

General Terms of Sale, Delivery and Payment of Wilhelm Julius Teufel GmbH

1. Scope

- 1.1 All and any of our quotations, deliveries or other services are exclusively subject to the terms stated below ("Terms"). Our Terms only apply to business with companies in the meaning of § 14 BGB ["BGB" meaning the German Civil Code], legal entities under public law or special funds under public law.
- 1.2 Including but not limited to, the Terms apply to contracts for the sale and/or delivery of tangibles (hereinafter also referred to as "Goods"), irrespective of whether we produce the Goods ourselves or purchase them from suppliers (§§ 433, 651 BGB). The Terms, as amended from time to time, shall be deemed the master agreement for future contracts for the sale and/or delivery of tangibles with the same contracting party, without the requirement of referencing them in each individual case; in such case, we will inform the contracting party about changes to our Terms immediately.
- 1.3 Any general terms and conditions of contracting parties which have not been accepted by us expressly in writing, shall not be valid. We hereby expressly object to any references or counter-confirmations of any contracting party referring to its own terms of purchase. Our Terms shall apply even if we make delivery to the contracting party without any reservation, although we had knowledge of any terms objecting to or differ from our own Terms.
- 1.4 Individual agreements with a contracting party (including collateral agreements and amendments), on a case-by-case basis, shall have priority over and supersede these Terms. A written agreement or our written consent is required for the contents of such agreements.
- 1.5 Legally relevant statements and notifications to be made by the contracting party to us after conclusion of the contract (for example, for fixing a deadline, notifications of defects, statements of withdrawal from contract or notifications of reduction in price), must be made in writing and signed to become effective.
- 1.6 Our instructions included in the product descriptions apply in addition to the terms of use and product life.

2. Quotations

- 2.1 Our quotations and information in our price lists shall always be deemed subject to change and non-binding.
- 2.2 If any quotation or order acknowledgement is based on documents such as brochures, product descriptions, images, drawings, etc. such documents shall be deemed non-binding. We reserve the right of ownership and copyright to any and all of these documents. These documents must not be made available or disclosed to third parties without our prior written consent. Stated dimensions or weights shall be deemed approximate

values in line with the industry standards, unless we have expressly identified them as binding. However, this does not constitute a cause of liability under a guarantee.

- 2.3 Our products, including but not limited to our orthoses and prostheses, are intended for one-time use by end consumers only. The contracting party is obligated to inform all users of our products in writing if our products used by them have been used before. Our instructions included in the product descriptions apply in addition to the terms of use and product life.

3. Conclusion of contract and scope of delivery

- 3.1 The contracting party's purchase order for the Goods shall be deemed a binding offer to buy. If not specified otherwise in the purchase order, we shall be entitled to accept this offer to buy within 14 calendar days from its receipt by us.
- 3.2 Such acceptance may either be stated in writing (for example by an order acknowledgement) or by delivery of the Goods to the contracting party.
- 3.3 We shall be entitled to technically change or modify the delivery items to the extent this does not contradict the specifications in the order acknowledgement.

4. Prices

- 4.1 If not specifically agreed otherwise, our prices shall be deemed *ex works*, denominated in Euros, excluding packaging, freight, transfer, postal charges, insurance, customs duties, and the relevant statutory value added tax.
- 4.2 In case of a sale to destination (§ 10 para. 10.1), the contracting party shall bear the costs of transport from the warehouse plus any insurance costs, if transport insurance is requested by the contracting party, if not provided otherwise under para. 4.3. Any customs duties, fees, taxes or other public charges shall be borne by the contracting party. We will not take back any transport or other packaging material subject to the packaging ordinance, it becomes the property of the contracting party.
- 4.3 The minimum order value is € 80.00 (Goods' net value, without shipping and packaging) and does not apply to spare parts.
- 4.4 If ordered quantities are reduced by the purchaser retroactively or if agreed call-off orders are reduced, we shall be entitled to increase the unit price accordingly.
- 4.5 If during the time between conclusion of the contract and the agreed delivery date changes of the costs occur, including but not limited to such changes as currency fluctuations, costs of material required for production of the ordered Goods, or costs of energy or transport, we shall reserve the right to adjust the prices appropriately.

