

General Terms and Conditions of XION GmbH

Part 1: General conditions

Section 1: General, scope of application

- (1) These General Terms and Conditions ("**GTC**") shall apply to all business relations between XION GmbH, registered office in Berlin, registered in the Commercial Register of the Local Court of Charlottenburg under HRB 82425 B ("**XION**") and its Customers, if the Customer is an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB), a legal entity under public law or a special fund under public law ("**Customers**").
- (2) The GTC apply in particular, but not exclusively, to business relationships in which the Customer orders
 - a) the sale and/or delivery of products ("**products**"), in particular in the field of human and veterinary medicine such as endoscopy systems and software, without regard to whether we manufacture the products ourselves or purchase them from our suppliers; and/or
 - b) development work in conjunction with modifications of our Products to the requirements and specifications of our Customers ("**services**"); and/or
 - c) the provision of repair services or safety-related inspections ("**works**"); and/or
 - d) other services beyond those specified in a. through c. and/or mixed forms of the services named in a. through c. for which no separate contractual agreement is made in accordance with para. 6. These GTC use the term "**performances**" to refer to any form of our activity, unless the term is expressly described otherwise.
- (3) Our GTC consist of four parts. Part 1 governs the general conditions, while Part 2 governs special conditions for the sale and supply of products, Part 3 governs special conditions for Services and Part 4 governs special conditions for works.
- (4) The GTC in its respective current version shall also apply as an outline agreement for all future contracts for services, works and products with the same Customer without our having to refer to them again in each individual case. We are entitled to amend these GTC even during the respective term of the contract. The Customer shall be informed by us appropriately in advance of any changes to these GTC.
- (5) Our GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Customer shall not become part of the contract, even if we are aware of them and do not separately object to their validity in individual cases, unless their validity is expressly agreed in writing. Even when we refer to any correspondence containing or referring to terms and conditions of the client or a third party, this does not constitute an agreement to the validity of those terms and conditions.
- (6) Individual agreements made with the Customer in individual cases always take precedence over these GTC. A written contract or our written confirmation shall be authoritative for the content of such agreements.
- (7) Legally relevant declarations and notifications that are to be made to us by the Customer after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or reduction) shall be made in writing to become effective.
- (8) References to the applicability of statutory provisions are for clarification purposes only. Therefore, even without such clarification, the statutory provisions shall apply unless they are directly amended or expressly excluded in these Terms and Conditions.

Section 2: Offer and conclusion of contract

- (1) All our offers are subject to change without notice and are non-binding, unless they are expressly identified as being binding or contain a specific period of acceptance.
- (2) By placing an order, the Customer bindingly declares that he wishes to purchase the ordered products or commission the requested works, services or other performances. We are entitled to accept the contractual offer contained in the order or request within two (2) weeks after receipt. Acceptance may be declared in writing, in text form, in electronic form or, in the case of Products, by their delivery to the Customer.
- (3) The details we provide on the object of the delivery or performance (e.g. weights, dimensions, value in use, load-bearing capacity, tolerances and technical data) as well as our representations of the same (e.g. drawings and illustrations) are only approximately authoritative, unless usability for the contractually intended purpose requires exact conformity. They are not guaranteed characteristics, but descriptions or identifications of the delivery or performance. Deviations that are customary in the trade and deviations that occur due to legal regulations or represent technical or medical improvements, as well as the replacement of components with equivalent parts, are permissible insofar as they do not impair the usability for the contractually intended purpose.
- (4) If issued, our order confirmation, including these GTC, shall be decisive for the scope of the contractually owed delivery or performance. Verbal promises or agreements prior to order confirmation are non-binding and are replaced by the order confirmation, unless it can be expressly derived from them in each case that they are binding. Section 1 para. 6 of the GTC remains unaffected.
- (5) We reserve any and all rights (in particular property rights and copyrights) to the documents provided to the Customer in conjunction with the placing of the order, such as illustrations, drawings, performance descriptions and work plans ("**documents**"). They shall not be made accessible to third parties without our prior consent and shall be returned to us immediately upon our request, and any copies made shall be destroyed if and to the extent that they are no longer required in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. Excluded from this is the storage of data provided electronically for the purpose of usual data backup.

