

General Terms and Conditions of Purchase of provita medical gmbh & co. kg

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Preamble

provita medical gmbh & co. kg, headquartered Auf der Huhfuhr 8, 42929 Wermelskirchen, represented by the CEO Micha Hilverkus and Remo Pleuser, HRB 36381, district court Cologne, produces medical products and sells them to distributors and business partners in Germany as well as internationally. An intensive and trustful cooperation with specialist suppliers, architects and hospitals enables the development and production of innovative products and solutions. The portfolio of provita medical gmbh & co. kg includes, but is not limited to, inspection- and reading lights, intravenous poles, mobile transfer carts, hygiene center, ceiling track- systems and wall rail- systems.

provita medical gmbh & co. kg is operating exclusively in the B2B sector.

1. General - Scope of Application

- 1.1 Our terms and conditions of purchase shall apply exclusively; conflicting or deviating terms and conditions of the supplier will not be accepted, unless we have expressly approved of their validity in written form.
- 1.2 Our General Terms of Purchase particularly apply to contracts on the purchase of raw materials and supplies, materials, semi-finished products and finished products and other products („**products**“) and services provita requires within the scope of its activities in the development and manufacturing of medical technology, as well as such other services provided on provitas premises or in or with regard to provitas facilities and installations, particularly provitas EDP equipment and systems, electrical work- and maintenance as well as electrical installation and maintenance on provitas building and premise. These General Terms and Conditions correspondingly apply to the order-bound manufacturing, supply and service of the products according to provitas specifications.
- 1.3 Our terms and conditions of purchase also apply if we accept or pay for deliveries [...] of products and services of the supplier in the knowledge of conflicting supplier terms and conditions or terms and conditions differing from our terms and conditions of purchase.
- 1.4 Legally relevant declarations and notices to be made by the supplier vis-à-vis provita in the scope of the performance of this contract have to be made in writing in order to be effective.
- 1.5 Individual agreements entered into by provita and the supplier in the individual case take always precedence over these General Terms and Conditions to the extent they are affected by such deviating agreements. The contents of such individual agreements require a written contract.
- 1.6 Our terms and conditions of purchase shall only apply towards companies in accordance to §§ 13, 310 I BGB
- 1.7 Our conditions of purchase also apply for all future transactions with the supplier or service provider.
- 1.8 Any reference to the applicability of statutory provisions is only made for purpose of clarification. Such statutory provisions shall thus be applicable even without such clarification unless they have directly been amended or expressly excluded by these General Terms and Conditions of Purchase.

2. Offer - Offer Documents

- 2.1 The Supplier is obliged to accept our order within a period of two weeks. The period begins with placing our order. The declaration to accept our offer can be made by fax or E-Mail in PDF format copy, in any case it has to be made in textform. An acceptance made by telephone is not possible. Upon expiration of the acceptance period, provita will no longer be bound by its order.
- 2.2 Due acceptance of our offer will be made by the supplier by sending an order confirmation. Any acceptance of the order after the acceptance period or amendment or conditional acceptance of the order by the supplier constitutes a new binding offer from the supplier. A modification especially lies in the changing or adding on the countersigned order of the supplier.
- 2.3 If we have received a new offer from the supplier in accordance with para. (2), a contract including the amended provisions will only be concluded upon provitas acceptance in textform (fax or email including PDF copy of the declaration is sufficient). We hereby expressly declare that silence, particularly the failure to object to an offer from the supplier in accordance with para. (2), shall not be deemed to be an approval. The uncontradicted acceptance of the supplied products shall likewise not be deemed to be a tacit agreement.
- 2.4 Our order code has to be declared and stated clearly visible during the whole correspondence.

3. Framework Agreement - Quantity Tolerance

- 3.1 Framework agreements will be closed additionally with specific suppliers individually and in writing.
- 3.2 Framework agreements apply prior to these general terms and conditions of purchase as well as prior to the suppliers general

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terms and conditions of sale.

- 3.3 The quantity stated by us is the expected demand and shall not be binding for us. We are not obligated to accept the stated quantity.

4. Price - Payment Terms

- 4.1 The offer price is binding. Unless otherwise agreed, the price shall include delivery free domicile, packaging and other additional costs (transport costs, insurance).
- 4.2 The supplier has to take back any packaging material at our request.
- 4.3 All prices are exclusive of statutory VAT
- 4.4 Invoices can be processed only if our order code is stated, like prespecified in our order. The supplier is responsible for any consequences resulting from the non-compliance of this obligation, unless he is able to prove that he is not responsible for these consequences.
- 4.5 Unless otherwise is agreed, the price is due and payable within fourteen (14) calendar days less 3% cash discount on the net invoiced amount or by no later than thirty (30) calendar days after full delivery and performance and receipt of a proper invoice. Our obligation requires a delivery that is free of defects and complete as well as a proper invoice with declaring our order code.
- 4.6 We are entitled to any rights of set-off and retention as well as the defense of the unfulfilled contract to the statutory extent.
- 4.7 In case of acceptance of untimely, early delivery the invoice is due no further than the agreed delivery date.