5. Terms of payment

5.1 The sales price and the price of any additional services shall be due and payable in full upon delivery of the delivery item/s and receipt of invoice. The contracting party shall be deemed to be in default without the requirement of any further notification on our part if our invoice remains unpaid 30 days after its receipt.

5.2 Payments may also be made by issuing of vouchers. Cheques will be accepted only upon prior agreement. Expenses and fees shall be borne by the contracting party.

If it was agreed that payment is made in instalments and if the contracting party is in arrears with two subsequent instalments, in full or in part, the remaining amount shall become due and payable in full immediately.

5.3 Payments are considered made only after they have been finally credited to our account.

5.4 If, after conclusion of the contract, it becomes clear that our entitlement to payment is at risk due to the contracting party's lacking capacity to pay (for example because insolvency proceedings have been instituted), we shall be entitled, in accordance with the statutory provisions, to deny performance and – after providing notice to the other party, if applicable – withdraw from contract (§321 BGB). In case of contracts for the production of a unique i.e custom-made product, we are entitled to withdraw from contract immediately; the statutory law that does not require providing notice shall remain applicable.

5.5 In case of delay in payment, we shall be entitled to demand interest in the amount of 8 percentage points above the respective base rate. This does not affect our right to claim further damages for delay. In transactions with businesses, our right to demand commercial interest from the due date (§353 HGB [German Commercial Code]) shall remain unaffected.

5.6 Any set-off against amounts due and payable to us is allowed only if such claims are undisputed or are based on a final, non appealable, award by a court of law. The contracting party is entitled to exercise a right of retention to such extent only that its counter-claim is based on the same contractual relationship. The contracting party has no right of retention for partial deliveries as provided under § 320 para. 2 BGB.

6. Deliveries

6.1 Delivery dates and times shall always be estimates and non-binding for us, unless a delivery date was expressly agreed in writing.

6.2 If we cannot meet binding delivery deadlines for reasons that are beyond our control (non-availability of goods/services), we shall inform the contracting party without undue delay and, at the same time, state the anticipated new date of delivery. If by the new date of delivery the goods/services are still not available, we shall be entitled to withdraw from

contract in full or in part; any consideration provided by the contracting party will be reimbursed immediately. For the purpose of this provision, it shall be deemed a case of non-availability of goods/services, including but not limited to, if we haven't received goods/services from our supplier on time or, if we have entered into a substituting transaction where we ordered goods/services in order to replace the non available goods/services or, if it is neither our nor our supplier's fault or, if, we are not obligated to purchase the Goods from another third party in a certain instance due to specific circumstances.

- 6.3 The date of delivery is calculated from the date of entering into the contract. In case delivery requires the prior clarification of technical issues or the contracting party's cooperation or action, the date of delivery is extended accordingly.
- 6.4 The date of delivery and deadlines are deemed met if the Goods have been dispatched and left our site/warehouse or if the contracting party has been notified in writing of Goods being ready for pick up.
- 6.5 The date of delivery or deadlines will be extended accordingly if the contracting party delays or fails to take required or agreed cooperative actions. The same applies in case of *force majeure*, actions in the context of labour disputes, including but not limited to strikes and lockouts, missing supply, and occurrences of other unforeseen events beyond our control, to the extent that such events affect the finishing, completion or delivery of the delivery item/s. Above events shall also be deemed beyond our control if they occur while a delay already exists. The same applies, if such circumstances occur at one of our suppliers in our supply chain. .
- 6.6 If the contracting party demands changes or amendments of the order after conclusion of the contract, which make it impossible to meet the deadline, the deadline will be extended accordingly, for a period that is appropriate for implementing such changes or amendments.
- 6.7 For additional deliveries, we shall have a right of retention until all and any prior deliveries are paid for.

7. Default in delivery and impossibility

- 7.1 Occurrence of default in delivery on our part In the event that our delivery is delayed, such delay is subject to the statutory provisions. In any case, however, it requires the other party to put us on notice about the delay.