Section 3: Performance deadlines and dates, delay

- (1) The performance deadlines and dates shall be agreed individually or stated by us upon acceptance of the order or contract. If this is not the case, the deadline shall be measured in accordance with the respective performance to be provided by us and based on the corresponding average time customary in the industry and, unless the average time customary in the industry is shorter, shall be at least eight (8) weeks from the conclusion of the contract, otherwise the average time customary in the industry. Insofar as shipment has been agreed, the performance deadlines and dates refer to the time of handover to the forwarder, carrier or other third party commissioned with the transport.
- (2) Performance dates and performance deadlines are only binding if they have been agreed as binding in the Contract and the Customer has provided us with or made available to us in good time all information and documents as well as approvals required for providing the performance. In the event of subsequent supplementary or additional agreements, the performance deadlines or performance dates shall be extended or moved accordingly. As long as the Customer is in default with the fulfilment of an obligation towards us, our obligation to perform shall be suspended. In the event of culpable breach of duties to cooperate on the part of the Customer, we shall be entitled to compensation for the resulting damage, including any additional expenses. All rights are reserved to assert further claims.
- (3) Unless otherwise agreed, the Customer shall request delivery of ordered products no later than three (3) months after the order. In the event that the products are not requested on time, we shall be entitled to withdraw from the Contract and claim damages after the unsuccessful expiry of a grace period set by us.
- (4) If we are unable to meet binding performance deadlines and dates for reasons for which we are not responsible (non-availability of performance), we shall inform the Customer of this without delay and at the same time notify the Customer of the expected new performance deadline. Performance deadlines and dates shall be extended or moved by the length of time during which the performance is not available. Cases of non-availability of the performance in this sense include in particular unforeseeable, unavoidable circumstances and events beyond our control such as force majeure, war, natural disasters, epidemics or pandemics or industrial disputes; our obligation to perform on time shall be postponed by the duration of such unavoidable circumstances. Performance deadlines or dates shall be extended or moved by the duration of the disruption and the Customer shall be informed of the occurrence of the disruption in an appropriate manner. If the end of the disruption is not foreseeable or if it lasts longer than two (2) months, either party shall be entitled to withdraw from or terminate the contract. Claims for damages are excluded unless we are guilty of intent or gross negligence.
- (5) Statutory provisions shall be the basis for determining whether we are at fault for a delay in performance. However, in each and any such case a reminder by the Customer is required.

Section 4: Prices, terms of payment

- (1) The prices apply to the scope of performances and deliveries listed in the order confirmations. Additional or special performances will be charged separately. All prices for deliveries and services are quoted in euros ex factory plus the respective statutory value added tax. Actual costs for packaging, shipping and transport of the delivery shall be invoiced separately and shall be borne by the Customer. Any and all customs duties, fees, taxes and other public charges shall be borne by the Customer.
- (2) Unless expressly agreed otherwise in individual cases, for all performances listed in our price list, the prices listed therein at the time of conclusion of the Contract shall apply. Notwithstanding the foregoing,

if delivery is not to take place until more than four months after conclusion of the contract, the list prices valid at the time of delivery shall apply (in each case less an agreed percentage or fixed discount).

- (3) If remuneration has not been expressly agreed and our price list valid at the time of conclusion of the Contract does not contain any price details for the agreed performance, the usual remuneration shall be deemed to have been agreed. Unless otherwise agreed in writing, costs for travel and accommodation, costs for specific tools or materials and costs for third-party services as well as all other indirect expenses shall be reimbursed separately at the net amount upon presentation of the respective receipts.
- (4) The minimum order value is EUR 100.00 net.
- (5) Unless otherwise agreed in writing, amounts invoiced shall be paid within thirty (30) calendar days without any deduction. The date of receipt of payment by us is considered to be the date of payment. Upon expiry of the aforementioned payment deadline, the Customer shall be in default.
- (6) Unless agreed otherwise with the Customer, we are entitled to request that the Customer makes an advance payment immediately after conclusion of the Contract and in the following amount:
 - a) If the Contract deals with the delivery of products and the total price to be paid by the Customer for the delivery exceeds the amount of EUR 5,000.00 net, the amount of the advance payment shall be 30% of the total price.
 - b) If the Contract deals with the provision of services or works and the total price to be paid by the Customer for the performance exceeds the amount of EUR 10,000.00, the amount of the advance payment shall be 30% of the total remuneration.

Upon conclusion of the contract, an invoice for the advance payment will be issued to the Customer. The advance payment shall be paid within fourteen (14) days after receipt of the invoice in accordance with para. 4.

