

GENERAL CONDITIONS OF CONTRACT

for the supply of instruments, spare parts, accessoires and consumables

1. GENERAL

1.1. The contract shall be deemed to have been entered into upon receipt of Anandic Medical Systems AG is (herein after called supplier) written acknowledgement stating acceptance of the order (order acknowledgement). Tenders which do not stipulate an acceptance period shall not be binding.

1.2. These general conditions of supply shall be binding if declared applicable in the tender or in the order acknowledgement. Any conditions stipulated by the customer which are in contradiction to these general conditions of supply shall only be valid if expressly acknowledged by the supplier in writing.

1.3. All agreements and legally relevant declarations of the parties to the contract must be in writing to be valid.

1.4. Should a provision of these general conditions of supply prove to be wholly or partly invalid, the parties to the contract shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid provision.

2. SCOPE OF SUPPLIES AND SERVICES

The supplies and services are exhaustively specified in the order acknowledgement and in appendices thereto. The supplier shall be entitled to make any changes which lead to improvements provided such changes do not result in a price increase.

3. TECHNICAL DOCUMENTS

3.1. Unless otherwise agreed upon, brochures and catalogues are not binding. Data provided for in technical documents are only binding in so far as having been expressly stipulated as such.

3.2. Each party to the contract retains all rights to technical documents provided to the other. The party receiving such documents recognises these rights and shall – without previous written consent of the other party – not make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

4. REGULATIONS IN FORCE IN THE COUNTRY OF DESTINATION AND SAFETY DEVICES

4.1. The customer shall, at the latest when placing the order, draw the attention of the supplier to the standards and regulations applicable to the execution of the supplies and services.

4.2. Unless otherwise agreed upon, the supplies and services shall comply with those standards and regulations at the place of business of the customer about which the supplier has been informed under Clause 4.1. Additional or other safety devices shall be supplied to the extent as having been expressly agreed upon.

5. PRICES

5.1. Unless otherwise agreed upon, all prices shall be deemed to be net ex works, excluding packing, in freely available Swiss Francs or in foreign currency as stipulated in the contract, without any deduction whatsoever. Any and all additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the customer.

Likewise, the customer shall bear any and all taxes, fees, levies, customs duties and the like which are levied out of or in connection with the contract, or shall refund them to the supplier against adequate evidence in case the supplier is liable for them.

5.2. The supplier reserves the right to adjust the prices in case

- the delivery time has been subsequently extended due to any reason stated in Clause 8.3, or
- the nature or the scope of the agreed supplies or services has changed, or
- the material or the execution has undergone changes because any documents furnished by the customer were not in conformity with the actual circumstances, or were incomplete.

6. TERMS OF PAYMENT

6.1. Payment shall be made by the customer at supplier's domicile according to the agreed terms of payment, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like. Payment shall be deemed to be effected as far as Swiss Francs or foreign currency as stipulated in the contract have been made freely available to the supplier at supplier's domicile. In case payment by bills of exchange is agreed, the customer shall pay the cost of discounting of such bills, bill of exchange taxes and collection charges.

6.2. The dates of payment shall also be observed if transport, delivery, erection, commissioning or taking over of the goods or services is delayed or prevented due to reasons beyond the supplier's control, or if unimportant parts are missing, or if post delivery work is to be carried out without the goods being prevented from use.

6.3. If the advance payment or the contractually agreed securities are not provided in accordance with the terms of the contract, the supplier shall be entitled to adhere to or to terminate the contract, and shall in both cases be entitled to claim damages.

If the customer is late with payment, or if the supplier is seriously concerned that he will not receive payment in total or in due time because of circumstances occurring since entering into the contract, the supplier, without being limited in his rights provided for by law, shall be entitled to refuse the further performance of the contract and to retain the goods ready for dispatch until new terms of payment and delivery will have been agreed and until the supplier will have received satisfactory securities. If such an agreement cannot be reached within a reasonable time, or in case the supplier does not receive adequate securities, the supplier shall be entitled to terminate the contract and to claim damages.

6.4. If the customer delays in the agreed terms of payment, he shall be liable, without reminder, for interest with effect from the date on which the payment was due at a rate depending on the terms prevailing at the customer's domicile, but not less than 4 per cent over the current discount rate of the Swiss National Bank.

