

General Sales and Delivery Terms for INPAC Medizintechnik GmbH

§ 1 General information, Scope of application

(1) These general sales and delivery terms (hereafter GSDT) of INPAC Medizintechnik GmbH (hereafter INPAC) for customer orders apply exclusively; contrary terms and conditions of INPAC customers or terms and conditions that deviate from the GSDT presented here are not recognized by INPAC, unless INPAC has agreed to their validity explicitly in writing. If INPAC and the customer agree to specific terms that deviate from the GSDT (as recorded in the order confirmation from INPAC), then these terms apply and are to be supplemented by the GSDT in further areas of application. The GSDT also apply even when INPAC executes the customer's order without reservation, despite knowledge of contrary terms and conditions of the customer or terms and conditions that deviate from these GSDT.

(2) The GSDT are valid only for businesses pursuant to § 14 BGB (German Civil Code), legal persons under public law, or public-law special funds.

(3) The GSDT also apply to all future business transactions with the customers of INPAC.

(4) The order confirmation from INPAC, including these GSDT, contains the entire contents of the agreement between INPAC and the customer concerning the execution of the customer's order.

§ 2 Offer, Offer documentation

(1) Offers from INPAC are non-binding, unless they are explicitly labeled as binding.

(2) If the customer's order qualifies as an offer pursuant to § 145 BGB, then INPAC can accept the order within 2 weeks.

(3) Provided it does not represent an unreasonable burden to the customer, INPAC reserves the right to make changes to the goods to be delivered and/or prepared by INPAC with regard to slight deviations in color, design, weight, size, or shape, along with other customary deviations, after the contract has been concluded.

(4) The specifications contained in the offers, brochures, catalogs, data sheets, documentation (e.g., drawings, plans, computations, calculations, references to DIN norms), other product descriptions or documents from INPAC—also specifications (dimensions and other technical data), information, and images in electronic form—represent customary, estimated approximate values, unless they are explicitly designated as binding by INPAC.

(5) INPAC reserves all ownership rights and copyrights, along with the right to register for commercial protection, on the offers, images, drawings, calculations, information and other documentation (also those in electronic form) from INPAC. This applies in particular to documents (also those in digital form) that are designated "confidential" or which are clearly to be treated as confidential. Before passing them on to third parties, the customer must obtain explicit written consent from INPAC.

(6) The contract is concluded under the reservation that INPAC's own vendors supply INPAC promptly and correctly. This applies only to cases in which INPAC bears no responsibility for a non-delivery, in particular, through the conclusion of a congruent covering transaction with INPAC's vendors. The customer will be notified without delay of the unavailability of the service; INPAC is entitled to rescission. The consideration for the service will be reimbursed without delay. INPAC will promptly present the covering contract to the customer and assign to the customer the rights resulting from it in the necessary scope.

(7) If the customer places an order under the condition of approving initial sample parts, then approval is considered granted if the customer does not refuse approval within 14 calendar days of receiving information about the completion of these initial sample parts by INPAC.

§ 3 Prices, Terms of payment

(1) Provided nothing else is agreed upon in the order confirmation, the prices apply to delivery "ex factory Birkenfeld", exclusive of postage, packaging, insurance, and transportation; these excluded services are invoiced separately.

(2) The statutory sales tax is not included in the prices from INPAC. Provided it has not been mentioned in the offer or the order confirmation, the sales tax in the applicable statutory amount is added to all prices. It is identified separately in the invoice on the day of invoicing.

(3) All prices agreed to in the contract apply until the agreed upon delivery date. INPAC reserves the right to adjust its prices appropriately if, after conclusion of the contract by INPAC and after the agreed upon delivery date, cost increases occur for which INPAC is not responsible, particularly, increases due to wage agreements or changes in material costs.

(4) Deduction of a prompt-payment discount requires a special agreement.

(5) Provided nothing else is agreed upon in the order confirmation, the invoices are to be paid in full. Regarding the consequences of payment arrears, the statutory regulations apply.

