

OLYMPUS' GENERAL TERMS OF PURCHASE

1. General

- 1.1. The following general terms of purchase (hereinafter "GTP") shall apply to all contracts that involve ordering goods or services by Olympus Europa SE & Co. KG, as well as Olympus Deutschland GmbH and Olympus Winter & Ibe GmbH (hereinafter "Olympus") from the contractual partner (hereinafter "Supplier").
- 1.2. These GTP shall apply exclusively. Different, conflicting or supplementary general terms and conditions and/or other limitations of the Supplier shall not be accepted by Olympus, unless Olympus accepted them in individual cases, expressly and in writing, instead of these GTP.
- 1.3. Changes to these GTP must be made in writing to be effective.
- 1.4. These GTP shall also apply to future business between the Supplier and Olympus in case of an ongoing business relation.

2. Ordering and Orders

- 2.1. The Supplier shall be obligated to accept an order placed by Olympus within the time period set by Olympus, either in writing (order confirmation) or by rendering the service without reservation (delivery). Unless the offer of Olympus includes an express commitment period, Olympus shall abide by it for a period of 2 weeks following the date of the offer. Receipt of the order confirmation or delivery at Olympus shall be relevant for the timely acceptance. A delayed order confirmation, or an order confirmation amending the original order, shall be considered a new offer, requiring acceptance by Olympus.
- 2.2. In principle, offers shall be binding only if made in writing. Verbal orders or changes to an order shall be binding only if confirmed by Olympus in writing. This written form requirement may be waived only by written agreement.
- 2.3. Mere quote requests of Olympus shall be subject to confirmation and understood only as a request to the Supplier to make an offer on his part.
- 2.4. If Olympus informed the Supplier about the intended purpose of the delivery or service, the Supplier shall be obligated to inform Olympus promptly if the Supplier's delivery or service is not suited to fulfill this intended purpose. In this case Olympus shall be entitled to withdraw from the contract without having to pay damages on its part.
- 2.5. The Supplier shall conduct correspondence associated with an order only with the department of Olympus that placed the order by specifying the order number, order date and other purchase order indicators.
- 2.6. The Supplier shall bear its procurement risk for its deliveries and services unless otherwise agreed.

3. Prices

- 3.1. All prices shall include statutory value added tax, unless it is stated separately.
- 3.2. If the Supplier reduces his list prices between the order and the delivery to Olympus, Olympus shall be entitled to request that the price arranged between Olympus and the Supplier be reduced by such difference.
- 3.3. In the absence of a written arrangement to the contrary, the price shall include delivery and transport to the shipping address stated in the contract (if no shipping address is stated: to Olympus' place of business) including packaging. Upon request, the Supplier shall be obligated to take back the packaging material.

4. Payment Terms

- 4.1. Unless expressly arranged otherwise in writing, the arranged prices shall be payable within 30 calendar days without any deductions, or within 14 calendar days with a 3% discount on the gross price of the invoice, from the time the invoiced delivery or the service is accepted, or if acceptance is not required, from the time delivery and service is complete and Olympus receives a proper invoice. However, under no circumstances shall the payment period begin before the agreed delivery date. Deduction of discount shall also be permissible if Olympus sets off or withholds payments due to defects.
- 4.2. For each individual order invoices shall correspond to the order in phrasing, sequence of the text and prices and include the information stated in Item 2.5. Duplicates of invoices shall be labelled as such. Value added tax shall be shown separately in the invoice.
- 4.3. If one of the data mentioned in Item 2.5 is missing in the invoices and this is resulting in delayed processing, the payment periods specified in Item 4.1 shall be extended by the duration of the delay.
- 4.4. Olympus shall not owe any interest after due date. The right to payment of default interest shall remain unaffected. In case of default Olympus shall owe default interest in the amount of five percentage points above the base rate according to Section 247 BGB (German Civil Code).
- 4.5. Olympus shall be entitled to set off any claims of the following group companies on the Supplier against claims the Supplier has on Olympus as well as set off its own claims Olympus has on the Supplier against claims of the Supplier on the following group companies: Olympus Europa SE & Co. KG, Olympus Deutschland GmbH, Olympus Winter & Ibe GmbH, Olympus Soft Imaging Solutions GmbH, Gyrus Medical GmbH.

