

## 1. General

The following General Terms and Conditions are part of all contracts and agreements concluded with us. In particular, they apply to sales and delivery contracts and to all advice, information, etc. we supply in connection with such contracts. Purchaser accepts these Terms and Conditions – also for follow-up business, if any – by acknowledging them without objection, but not later than upon receipt of our goods or other services. Oral collateral agreements, exclusions from, amendments or supplements of these Terms and Conditions shall not be valid, unless expressly confirmed in writing by us. This shall also apply if this requirement of the written form is contracted out.

We hereby reject the validity of general terms and conditions of Purchaser which vary from these Terms and Conditions, even if such terms and conditions are transmitted to us in a confirmation letter or in any other way. Our unconditional delivery of goods, performance of services, and acceptance of payments does not constitute our recognition of conditions which diverge from these General Terms and Conditions.

Unless otherwise specified in these General Terms and Conditions, the terms and definitions of INCOTERMS 2000 shall apply.

## 2. Quotations, Contracts

Our offers are subject to confirmation; a contract is only formed by our written order acknowledgement, or if orders have been executed by us. Amendments, supplements and/or cancellations of contract must be made in writing. If the requirement of the written form is contracted out, this must also be done in writing. Any statements and notifications by Purchaser subsequent to contract conclusion are only valid, if they are made in writing.

We reserve the title to and copyright for pictures, drawings, calculations and any other documents. They shall not be made available to any third party. Purchaser shall not make any of such pictures, drawings, calculations or other documents available to any third party without our express written consent.

## 3. Prices, Terms of Payment

All prices are „ex works“ plus statutory VAT. Payments to us must be made free place of payment. Deductions of discounts must be agreed specifically in writing. Our customer may only offset payments against claims which are undisputed or have been finally settled.

## 4. Place of Performance, Transport Insurance

The place of performance shall be Munich. Unless otherwise specified in the order acknowledgement, delivery shall be made „ex works“.

The risk passes to Purchaser when the products or the equipment are shipped, even if prepayment of freight charges for delivery is agreed upon. All deliveries will be covered by transport insurance. Purchaser shall bear the costs for this insurance.

We will not take back any transport packaging and other packaging subject to the German Packaging Regulation (Verpackungsverordnung), excluding pallets. Purchaser is obliged to dispose of the packaging at its own cost.

## 5. Delivery, Duty to Cooperate

The scope of our delivery obligation is exclusively defined in this contract. Our goods are subject to design or engineering changes and changes of form or color which are due to technical improvements or statutory provisions, provided that these changes are not substantial or otherwise unacceptable for Purchaser.

If Purchaser can be reasonably expected to accept partial shipments, these may be made and charged.

Delivery periods are generally quoted subject to cooperation of Purchaser according to contract. The prerequisite for the fulfillment of our delivery obligation is the timely and due fulfillment of Purchaser's obligations. If we do not receive any goods, although we have placed orders for identical goods with reliable suppliers, we are released from our obligation to perform and may repudiate the contract.

If, subsequent to contract conclusion, we find out that Purchaser is not able to provide an adequate guarantee of its solvency, and that our payment claim is endangered, we have the right to withhold delivery until Purchaser effects payment or furnishes security for it. If Purchaser is requested to pay or furnish a security and fails to do so within 12 working days, we have the right to rescind the contract.

If Purchaser defaults in calling, taking delivery of, or collecting goods, or if Purchaser is responsible for a delay in shipment or delivery, we have the right, without prejudice to any further claims, to charge a flat charge for our costs which corresponds to the storage charges in accordance with local custom, irrespective of the fact whether we store the goods in our company or in a third party stockroom. Purchaser has the right to prove that there was no loss or only a slight loss.

## 6. Delays in Delivery

If we are unable to keep the agreed delivery date due to circumstances which are not within our or our suppliers' control the delivery period is reasonably extended. We will immediately inform Purchaser about such a case. Should the impeding circumstances still exist one month after the agreed delivery period has expired, each of the parties has the right to rescind the contract. We do not accept liability for any further claims based on an exceeding of the delivery period for which we are not responsible. In case of a default in delivery, and if Purchaser furnishes evidence for the fact that it has suffered a loss due to this default in delivery, Purchaser is entitled to claim a flat-rate compensation for loss incurred by default amounting to 0.5 % of the delivery value, not exceeding 5 % of the delivery value, for every full week. Furthermore, Purchaser may grant us a reasonable extension in writing, which may not be less than 15 working days. If this extension has lapsed, Purchaser is entitled to rescind the contract or to claim damages instead of performance. Purchaser's damage claims based on default and damage claims instead of performance which exceed the above mentioned flat rate are excluded in all cases of delays in delivery, including after expiry of a delivery period that was fixed for us, if any.

