

TERMS AND CONDITIONS

1. Scope

- 1.1 These general terms and conditions (hereinafter "GTC") apply to all deliveries and services (hereinafter "delivery") of Nexon Medical AG (hereinafter "Nexon"), and regulate in particular the conclusion, content and processing of all contractual relationships between Nexon and customers, insofar as individually made and written agreements do not expressly take precedence over the provisions of these General Terms and Conditions.
- 1.2 General terms and conditions of the customer that deviate from these terms and conditions are only valid if Nexon accepts the terms and conditions of the customer in whole or in part in writing instead of these terms and conditions. Any dispensation to the present Terms and Conditions granted by a distributor, agent, representative or any employee will only bind Nexon if accepted in writing by the management of Nexon. The right to sell products outside the defined territory is exclusively reserved for Nexon. By placing the purchase order at Nexon, customer categorically and expressly accepts this GTC.
- 1.3 Notwithstanding any contrary language in customer's purchase order or customer's business general terms and conditions, each purchase order accepted by Nexon is deemed a single transaction regardless of number of times a purchase order has been placed by the same customer and has been accepted by Nexon. Each single transaction shall be governed exclusively by this GTC, except if any specific terms to the contrary have been expressly and mutually agreed by the Parties and confirmed in Nexon's sale order acknowledgement of each purchase order or a duly signed contract. No other contractual relationship of any kind shall exist between Nexon and the customer, except as a buyer and seller in a single transaction as herein foreseen.

2. Conclusion of Contract (Offer and Acceptance)

- 2.1 Unless expressly agreed otherwise, the offers from Nexon are non-binding. Nexon is bound by its offers for 14 days after the offer has been made. Price lists do not count as offers.
- 2.2 All information about the goods that the customer receives as part of the ordering process is for guidance only. In particular, we reserve the right to make changes in design and technology that improve the functionality of a product, to correct errors in description, illustration and price information.
- 2.3 Nexon attaches great importance to carefully maintaining the availability display and delivery dates and presenting them as correctly as possible. However, all information is not guaranteed and can change at any time without prior notice.
- 2.4 The purchase contract between Nexon and the customer takes effect upon the time an order has been placed by the customer unless Nexon informs the customer within fifteen (15) working days from receipt of order that such order is not accepted. Nexon reserves the right to revoke accepted orders due to reasonable grounds at any time.
- 2.5 Nexon's Quality and Regulatory Policy is integral part of any relationship with any distributor/customer and is applicable for each and all business transactions.

3. Prices

- 3.1 Normally, the prices of Nexon are given in Swiss francs exclusive of VAT and are understood to be ex works excluding packaging, delivery, transport and transport insurance.
- 3.2 Additional services such as services, operation support after the agreed training and first operation support, maintenance services, repairs, financing solutions and others are not included in the price and are offered separately and charged additionally on the invoice.
- 3.3 The prices are based on the price list valid at the time of the order. Nexon reserves the right to periodically adjust prices by issuing current price lists.
- 3.4 Orders lower than CHF 1,250.- are subject to a small order processing fee of CHF 90.-. This handling fee shall be added to the invoice accordingly.

4. Terms of Payment

- 4.1 Nexon requires prepayment before delivery unless any other arrangement is agreed upon by Nexon. In the event that a delivery has been undertaken by Nexon without a pre-payment and without a specific term of payment, all deliveries are payable within thirty (30) days from the date of invoice.
- 4.2 If the customer does not meet his payment obligation in a timely manner, he will be deemed to be in default and without any further reminder will have to pay default interest of LIBOR + ten (10%) p.a. percent. Nexon reserves the right to claim further damages.
- 4.3 Further, Nexon is entitled to charge the customer an additional CHF 50.- as reminder fees if the invoice is not paid after the first reminder.

