

## Terms and Conditions of Purchase

### (1) Validity of Terms

Our orders are always based on the latest version of our terms and conditions of purchase. The supplier's general terms and conditions of delivery or other agreements which deviate with these terms and conditions shall only be deemed to have been accepted if they are confirmed by us in writing as an addition to our terms and conditions of purchase.

References or counter-confirmations by the supplier citing its own terms and conditions of delivery are hereby expressly dismissed.

### (2) Purchase Orders & Order Confirmations/ Order Acceptances

Only purchase orders submitted in writing will be accepted as valid.

The supplier shall confirm receipt of all orders immediately on receipt, or within two weeks at the latest. If we have not received confirmation within two weeks from the date of the purchase order, we shall have the right to cancel the purchase order, unless the delivery has already been made within these two weeks. The supplier shall point out any errors or unclear points in the purchase order. Any discrepancy between the order acceptance and the purchase order shall require confirmation from us in writing.

By accepting the purchase order, the supplier confirms that it has informed itself of all circumstances which affect the pricing.

### (3) Prices

Unless agreed otherwise, the prices specified in our purchase order and confirmed by the supplier shall be binding.

If no particular agreement has been reached, the prices shall be valid "ex works, but shall include packaging". We shall only bear the costs of insurance if we have explicitly agreed to do so.

The agreed prices shall be exclusive of sales tax.

### (4) Invoices & EU Certificate of Origin

Invoices shall be sent to our postal address and shall not be enclosed with the delivery. They shall contain the data specified by us and shall be received by us in duplicate within five days of the delivery.

The supplier shall undertake to submit a declaration in accordance with EU ordinance 1207/2001, no later than the first delivery. This declaration shall be repeated on 1 January every

UK SURGICAL LIMITED.

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Registered Office: 20 Milton Place, Hopwood Lane, Halifax. West Yorkshire. HX1 5EW. Great Britain.

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year without the supplier being asked, providing the provisions for the declarations are met and the business relationship is ongoing. (Alternatively: the declaration can be included on every invoice)

If the formal requirements set out in 4, paragraphs (1) and (2) are not fulfilled, the invoices shall be deemed as having not been issued.

#### **(5) Payment Terms**

Invoices shall be paid 90 days after delivery in full unless otherwise agreed.

The payment period shall be counted from receipt of the invoice, but no earlier than the receipt of the delivery. If the order number is missing in the invoice and/or the EU declaration of origin has not been submitted, the payment period shall not commence until the data and documentation are complete.

Payment delays on our part shall not occur without prior reminder. The assertion of further claims for damages is excluded.

Payment shall be made provisionally on inspection of the invoice.

If deliveries are accepted early, the due date of the payment shall be based on the delivery date mutually agreed by both parties.

The supplier shall only have the right to transfer the claim to a third party or have it taken by a third party with our consent. Third party rights to the supplier's property which was intended for us shall be disclosed to us unprompted.

Deliveries shall be made with no retention of ownership, unless otherwise agreed in writing.

#### **(6) Delivery Dates & Delivery Periods**

The deadlines and delivery periods set out in the purchase order or delivery assignment shall be binding. The receipt of the goods at the unloading point shall be the point from which it is determined whether the deadlines and delivery periods have been met.

#### **(7) Shipping / Place of Delivery/ Liability**

All deliveries shall be made to the shipping address detailed on the purchase order. The delivery note shall be enclosed with the goods in duplicate.

If we are not carrying out the transport ourselves and/or determining the transport company, the place of fulfillment shall always be the shipping address detailed on the purchase order. Unless agreed otherwise, the supplier shall be responsible for the transport insurance.

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The supplier shall bear the risk until the delivery items are delivered to the shipping address given (place of delivery), even if we take on the transport and/or the transport insurance.

Shipping - even to a location other than the place of delivery - shall be at the risk of the contractor.

### **(8) Delivery Default**

The incidence of delivery default on the part of the supplier shall not require prior warning from us. After setting a reasonable additional period, we shall have the right to withdraw from the contract or demand compensation for non-fulfillment. The compensation for non-fulfillment shall also incorporate the additional costs of buying cover.

If the supplier foresees difficulties obtaining materials, with production, etc. which could prevent it delivering on time in accordance with the agreement, it shall inform us of this immediately. This shall not affect its obligation to deliver on time.

Acceptance of a delayed delivery or service shall not imply renunciation of any claims for compensation.

In the event of repeated missed deadlines, we shall also have the right to withdraw from the contract even if the delays can be proven to be beyond the control of the supplier.

The supplier shall only have the right to refer to an act of god if it informs us immediately on becoming aware of this circumstance.

### **(9) Quality and Documentation**

The contractor expressly assures that only materials, parts or devices which in every respect meet the recognised rules of technology, e.g. the latest VDE guidelines, the accident prevention guidelines issued by the relevant trade union, the applicable statutory regulations (e.g. equipment safety act) and the applicable environmental regulations (e.g. waste disposal) shall be supplied, even if this is not explicitly noted in the order text.

If we demand initial samples free of charge agreed by mutual consent on numbers and/or purchase of samples on at a special demonstration price to for testing purposes.

