

General Sale Conditions

These General Sale Conditions (accompanied by any possible special conditions as specified in the confirmation of order) shall regulate all sales of products carried out between Zhermapol Sp. z o.o. (hereinafter referred to as “the Seller”) and any purchaser (hereinafter referred to as “the Client”), and they shall take precedence over any other provisions contained in any forms or other documents used by the Seller and/or by the Client (hereinafter collectively referred to as “the Parties”), except for any different provisions that have been concluded by the Parties in writing.

1. THE PRODUCTS

1.1 These General Sale Conditions shall regulate all sales of products (hereinafter referred to as “the Products”) shown on the Seller’s price list that is applicable upon the Client’s sending of the purchase order, as specified.

2. THE ORDERS AND ORDER CONFIRMATION

2.1 Any Client’s order that is sent to the Seller in writing (hereinafter referred to as “the Order”) shall be deemed as fully binding for the Client before an appropriate confirmation from the Seller is received and, each time, for a period of 15 days after such order is received. Any orders sent by the Client in writing shall be deemed as received by the Seller upon such orders being sent by e-mail, phone or the website (www.zhermapol.pl).

2.2 The Seller is deemed to accept any orders upon the Client’s reception of an order confirmation issued by the Seller (hereinafter referred to as “the Order Confirmation”).

2.3 If the Order Confirmation contains any modifications, compared to the (original) Order, such modifications are deemed to be accepted by implicit consent of the Parties upon the elapse of a three-workday period following the Client’s reception of the Order Confirmation, unless the Client makes some reservations in writing.

2.4 Any delivery of the Products for which the quantity delivered is larger or smaller by less than 5%, compared to the quantity ordered and accepted, shall be deemed to be in accordance with the Order.

2.5 Except for orders for which the Client has received the Order Confirmation, the Seller has a right to suspend and/or stop the manufacturing of the Products, at any time and without any prior notice, should it be dictated by market and/or production requirements, in which case the Client has no right to submit any claims or demands to the Seller.

3. THE PRICES

3.1 Except for the Parties’ other agreements in writing, all prices of the Products (hereinafter referred to as “the Prices”) are the prices shown in the Seller’s price list (or any current promotion offer) and they are to be applied upon the issue of the Order Confirmation.

4. THE TERMS OF PAYMENT

4.1 Any payment shall be made by the Client in cash or by bank transfer by the due date specified on the Seller's invoice, which shall be 7 to 30 days after the invoice is delivered to the Client.

5. NO PAYMENT OR DELAYED PAYMENT

5.1 If the payment, or a part thereof, is delayed, the Client shall be obligated to pay to the Seller the legal interest calculated on the amount due and invoiced.

5.2 If the Client delays the payment, or a part thereof, the Seller has a right to withhold any pending deliveries, to withdraw from the contract and to keep by way of compensation all the amounts paid by the Client in advance until any agreed damages are paid, without any prejudice to its right to seek any further compensations.

5.3 Should even one invoice be fully or partially outstanding, the Client shall automatically lose all the benefits that are due in relation to any agreed quantities of products being exceeded.

6. TITLE RETAINED

6.1 The Products remain the Seller's property until the Client pays the full Price. Nevertheless, the Parties agree that all risks related to the Products being lost or damaged, regardless of the cause of such loss or damage, shall lie with the Client, starting upon the reception of goods.

7. THE DELIVERY

7.1 Any delivery of the Products shall be carried out from the Seller's premises through the shipping company that cooperates with the Seller on a regular basis. Should the Client wish to change the carrier company, it undertakes to specify in the order it submits some other shipping company or carrier company. If the Client does not specify any shipping company or carrier company in the order, or if the shipping company or carrier company specified by the Client fails to collect the Goods ready for shipment within a period of 24 hours, the goods shall be sent through the shipping company that cooperates with the Seller on a regular basis.

7.2 The delivery period agreed shall be automatically suspended if the Client makes no payment or if it delays payment, as described in Clause 5 above, or such period shall be extended should the Client demand any modifications in the delivery and such modifications are accepted by the Seller in the Order Confirmation.

8. THE WARRANTY

8.1 The Seller hereby guarantees conformity to the Order Confirmation, as well as the absence of any raw-material or manufacturing faults in the Products, as long as the Products are used in accordance with their standard conditions of use. Except for any additional provisions that have been made by the Seller in writing, the warranty covers a period of 12 months following the date on which the Products are delivered. This warranty period shall not be suspended or extended due to any period in which the Products are not in use, even as a result of a warranty-covered repair.

