

# TERMS AND CONDITIONS OF SALE (CGV)

SPD-00724 rev 1

The Vendor hereinafter referred to is **PROTEOR SAS**, registered in the **Dijon Trade and Companies Register** under number **542 083 704**, whose registered office is located at **6 rue de la redoute, 21850 Saint Apollinaire**. The Buyer or Customer hereinafter referred to is a professional customer of the Vendor. The Merchandise or Product, which is the subject of the order, is either listed in the Vendor's catalogue-price list or is manufactured on request by quotation.

## ORDERS

1. Unless otherwise expressly agreed, each order for Goods placed by the Buyer implies the Buyer's express and unreserved acceptance of these GCS, which shall prevail over any other document, unless otherwise expressly agreed, over any of the Buyer's general terms and conditions of purchase, or over any statement appearing on the Buyer's own purchase orders.

2. Orders must be confirmed in writing by the Customer, complete and clearly specified in all details. Sending the purchase order constitutes a firm and irrevocable undertaking by the Buyer to accept delivery of the Goods and to pay the price thereof. The delivery period shall be deemed to have been agreed once all technical and commercial details and terms have been finalized by the Seller.

3. Unless otherwise stipulated, the Seller's offers are valid for an option period of one month (30 working days), three months (90 working days) in the case of export, after they have been submitted. If the Buyer's acceptance is not entirely in accordance with the offer or quotation, the contract is deemed concluded only after the Seller's written agreement. The Vendor reserves the right to refuse any order which it considers to be abnormal. Any modification requiring new studies or a change in the supply may lead to a modification of the price and delivery date. Plans, documents, and studies supplied by the Vendor to the Buyer remain the property of the Vendor and may not be communicated to third parties or used by third parties without express agreement. These plans, documents and other studies are returned to the Vendor if the order is not confirmed.

4. If the Buyer wishes to cancel an order or part of an order, it must do so in writing. Where applicable, the Vendor will inform the Buyer in writing whether or not such cancellation can be taken into account, depending on the progress of the order. In the event of cancellation of the order, the indemnity payable depends on the state of progress of the design and manufacture of the Hardware.

## DECISIVE CONDITION FOR THE SELLER

The Vendor has only agreed to contract with the Customer based on the payment guarantees which the Customer has provided to the Vendor. Should these guarantees change significantly, the Vendor reserves the right either to cancel any agreement with the Customer, or to suspend this agreement until additional financial guarantees have been obtained.

## PRICE

Prices in the Seller's price list are net, exclusive of taxes, transport and packaging costs; for France, ex works; for French overseas departments and territories and abroad, carriage paid (Incoterms 2010), unless otherwise stipulated. They are calculated based on suppliers' purchasing conditions, and may be modified at any time, without prior notice, according to changes in raw material prices, suppliers' price structures or exchange rates, within the framework of current legislation.

## PAYMENT

Goods are invoiced at the price applicable on the date of delivery or in accordance with the quotation. Payment shall be made to the Seller's address stipulated on the invoice, within thirty days of the end of the month, preferably by bank

transfer to the account indicated by the Seller. No discount will be granted for early payment. The creation of bills of exchange does not constitute a waiver or novation of the place of payment. The first delivery is made cash on delivery or cash on delivery. For exports, payments are made at DIJON, by irrevocable documentary credit confirmed by a French bank (in accordance with RUJ 600 in force), payable at sight, unless otherwise expressly agreed with the Seller. The costs of the documentary credit are borne by the drawee. Any delay in payment will automatically give rise to a late payment penalty calculated by applying to the remaining sums due, an interest rate equal to three times the legal interest rate of the European Central Bank, without this penalty affecting the payability of the debt and without the need for formal notice, the Buyer being deemed to be in default by the mere occurrence of the due date. In addition, a fixed indemnity for collection costs will be due. Non-payment of any instalment will result in the immediate payment of the remaining instalments. This last provision does not apply in the case of a partially disputed invoice, provided that the dispute has been recognized as justified for the remainder. In the event of late payment, not attributable to force majeure or default by the Supplier, exchange losses and interest on arrears shall be borne by the Customer. In the event of invoicing in foreign currencies, the exchange rate loss of the currency differential will be borne by the Customer. All new customers must prepay their first order to the Vendor before delivery of the Goods.

## DELIVERY

1. Agreed delivery times are given for information only. They do not constitute a firm commitment, and any delay in delivery may not lead to cancellation of the sale, refusal of the Goods, penalty or damages.

2. a) Deliveries in France: delivery is always deemed to have been made to our warehouses. Shipments are made carriage forward. Goods travel at the recipient's risk. It is therefore the Customer's responsibility to guarantee his rights by complying with article L.133-3 of the French Commercial Code, by declaring any claim within three days to the carrier.

b) For French overseas departments and territories (DOM-TOM) and international destinations: delivery is made carriage paid (Incoterms 2020), unless otherwise stipulated.

3. The Manufacturer reserves the right to make partial deliveries with the corresponding invoicing. Any partial delivery is considered as a separate contract and, consequently, the Customer may not, under any circumstances, take advantage of the fact that the balance of the ordered equipment is awaited in order to defer the corresponding payment.

4. The Manufacturer is released from its delivery obligation in the event of force majeure as defined in article 1218 of the French Civil Code. In addition, any event beyond the Manufacturer's control may, at the Manufacturer's request, result in either an extension of the order's completion date or cancellation of the order, and release the Manufacturer from all claims for damages.

5. If, due to the Buyer's fault, delivery is not possible within the agreed delivery period, the Seller reserves the right to dispose of the Goods or, if the order has been specially manufactured, to pass on handling and warehousing costs, i.e. 1.5% per month of delay from the date specified in the order.