The contracting party shall have no right to deny delivery, withdraw from contract or claim damages instead of performance if, we have set a reasonable deadline requesting a certain declaration, and the contracting party has not made such a declaration although we have pointed out the legal consequences in our notice.

- 7.2 In case of impossibility of or delay in fulfilling our obligation to perform, the contracting party shall be entitled to withdraw from contract only if such a breach is caused by and attributable to us.

- 7.3 The contracting party shall not be entitled to withdraw from contract prior to the due date of any performance or in case of an only minor breach of the contract. And finally, withdrawal from contract shall be excluded if any events that entitled the contracting party to withdraw are solely caused by and stem from its sphere of influence of the contracting party, or for which the contracting party is responsible to a large extent, or if an event occurs which is beyond our control while at the same time the purchaser is in default because it did not accept the Goods.
- 7.4 As regards claims for damages or reimbursement of expenses from default and/or impossibility, para. 13 of these Terms applies.

8. Partial deliveries, difference from ordered quantity

- 8.1 We shall be entitled to make partial deliveries and to invoice such separately.
- 8.2 For contracts involving on going shipments, we must be informed of the types and quantities of the respective delivery items on time. If we do not receive calls or schedules in time, and if a reasonable deadline in this respect has passed unsuccessfully, we shall be entitled to draft a schedule on our own and make deliveries or to cancel the contract in part, the part not yet fulfilled, and claim compensation for the loss incurred.
- 8.3 Differences of up to 10 % of the ordered quantity are allowed.

9. Acceptance

- 9.1 The contracting party must accept delivery immediately no later than upon our request. The contracting party - without prejudice to its rights under para. 12 - must accept the delivery item even if minor differences from the agreed quality exist or if use is impaired to a minor extent only.
- 9.2 If the contracting partner is in default because of its non acceptance, if it omits cooperative actions or if delivery is delayed for other reasons in the responsibility of the contracting party, we shall be entitled to claim compensation for the damage incurred, including additional expenses (for example, storage costs). For this, we will charge a flat-rate compensation in the amount of 10 % of the agreed net price.
- 9.3 This does not affect our right to prove higher damages and plus our other statutory rights (including compensation for additional expenses, reasonable damages, termination); however, this flat-rate will be offset against any further monetary claims. The contracting party may prove, however, that we have not incurred damage at all or that any damage is significantly lower than above flat-rate.

10. Shipment and passing of risk of loss

- 10.1 Delivery is made *ex works* at the location of our warehouse which shall also represent the place of performance. At the contracting party's request and cost, the Goods will also be shipped to another destination (sale to destination). If not agreed otherwise, we shall be entitled to determine the

means of shipping ourselves (including but not limited to forwarding company, shipping route, packaging)

At the contracting party's request, the Goods will be insured for transport. In case of a sale to destination, the contracting party will bear the cost of transport from the warehouse and the cost of any transport insurance requested by the contracting party. The Goods will be packed in accordance with industry standards. Packaging costs will be borne by the contracting party.

- 10.2 The risk of accidental loss or accidental deterioration of the Goods will pass to the contracting party no later than when the Goods are delivered. In case of a sale to destination, however, the risk of accidental loss or deterioration of the Goods and the risk of delay shall pass to the contracting party upon delivery of the Goods to the forwarding company, carrier, parcel service or other person or institution put in charge of shipping. If acceptance was agreed, such acceptance is relevant for the passing of risk. The statutory provisions of the German law on construction contracts, specifically its rules on "acceptance" shall be applicable to any delivery requiring "acceptance" due to the parties stipulations. For this purpose, if the contracting party is in default of acceptance, the Goods are deemed delivered and/or accepted.