7. RESERVATION OF TITLE

To make sure that the supplier remains the owner of all goods until having received the full payment in accordance with the contract, the customer agrees to cooperate in any measure necessary for the protection of supplier's title. In particular upon entering into the

contract he authorises the supplier to enter or notify the reservation of title in the required form in public registers, books or similar records, all in accordance with relevant national laws, and to fulfill all corresponding formalities, at customer's cost.

During the period of the reservation of title, the customer shall, at his own cost, maintain the goods and insure them for the benefit of the supplier against theft, breakdown, fire, water and other risks. He shall furthermore take all measures to ensure that the supplier's title is in no way prejudiced.

8. DELIVERY TIME

8.1. The delivery time shall start as soon as the contract is entered into, all official formalities such as, but not limited to, import, export, transit and payment permits have been completed, payments due with the order have been made, any agreed securities given and the main technical points settled. The delivery time shall be deemed to be observed if by that time the supplier has sent a notice to the customer informing them that the goods are ready for dispatch.

8.2. Compliance with the delivery time is conditional upon the customer's fulfillment of his contractual obligations.

8.3. The delivery time is reasonably extended:

- a) if the information required by the supplier for performance of the contract is not received in time, or if the customer subsequently changes it thereby causing a delay in the delivery of the goods or services;
- b) if hindrances occur which the supplier cannot prevent despite using the required care, regardless of whether they affect the supplier or the customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilisation, war, revolution, serious breakdown in the works, accidents, labour conflicts, late or deficient delivery by subcontractors of goods contracted for, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God;
- c) if the customer or third party is behind schedule with work he has to execute, or with the performance of his contractual obligations, in particular if the customer fails to observe the terms of payment.

8.4. Should delivery of goods be delayed by the supplier, the customer shall grant the supplier a reasonable extension of time in writing. If such extension is not observed for reasons within the supplier's control, the customer shall have the right to reject the delayed part of the goods or services. If a partial acceptance is economically not justified on the part of the customer, the latter shall be entitled to terminate the contract and to claim refund of the money already paid against return of the goods supplied.

8.5. Any delay of the goods or services does not entitle the customer to any rights and claims other than those expressly stipulated in this Clause 8. This limitation does, however, not apply to unlawful intent or gross negligence on the part of the supplier, but does apply to unlawful intent or gross negligence of persons employed or appointed by the supplier to perform any of his obligations.

9. INSTALLATION

9.1. The installation date must be agreed upon in advance between supplier and the customer.

9.2. If one party cannot meet the agreed installation date for any reason, this must be communicated to the other party at least one week before the planned date.

9.3. If installation dates are not cancelled according to 9.2. and costs are incurred by the supplier as a result, the supplier reserves the right to charge these costs to the customer.

10. PACKING

Packing shall be charged for separately by the supplier and shall not be returnable. However, if it is declared as the supplier's property, it shall be returned by the customer, carriage paid, to the place of dispatch.

11. PASSING OF BENEFIT AND RISK

11.1. The benefit and the risk of the goods shall pass to the customer on the date of their departure from the supplier's works.

11.2. If dispatch is delayed at the request of the customer or due to reasons beyond the supplier's control, the risk of the goods shall pass to the customer at the date originally foreseen for their departure from the supplier's works. From this moment on, the goods shall be stored for the account and at the risk of the customer. The supplier may insure the goods for the account of the customer, but he is not obliged to do so.

12. FORWARDING, TRANSPORT AND INSURANCE

12.1. The supplier shall in time be notified of special requirements regarding forwarding, transport and insurance. The transport shall be at customer's expense and risk. Objections regarding forwarding or transport shall upon receipt of the goods or of the shipping documents be immediately submitted by the customer to the last carrier.

12.2. The customer shall be responsible for insurance against risks of any kind.

13. INSPECTION AND TAKING-OVER OF THE GOODS AND SERVICES

13.1. As far as being normal practice, the supplier shall inspect the goods and services before dispatch. If the customer requests further testing, this has to be specially agreed upon and paid for by the customer.

13.2. The customer shall inspect the goods and services within a reasonable period and shall immediately notify the supplier in writing of any deficiencies. If the customer fails to do so, the goods and services shall be deemed to have been accepted.