Failure to make the advance payment shall constitute a right of retention/refusal of performance on our part. In the event that the advance payment is made late, any binding performance period shall be extended accordingly by the length of the delay period.

- (7) If the Customer is in arrears, we are entitled to request interest on arrears at the applicable statutory rate (Section 288 para. 2 BGB (Bürgerliches Gesetzbuch - German Civil Code)). We expressly reserve the right to prove and assert higher damages caused by delayed payments. With respect to merchants, our claim to commercial interest for default (Section 353 HGB (Handelsgesetzbuch - German Commercial Code)) remains unaffected.
- (8) If, after conclusion of the contract, we become aware of circumstances that are likely to substantially reduce the Customer's creditworthiness and as a result of which payment of our outstanding claims against the Customer under the respective contractual relationship (including under other individual orders to which the same framework agreement applies) may be jeopardised, we are entitled to execute or provide outstanding deliveries or performances only against advance payment or provision of security. If the advance payments or securities have not been provided even after the expiry of a reasonable grace period set, we may withdraw from individual or all affected contracts in each case in whole or in part. We continue to be free to assert further rights.
- (9) The Customer is only entitled to a set-off if his counter-claim is undisputed or has been legally established.
- (10) The Customer is only entitled to assert a right of retention insofar as his counter-claim is based on the same Contract and is undisputed or has been legally established.
- (11) As long as the Customer is in default with the fulfilment of an obligation towards us, our obligation to perform shall be suspended with regard to all contracts and individual contracts.

Section 5: Customer's duty to cooperate; conduct in the event of incidents

- (1) The Customer shall support us in providing contractually owed performances; this support shall also include providing all information, documents, data and materials available to the Customer that may be necessary for providing such contractually owed performances. The Customer shall ensure that all information, documents, data and materials necessary for providing the contractually owed performances are available to us in a timely manner and without it being necessary for us to specifically request these, and that we are notified of all events and circumstances that may be of significance regarding the provision of the contractually owed performances. In particular, the Customer shall inform us of possible risks that may be associated with the materials or products to be examined or manufactured and explain existing public, company or regulatory safety regulations and associated confidential operational concerns that should be observed when providing the performances owed under the contract.
- (2) The Customer shall immediately inform us as soon as they become aware that performances or products may infringe third party industrial property rights or that third parties may infringe our industrial property rights. A corresponding right of indemnity in accordance with Section 7 remains unaffected by this.
- (3) In the event that the Customer learns of any incidents related to our products and performances, he shall immediately notify us of this incident. The Customer shall coordinate with us any and every further action and reaction to the incident.
- (4) The Customer is not authorized to inform third parties (in particular authorities) and/or the public of incidents in conjunction with our products and performances without prior consultation with us, unless the Customer is obliged to pass on such information immediately on the basis of mandatory statutory provisions. In this case, the Customer shall immediately notify us thereof.

Section 6: Limitation of liability, compensation for damages

- (1) Insofar as nothing to the contrary arises from these GTC including the following provisions, in particular also parts 2 to 4, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions.
- (2) In the event of intent and gross negligence, we and our vicarious agents shall be liable for damages - irrespective of the legal grounds. In the event of ordinary negligence, we shall only be liable for
 - a) damages in conjunction with injury to life, limb or health;
 - b) damages arising from the breach of an essential contractual obligation (obligation, the fulfilment of which is a prerequisite for the proper execution of the Contract and the observance of which the contractual partner regularly relies on and may rely on); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.
- (3) We are not liable for consequences resulting from improper modification or treatment of the products, in the case of medical devices particularly not for damage caused by the use of unsuitable reagents or the consequences of poor or unauthorised maintenance on the part of the Customer or third parties, as well as for deficiencies resulting from normal wear and tear or caused by transport. Furthermore, we shall particularly also not be liable for unauthorised changes to the software installations on the products/systems, for changes to the system structure and improper combination with other products.