11. Retention of title

- 11.1 We reserve title to the sold Goods (Goods under retention of title) until all our current and future claims under the contract and current business relations (secured claims) are paid in full.
- 11.2 The purchaser is entitled to sell the delivery items in the ordinary course of business; however, pledging or transfer of ownership by way of security is not allowed. Purchaser hereby assigns all receivables in the amount of the invoice total (including statutory value added tax) owed to it from their sale to its customers or third parties, irrespective of the fact whether the delivery items were sold with or without processing. The contracting party continues to be authorised to collect the receivables even after assigning them. This does not affect our right to collect the receivables ourselves. We undertake to not collect such receivables as long as the contracting party fulfils its payment obligations to us, is not in default of payment or has ceased to make payments, insolvency proceedings have not been instituted and its ability to pay is not impaired otherwise. If this is the case, however, we may request that the contracting party informs us of the assigned receivables and their debtors, that it provides all the information necessary for collection, it supplies us with all related documents and informs the debtors (third parties) of the assignment. The contracting party is obligated to protect our rights when selling the delivery items on credit.
- 11.3 Any processing or alteration of the delivery items through the contracting party is always done in our name. If the delivery item is processed together with other objects not belonging to us we take partial ownership in the new object, in the ratio of the value of the delivery item to that of the other processed objects at the time of processing. If the delivery item

is inseparably intermixed with other objects not belonging to us we take partial ownership in the new object, in the ratio of the value of the delivery item to that of the other intermixed objects at the time of intermixing.

If the intermixing is of the type that the contracting party's object is deemed the main object, the contracting party will transfer title to us proportionately. The contracting party will store for us the so produced sole or joint property. Otherwise, the same applies for new items resulting from processing, joining or intermixing that applies for Goods under retention of title.

- 11.4 The contracting party is obligated to notify us immediately in writing about any attachment/seizure by a third party (for example, levy of execution) of our Goods delivered under retention of title or of receivables owed to us and about any other impairments and to notify such third party or the executing officer about our property. The contracting party is further obligated to provide to us, at our request, all information and documents necessary for protecting our rights. If we incur any damage as a result of such seizure, the contracting party shall compensate such damage and all costs incurred by us for prosecution.
- 11.5 If the respective laws of the jurisdiction in which the delivery item is located do not allow a retention of title, we shall be entitled to exercise all other rights to the delivery item we may have reserved. The contracting party is obligated to cooperate with us in all and any measures we may take to protect our title or any other security interests in the delivery item instead.
- 11.6 The contracting party is obligated to handle the Goods under retention of title with care and insure them, at its own cost, against theft, breakage, fire and water damage. At our request, the contracting party must present proof of such insurance.

If the contracting party violates the contract, including but not limited to non-payment of the due sales price or if it becomes insolvent or the debt exceeds its assets, we shall be entitled to take back the Goods under retention of title and demand assignment of the contracting party's claim for possession against any third party. The contracting party is obligated to surrender. Enforcing a retention of title or seizing the delivery item shall not be deemed a withdrawal from contract. The Goods are taken back for securing our receivables only; the contracting party remains obligated to fulfil its obligations. After taking back the delivered Goods, we shall be entitled to dispose of them; however, the proceeds from their sale, less any reasonable costs of sale, must be offset against the contracting party's debts.

- 11.7 We undertake, at the request of the contracting party, to release the securities, to which we are entitled, to such extent that the realisable value of these securities exceeds the secured receivables by more than 20%; it is in our own discretion to choose the securities to be released.