5. Delivery Period - Default of Delivery

- 5.1 The delivery time stated in the order is binding. Delivery has to take place on the delivery date at the latest.
- 5.2 If delivery takes place before the agreed delivery date, we shall be entitled to stock the products fee-based. The supplier is liable to pay the stock costs and for any risk of accidental loss.
- 5.3 As soon as the supplier becomes aware of difficulties with regard to keep appointments and delivery time, the supplier must inform us without delay in writing. The supplier has to inform us about the duration of delay in writing (fax or e-mail is adequate). The following paragraphs shall remain unaffected and apply further on.
- 5.4 In the event the supplier shall not provide his service or deliver his products within the agreed delivery time or is in default, our rights shall be determined according to the legal regulations.
- 5.5 In the event of a delay in delivery we shall further be entitled to demand a contract penalty due to delay in the amount of 1 % of the net price delivery value per week, however, not more than 10 % of the net price of the delayed delivered products. Claims for further compensation remain unaffected (withdrawal from the contract, compensation for loss and damage instead of the payment). The supplier shall be entitled to prove that no damages or significantly lower damages were incurred due to the delay. Claims for further compensation remain unaffected.
- 5.6 Partial deliveries are not permitted, unless expressly agreed to by provita in writing.
- 5.7 The supplier has to bear the additional costs e.g. for Express delivery that occur because of the default of delivery of the supplier.

6. Passing of Risk - Delivery - Documents

- 6.1 Delivery is made at the suppliers expense to our place of business, unless otherwise is agreed, which means free domicile, free of freight-, duty-, packaging-, insurance-, toll- and other additional costs.
- 6.2 The place of performance is our place of business, Auf der Huhfuhr 8, 42929 Wermelskirchen. The delivery is a debt to be discharged at our place of business.
- 6.3 The Supplier has to notify provita in textform (fax or email is sufficient) of any storage or transportation risk and/ or specific storage or transportation conditions prior to delivery in order to avoid any damage.
- 6.4 If an express delivery is made upon our request, the supplier has to inform us about the additional costs in advance. The Supplier has to carry the additional costs for the express delivery if there is no prior agreement between us and the supplier.
- 6.5 The shipping papers and delivery notes have to contain our exact order code; furthermore the supplier is obliged to quote our article number, the quantity, and weight and packaging units. Each single packaging units and product units have to be attached with packing slips that have to contain the content, article number, quantity and weight. If the supplier fails to fulfill these requirements, provita is not responsible for any delay in processing.
- 6.6 Our incoming goods department is open on Monday to Thursday between 6:45 – 12:15 o'clock and between 13:00 – 15:30