Paragraph 2 does not apply, if the default is caused intentionally, by gross negligence or substantial breach of duty. Neither does it apply, if a contract where time is of the essence was agreed upon. In any case, however, liability for damages is limited to the foreseeable, typical damage. The above provisions do not entail a change in the burden of proof to the prejudice of Purchaser.

## 7. Retention of Title

We reserve ownership of the delivered goods until payment of all our receivables arising from our business relationship by Purchaser, including future receivables arising from contracts which were concluded simultaneously or subsequently. This shall also apply if amounts due are billed periodically and the balance is brought forward and accepted.

Purchaser is entitled to sell or process the goods in the ordinary course of its business. It shall process goods for us, if necessary, but for us no obligations shall ensue from this processing. If the goods which are subject to our retention of title are processed, combined or mixed with other goods, we generally have a co-owner's interest in these newly created goods. If our goods are processed this interest is calculated pro rata from the value (= invoiced gross value including incidental charges and taxes) of the goods which are subject to our retention of title in relation to the value of the newly created goods; if our goods are combined or mixed with other goods, from the value of the goods which are subject to our retention of title in relation to the value of the other goods.

Purchaser hereby assigns to us all claims which arise for Purchaser against any buyer or third party due to Purchaser's re-sale. Purchaser is entitled to collect the sums due, even subsequent to assignment of its receivables. Our right to collect such sums ourselves remains unaffected, but we will not make use of this right, if Purchaser duly fulfills its obligation to pay and its further obligations. Upon our request, Purchaser must inform us about assigned receivables and the respective debtors, give us all necessary information for collection, hand the relevant documents over to us, and inform the debtors about the assignment.

If Purchaser acts in breach of contract, in particular in the event of default in payment, we are entitled to rescind the contract and to take back the goods. With respect to the taking back of the goods, Purchaser hereby irrevocably permits us to enter its business premises and stockrooms unhindered and to take the goods with us.

Within the scope and period of our retention of title, Purchaser may neither assign goods or goods produced from such goods as securities nor pledge such goods without our consent. The conclusion of financing agreements (e. g. leasing agreements) which include the assignment of our reservation rights, are subject to our prior written consent, unless the agreement involves the financial institution's duty to pay the part of the purchase price to which we are entitled directly to us. Purchaser must immediately inform us in writing about attachments or other interventions by third parties. Purchaser is prohibited from making arrangements with its buyers which might interfere with our rights.

We undertake to release collateral pledged to us, if Purchaser so desires and at our own discretion, provided that the realizable value of the collateral exceeds the receivables to be collateralized by more than 20 % or if it exceeds their nominal value by more than 50 %.

## 8. Product Information

Our information about our products and equipment as well as our plant and processes is based on extensive research and our considerable experience in the field of applied engineering. We provide this information, which to the best of our knowledge is correct, orally and in writing. In doing so, we do not assume any liability other than the liability agreed upon in the respective individual contract, and we reserve the right to make technical modifications in the course of our product development. However, this shall not release user from its obligation to verify the suitability of our products and processes according to their intended use in dentistry. Purchaser's specification of intended use shall only be binding, if we, at the time of contract conclusion, have confirmed in writing that the delivered goods or equipment are suitable for the use intended by Purchaser. This shall also apply to the protection of third party industrial property rights and to applications and processes.

## 9. Defects

Purchaser is obliged to immediately examine the goods with respect to defects and to make an immediate complaint with respect to defects of the goods, if any, in accordance with the statutory provisions of Sec. 377 of the German Commercial Code (HGB).

Purchaser cannot derive any further rights from defects which do not prejudice or only immaterially prejudice the value and the suitability of the goods for the use perceivable by us.

If the goods have a defect at the time of the passing of the risk we are entitled and obliged to effect post-performance. Post-performance is made at our discretion by rectification of the defects or delivery of substitute goods. We will bear the costs for post-performance, in particular transport, travelling and labor costs and costs of materials, provided that these costs are not increased by the fact that the purchased goods were brought to a place other than the place of performance. If these costs amount to more than 50 % of the delivery value we are entitled to refuse post-performance.

If post-performance is not successful, Purchaser is entitled to claim rescission or a price reduction, at its discretion.

We assume liability according to the statutory provisions, if Purchaser claims damages which were caused intentionally or by gross negligence, including by intentional or grossly negligent behavior of our representatives or persons employed in performing an obligation for whom we are vicariously liable. Provided that we are not accused of intentional breach of contract, liability for damages is limited to the foreseeable, typical damage.