5. Delivery Date and Delay in Delivery

- 5.1. Arranged delivery dates (delivery times and deadlines) shall be binding.
- 5.2. Early deliveries shall be permissible only with written approval of Olympus. If, in the event of an early delivery, no such approval was given, Olympus shall be entitled to apply the prescribed delivery time to the invoice or refuse to take delivery.
- 5.3. Receipt at the place of receipt specified by Olympus shall be relevant for the timeliness of deliveries; for deliveries involving installation or assembly as well as other services acceptance shall be relevant for the timeliness of deliveries.
- 5.4. Insofar as the Supplier has reason to assume that it will be unable to fulfill its contractual obligations in whole or in part, or in due time, it shall notify Olympus immediately in writing by stating reasons and specifying the expected duration of the delay.
- 5.5. If the Supplier fails to perform, or fails to perform within the arranged delivery time, Olympus shall be entitled to the statutory claims against the Supplier without limitation. If the date on which the delivery must be made at the latest can be determined by virtue of the contract, the Supplier shall be in default at the end of such date, without this requiring a reminder.

6. Delivery, Passing of Risk, Place of Performance

- 6.1. Delivery shall be at the Supplier's expense and risk. For deliveries involving installation or assembly, the risk shall pass upon acceptance. Moreover, in case of an agreed acceptance procedure the statutory provisions pertaining to contracts to produce a work (Werkvertragsrecht) apply accordingly. For deliveries without installation or assembly the risk passes upon receipt at the place of receipt specified by Olympus in the order. Even if shipping has been arranged, the risk shall pass to Olympus not until the goods or services were handed over to Olympus at the arranged place of destination. If a place of destination is not specified, delivery shall be made to place of business of Olympus.
- 6.2. Unless stipulated otherwise, the shipping and packaging costs, insurances, customs duties, fees, taxes and other duties shall be at the Supplier's expense. In this case Olympus shall be entitled to give instructions about the mode of transport, the carrier and the shipper.
- 6.3. The Supplier shall also be responsible for any additional costs arising from the failure of complying with shipping or packaging regulations or for any expedited shipping necessary to maintain the delivery date.
- 6.4. If the parties expressly arranged delivery ex works or ex stock of the Supplier, shipping must be made at the lowest cost, in each case, unless Olympus stipulated a specific mode of transport.
- 6.5. Without prior written approval of Olympus the Supplier shall not be entitled to partial deliveries or partial performance.
- 6.6. The Supplier shall package delivered goods as customary in trade. It shall package, label and ship hazardous goods in accordance with the pertinent domestic or international regulations, applicable in each case. In addition to the hazard class, the accompanying documents shall also include other information stipulated by the respective shipping regulations.
- 6.7. A dispatch note must be sent to Olympus via email or fax no later than upon dispatch. The Supplier shall enclose a delivery note with the delivery item by specifying the date (issue and shipping), the content of the shipment (product description, item number and number of items) as well as specify the order information within the meaning of Item 2.5. If the delivery note is missing or incomplete, Olympus shall not be responsible for any resulting delays in payment; the payment periods stated in Item 4.1 shall be extended by the time of the delay.
- 6.8. All shipments made in breach of Item 6.7. 2nd sentence hereinabove shall be stored at the Supplier's expense and risk until the arrival of the documents issued in accordance with the contract. Olympus shall be entitled to ascertain the content and condition of such shipments at the Supplier's expense.
- 6.9. The Supplier shall provide all supporting documents (e.g. certificates of origin, safety data sheets, product-specific documentation) required for Olympus to clear customs or gain other benefits.
- 6.10. Olympus does not assume any costs for the insurance of the goods, in particular not any costs of a forwarding insurance. This shall also apply if insurance had been obtained in previous transportation agreements or if the value of the goods pursuant to no. 21.2 ADSp (German Freight Forwarders' General Terms and Conditions) is exceeded. This regulation includes no instruction to the Supplier to refrain from taking out insurance.