12. Warranty claims

- 12.1 If not provided otherwise below, the statutory provisions apply to the contracting party's rights in case of defects or imperfections in title (including faulty or short supply, improper installation or inadequate installation instructions). In any case, the statutory special regulations for Goods ultimately delivered to and protecting private end consumers remain unaffected (Supplier's recourse subject to §§ 478, 479 BGB).
- 12.2 Our liability for defects is mainly based on the agreement made regarding the quality of the Goods. Any product description which is a subject matter of an individual contract shall be deemed an agreement on the quality of the Goods; it does not make a difference in this regard whether the product descriptions were made by the contracting partner, the manufacturer or us.
- 12.3 If we must deliver in accordance with specific requirements, adjustments, samples, etc. of the contracting party, the contracting party shall bear the risk of suitability for the intended purpose.
- 12.4 If specific qualities have not been agreed, the statutory provisions shall be used to determine whether there is a defect or not (§ 434 para. 1 sentences 2 and 3 BGB). However, we do not accept any liability for any public statements made by the manufacturer or other third parties (for example in advertising).
- 12.5 Unless agreed otherwise, we shall not be liable for our Goods' suitability with regard to the products into which our Goods are integrated.
- 12.6 A prerequisite for warranty claims of the contracting party is that it has fulfilled its statutory examination and notification obligations (§§ 377, 381 HGB). If a defect shows during examination or later on, we must be notified of such immediately and in writing. Notification is deemed made immediately if it is made within two weeks' time; relevant for meeting the time limit shall be the date of sending the notification. Irrespective of this examination and notification obligation, the contracting party must report obvious defects (including faulty or short supply) within two weeks from delivery in writing; in this regard, relevant for meeting the time limit shall be the date of sending the notification as well. If the contracting party fails to properly examine and/or report any defects, our liability for defects not reported shall be excluded.
- 12.7 If the delivered item is defective, it is in our discretion to choose whether we fulfil our obligations by remedying the defect (Repair) or by supplying an item free from defects (Replacement). Our right to refuse subsequent fulfilment of our obligations in accordance with the statutory requirements shall remain unaffected.
- 12.8 We shall be entitled to make the subsequent delivery owed by us dependent on the contracting party's payment of the due sales price. However, the contracting party shall be entitled to retain payment of a reasonable part of the sales price, proportionately to the defect.

- 12.9 The contracting party must give us the necessary time and opportunity for us to repair or to replace the Goods with a defect and, including but not limited to, deliver to us the Goods claimed to be defective for the purpose of examination. In case of replacement, the contracting party must return to us the defective item in accordance with the statutory provisions. Subsequent performance (repair or replacement) owed by us does neither include removal of the defective item nor its re-installation if initially we had not had an installation obligation.
- 12.10 The expenses necessary for examination and repair or replacement, including but not limited to transport, fares, labour and material costs (excluding: removal and installation costs) will be borne by us if, in fact, there is a defect. However, if the contracting party's demand for remedying defects turns out to be unjustified, we may demand compensation for any costs incurred thereby from the contracting party.
- 12.11 In urgent cases, for example if operational safety is at risk or for preventing unreasonable damage, the contracting party shall be entitled to remedy the defect itself and to demand from us compensation for objectively required expenses in this regard. In such case of remedying the defects itself, we must be notified immediately, if possible in advance. A right to remedy the defects itself does not exist if we were entitled to refuse repair or replacement in accordance with the applicable statutory provisions.
- 12.12 If repair or replacement has failed or if a reasonable deadline set by the contracting party for the repair or replacement has expired or can be waived in accordance with the statutory provisions, the contracting party is entitled to withdraw from the sales contract or reduce the sales price. However, in case of an immaterial defect, a right to withdrawal from contract does not exist.
- 12.13 The contracting party may claim damages or compensation for expenses without any result only within the limits of § 8; otherwise they are excluded.

13. Additional liability

- 13.1 To the extent not provided otherwise in these Terms, including the provisions below, we shall be liable for breach of contract, quasi contract or tort, in accordance with the relevant statutory provisions.
- 13.2 We shall be liable for damages in case of intentional harm and gross negligent conduct - irrespective of their legal basis. In case of ordinary negligence, we shall be liable only
- a) for damages from injuries of life, body and health;
 - b) for damages from violating material contractual obligations (an obligation whose fulfilment is essential for the proper performance of the contract and upon the fulfilment of which the contracting party

regularly relies and may rely); in such case, however, our liability shall be limited to the compensation of foreseeable and typical damage.

- 13.3 The limitations of liability resulting from 13.2 above shall not apply if we have maliciously withheld any defects or have guaranteed specific qualities of the Goods. The same applies for any claims by the contracting party under the product liability act.
- 13.4 In case of violations of obligations which do not involve defects, the contracting party may withdraw from or terminate the contract only if we are responsible for such violations. A free right of termination of the contracting party (including but not limited to as provided under §§ 651, 649 BGB) shall be excluded. Otherwise, the statutory requirements and legal consequences apply.