(6) The customer is only entitled to offsetting rights if his counterclaims have been declared legally binding, are uncontested, or have been acknowledged by INPAC. Moreover, the customer is only authorized to exercise a retention right if his counterclaim is based on the same contractual relationship.

§ 4 Customer provisions

(1) If the customer provides INPAC with plans, drawings, sample parts, materials, or semi-finished products for purposes of executing the contract, or if he makes available to INPAC corresponding technical / organizational specifications, INPAC assumes no liability for the correctness of the dimensions, functionality, and quality. Here, the customer bears sole responsibility. INPAC reserves the right to refuse to install the provided materials and semi-finished products if they do not meet INPAC's quality requirements.

(2) In cases where INPAC, in order to execute the contract, develops and/or produces technical programs, tools, production materials, fixtures, or other auxiliary devices, these remain the property of INPAC and are not to be surrendered to the customer.

(3) If INPAC processes materials / semi-finished products that have been provided to it by the customer, INPAC thereby attains ownership of them. They must only be surrendered to the customer if this is required to fulfill the contract.

§ 5 Delivery period

(1) The start of the delivery period specified by INPAC presupposes the clarification of all technical questions.

(2) Fulfillment of the delivery and performance obligations by INPAC also presupposes the timely and proper fulfillment of the customer's obligations. In particular, these include the fulfillment of cooperation obligations regarding the allocation of plans and the provision of sample parts and the required approvals and payments by the customer within the agreed upon time periods. The right to plead non-performance of contract remains reserved.

(3) If the delivery date is delayed due to force majeure (see § 8 Para. 5), then the delivery period deadline is automatically extended by the duration of the corresponding delay.

(4) The delivery deadline is met when the object to be delivered has departed the INPAC factory by the time the delivery period expires. If an acceptance inspection is to take place, then the inspection appointment is the determining factor—except in cases of justified non-acceptance. Alternatively, the notification of readiness for the acceptance inspection and/or the date when the customer puts the delivered objects into service may serve as proof of timely delivery.

(5) If the customer defaults on the acceptance or culpably violates other cooperation obligations, INPAC is entitled to demand a refund for damages suffered by INPAC as a result, including any extra expenditures. Further claims or rights remain reserved.

(6) Provided the pre-requisites of Para. 4 have been met, the risk of accidental loss or accidental deterioration of the item delivered and/or prepared by INPAC is transferred to the customer at the point in time at which the customer enters acceptance default or payment default.

§ 6 Transfer of risk, Acceptance

(1) The risk is transferred to the customer when the item to be delivered by INPAC has departed the INPAC factory. This also holds for partial deliveries or when INPAC performs other services, such as payment of shipping costs or delivering to the customer and setting up the delivered goods. If an acceptance inspection is to take place, then this inspection marks the transfer of risk. It must be carried out without delay at the specified time of the acceptance appointment, alternatively, after INPAC has announced the readiness of the goods for acceptance. The customer may not refuse acceptance on the grounds of a non-substantial defect.

(2) If the shipping and/or acceptance is delayed or remains undone as a consequence of circumstances not attributable to INPAC, then the risk is transferred to the customer on the day of notification of the readiness for shipping and/or acceptance.

(3) Partial deliveries and partial performance of services are permissible, provided they place no unreasonable burden on the customer.

§ 7 Liability for defects

(1) Defect claims on the part of the customer are only permitted when the customer has duly complied with his investigation and complaint obligations pursuant to §§ 377, 381 HGB (Commercial Code).

(2) In cases where a defect is present in a new item delivered or prepared by INPAC, INPAC is entitled to the choice of either rectifying the situation by eliminating the defect or delivering and/or preparing a new, defect-free item. If INPAC chooses to eliminate the defect or make a replacement delivery or prepare a new item, INPAC is obliged to bear all necessary expenditures associated with the rectification process, particularly the costs of transport, travel, labor, and materials. However, if the increase in these expenditures is the result of the new item delivered or prepared by INPAC being brought to a different location than the original place of performance, INPAC only bears the necessary expenditures up to the price calculated for the customer of the original, new item delivered or prepared by INPAC.