5. Delivery Time

- 5.1 Nexon endeavors to meet delivery times, but these cannot be guaranteed. Delays in delivery do not entitle the customer to withdraw from the contract or to claim damages or other services. Partial deliveries by Nexon are permitted.
- 5.2 In the following cases, the delivery period will be extended appropriately:
- (i) if Nexon does not receive the information required for the fulfilment of the contract in good time;
 - (ii) if the customer subsequently changes such information and thus causes a delay in delivery;
 - (iii) if obstacles arise which Nexon cannot prevent despite exercising due care, regardless of whether the obstacles arise at Nexon, at the customer or at a third party.
- 5.3 If Nexon cannot make the delivery or cannot make the delivery on time due to events for which Nexon is not responsible, Nexon is entitled to withdraw from the contract in whole or in part.

6. Transfer of Benefit and Risk

- 6.1 If the delivery is made by post or a specific service provider/third-party provider, the benefit and risk are transferred to the customer upon handover to the post office or service provider/third-party provider.
- 6.2 If the shipment is delayed at the request of the customer or for other reasons for which Nexon is not responsible, the risk is transferred to the customer on the originally planned delivery date.

7. Shipping, Transportation and Insurance

- 7.1 Dispatch and transport to the agreed destination will be organized by Nexon at the customer's expense. The costs for delivery, transport and insurance will be charged to the customer.
- 7.2 Nexon must be informed in good time of any special requests regarding shipping and insurance.

8. Inspection and Acceptance of the Delivery

- 8.1 Complaints about defects in connection with the transport must be sent by the customer to the last carrier immediately upon receipt of the delivery or the freight documents.
- 8.2 The customer must check the delivery within five working days of receipt and notify Nexon in writing of any recognizable defects, otherwise the delivery is deemed to have been approved.

9. Loan Sets and Consignments

- 9.1 Under certain conditions, in order to support customers, Nexon offers loan sets in specific cases. The terms of the loan sets are governed by a loan set agreement.
- 9.2 Further, under certain criteria, Nexon is willing to set up a consignment warehouse at the customer's facilities. All consignments are governed by a Consignment Agreement.

10. Warranty

- 10.1 Nexon guarantees that its deliveries are free from manufacturing and material defects. Only those properties that are expressly designated as such in the order confirmation or the corresponding instructions for use are guaranteed.
- 10.2 If the delivery or parts thereof are or become defective by the end of the warranty period of one year from dispatch, or do not correspond to the properties guaranteed in writing, the customer is exclusively entitled to repair or replacement of the defective goods, at the discretion of Nexon. Rescission and price reduction as well as other rights or claims are excluded.
- 10.3 The warranty expires prematurely if the customer or a third party makes improper interventions, changes or repairs or if the customer fails to inform Nexon when defects occur.
- 10.4 Nexon is not liable for defects that have arisen as a result of natural wear and tear, inadequate maintenance, improper use, excessive stress or other reasons for which Nexon is not responsible.

11. Indemnification and Limitation of Liability

- 11.1 Nexon is only liable for damage caused to the customer through intentional or grossly negligent behaviour on the part of Nexon. Any further liability is excluded. In particular, Nexon is not liable for indirect damage, consequential damage, loss of production and loss of profit.

12. Force Majeure

- 12.1 In cases of force majeure, Nexon is released from its contractual obligations for the duration of the disruption and to the extent of its impact. Any liability for damage caused by delays in delivery as a result of force majeure is excluded. Force majeure includes natural disasters, acts of war, epidemics, strikes, official intervention and all other production and sales obstacles for which Nexon is not responsible.

13. Product Return & Order Cancellation

- 13.1 Delivered goods are fundamentally excluded from being returned to Nexon. In the event that Nexon makes an exception in writing, such return shall be governed by the applicable Product Return Policy of Nexon.
- 13.2 In the event of an unjustified withdrawal by the customer after the order has been accepted by Nexon, the customer is obliged to reimburse Nexon for the costs of planning (at least 5% of the order value), developing and manufacturing any special items (plus tool costs). Further claims for damages by Nexon remain unaffected.

14. Confidentiality

- 14.1 Information that Nexon provides to the customer for the purpose of fulfilling the contract may not be used for the customer's other purposes or made accessible to third parties.
- 14.2 For its part, Nexon may not make accessible to third parties confidential information and business secrets of the customer obtained by Nexon during the transaction.