13.3. Having been notified of any deficiencies the supplier shall as soon as possible remedy them according to Clause 13.2, and the customer shall give the supplier the possibility of doing so.

13.4. The carrying out of a taking-over test as well as laying down the conditions related thereto need a special agreement.

13.5. Deficiencies of any kind in goods or services shall not entitle the customer to any rights and claims other than those expressly stipulated in Clauses 13 and 14 (guarantee, liability for defects).

14. GUARANTEE, LIABILITY FOR DEFECTS

14.1. Guarantee period

The warranty period is 24 months. It starts with the installation at customer's site.

If delivery is delayed for reasons outside the supplier's control, the guarantee period ends at the latest 30 months after Anandic Medical Systems AG has reported readiness for installation. For replaced or repaired parts, the guarantee period starts anew and lasts 3 months after replacement or completion of the repair.

14.2. Liability for defects in material, design and workmanship

Upon written request of the customer, the supplier undertakes at his choice to repair or replace as quickly as possible any part of the goods which, before the expiry of the guarantee period, are proven to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become the supplier's property.

14.3. Liability for express warranties

Express warranties are only those which have been expressly specified as such in the order acknowledgement or in the specifications. An express warranty is valid until the expiry of the guarantee period at the latest, provided service and repair is executed by duly authorised persons according to the specifications of the supplier, the goods are used for the purpose foreseen by the supplier and operations take place according to the operation guidelines of the supplier.

If the express warranties are not or only partially achieved, the customer may first of all require the supplier to carry out the improvements immediately. The customer shall give the supplier the necessary time and possibility of doing so.

If such improvements fail completely or in part, the customer may claim such compensation as has been agreed before for such case or if such an agreement has not been made, a reasonable reduction of price. If, however, the defects are of such importance that they cannot be remedied within a reasonable time and provided the goods and services cannot be used for their specified purpose, or if such use is badly impaired, then the customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically not justified for it, to terminate the contract. In such case the supplier can only be held liable for reimbursing the sums which have been paid to him for the parts affected by the termination.

14.4. Exclusions from the liability for defects

Excluded from the supplier's guarantee and liability for defects are all deficiencies which cannot be proved to have their origin in bad material, faulty design or poor workmanship, e.g. those resulting from normal wear, improper maintenance or maintenance executed by non-authorised third parties, failure to observe the operating instructions, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, installation work not undertaken by the supplier or an authorised third party, inappropriate modifications or repairs undertaken by the customer or a third party, use of nonoriginal spare parts, use of non-original reagents, or resulting from other reasons beyond the supplier's control. Notwithstanding the foregoing, no guarantee whatsoever is given with respect to glass breakages, cracked membranes on electrodes, electronic components, electric lamps and other expendable materials and parts and any material and part which by nature of application have an unpredictable time of life. The guarantee expires prematurely if the customer, in case of a defect, does not immediately take appropriate steps to mitigate the damage and give the supplier the possibility of remedying such a defect.

14.5. Exclusivity of guarantee claims

With respect to any defective material, design or workmanship as well as to any failure to fulfill express warranties, the customer shall not be entitled to any rights and claims other than those expressly stipulated in Clauses 14.1 to 14.4.

14.6. Liability for additional obligations

The supplier is only liable to the extent of unlawful intent or gross negligence as far as claims arising out of faulty advice and the like or out of breach of any additional obligations are concerned.

15. EXCLUSION OF FURTHER LIABILITY

Any rights and claims on the part of the customer other than those expressly stipulated in these general conditions of contract are excluded, irrespective of on what grounds they are based; this in particular refers to claims for damages, reduction of price or termination of the contract unless expressly stipulated therein. In no case whatsoever, shall the customer be entitled to claim damages other than compensation for costs of remedying defects in the

goods. These exclusions, however, do not apply to unlawful intent or gross negligence on the part of the supplier, but do apply to unlawful intent or gross negligence of persons employed or appointed by the supplier to perform any of his obligations.

16. JURISDICTION AND APPLICABLE LAW

16.1. Except for other stipulations in agreements that have priority to this general conditions of contract, the place of jurisdiction for both the customer and the supplier shall be at the registered office of the supplier. The supplier shall, however, be entitled to sue the customer at the latter's registered address.

16.2. The contract shall be governed by Swiss Law.