- (4) However, the limitations of liability ensuing from the above paragraph shall not apply if we or a vicarious agent fraudulently conceal a defect or have assumed a guarantee for the quality of the product, the work or the service. The same applies to claims by the Customer under the Product Liability Act (ProdHaftG), the Medical Devices Act (MPG) or the Medicines Act (AMG).
- (5) In the event of liability for ordinary negligence, our liability to pay compensation for damage to property and further financial losses resulting therefrom shall be limited to the value of the sum insured under our respective liability insurance, even if such negligence involves the breach of material contractual obligations. The insurance coverage per damage event is EUR 15,000,000.00 lump sum for personal injury and other damage (property damage and financial loss).
- (6) The Customer is obliged to take appropriate measures to avert and minimise damage.
- (7) Insofar as we provide technical information or act in an advisory capacity and this information or advice is not part of the contractually agreed scope of performances owed by us, this shall be done free of charge and to the exclusion of any liability.

Section 7: Indemnity

- (1) The Customer shall undertake to indemnify and hold us and our affiliates, employees and agents harmless from and against any and all claims for infringement of third party rights arising from information, documents, data and materials provided by the Customer in conjunction with the Contract, unless we, our affiliates, employees, officers or directors have acted wilfully or with gross negligence. Unless expressly agreed between the parties, we are not obliged to perform research/ examine whether third-party rights may exist or what they entail.
- (2) We shall notify the Customer in good time in writing of any such third party claim and the Customer shall be entitled to defend itself at its own expense against any such claim, to take control of the proceedings and to settle any claim by compromise.
- (3) The Customer undertakes to indemnify us against all claims by third parties resulting from (a) damage to the products during use, storage and application of the products by the Customer and/or (b) improper use of the products, unless such damage was caused by a defect in the product for which we are solely or largely responsible.
- (4) Insofar as our products are not intended by us for multiple use and/or resterilisation, the Customer shall indemnify us against all claims of third parties resulting from multiple use of the products, resterilisation of the products and/or other reprocessing of the products within the meaning of Section 6 para. 9 of the 2nd part.
- (5) The Customer undertakes to take out liability insurance with sufficient coverage for third-party damages resulting from improper storage and/or improper use of the products. Proof of such insurance coverage shall be provided to us on request.

Section 8: Intellectual property, restriction of use

- (1) Unless otherwise agreed in writing by the parties, each party shall be and remain the sole owner of the patent rights, know-how and other intellectual property rights controlled by that party and which existed prior to the respective Contract or which have arisen outside the respective contract.
- (2) Our performances may contain products whose use by the Customer is subject to patent or licensing restrictions. For details of such restrictions, please refer to our respective product descriptions, the respective package insert or, where applicable, our website. Furthermore, the Customer can request these from us before and after conclusion of the contract.

Section 9: Confidentiality

- (1) Each party shall protect the confidential information of the other party with at least the same degree of care that it uses with respect to its own confidential information, but in any event at least with the care customary for the protection of similar confidential information and, if the other party is a merchant within the meaning of the German Commercial Code, with the care of a prudent merchant, in order to prevent unauthorised possession, use, copying, dissemination or publication of the confidential information in accordance with the German Act on the Protection of Business Secrets (GeschGehG). Each party shall ensure that its employees, agents and contractors comply with the confidentiality provisions of this Section 9.
- (2) Each party shall also not physically or otherwise analyse, reverse engineer, decompile or otherwise examine or develop the confidential information, including products, samples or materials, to identify characteristics of such confidential information that a party does not voluntarily disclose to the respective other party.
- (3) The obligation to keep the exchanged information confidential pursuant to para. 1 and/or para. 2 shall not apply if the confidential information was already lawfully
 - a) accessible to the general public at the time of disclosure or was subsequently made accessible to the general public by one of the parties without breaching the obligations pursuant to para. 2 and/or para. 3;
 - b) disclosed to the parties by third parties without a breach of confidentiality;
 - c) were already in the party's lawful possession at the time of disclosure and this is notified to the other party without delay;
 - d) this obligation of secrecy is lifted at the time of disclosure by an express and written consent of the other; or
 - e) was developed independently of the other.
- (4) The obligation of the parties to protect each other's confidential information shall expire ten (10) years after the date of the conclusion of the respective contract.
- (5) The party receiving the confidential information of the respective other party shall, upon written request of the other party, return or destroy all documents and records containing confidential information in the aforementioned sense and all copies thereof within a reasonable period of time at the expense of the other party, unless statutory retention requirements conflict therewith. In the case of non-releasable documents containing confidential information, such as hard disks or similar, the relevant documents shall be deleted or otherwise destroyed by the receiving party, unless such electronic copies of the confidential information have been created by the receiving party's EDP as part of standard automated data backup procedures and their individual deletion or destruction would only be possible with unreasonable effort on the part of the receiving party. The receiving party shall, upon request of the respective other party, without delay confirm in writing that all documents and records have been surrendered or deleted or destroyed in accordance with the foregoing obligation.
- (6) The provisions of this clause shall not apply if the parties have agreed otherwise in writing.