We assume liability according to the statutory provisions, if we culpably breach a material contractual obligation; in such case, however, liability for damages is limited to the foreseeable, typical damage.

If Purchaser is entitled to a compensation for damages instead of performance, our liability, including our liability according to paragraph (3), is limited to compensation of the foreseeable, typical damage.

Liability for culpable injury of life, body or health remains unaffected, the same shall apply to mandatory liability according to the Product Liability Act.

Unless specified otherwise above, liability is excluded.

The limitation period for claims resulting from defects with respect to newly created products and equipment is 12 months from the date of delivery, and 6 months for used products or equipment.

In case a person seeks recourse for delivered goods according to Secs. 478, 479 of the German Civil Code, the limitation period remains unaf-

ected; it is five years from delivery of the defective goods.

The above provisions shall not apply to used goods. We do not accept any liability for defects, except in cases where a warranty is expressly given or in cases of intent or gross negligence.

## 10. Further Liability for Damages

Irrespective of the legal nature of the asserted claim we exclude any liability for damages which is not provided in item 9. This shall apply in particular to claims for damages based on culpa in contrahendo, other neglects of duty, or claims in tort for compensation of property damages according to Sec. 823 of the German Civil Code.

This shall not apply if liability is mandatory, e. g. according to the Product Liability Act, in cases of intent, gross negligence, due to breach of material contractual obligations. However, liability for damages due to breach of material contractual obligations is limited to the foreseeable damage which is typical for the contract in question, provided that the damage was not caused by intentional or grossly negligent behavior, or that a liability for injury of life, body or health exists. The above provisions do not entail a change in the burden of proof to the prejudice of Purchaser.

If liability for damages against us is excluded or limited, this shall also apply with respect to the personal liability for damages of our employees, representatives and persons employed in performing an obligation for whom we are vicariously liable.

If Purchaser is entitled to damages according to this item 10, such claims become statute-barred after the limitation period for claims resulting from defects with respect to newly created products and equipment according to item 9 has expired. Claims for damages according to the Product Liability Act are subject to the statutory provisions on limitation periods.

## 11. Return of Goods

Without our prior written allowance, supplied goods free from defects cannot be taken back. Goods returned by customer with allowance are credited with a deduction of the sales price. As a general rule, we will not take back or exchange any goods in opened packages and goods which were delivered more than 6 months before. All returned goods are returned at Purchaser's expense and risk.

## 12. Disposal of Electrical and Electronic Appliances

The VDW electrical and electronic appliances are B2B products and not intended for private use.

After discontinuation of use, the Purchaser is obliged to properly dispose of delivered electrical and electronic appliances within the meaning of the German "Act on the Sale, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment" (ElektroG) of 16 March 2005, at its own cost and according to the legal requirements. The Purchaser holds VDW free and harmless from the obligations according to Sec. 10 Para. 2 ElektroG (producer's obligation to accept returned goods) and indemnifies VDW from any claims of third parties relating thereto.

The Purchaser shall contractually oblige commercial third parties to whom it passes the delivered electrical and electronic appliances to properly dispose of the products after discontinuation of use and, for the case of further passing on, to pass on the corresponding obligation.

If the Purchaser does not comply with its obligation to contractually oblige third parties to whom it passes the electrical and electronic appliances, the Purchaser will be obliged to accept return of the delivered goods after the discontinuation of use at its own costs and to properly dispose of them in accordance with the statutory obligations.

The claim of VDW for acceptance of return and indemnification by the Purchaser shall not become time-barred before the expiry of two years after the final discontinuation of use of the appliance. The two-year period of suspension of expiration shall at the earliest commence upon receipt by VDW of a written notification of the Purchaser on the discontinuation of use.

## 13. Account Balancing Statements

Purchaser shall verify the accuracy and completeness of account balancing statements, in particular statements of balance, and other statements and notifications. Objections to account balancing statements must be posted within one month from receipt; other objections must be made immediately. Failure to make a timely objection constitutes approval. In cases of justified objections customers' statutory claims remain unaffected after expiry of the period.

## 14. Place of Jurisdiction

Place of jurisdiction is Munich.

## 15. Applicable Law

All legal relationships between Purchaser and us shall be governed by the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

## 16. Severability

Should individual provisions of these Terms and Conditions be invalid, in whole or in part, this shall not affect the validity of the remaining provisions.

## Note

As far as necessary for the proper conduct of the contractual relations, our customers' and buyers' data are stored and processed in our IT system.

Dec. 6, 2005

VDW GmbH, Munich/Germany