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- o'clock as well as on Fridays between 6:45 – 12:55 o'clock. Out of business hours, products won't be accepted.
- 6.7 The risk of accidental loss and accidental deterioration of the products passes to provita upon the hand-over of the products at the place of performance. If acceptance of the products is agreed upon, the risk passes upon their acceptance. In other respects, the statutory provisions under the law on contracts for work and services also apply to the acceptance of products.
- 6.8 Our default of acceptance is subject to statutory provisions. The supplier has to expressly offer provita his performance if a certain or definable calendar period has been agreed upon for any act or cooperation by provita (e.g. provision of material). If the contract refers to the manufacture of a specific item (custom-made item), the supplier shall be entitled to further rights only if we have undertaken to cooperate and if we are responsible for the failure to do so.
- 7. Quality Specifications - Technical Agreements - Packaging**
- 7.1 The supplier has to permanently monitor the quality of his deliveries of goods and provision of services. The products must comply with the product specifications, the delivery specifications and der quality assurance agreements, as far as those specifications and agreements do exist. In each case the products must comply with the accepted state of the art at the date of delivery as well as with statutory and official provisions. Especially the products must comply with the product liability law, the medical devices act and the pharmaceutical products act in the currently valid version at the date of delivery.
- 7.2 The supplier is obligated to use only such material as packaging material directly getting into contact with the product (primary packaging material) for which the supplier has obtained a clearance certificate from the manufacturer. On demand, the supplier has to show us this certificate.
- 7.3 The supplier is liable for a proper packaging. Packaging shall be remedied at the supplier's choice with regard to the transport route, unless we set forth a special packaging.
- 7.4 The supplier has to promptly notify provita if he is not able to meet the required quality specifications.
- 7.5 Any expenses incurred by provita due to possible quality defects and /or directly or indirectly related to a defective quality of the product must be beared by the supplier.
- 7.6 Any change in the products to be supplied by the supplier as regards the specifications, design, function, safety, cleanliness, reliability, life expectancy, manufacturing base and manufacturer and/or subcontractor must be approved by provita.
- 7.7 The company certifies that, in connection with its business, the company has never given or will give any or all of unauthorized advantages, either directly or indirectly, in order to receive or retain orders, or any unacceptable advantage of public officials, healthcare professionals or others persons or institutions.
- 7.8 The company certifies that it complies with the applicable laws and regulations relating to the combat against money laundering (AML) and terrorism financing (CFT), including client due diligence obligations and obligations relating to the cooperation with public authorities, and has implemented written procedures and internal control mechanisms in order to ensure compliance with such laws and regulations.
- 7.9 The company certifies that it does not have nor enters into business with any organization in its supply chain, which supports or is found to involve itself in slavery, servitude and forced or compulsory labour and child labour. No labour provided to the company in the pursuance of the provision of its own services is obtained by means of slavery or human trafficking or child labour. The company strictly adheres to the standards required in relation to its responsibilities under relevant employment legislation of the relevant countries in relation to its employees.
- 8. Duty of Inspection and Objection - Liability for Defects**
- 8.1 Our rights in case of defects of quality and title of the products (including wrong or short deliveries and significant over-delivery) as well as any other breach of a duty by the supplier are subject to statutory provisions unless otherwise provided for hereinafter.
- 8.2 Statutory provisions of sections 377, 381 German Commercial Code (HGB) apply to the commercial obligation to inspect the products and give notice of defects with the following stipulation: provitas duty to inspect the products is limited to defects being obvious within the scope of the incoming goods inspection by provita by external appraisal of the products, including the delivery note, e.g. transportation damages or wrong or short or over-deliveries. Spot tests for control of defects will be made at our discretion. Notice of defects is deemed to have been made in due time if it is send to the supplier within five (5) working days after goods receipt or in case of hidden defects after discovering the defect. The due dispatch of the notice is sufficient to observe the time limit.
- 8.3 We indicate the supplier expressly that he has to clarify the foregoing provisions in regard to our examination and complaint obligations with his liability insurance so that this regulation is covered by his insurance. If the insurance coverage of the

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- supplier is dropped we are not liable for any resulting damages.
- 8.4 We shall be entitled to all claims due to defects permitted by law; we shall in any case be entitled to demand of the supplier remedy of defects or delivery of replacement goods at our discretion. We expressly reserve the right to claim damages, in particular damages in lieu of performance, to the full extent and for every level of default in accordance with the statutory provisions.
- 8.5 In case of imminent danger or particular urgency, we shall be entitled to remedy the defect themselves at the expense of the supplier.
- 8.6 The period of limitation for liability of defects shall be 36 months years as of the passing of risk.

9. Product Liability - Insurance Coverage - Information Obligation

- 9.1 If the supplier is liable for product damages, he will indemnify provita against any third party claims to the extent the reason for this was within his domain and organizational area.
- 9.2 Within the scope of the duty to indemnify as in section 9.1 above, the supplier has to reimburse provita for expenses pursuant to Sections 683, 670 BGB or §§ 830, 840, 426 BGB, incurring under or in connection with third party claims including any recalls made by provita. We will inform the supplier – as far as possible and reasonable – about the content and scope of the recall measures and give him the opportunity to comment. Any further statutory claims shall not be affected thereby.
- 9.3 According to the regulations of the Product Security Act (ProSiG), we do the necessary briefing to the relevant competent authority in coordination with the supplier.
- 9.4 The supplier commits to keep a product liability insurance with an adequate insured sum for foreseeable damage, but at least in the minimum amount of €10 Mio. per personal damage/material damage claim. The supplier as well has to keep a recall-insurance with an adequate insured sum, but at least in the minimum amount of € 5 Mio. Further compensation claims remain unaffected. The insurances are promptly proved at our request.
- 9.5 The contractual parties will mutually notify each other without undue delay of any recall of loads and complaints in connection with the products and/or their raw materials and/or packaging material if the other party's area of responsibility is affected thereby.
- 9.6 The supplier is responsible for the technical review and internal follow-up of complaints regarding the products. The contractual parties will assist each other as best as possible to clarify the reason for complaint.
- 9.7 The provisions of section 9.1 and 9.2 apply accordingly to any liability resulting from the German Pharmaceutical Products Act (AMG) and the German Medical Devices Act (MPG).