Section 10: Final provisions

- (1) The laws of the Federal Republic of Germany shall apply. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.
- (2) The exclusive place of jurisdiction for all possible disputes arising from the business relationship with the Customer, including these GTC, shall be the place of business in Berlin (Berlin Regional Court), insofar as the supplier is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law or has no general place of jurisdiction in the Federal Republic of Germany or its registered office, place of residence or habitual abode is not known at the time the action is brought.

However, we are also entitled to bring an action at the Customer's general place of jurisdiction or the place of performance. Mandatory statutory provisions concerning exclusive places of jurisdiction shall remain unaffected by this provision.
- (3) Insofar as the Contract or these General Terms and Conditions contain regulatory gaps, it shall be deemed agreed that these regulatory gaps shall be filled by such legally effective provisions that the contracting parties would have settled in accordance with the economic objectives of the Contract and the purpose of these General Terms and Conditions if they had known about the regulatory gap.
- (4) These GTC are available on our website <https://www.xion-medical.com/de/agb/> in German and English. Insofar as a deviation arises, the German text shall be authoritative.

Part 2: Special Conditions for Sale and Deliveries

Section 1: Scope of application

- (1) These Special Terms and Conditions for Sales and Deliveries ("**Conditions of Sale**") shall apply in addition to the General Terms and Conditions insofar as we undertake to deliver products to the Customer (Sections 433 et seq. BGB). The Conditions of Sale shall also apply to contracts involving the delivery of movable goods to be manufactured or produced (Section 651 BGB).
- (2) If, in an individual case, the Conditions of Sale and the General Terms and Conditions contradict each other, the Conditions of Sale shall prevail to the extent necessary to resolve the contradiction.

Section 2: Default of acceptance, transfer of risk

- (1) Unless otherwise agreed by the parties, all deliveries of the products shall be EXW XION production plant (Incoterms 2020).
- (2) If dispatch or handover is delayed due to a circumstance the cause of which lies with the Customer, the risk shall pass to the Customer from the day on which the delivery item is ready for dispatch and we have notified the Customer of this.
- (3) Unless a fixed deadline or date has been expressly promised or agreed, deadlines and dates for deliveries and performances promised by us are always only approximate. If shipment has been agreed, the delivery periods and delivery dates refer to the time of handover to the forwarder, carrier or other third party commissioned with the transport.
- (4) The statutory provisions shall apply to the Customer's default in acceptance. If the Customer is in default of acceptance or they violate their other duties to cooperate towards us, we shall be entitled, without prejudice to our other rights, to store the products appropriately at the risk and expense of the Customer or to withdraw from the Contract in accordance with the statutory provisions – in particular after the unsuccessful expiry of a grace period set by us – or to claim damages. In the event of storage by us, the storage costs shall amount to 2% of the invoice amount of the delivery items to be stored per elapsed week. The right to assertion and proof of further or lower storage costs remains reserved.
- (5) Without prejudice to our rights arising from default on the part of the Customer, we can request from the Customer an extension of delivery and performance deadlines or a postponement of delivery and performance dates by the period during which the Customer fails to meet its contractual obligations towards us.
- (6) If our delivery is delayed, the Customer shall only be entitled to withdraw from the Contract if we ourselves are responsible for the delay and a reasonable grace period set by the Customer for delivery has expired without success.

Section 3: Partial performances

- (1) We are only entitled to provide a partial performance if
 - the partial delivery is usable for the Customer within the scope of the contractual intended purpose;
 - delivery of the remaining ordered products is ensured and
 - the Customer does not incur any significant additional expense or costs as a result (unless we agree to bear these costs).
- (2) If we are in default with a delivery or performance or if a delivery or performance becomes impossible for us, for whatever reason, our liability for damages shall be limited in accordance with Section 6 of the first part of the GTC (Limitation of liability).

Section 4: Place of performance, packaging

- (1) Unless stipulated otherwise, the place of performance for all obligations arising from the contractual relationship is the place of dispatch of the goods.
- (2) The choice of shipping method and packaging is at our dutiful discretion.