14. Periods of limitation

- 14.1 Contrary to § 438 para. 1 No. 3 BGB, the general period of limitation for claiming defects or imperfections in title shall be one year from delivery. If acceptance was agreed to, the period of limitation shall begin with acceptance.
- 14.2 This does not affect the special statutory regulations for third party *in rem* claims for actual possession (§ 438 para. 1 No. 1 BGB), in case of malice on the part of the contracting party (§ 438 para. 3 BGB) or for supplier's recourse claims if the final recipient is a private end consumer (§ 479 BGB).
- 14.3 Above periods of limitation pursuant to sales law shall also apply to any contractual, quasi contractual and tort claim respectively any damage claim of the contracting party arising from a defect in the Goods, unless application of the regular statutory periods of limitation (§§ 195, 199 BGB) would result in a shorter period of limitation in a specific case. The period of limitation under the product liability act shall not be affected. Otherwise, the statutory limitation periods apply exclusively to the contracting party's damage claims under § 13.

15. Return deliveries

- 15.1 We shall take back Goods free from defects only if our prior consent was obtained, against a credit note or in exchange for a new item, in original packaging, within 6 months from the date of delivery; this does not apply to custom-made products as well as to hygiene items (for instance, Liners, Knee Sleeves, Jockstraps) whose packaging has been opened or damaged. Our delivery note must be enclosed in the return delivery, with the reason for the return stated on its back. The goods returned must be sent in a suitable transport packaging. For the returned Goods whose original packaging has been damaged (also by letterings/markings) we shall charge a handling fee of 10 % of list price, however not exceeding 30 Euros. If Goods are returned or exchanged within two months from the date of invoice, we shall charge a handling fee of 10 % of the Goods' value. After two months from the date of invoice, we shall charge a handling fee of 25 % of the Goods' value.

Should, under exceptional circumstances and as a sign of goodwill, the return of opened/damaged hygiene items be accepted, a handling fee of 50 % of the list price, will be charged. Alternatively, products will be sent to the customer without a credit note.

- 15.2 The Goods' value for the purpose of 15.1. above shall be the net sales price at conclusion of the contract.
- 15.3 Shipments made for selection must be returned within 10 working days. Goods not returned shall be deemed accepted and will be billed.

16. Infringement of intellectual property rights

If Goods are produced pursuant to the contracting party's specific instructions (drawings, samples or other specific information), it shall have the sole responsibility that they do not violate or infringe any third party rights, including but not limited to patents, utility models or other proprietary rights or copyrights. If any third party asserts claims against us for infringement of these intellectual property rights (also known as industrial property rights), the contracting party shall indemnify us from all resulting claims and costs.

17. Confidentiality

- 17.1 The contracting party shall use all documents (including but not limited to samples, models, and data) and any knowledge gained from this business relationship for the sole purpose of executing the Terms/the transaction only and shall keep them strictly secret and not disclose them to any third party. This obligation does not apply to documents and knowledge that are generally known to the public or have already been known to the contracting party at their receipt, without any secrecy obligation.
- 17.2. If we provide to the contracting party drawings and/or technical documents relating to the Goods to be supplied or their production, they will remain our property.

18. Place of performance, jurisdiction and governing law; final provisions

- 18.1 Place of performance and exclusive – and international - place of jurisdiction for all disputes directly or indirectly arising from the contractual relationship shall be our registered place of business in 73117 Wangen, Germany. We shall also be entitled to sue the contracting party at its registered place of business.
- 18.2 These Terms and all legal relationships between us and the contracting party shall be subject to the laws of the Federal Republic of Germany, excluding the conflict of law provisions and excluding the UN Convention on Contracts for the International Sale of Goods (CISG). Requirements and effects of retention of title under § 11 shall be subject to the laws of the jurisdiction in which the item is located if according to such the choice of German law is not allowed or invalid.

- 18.3 If one or more of the provisions of these Terms or of any other agreement relating to these Terms are or become invalid this does not affect the validity of the remaining provisions of these Terms. The contracting parties shall then replace the invalid provision by one whose economic effect is as close as possible to that of the invalid one.