15. Title Retention

- 15.1 Nexon retains ownership of the delivery until the contract has been fulfilled and all payment obligations have been met.
- 15.2 Nexon is authorized to register the retention of title in Switzerland in the relevant register of retention of title in corresponding registers in other countries and the customer is obliged to cooperate with the necessary steps for registration.

16. Data Privacy

- 16.1 Personal data that is transmitted to Nexon is stored and used exclusively to process the contractual relationship and, if necessary, forwarded to cooperation partners/agents involved in the execution of the contract, insofar as this is necessary to fulfill the contract. The customer has the right to have personal data deleted at any time.

17. Jurisdiction and Applicable Law

- 17.1 These General Terms and Conditions and the contracts concluded on the basis of these General Terms and Conditions are subject to Swiss law to the exclusion of the UN Sales Convention.
- 17.2 The place of jurisdiction for all disputes arising directly or indirectly from this contract is, to the extent permitted, Willisau. Any exclusive place of jurisdiction remains unaffected. Nexon can also appeal to the courts at the customer's registered office.

18. Various Provisions

- 18.1 When selling all goods and services, the General Terms and Conditions apply exclusively in the version valid at the time the respective contract was concluded.
- 18.2 Should a provision of these General Terms and Conditions be ineffective, the validity of the remaining provisions shall not be affected. The parties shall immediately replace the ineffective provision with an effective one that comes as close as possible to the economic purpose of the ineffective provision.
- 18.3 Furthermore, Nexon reserves the right to change these General Terms and Conditions at any time.
- 18.4 Customer shall not represent itself as an agent of Nexon for any purpose, nor commit Nexon to any contract; especially not admit liability or settle any product-liability matter without the written consent of Nexon.
- 18.5 Customer agrees to indemnify and hold harmless Nexon, its affiliates and their respective directors, officers, employees, agents and representatives against any and all claims, demands, proceedings, losses, costs and expenses which may be brought against or suffered or incurred by Nexon.
- 18.6 Customer shall actively inform and update Nexon upfront on all local regulatory requirements. Customer warrants that it is actively investigating legal and regulatory requirements to correctly sell Nexon. Distributor shall not sell Nexon material if any local legal or regulatory requirements are not fulfilled.
- 18.7 Customer shall actively seek to reduce or eliminate any risk associated with the use of the product. In case of product quality issues or safety incidents, customer shall inform Nexon as soon as reasonably possible. Customer warrants to maintain appropriate up-to-date and accurate records on the products, including loan sets, needed for field actions (recall, within 48 hours, product return, good storage practice, good distribution practice) and traceability. Nexon procedure on Product Recall and Market Corrective is deemed part and parcel of this GTC.
- 18.8 Customer shall be fully responsible to investigate local IP requirements including potential patent and trademark conflicts. In case of failure to do so distributor shall be responsible for any consequences arising of such failure.
- 18.9 Customer warrants to properly train the surgeons and that it has the capacity and the qualified personnel to organize product trainings for surgeons to whom it is selling the materials.

- 18.10 In the event Nexon deems it necessary to recall any product or to implement any other form of field corrective action concerning products, or if any public authority requests such recall or implementation, customer shall cooperate fully in performing such recall or implementation program. Nexon shall be liable to customer for faulty delivery only if such faulty delivery is due exclusively to Nexon's wilful misconduct or gross negligence.
- 18.11 Each Purchase order accepted by Nexon is deemed to be a single transaction without any obligation on the part of Nexon to accept further purchases from the same customer unless agreed otherwise in writing by Nexon. Customer categorically waives any and all rights or claims to compensation that might otherwise be payable to it by the sole reason of Nexon's refusal to accept further orders whether on account of the loss by customer of present or prospective profit on sales or anticipated sales, or of expenditures, investments or commitments made either in connection therewith or in connection with the establishment, development or maintenance of customer's business, or on account of any other cause or thing, whatsoever.