Section 5: Productions custom-made according to Customer specifications, right of alteration

- (1) With regard to products that are manufactured according to drawings, samples, specifications or other information provided by the Customer ("**custom-made products**"), we can only produce these in specifically ordered tranches. When determining the actual quantity produced, we take into account the usual amount of rejects in production. In doing so, we cannot rule out the possibility of exceeding or falling short of the usual reject level during production.
- (2) We shall immediately inform the Customer of any deviations in the scope of the manufactured products from the agreed quantity, no later than on the date of the delivery.
- (3) In the event of a deviation within the meaning of Section 4 para. 1, we shall be entitled to adjust the scope of performance in accordance with the actual production by a maximum of +/- five (5) %. The purchase price is adjusted proportionally according to the deviation of the delivery.

Section 6: Quality and state, rights of the Customer in the event of defects, duty to inspect

- (1) We guarantee that the quality and state of our products corresponds to the enclosed product information as well as our specifications. These specifications are based on analytical methods and procedures on our part. Unless otherwise contractually agreed, we only owe products that are suitable for customary use and have a quality and state that is common for items of the same type and that the Customer can expect in accordance with the type of item.
- (2) We guarantee that our products have the necessary product approvals in Germany and the other countries of the European Union. Please note, however, that the instructions for use enclosed with the products are not provided in all languages commonly used in the countries of the European Union. If our products are imported outside of the European Union, we do not guarantee that our products conform to the respective country's legal provisions.
- (3) Claims by the Customer for defects assume that they have fulfilled their statutory duties of inspection and complaint notification (Sections 377, 381 HGB). If an obvious or other defect becomes apparent during the inspection or thereafter, which would have been recognisable during an immediate, careful inspection (including wrong and short delivery), we must be notified of this immediately in writing. Such notification shall be deemed to be immediate if it is received by us within seven (7) working days after delivery. Independent of these duties of inspection and complaint notification, the Customer shall notify us in writing of other defects within seven (7) working days from the time when the defect became apparent; however, if the defect was already apparent at an earlier time during normal use, this earlier time shall be decisive for the commencement of the period for giving notice of defects. In order to comply with the time-limit, the notice of defects shall be received by us within the stated period. If the Customer fails to carry out the proper inspection, our liability for the non-notified defect is excluded.
- (4) For each and any notified defect, we shall be entitled to inspect and test the products complained about. For this purpose, we may employ the services of a professionally qualified third party. At our request, the contested product shall be returned to us carriage paid. In the event of a justified complaint, we shall reimburse the costs of the most favourable shipping route; this shall not apply insofar as the costs are higher because the product is located at a place other than the place of intended use. If it turns out that a defect claimed by the Customer does not actually exist or was caused by improper use and/or storage by the Customer, we shall be entitled to charge the Customer for any expenses incurred in pursuing the complaint, provided that the Customer at least acted in a grossly negligent manner.
- (5) If the delivered product is defective, we shall first satisfy the warranty by rectifying or replacing the delivery at our discretion.
- (6) The Customer shall give us the time and opportunity required for the subsequent performance owed, in particular to hand over the contested product for inspection purposes. If a replacement delivery is made, the Customer shall surrender the defective product to us in accordance with the statutory provisions.
- (7) If subsequent performance fails, is unreasonable for the Customer or we have refused it in accordance with the statutory provisions, the Customer's rights shall be governed by the statutory provisions, taking into account Section 6 of the first part of the GTC (Limitation of liability, compensation for damages).
- (8) The Customer shall not be entitled to any rights due to a defective product if this defect was caused by the Customer or by a third party and we are not responsible for the defect in question. This applies in particular in cases where the Customer or a third party has made changes to the product, has used reagents unsuitable for the product or the defect is due to improper storage or use by the Customer. This also applies in particular to unauthorised changes to the software

installation on the products/systems, for changes to the system structure and improper combination with other products. In any such case, the customer shall bear the additional costs of remedying defects arising from the modification, incorrect use or improper storage.

- (9) Insofar as our products are not intended by us for multiple use and/or resterilisation, claims by the Customer due to the lack of recyclability of these products are excluded.
- (10) Insofar as our products are not intended by us for multiple use and/or resterilisation, claims by the Customer resulting from multiple use, resterilisation and/or other processing of the products are excluded.
- (11) Any delivery of used products agreed with us in individual cases shall be made to the exclusion of any warranty for material defects.