7. Spare Parts

- 7.1. The Supplier undertakes to supply spare parts for the duration of the estimated technical use, at least however another ten years following delivery at reasonable prices and pursuant to the terms of the respective underlying contract.
- 7.2. If the Supplier discontinues the delivery of spare parts after the end of the aforementioned time period, he shall promptly inform Olympus and give Olympus the opportunity to place a final order. Such notification shall be made at least 6 months before the latest possible time for placing orders.

8. Warranty

- 8.1. The Supplier warrants that the goods and services are free of defects in quality or title and that they comply with the contractually agreed properties. The Supplier in particular guarantees that its deliveries and services conform recognised standards of technology, statutory and official safety and environmental protection regulations in force in the Federal Republic of Germany or which have been adopted subject to a transitional period. The Supplier moreover warrants that it will observe all applicable laws, directives and regulations of a domestic or international nature (e.g. REACH, WEEE, RoHS or any domestic regulations based upon the foregoing) as amended from time to time and that it will fulfill any measures based on such as well as that it will provide evidence in this regard upon request of Olympus.
- 8.2. In the case of defects in quality or title Olympus shall be entitled to the statutory claims without limitation, unless provided for differently in the following. The limitation period for warranty claims in connection with all defects in quality and title shall be 24 months, unless the statutory regulations provide for a longer limitation period.
- 8.3. Different from Section 442, para. 1, 2nd sentence BGB (German Civil Code), Olympus shall be entitled to warranty claims without limitation, even if the defect remained unknown at the time of contract conclusion due to gross negligence. Moreover, Olympus' acceptance of presented samples or patterns may not be deemed as to constitute a waiver of warranty claims.
- 8.4. The statutory provisions (Sections 377, 381 HGB, German Commercial Code) apply to the commercial obligation to inspect and to the requirement to give notice of defects, subject to the following: Olympus' duty to inspect shall be limited to defects that become obvious through external examination during the incoming goods inspection including inspection of the delivery documents as well as during Olympus' quality control using sampling. If an acceptance has been agreed upon, the duty to inspect shall not apply. Apart from the foregoing, it shall depend on the circumstances of the individual case to what extent an examination is reasonable within the proper course of business. Olympus shall notify the Supplier of any noticeable defects within 14 calendar days after the passing of the risk. Olympus shall notify the Supplier of any defects that were not noticeable at that time, but were detected later, within a period of 14 calendar days following their discovery.
- 8.5. In the event of defects Olympus shall, at its own choice, be entitled to demand from the Supplier rectification or defect-free replacement delivery.
- 8.6. Costs incurred in connection with the examination and subsequent fulfillment (including possible disassembly and reassembly costs as well as cost of an expert to determine the cause) shall be borne by the Supplier. Olympus' liability in case of an unjustified demand to remedy defects remains unaffected; in such case Olympus may only be held liable if Olympus recognised or had been grossly negligent in failing to recognise that there was no defect. If the Supplier does not observe its duty to subsequent fulfillment within a reasonable deadline set by Olympus, Olympus may rectify the defect itself (or through third parties) and claim reimbursement of incurred expenses or demand an appropriate advance payment. If subsequent fulfillment by the Supplier has failed or is otherwise unreasonable on part of Olympus (e.g. in case of special urgency, operating safety hazard or imminent occurrence of disproportionate damages) the setting of a deadline is obsolete; Olympus shall inform the Supplier (if possible in advance) of such circumstances.

- 8.7. Sections 478, 479 BGB (German Civil Code) shall apply mutatis mutandis to the relationship between Olympus and the Supplier.
- 8.8. Once the Supplier receives the written notification of defects from Olympus the limitation of warranty claims shall be suspended. In case of replacement deliveries and rectification of defects the warranty period for replaced and rectified parts shall restart as of that time unless Olympus had to assume based on behaviour of the Supplier that the Supplier did not want to assume any obligation to under take such measure but made replacement delivery or rectification based only on good-will or for similar reasons.

9. Product liability – Indemnity

- 9.1. To the extent that the Supplier or his supplier is responsible for a supplied defective product, he shall be obligated to indemnify Olympus from damage claims asserted by third parties for personal injury and/or material loss upon first request insofar as the cause lies within his domain and organizational area, and he is himself liable vis-à-vis such third parties.
- 9.2. As part of his liability for claims within the meaning of Item 9.1 the Supplier shall also be obligated to refund any expenses pursuant to sections 683, 670 BGB (German Civil Code) or pursuant to sections 830, 840, 426 BGB (German Civil Code) that result from or in connection with a recall campaign.