10. Trade Mark Rights

- 10.1 The supplier warrants that no rights of any third parties within the Federal Republic of Germany are violated in connection with its goods delivered, unless the supplier provides evidence that he is not responsible for neglecting his duty.
- 10.2 The supplier is obliged to inform us immediately about any known risks of injury and alleged infringement cases concerning trade mark rights of third parties. The indemnification obligation of the supplier refers to all expenses necessarily incurred us from or relating to the use by a third party.
- 10.3 If and when a third party asserts a claim against us owing to such an infringement, the supplier shall be obligated upon first written request to indemnify and hold us harmless from and against any such claims; In case of compensation claims of third parties the supplier has the right to prove, that he is not liable for the violation of the third party rights; We are not entitled to conclude any agreements with third parties in this context, in particular to conclude a comparison, without the consent of the supplier.
- 10.4 If our use of the products is affected by existing rights of third parties, the supplier has to acquire either the authorization or to modify or replace the affected products or parts of them within a reasonable period of time at his own expense and at his discretion, so that no rights of third parties oppose the use of products anymore and as well meet the contractual agreements, especially the quality requirements. This does not apply if the supplier proves that he is not responsible for the impairment.
- 10.5 The limitation period for these aforementioned claims is ten years, starting with the transfer of the risk.
- 10.6 We expressly point out towards the supplier that he has to clarify the above regulation regarding the limitation period with his liability insurance, so that he can be sure that this regulation is included by the insurance coverage. If the insurance coverage of the supplier is cancelled, we are not liable for any resulting damages.

11. Deliveries and Services provided on provita's Premises - Liability

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- 11.1 If the supplier or his employees/ commissioned persons deliver products to and/or provides services on our business premises, he has to notify the coordinator named by provita of both the beginning as well as the scope of the works planned within the scope of the delivery and/or services and to arrange the procedure with him. The supplier/ service provider. The supplier / service provider has to get in touch with the responsible coordinator autonomously at the beginning of its activity and sign the service book/ guest book at the reception.
- 11.2 The supplier acknowledges that the coordinator is authorized to give him and his agents' instructions in this regard. With regard to materials (substances, preparations) and objects (e.g. goods, parts, technical equipment) which, due to their nature, characteristics and condition, may pose a risk to life and health of individuals, to the environment and things and which may thus be treated in a special way because of regulations as regards their packaging, transportation, storage, treatment and waste disposal, the supplier has to provide provita with a completely filled material safety data sheet according to § 14 of the German Ordinance on Hazardous Material (GefStoffV) and a correct accident procedures sheet together with the offer. The supplier will provide provita with updated data and information sheets in case of changes in the materials and the legal situation.
- 11.3 In the event the supplier intentionally or negligently causes the death, injury or damage to the health of an individual or damage to or destruction of a thing in the execution or on the occasion of a delivery and/or service on our business premises, he shall be held liable in accordance with statutory provisions.
- 12. Retention of Title - Supply - Tools**
- 12.1 If we provide parts, components or materials to the supplier, we reserve title thereto. Further processing or transformation is made by the supplier for us. We shall acquire ownership of the product in accordance with the statutory provisions.
- 12.2 If our supplied goods get processed with other items that do not belong to us, we shall acquire co-ownership of the new item in proportion to the value of our good (purchase price plus VAT) to the other processed objects at the time of processing.
- 12.3 If our supplied goods get inseparably mingled or blended with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the reserved goods (purchase price plus VAT) to the other mingled or blended items at the time of the mingling/ blending. Is blending done in a way that the item of the supplier is to be seen as the main item, the parties agree that the supplier transfers a proportional co-ownership to us; the supplier shall keep the sole ownership or co-ownership safe for us.
- 12.4 Reservations of title of the supplier shall only apply in direct relation to our payment obligation for each product the supplier reserves the title. The agreement of an expanded or extended reservation of title by the supplier is herewith rejected.
- 12.5 We reserve ownership of the tools; the supplier is obliged to use the tools solely for the manufacture of the goods ordered by provita. The supplier is obliged to insure our tools at replacement value at his own expense against fire, water and theft. At the same time the supplier assigns all compensation claims arising from this insurance to us; we do accept the assignment. The supplier is obliged to perform the required maintenance and inspection work in regard to our tools, as well as servicing and corrective maintenance just in time at his own expense. He has to inform us immediately in cases of incidents; if he fails to do so, our claims for damages remain unaffected.
- 12.6 As far as in accordance with the above mentioned section one (1) or section two (2) our securing rights exceed the purchase price of all not yet paid goods by more than 10%, we are, on the suppliers request, obliged to release security rights at our discretion.
- 13. Confidentiality**
- 13.1 The supplier is obliged to keep all received illustrations, drawings, calculations and other documents and information strictly confidential. They may be disclosed to third parties only with our express approval. The confidentiality obligation applies even after execution of this agreement; the obligation expires if and insofar as the production knowledge contained in the illustrations, drawings, calculations and other documents has become generally known.
- 13.2 The obligation to keep the exchanged information secret pursuant to para. (1) above does not apply if and to the extent that the respective party has been released from this obligation by express and written approval of the other party; or if the information was already known to the other party before the disclosure of the information by provita or the supplier and the other party was notified thereof without undue delay; or if the information is or becomes public knowledge by way of publication or otherwise; or if the information is disclosed to provita or the Supplier other than directly or indirectly by the other party; or if the information is disclosed to authorities due to applicable provisions.
- 13.3 The contractual parties mutually undertake to keep secret the contents of the business transaction and the respective order as well as any and all information and documents (including but not limited to illustrations, plans, drawings, calculations, standing