(3) The location of the rectification performance is the business headquarters of INPAC.

(4) If the rectification performance pursuant to § 7 Para. 2 fails twice, then the customer is entitled to his choice of demanding either rescission or abatement.

(5) Justified defect complaints do not affect the execution of the remainder of the contract. The right to retain payments is excluded, provided the value of the defective item (calculated on the corresponding basis of the purchase price) does not exceed the value of the previously made payments.

(6) The limitation periods pursuant to § 438 Para. 1 No. 3 BGB und 634a Para. 1 No. 1 BGB are shortened to 1 year. The legal provisions concerning the commencement of the limitation period, the expiry suspension, and the suspension and re-commencement of deadline periods remain unaffected.

§ 8 Total liability

(1) INPAC is liable according to the statutory provisions, provided the customer asserts damage compensation claims that are based on willful intent or gross negligence. If INPAC cannot be justifiably blamed for any intentional or grossly negligent contract violation, then the liability for damage compensation is limited to the foreseeable, typically occurring damages. This amounts to a maximum of three times the value of the commission.

(2) INPAC is also liable according to the statutory provisions if INPAC culpably violates an essential contractual obligation; here as well, however, for simple negligence, the damage compensation liability is limited to the foreseeable, typically occurring damage. This amounts to a maximum of three times the value of the commission. An essential contractual obligation is one whose fulfillment the customer has relied upon and is entitled to rely upon.

(3) Moreover, if, in the case of negligent violation of an obligation, the customer is entitled to claim compensation of the damage in lieu of replacement performance, INPAC's liability is limited to compensation of the foreseeable, typically occurring damage.

(4) Liability for culpable violations to life, limb, or health remains unaffected. This also holds for compulsory liability according to the product liability law, as well as for fraudulent concealment of a defect and for assumption of a guarantee or assurance of a characteristic in cases where a defect within the scope of such a guarantee or assurance triggers INPAC's liability.

(5) INPAC is not liable in cases of force majeure (e.g., natural catastrophes, war, civil unrest, terrorism, sabotage, and strikes, as well as damage to machinery / production

interruptions, provided INPAC bears no responsibility for their occurrence).

(6) Any further liability for damage compensation than that stipulated in paragraphs 1 to 5 is excluded, regardless of the legal nature of the claim that has been asserted. This holds particularly for damage compensation claims arising from fault in conclusion of the contract (*culpa in contrahendo*), other breaches of obligation, or tortious claims for compensation of property damage pursuant to § 823 BGB.

(7) The liability limit also applies if the customer demands reimbursement of useless expenditures instead of a claim to compensation of the damage in lieu of performance.

(8) Provided INPAC's liability for damage compensation is excluded or limited, this same also applies with regard to the personal damage compensation liability of INPAC's employees, workers, representatives and vicarious agents.

§ 9 Guarantee of ownership retention

(1) INPAC retains ownership of the item delivered and/or prepared by INPAC until all payments arising from the business relationship have been received. If a current account relationship exists, the ownership retention refers to the acknowledged account balance. In cases where the customer's behavior does not conform to the contract, particularly regarding timely payment, INPAC is entitled to take back the item it has delivered and/or prepared. In taking back the item delivered and/or prepared by INPAC, INPAC withdraws from the contract. After taking back the item delivered and/or prepared by INPAC, INPAC is authorized to liquidate it. Here, the revenues generated—after deducting appropriate liquidation expenses—are used to offset the customer's obligations.

(2) The customer is obligated to treat with due care the item that has been delivered and/or prepared by INPAC. In particular, the customer is obligated to insure the item at his own expense against fire, water damage, and theft at a level sufficient to cover the item's original value.