Section 7: Retention of title

- (1) We retain title to the products sold until full payment of all – including future – secured claims arising from the business relationship with the customer have been made. This also applies if payments have been made for specific products designated by the Customer.
- (2) The products subject to our retention of title ("**retained products**") shall not be pledged to third parties, assigned as security or otherwise encumbered with third party rights before full payment of the secured claims has been made. The customer shall store the retained products for us free of charge.
- (3) The Customer is obliged to notify us immediately in writing of any access by third parties to the retained products, in particular a seizure, or any other impairment of our security rights by third parties, as well as any damage to or destruction of the goods. The Customer shall hand over to us all documents necessary for an intervention, support us in such a measure within the scope of what is reasonable and bear the reasonable intervention costs charged to us.
- (4) The Customer is entitled to use and resell the retained products in the ordinary course of business if they have not already assigned claims from such resale to a third party in advance. The Customer undertakes to retain ownership vis-à-vis their customer until payment has been made in full. Furthermore, to secure the secured claims, the Customer shall assign to us in advance all claims to which they are entitled against their customer in conjunction with the resale of the retained products. We accept the assignment.
- (5) We revocably authorise the Customer to collect in their own name the claim assigned to us from the resale. Our power to collect shall remain unaffected by this. As long as the Customer duly meets their payment obligations, we will not assert the claim ourselves. At our request, the Customer shall disclose the third party debtor and notify them of the assignment. Irrespective of this, we have the right to notify the third-party debtor of the assignment ourselves. The Customer undertakes not to assign their claim from the resale of the retained products to third parties, not to invoke objections from any existing prohibition of assignment against us and not to agree a prohibition of assignment with the third-party debtor.
- (6) We shall release the existing security on the retained products as well as the items or claims replacing them at our discretion insofar as their value exceeds the amount of the secured claim by more than 50%. Choosing the items to be released thereafter is at our discretion.
- (7) In the event of conduct by the Customer in breach of the Contract, in particular in the event of default in payment or breach of an obligation under paragraphs 2 and 3 of this provision, we shall be entitled to withdraw from the Contract in accordance with the statutory provisions and to demand the return of the goods on the basis of the retention of title and withdrawal. If the Customer does not pay the due purchase price, we may only assert these rights if beforehand we unsuccessfully set the customer a reasonable deadline for payment or if setting such a deadline is dispensable under the statutory provisions.

Section 8: Resale and giving away

- (1) When reselling or giving away our products, the Customer is in their own responsibility obliged to comply with the relevant laws, in particular the law against unfair competition and, if applicable, medical device law or drug law and pharmaceutical regulations.
- (2) The Customer is advised that products may be subject to export or import controls. Each contracting party is itself responsible for complying with the relevant export and import regulations.

Section 9: Limitation

- (1) Unless otherwise stipulated below, the mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions.
- (2) Notwithstanding Section 438 para. 1 No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one (1) year from delivery or transfer of risk. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
- (3) Statutory limitation provisions for claims in rem for surrender by third parties (Section 438 para. 1 No. 1 BGB), in the event of fraudulent intent on our part (Section 438 para. 3 BGB), for claims in supplier recourse (Section 479 BGB), from the Product Liability Act (ProdHaftG), from the Medical Devices Act (MPG), from the Medicines Act (AMG), as far as applicable from the MDR as well as for the claims for damages mentioned in Part 1 Section 6 para. 2 and para. 4 shall remain unaffected. In these cases, the statutory limitation provisions shall apply exclusively.

- (3) In deviation from Section 195 BGB, the general limitation period is one (1) year from the statutory commencement of the limitation period (Section 199 BGB). Any claims under the Product Liability Act (ProdHaftG), the Medical Devices Act (MPG), the Medicines Act (AMG) and the claims for damages specified in the General Terms and Conditions (Part 1) Section 6 para. 2 and para. 4 shall remain unaffected by this. In these cases, the statutory limitation provisions shall apply exclusively.
- (4) Furthermore, we do not guarantee that the services do not infringe the industrial property rights of third parties. Part 1 Section 7 applies accordingly.

Section 3: Contract period, termination

- (1) Unless the service contract has a fixed term or provides otherwise, the term shall be six (6) months from the conclusion of the Contract. If the Contract is not terminated in writing by one party with a notice period of at least three (3) months prior to the expiry of the respective term, it shall be automatically extended by a further six (6) months in each case.
- (2) The statutory right of the parties to terminate the contract without notice for good reason shall remain unaffected.