The supplier shall constantly check the quality of the goods delivered and design its quality control system such that it complies with DIN ISO 9000-9004 and appropriate CE regulation.

We shall have the right to work towards quality improvements.

We shall be informed in writing and a reasonable period in advance of any changes in the nature of the delivery objects.

### **(10) Reporting Faults**

We shall report to the supplier any obvious faults with the delivery no later than 14 days after the expiry of the complaint. In this respect, the supplier waives the objection of delayed notification of complaints.

For goods where the faults can only be ascertained when they are processed, the complaint about the fault must be received within a week of discovery of the fault.

Any payments of the purchase price made before the fault was ascertained shall in no way represent recognition that the goods are free of faults and have been supplied in accordance with the regulations.

### **(11) Guarantee**

Unless otherwise agreed notwithstanding these terms and conditions of purchase, in the event of faulty deliveries, the statutory regulations shall apply, including any claims arising from positive breach of contract.

Unless agreed otherwise, the statutory guarantee period (currently 28 months) shall apply, starting from the date of delivery, providing no other date (e.g. from inspection and approval) is agreed.

It is up to us to demand full compensation for damages in addition to the claims arising from the guarantee.

### **(12) Producer Liability**

The supplier shall subject all the products which it has supplied and/or produced to all the necessary inspections - irrespective of any inspections carried out by UK Surgical Limited on receipt - and is responsible for ensuring that the items delivered are free of faults. Any inspections carried out by ourselves shall not absolve the supplier of its responsibilities.

Unless explicitly agreed otherwise and stated below, our claims against the supplier arising from producer liability shall be governed by the statutory regulations.

If a claim is made against us as a result of producer liability or infringement of official safety regulations or similar on the basis of national or foreign law, then the supplier shall be indemnified for the damage caused as a result, including legal proceedings, providing the supplier is the manufacturer of the component causing the fault.

This liability on the part of the supplier shall also apply if the supplier is not at fault, providing a claim against us as a result of non-fault-dependent liability for this faulty component on the basis of national or foreign law.

The same rules as to the burden of proof shall apply to the UK Surgical Limited/ supplier relationship and the injured party / UK Surgical Limited relationship.

If we are obliged to implement a recall, or it is at least sensible to implement a recall, as a result of a fault caused by an item supplied by the manufacturer of the product, the manufacturer of UK Surgical shall accept the costs of the recall.

UK Surgical will not be liable to costs relating to malfunction of the products brought against UK Surgical by third parties we supply.

The supplier shall undertake to conclude an appropriate personal liability insurance policy, and especially to conclude an adequate product liability policy. On request from us, the supplier shall immediately supply evidence of the conclusion of this insurance policy.

### **(13) Business Secrets**

The supplier shall undertake to treat our orders and all relating commercial and technical details as business secrets.

Products which are produced on the basis of documents, drawings, models or similar material, designed by us or of information provided by us on a confidential basis or using our tools or tools reproduced from our designs shall be neither used by the supplier itself nor offered or supplied to third parties.

The supplier shall only supply parts which we have developed or further developed in cooperation with the supplier to third parties with our written consent.

We shall have the right to process the data about the contractor relating to the business relationship or obtained in conjunction with it, irrespective of whether the information comes from the contractor itself or a third party, in accordance with the Data Protection Act.

### **(14) Production Equipment**

Models, tools and equipment produced by the contractor on the basis of our drawings and at our expense shall become our property on payment, providing joint ownership with the supplier is not explicitly agreed. We shall have the right to challenge the models, tools and equipment if the contractor defaults or becomes unable to deliver or provide a service.

Documents of all types, such as samples, drawings, models and the like made available to the supplier by us, shall be, on demand, returned to us and free of charge.

Any models, patterns and drawings provided by us shall only be used for the production of goods intended for us.

The contractor shall be liable for the careful storage and maintenance of all materials, parts, models, tools, equipment, patterns, drawings, etc.

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Moulds, models, equipment, etc. shall only be destroyed with our consent.

If the manufacturer has joint ownership, the items shall be returned step by step in return for payment of the joint ownership proportion. If there is a dispute about the level of the joint ownership, we can avert a retention right arising from this joint ownership amount of the supplier by providing a guarantee to the value of the amount in dispute. Otherwise, the supplier shall have no retention right to the production materials, providing the claim on which the retention right is based is disputed between the parties or not legal and absolute.

### **(15) Final Clauses**

The law of the United Kingdom of Great Britain and Ireland shall apply to these terms and conditions of purchase and the whole legal relationship between us and the supplier.

The United Nations Convention on the International Sale of Goods (CISG) shall not apply.

The place of jurisdiction for the supplier's goods and services is the shipping address.

The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Halifax and the place of jurisdiction of the supplier, is at our discretion.

If a contracting party ceases payments or bankruptcy proceedings are instigated over its assets, or composition proceedings are applied for in or out of court, then the other party shall have the right to withdraw from the unfulfilled part of the contract.

If one clause of these terms and conditions of purchase or a clause in line with other agreements is or becomes invalid, this shall not affect the validity of all remaining terms or agreements.

**Approved by the Chief Executive and Board of Directors**

**Review January 2007**

**UK Surgical Limited**