8.2 The Seller does not provide the Client with any other warranty apart from the one specified in Clause 8.1 above.

8.3 The Client is obligated to carefully examine each Product in order to determine whether the delivery complies with the Products ordered, in terms of quantity and quality. In case any discrepancy between the actual delivery and the delivery document or invoice has been observed, the Client is obligated to report such discrepancy by phone or in writing. The Seller shall analyse any such discrepancy within 7 workdays since it was filed, with particular consideration given to any information about the shipment being damaged or the original wrapping tapes being broken and to any possible report to that effect being submitted to the courier.

8.4 Upon the elapse of the seven-day period following the Client's reception of the products the delivery shall be treated as accepted by the Client without any reservations, which shall mean that the Client waives its right to submit claims regarding any apparent faults of the Product or any faults in the quality or quantity of the delivery.

8.5 Any latent faults that are not discovered upon delivery shall be communicated by using the same procedure as for apparent faults within 8 days following the discovery, or the warranty is null and void.

8.6 In the case of repeated deliveries containing the same faults or discrepancies in the Products, the Client waives its right to submit any quality-related claims if the same faults have previously been accepted without any reservations submitted in writing.

8.7 If the Seller engages in delivery of Products that are to be compatible with a sample that was previously sent to the Client, the Seller undertakes to use the same raw-materials as used for the production of the sample, except for changes in colour, composition or other characteristics of such raw-materials.

8.8 If Sub-clauses 8.3 and 8.4 are to be applied, the Seller reserves a right to examine any faulty Products at its own discretion.

8.9 Any dispute that may arise between the Parties regarding the conditions of existence or the nature of the faults, or any incompatibility of the Products, shall be left to the exclusive competence of an independent expert appointed by the President of the Warsaw Chamber of Commerce. Any decision made by such an expert shall be regarded as final and binding. The expert's fee, as well as the costs of the technical inspection, shall be paid in advance by the party that seeks the inspection, to be finally covered by the party in breach, based on the inspection results.

8.10 If the Client reports any faults in the binding and immediate way, the Seller may arrange for a free-of-charge repair or replacement of the Product, or the Product's faulty components, at its own discretion and according to the technical standards, or, as an alternative, it may reimburse to the Client the expenses borne in relation to the faulty Product, without assuming any further liability. The products which were questioned, from the moment their damage was discovered, cannot be used by the Client.

8.11 The Client has no right to demand any other form of warranty-covered intervention and/or compensation, thus excluding any liability by virtue of direct, indirect, accidental or secondary damages that may result from any faulty and/or incompatible Products. The Client is obligated to waive any such compensation, within the limits of the law.

8.12 Any claims concerning product quality that can be raised upon the delivery should be submitted within 2 days from the disclosure of the defect, and not later than within 7 days from the handing over of the product. All product quality complaints, discovered while using the product, can only be made by the Client who actually bought the product and has a proof of purchase (an invoice) necessary to start the complaints handling process. The complaint must be filed on the Company Complaint Form. The Seller is obligated to examine any claim and to inform the Client of the result of such examination within 14 workdays following the reception of the claim. If any such examination of the claim requires that a third party be used by the Seller, the time needed for such third party's service shall not to be included in the claim examination term. Seller's failure to reply within the term specified above shall be tantamount to Seller's acceptance of the claim for execution.

8.13 As described in this Clause 8, the warranty exclusively covers raw-material or manufacturing faults as discovered under the Product's regular conditions of use. Under no circumstances shall the warranty cover any faults caused by insufficient maintenance or storage, improper or alternative use at variance with the appropriate guidelines, normal wear and tear and/or any repairs or interventions carried out by third parties without the Seller's consent in writing.

9. PRODUCT MONITORING

9.1 Within the scope of medical products, the Client undertakes to introduce a product monitoring system, as well as to inform the Seller about any faults/deteriorations in properties and/or performance, or of any improper guidelines that may cause, or have caused, death or serious impairment of health in any patient or user.

10. APPLICABLE LAW AND JURISDICTION

10.1 Any sales under these General Sale Conditions are governed by the regulations of the Polish law, with the exclusion of the Vienna Convention on International Sale of Goods (except for the specifications contained in Articles 8 and 11 of the Convention, which take precedence over the other regulations of the Polish law).

10.2 Should any disputes arise between the Parties concerning the General Sale Conditions or the sale provisions contained in the same General Conditions, such disputes shall be settled by the Warsaw court that is competent to decide the matter. Prior to initiating any court procedure, the Client is obligated to exhaust the complaint procedure described in Clause 8 herein.

11. FINAL PROVISIONS

11.1 Any circumstances under which the Parties do not exercise their rights vested by virtue of one or more provisions of these General Sale Conditions, or by virtue of a sale contract under the same General Conditions, shall not be regarded as a waiver of such rights and shall not prevent the Party from demanding that the conformity with the provisions be preserved.