(3) In case of seizure or other intervention by a third party, the customer must immediately inform INPAC in writing so that INPAC can file a complaint pursuant to § 771 ZPO (Code of Civil Procedure). If the third party is not in a position to reimburse INPAC for the in-court and out-of-court costs of a suit pursuant to § 771 ZPO, the customer is liable for INPAC's resulting shortfall.

(4) The customer is entitled to re-sell the item delivered and/or prepared by INPAC in the course of a proper business transaction. However, already, at this point in time, the customer automatically assigns all accounts payable arising from the re-sale vis a vis his purchaser or third parties at the level of the final invoiced amount (including sales tax) to the accounts payable to INPAC. This holds regardless of whether the item delivered and/or prepared by INPAC has been re-sold without being processed or after being processed. The customer remains authorized to collect these accounts payable even after the assignment. INPAC's authorization to collect the accounts payable on its own remains unaffected. However, INPAC pledges not to collect the accounts payable as long as the customer complies with his payment obligations from the

revenues collected, does not fall into payment arrears, and, in particular, has not filed any request to open an insolvency proceeding or stopped any payment. If this is the case, however, then INPAC can demand that the customer inform INPAC about the assigned accounts payable and their obligors, provide all specifications required for collecting these accounts payable, hand over the pertinent documentation, and inform the obligors (third

parties) of the assignment.

(5) The processing or re-forming by the customer of the item delivered and/or prepared by INPAC is always carried out for INPAC. If the item delivered and/or prepared by INPAC is processed with other objects not belonging to INPAC, then INPAC acquires co-ownership of the new item in proportion to the value of the item delivered and/or prepared by INPAC (final invoice amount, including sales tax) relative to the other processed objects at the time of the processing. Moreover, the same conditions apply to the item resulting from the processing as apply to the item delivered and/or prepared by INPAC under reservation.

(6) If the item delivered and/or prepared by INPAC is inseparably mixed with other objects not belonging to INPAC, then INPAC acquires co-ownership of the new item in proportion to the value of the item delivered and/or prepared by INPAC (final invoice amount, including sales tax) relative to the other mixed objects at the time of the mixing. If the mixing takes place in such a way that the customer's item is to be regarded as the main part, it is agreed upon that the customer transfers prorated co-ownership to INPAC. The customer stores the resulting exclusive property or joint property for INPAC.

(7) At the request of the customer, INPAC pledges to release the securities to which it is entitled, if the realizable value of these securities exceeds the debts to be secured by more than 10 %. INPAC retains the choice of which securities to release.

§ 10 Inventions and know-how

INPAC is exclusively entitled to the confidential, valuable, and sophisticated expertise currently residing within INPAC and such expertise as is gained by INPAC in the course of fulfilling its contractual obligations, along with inventions developed by INPAC and any currently existing or yet to be registered commercial property rights pertaining to them—subject to a separate agreement and/or the usage or application to which the customer is entitled according to the sense and purpose of the contractual relationship.

§ 11 Confidentiality

INPAC and the customer mutually ensure each other confidentiality concerning the information obtained in the course of their business relationship. Transfer of this information is not permitted, unless the information becomes publicly known without the intervention of the other party or unless legal provisions make disclosure necessary (e.g., in a court proceeding, although in this case, the disclosure may only take place for this purpose).

§ 12 Place of jurisdiction, performance location

(1) If the customer is a businessperson in the sense of the HGB (Commercial Code), then the INPAC business headquarters is the place of jurisdiction. However, INPAC is also entitled to file suit against the customer at the court located at the customer's headquarters. The preceding jurisdictional agreements also apply to customers headquartered outside of Germany, regardless of whether they are businesspersons in the sense of the HGB.

(2) The law of the Federal Republic of Germany applies. The application of the UN sales law is excluded.

(3) Provided nothing to the contrary has been agreed upon in the commission confirmation, the performance location is the INPAC business headquarters.

The German version of the AGB shall be legally binding. The English translation of the AGB serves convenience purposes only.

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