Part 3: Special Terms and Conditions for Services

Section 1: Scope of application

- (1) These Special Terms and Conditions for Services ("**Terms and Conditions for Services**") shall apply in addition to the General Terms and Conditions (printed above) insofar as we undertake to provide services (Sections 611 et seq. BGB) within the meaning of Section 1 para. 2 lit. b of the General Terms and Conditions.
- (2) If, in an individual case, the Terms and Conditions for Services and the General Terms and Conditions contradict each other, the Terms and Conditions for Services shall prevail to the extent necessary to resolve the contradiction.

Section 2: Warranty, rights of the Customer in the event of poor performance, limitation

- (1) We shall perform the services commissioned in accordance with the current state of science and technology using our own knowledge and experience available or gained during the term of the contractual relationship to the best of our ability.
- (2) Within the scope of the provision of services, we only owe the proper provision of the services with the greatest possible care. We therefore guarantee only the conformity of the results presented in the relevant report(s) with the result established within the framework of the services according to the latest scientific knowledge. Otherwise, warranty is excluded. In particular, we do not guarantee that the stated project objective can be achieved and/or that the results are suitable for a specific purpose or that the results can be processed further by the Customer. Part 1 Section 6 paras. 2 through 7 shall apply accordingly.

Part 4: Special Terms and Conditions for Works

Section 1: Scope of application

- (1) These Special Terms and Conditions for the Production of a Work ("**Terms and Conditions for Works**") shall apply in addition to the General Terms and Conditions (printed above) insofar as the Customer requests the production of a work as a specific success (Sections 631 et seq. BGB) and we expressly undertake to bring about the work. The creation of a work may in particular involve repair services.
- (2) If, in an individual case, the Terms and Conditions for Works and the General Terms and Conditions contradict each other, the Terms and Conditions for Works shall prevail to the extent necessary to resolve the contradiction.

Section 2: Acceptance, transfer of risk

- (1) The risk of accidental loss or damage to the work shall be borne by the Customer from the time of acceptance.
- (2) If the Customer does not accept the work although the work is in accordance with the Contract, we shall be entitled to demand acceptance by the Customer within a reasonable additional period specified by us. If the Customer does not accept the work within this additional period, the work shall be deemed as having been accepted. In all other respects, the statutory provisions on acceptance and Part 2 Section 2 para. 2 on default of acceptance in the event of non-acceptance shall apply.
- (3) If the production of the work to be produced by us is delayed, the Customer shall only be entitled to withdraw from the Contract if we are responsible for the delay and a reasonable deadline set by the Customer for the production of the promised work has expired without success.

Section 3: Quality and state, rights of the Customer in the event of defects, duty to inspect

- (1) We shall use commercially reasonable efforts in accordance with the latest scientific and technical knowledge in order to make the work available to the Customer as agreed by the parties. Unless otherwise contractually agreed, we only owe a work that is suitable for customary use and has a quality and state that is common for works of the same type and that the Customer can expect in accordance with the type of work. In this respect, we only guarantee compliance with the recognised rules of technology, the application of scientific care and that the agreed performances are provided by qualified personnel, but not the suitability of the work for a specific purpose or the further processing or use of the work by the Customer, unless this is expressly agreed in the Contract.
- (2) The unconditional acceptance of the work excludes all rights and claims of the Customer in conjunction with defects that were already recognisable at the time of acceptance. The assertion of claims in conjunction with defects that were not recognisable at the time of acceptance is excluded unless, upon discovery of a defect, the Customer informs us immediately in writing.
- (3) The rights of the Customer in the event of defects in the work shall be determined in accordance with the provisions of Section 6 para. 3 through para. 6 of the Conditions of Sale (Part 2).

Section 4: Limitation

- (1) Unless otherwise stipulated below, the mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions.
- (2) Notwithstanding Section 634a para. 1 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one (1) year from acceptance.
- (3) Statutory limitation provisions in the event of fraudulent intent on our part (Section 634a para. 3 BGB), for claims arising from the German Product Liability Act (ProdHaftG), from the German Medical Devices Act (MPG), from the German Medicines Act (AMG) and for the claims for damages specified in the General Terms and Conditions of Part 1 Section 6 para. 2 and para. 4 shall remain unaffected. In these cases, the statutory limitation provisions shall apply exclusively.