10. Insurances

The Supplier undertakes to take out and maintain sufficient liability insurance, including product liability insurance, at his own expense with a minimum cover in the blanket sum of EUR 10 million per case of personal injury/product damage, and agrees to submit these insurance contracts to Olympus for inspection upon first request.

11. Industrial Property Rights

- 11.1. The Supplier warrants that all goods and services rendered by him in connection with the contract performance within the European Union or in any other countries in which the Supplier has its goods produced – also with regard to their intended use – do not infringe any third-party industrial property rights.
- 11.2. The Supplier shall indemnify and hold harmless Olympus upon first request from all third-party claims resulting in connection with the infringement of industrial property rights pursuant to Item 11.1. and shall reimburse to Olympus all expenses incurred in connection with such claims.
- 11.3. If inventions, improvements or other results capable to intellectual property protection, are generated at the level of the Supplier in connection with the execution of the delivery or the service ordered based on information, documents or models provided by Olympus, Olympus shall – at the time such rights come into existence at the latest upon their acquisition – have an irrevocable, cost-free, nonexclusive, transferable and sub-licensable right to use and exploit these inventions, improvements, results and any corresponding industrial property rights without limitation as to time, territorial or factual scope. The Supplier shall be obligated to inform Olympus promptly about any such inventions, improvements, results and industrial property rights.
- 11.4. If the Supplier has industrial property rights to the deliveries or services ordered, or parts thereof, or to methods for their production, Olympus must be notified of such rights upon request by specifying the registration or application number of the industrial property right.

12. Quality Assurance Standards

- 12.1. The Supplier must carry out its quality assurance measures in a way that ensures that its goods/services in particular comply with the specifications determined by Olympus and every product/service is provided in the agreed quality, at the agreed time, at the agreed place and in the agreed format. To ensure such quality of its goods/services the Supplier has to maintain an effective quality assurance system and apply adequate procedures to further develop its quality assurance system pursuant to ISO 9001 and ISO 13485 (the latter in case of medical devices only).
- 12.2. Should the Supplier intend to fully or partially commission work to subcontractors, the following terms must be observed: prior information of and approval by Olympus; quality assurance system of Supplier secures that subcontractors are inspected on a regular basis; Supplier must include jointly accepted subcontractors in its quality management system and is fully liable for subcontractors' quality and all consequences resulting therefrom. If any of the foregoing is not complied with, Olympus reserves its right to take measures which can lead to a cancellation of orders of goods/services or to the denial of acceptance of products/services.
- 12.3. If the Supplier finds an increase of deviations between the actual and the agreed quality of any product (quality deteriorations), it will immediately inform Olympus thereof and about any intended countermeasures. Prior to changes of manufacturing processes, materials or supply parts of the products, the moving of production sites, further, prior to changes of processes or installations to test the products or of other quality assurance measures, the Supplier will comprehensively inform Olympus in due time so that Olympus is able to investigate whether these changes may have negative effects. Should this be the case or if such risk is evidently imminent, Olympus may fully or partially withdraw from the contract.
- 12.4. Within the scope of a trusting cooperation the Supplier grants Olympus the right to inspect at any time through an employee the relevant production sites and offices in order to control compliance with quality assurance measures and the requirements (if applicable) of medical devices- and product liability law with regard to the goods. Olympus may demand the same from the Supplier for the notified body, which is entitled to inspect and/or audit suppliers within the scope of the conformity assessment procedure, if there is a pertinent cause, as well as for every other competent authority.
- 12.5. The Supplier shall ensure by way of marking of the goods and other adequate measures that in case of a deficiency of a product it may immediately determine which other products may be affected. Olympus shall be informed of such labelling system to enable Olympus to carry out its own investigations, if necessary.

