these deadlines shall apply.

4. If remediation or subsequent delivery does not succeed in an appropriate period of time, the customer is entitled demand a relating reduction of the purchasing price or the cancellation of the contract. The period of time is defined as at least four (4) weeks.

§ 10 Liability

PATH medical GmbH is liable without limitation in any case of willful intent and culpable negligence as well as in cases of legally enforced liability and product liability respectively. Besides that, liability for collateral or subsequent damages as well as for lost profits is excluded. Liability for ordinary negligence is limited to the retail price of the object of the contract for each event of damage as far as a limitation of liability is legally possible. The objection of contributory negligence, especially in any case of customers infringement of the customers obligations of co-operation as defined in §4 of this terms and Conditions remains at PATH medical GmbH's liberty.

§ 11 Commercial property rights, exploitation rights

1. If a service or manufacture of prototypes is performed in ways that are predefined by customers (according to drawings, patterns or other specific descriptions), the customer ensures that no commercial property rights (including, but not limited to patents, utility patents or any other property right or copyright) of any third party are violated. In this consequence, the customer will indemnify PATH medical GmbH from any third-party claims resulting of such violation and grant all necessary exploitation rights to PATH medical GmbH.

2. PATH medical GmbH reserves all property and commercial rights to all Drawings, Patterns, Brochures and any other documents that are created and supplied by PATH medical GmbH. The customer is explicitly not allowed to make those available to any third party, and PATH medical's competitors in particular.

3. As far as the use of machine codes and the exploitation of the accompanying Intellectual Property (IP) is allowed, the transfer of the Source Code is excluded nevertheless. The Source Code will not be transferred, neither with adopting maintenance services nor in case of research and development services. It remains PATH medical's property exclusively.

§ 12 Miscellaneous

1. The registered business address of PATH medical GmbH is stipulated as place of execution for all mutual activities resulting from the contract.

2. As far as legally valid, court of jurisdiction is the Amtsgericht München.

3. Individual or all Rights and Obligations resulting from this contract may only be transferred to a third party upon consent of the other party respectively.

4. If individual provisions of these Terms and Conditions may be void or become void in total or in parts, all remaining provisions of this Terms and Conditions shall remain untouched of this and binding.