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- operating procedures and product specifications) submitted to the other party for this purpose. Both parties may use such documents exclusively for purpose of the contractual performance/delivery and the receiving party has to return or destroy them after the termination of the contractual relationship at the other party's request within a reasonable period of time at the other party's expense if in compliance with statutory provisions on the preservation of records. In case of documents that cannot be handed over and that contain confidential information, such as hard disks or the like, the receiving party has to delete or otherwise destroy the respective documents. At the other party's request, the receiving party will promptly notify the other party of the return, deletion and/or destruction of any and all documents and papers in accordance with the above obligation.
- 13.4 The contractual parties further undertake to strictly keep secret the other party's know-how. This obligation expires five (5) years after the termination of the contractual relationship with the supplier. Neither the supplier nor provita are entitled to use or otherwise exploit the other party's know-how disclosed within the scope of the order and the contractual relationship during or after the termination thereof.
- 13.5 The supplier is not entitled to refer to the contractual relationship with provita in advertising material, brochures, etc. or to display products manufactured for provita without our prior written approval.
- 13.6 Confidential information may be handed over only to employees of the supplier that have signed a non-disclosure agreement or to third parties who are subjected to professional secrecy obligations. The signed non-disclosure agreements must be presented at our request. The supplier will take all necessary measures to ensure that all persons, to whom confidential information is communicated or made available, proceed with this information in the same way, as the supplier is obliged to in accordance with these terms and conditions.
- 13.7 The supplier will correspondingly advise and oblige his subcontractors in accordance with this section 3-6.
- 13.8 The supplier acknowledges that these terms and conditions neither intend nor can they be interpreted that the supplier gets any rights or licenses to the know-how or other intellectual property rights of provita. Apart from the validation of the technology, the supplier is not entitled to utilize the know-how for his own or for third party purposes. The supplier is not entitled to register intellectual property rights for the know-how or parts thereof. The supplier acknowledges that the communication of information throughout provita is not seen as a guarantee for the accuracy of the information, disclosure in regard to patent law, complete transfer of the right to intellectual property, or a commitment of provita to conclude a contract later.
- 14. Application to Suppliers Services and External Services**
Any and all provisions of these General Terms and Conditions correspondingly apply to the provision of services by the supplier or external service contractors to the extent they are applicable to them and no special provisions are agreed upon.
- 15. Place of Jurisdiction - Place of Performance**
- 15.1 Exclusive place of jurisdiction with respect to contracts with companies and business clients shall be the competent court at our seat of business. However we are also entitled to sue the supplier at the location of his own residence or place of business.
- 15.2 Unless otherwise stated in the order, the place of performance is our seat of business.
- 15.3 The law of the Federal Republic of Germany shall apply. The provisions of the CISG (UN-Sales Right) are excluded.
- 16. Severability Clause**
- 16.1 If any provision of these general terms and conditions of sale or any contractual agreement between us and the supplier is held by any court or other competent authority to be void, illegal or unenforceable in whole or part, the other provisions of these general terms and conditions of sale or the affected agreement as well as the remainder of the affected provisions shall continue to be valid, in force and binding.
- 16.2 The void, illegal, ineffective or unenforceable clause will be replaced by an effective, valid and enforceable clause which most closely reflects the economic intentions of the parties to the agreement.

Status as of 21.08.2018