## RESERVATION OF TITLE CLAUSE

The Seller expressly reserves ownership of the Goods delivered until full payment of the price in principal and interest, wherever they may be located, including the Customer's stores, warehouses and personal dwellings, the risks being transferred to the Customer as soon as the Goods are taken over for sales in France. The transfer of risks is de-

ferred by the Incoterm 2020 chosen. This retention of title is enforceable against creditors and liquidators in the event of the Customer's receivership or liquidation.

Unpaid Goods shall be returned to the Seller at the Customer's expense and risk, 10 days after formal notice to pay has been served by registered letter with acknowledgement of receipt and has remained without effect.

## GENERAL WARRANTY (professionals)

The Products must be used in accordance with their intended purpose, to the exclusion of any other purpose. The Vendor shall not be held liable for any use of the Products which does not comply with the Vendor's instructions. The warranty consists of the replacement or repair, in the Vendor's workshops, of the part recognized as defective, to the exclusion of any compensatory indemnity or reimbursement of assembly or transport costs. Transport costs incurred in connection with the implementation of the warranty, to and from the site, are at the Buyer's expense. The warranty does not apply to replacements or repairs resulting from normal wear and tear, deterioration or accidents caused by negligence, lack of maintenance and supervision, poor storage conditions, improper installation, or failure to follow maintenance and commissioning instructions. The warranty shall lapse if the equipment is modified or repaired without the Vendor's agreement. The replacement, modification or repair of parts during the warranty period shall not have the effect of extending the warranty period for the Hardware. All claims relating to quantities or qualities delivered are accepted within a maximum of eight working days from the date of receipt of the Goods.

## LEGAL CONFORMITY WARRANTY (consumers)

The legal warranty of conformity applies to Products. The buyer (consumer) has a period of 2 years from delivery of the Product to take action. He/she does not have to prove the existence of a conformity defect for 24 months following delivery. This warranty does not apply to morphological variations. The buyer (consumer) may choose between repair and replacement. The Vendor may, however, choose another method than the one chosen by the purchaser if this choice entails a cost that is manifestly disproportionate to the other method. Under no circumstances may the legal warranty of conformity imply the possibility of obtaining compensatory indemnities. The legal warranty of conformity applies independently of any commercial warranty and of the warranty specific to France, provided for in the List of Reimbursable Products and Services (LPPR). The purchaser (consumer) may decide to invoke the warranty against hidden defects in the item sold. In this case, he or she may choose between rescinding the sale or reducing the purchase price.

## REPAIRS

Repairs in the Vendor's stores are carried out at the fairest price and are the subject of a repair agreement based on an estimate drawn up by the Vendor; in all cases, the cost of labor and return postage is borne by the Customer. Equipment returned for repair from foreign countries must be sent in temporary transit.

## RETURNED or EXCHANGED PRODUCTS

Returns are only possible in exceptional cases, with the prior written agreement of the Seller, for Goods in new condition and in their original packaging, delivered less than 15 days previously.

No returns will be accepted without the Vendor's prior written consent. Returns are made carriage and packaging paid, with indication of delivery note numbers and dates, and solely with a view to exchanging Goods to be taken immediately. However, Goods which are the subject of a special order are neither exchanged nor taken back.

The Vendor cannot be held responsible for handling or storage that does not conform to the intended packaging.

## TRIALS

### Use of Product

Certain Products may be entrusted to the Customer for patient trials. The Products concerned are high-tech devices such as ESAR feet, KINTERRA, KINNEX, SYNSYS, PLIE or QUATTRO.

Products delivered in this context are the responsibility of the Customer, who undertakes to ensure that the:

- To be used only for the patient named in the trial.
- Scrupulously comply with the instructions supplied with medical devices.
- Not to transfer the device to a third party, professional or otherwise, whether free of charge or in return for payment, without prior written authorization from PROTEOR.
- To keep the Product free from damage

### Product condition

Products are packaged in specially designed cases or boxes. PROTEOR inspects each device and checks that it is in perfect working order before dispatch.

If the customer has a complaint upon receipt, he must contact customer service within 48 hours of receipt.

Should the customer discover a breakdown, breakage or malfunction, he/she must stop using the Product, notify customer service by telephone and confirm this report, specifying the circumstances in which the problem was discovered, by e-mail within 72 hours to cs@proteor.com.

### Product return

The Products are entrusted for testing for a fixed period. The Customer undertakes to respect this period and to report any anomaly in the Product that he/she may observe to the customer service department.

The return of a Product during or at the end of the trial period implies the prior issue of a return authorization by customer service.

The Customer undertakes to return the Product in its entirety, with all its components and any accessories, IFUs, connection codes and protective packaging, in perfect clean and working order, in its original packaging or, failing that, taking care to package it appropriately to prevent any damage during transport.

Any missing accessories will be invoiced, as well as any repair costs resulting from abnormal use of the Product.

If the quality department diagnoses damage leading to the disposal of the complete Product, the Customer will be invoiced at the current price of the new Product.

### Insurance

The Customer is obliged to provide unlimited cover against the financial consequences of his civil liability for accidents caused to third parties in connection with the provision of the Product.

### Product immobilization

Immobilization of the equipment beyond the time scheduled for the test, for any reason whatsoever, even beyond the control of the Customer, may give rise to the invoicing of compensation equal to the price of the Product at the rate in force at the time of the test.

## JURISDICTION and APPLICABLE LAW

In the event of a dispute arising from the performance or interpretation of the sales conditions terms, and failing amicable settlement, the courts of DIJON, ruling under French law, shall have sole jurisdiction, whatever the conditions of sale and method of payment accepted, even in the event of an incidental claim, third-party appeal or plurality of defendants.



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