13. Ownership and Ownership Protection

- 13.1. Tools, measuring and testing equipment, devices, models, samples, production equipment, materials, drawings, work instructions, manuscripts, calculations, product descriptions, films, photographs, etc. made available by Olympus to the Supplier or produced for contractual purposes and charged to Olympus separately by the Supplier shall remain the property of Olympus or become the property of Olympus, even if they remain in the possession of the Supplier. They shall be identified by the Supplier as property of Olympus, kept safely, secured against unauthorized access and use, secured against damage of any kind, and used only for purposes of this contract. Like subsequently produced items and services rendered, they may neither be duplicated nor passed on to third parties or destroyed without the written consent of Olympus.
- 13.2. In the absence of an arrangement to the contrary, each of the contractual partners shall bear half of the costs for maintaining and repairing the aforementioned items. However, inasmuch as these costs can be attributed to defects of such items produced by the Supplier or to improper use or storage on the part of the Supplier, his employees or other vicarious agents, they shall be solely borne by the Supplier. The Supplier shall promptly inform Olympus of any significant damages to these items.
- 13.3. Upon request by Olympus, the Supplier shall hand out to Olympus all items as defined in Item 13.1 in an orderly condition.
- 13.4. Notwithstanding the definition of „manufacturer“ in the regulatory sense, in particular pursuant to applicable medical device law, any processing (i.e. manufacturing, mixing or combining) by the Supplier of items provided by Olympus is carried out on behalf of Olympus. The same applies in case of processing of the delivered goods by Olympus so that Olympus is considered as manufacturer and acquires ownership of the product at the latest at processing pursuant to the statutory provisions.
- 13.5. Transfer of the goods to Olympus shall take place unconditionally and regardless of payment of the purchase price. Where in any individual case Olympus accepts the Supplier's offer being subject to payment of the purchase price, such reservation of title of the Supplier expires at the latest with payment of the purchase price for the delivered goods. Olympus is entitled to resell the goods within the standard course of business even prior to payment of the purchase price against advance assignment of the receivables resulting therefrom (precautionary applicability of a simple and - limited to the resale - prolonged retention of title). Excluded are all further types of retention of title, in particular the extended and the forwarded retention of title and the prolonged retention of title applied to further processing.

14. Documents, Confidentiality, Publications

- 14.1. The Supplier shall be obligated to make available to Olympus all documents and information required for use, assembly, operation and maintenance free of charge.
- 14.2. When quoting references or publishing, for example, informational or promotional material, the Supplier may name the company or trademarks of Olympus only with Olympus' prior written consent.

15. Data Protection, Compliance, Environmental Protection

- 15.1. The processing of data received within the business relation complies with applicable laws and the Olympus privacy policy (retrievable at http://www.olympus-europa.com/corporate/en/privacy_notice.html). All data collected from the Supplier is only collected, processed and used to the extent is necessary for the formation and execution of the underlying purchase/delivery agreement and/or any further agreements between Olympus and the Supplier.
- 15.2. With regard to its deliveries and performance in general, the Supplier warrants compliance with the principles of conduct listed in the UN Global Compact (retrievable at www.unglobalcompact.org). Non-compliance with these rules and principles shall be regarded as a material breach of the contractual arrangements and entitle Olympus to terminate the cooperation with immediate effect. The deliveries and performance must further comply with all applicable statutory regulations regarding security and environmental protection. CE-compliance must be ensured.

16. Choice of Law and Venue

The law of the Federal Republic of Germany shall apply to these General Terms and Conditions of Purchase and all legal relations between Olympus and the Supplier to the exclusion of all international and supranational (contractual) legal systems, especially the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (UN Sales Convention, CISG). Hamburg shall be the exclusive venue for all disputes arising from this contractual relationship. Olympus is also entitled to file a lawsuit at the place of jurisdiction of the Supplier.

17. Miscellaneous

- 17.1. If – due to a material deterioration of the Supplier's financial situation or impending occurrence of such – fulfillment of the owed performance is at risk, Olympus may withdraw from the underlying contractual relation for a material cause without observing a notice period. In this case Olympus may use the facilities that exist to continue the work or effected services and services of the Supplier in return for adequate compensation.
- 17.2. The right to set off against Olympus shall be excluded. This shall not apply to claims against Olympus that are uncontested, legally established or acknowledged by Olympus.
- 17.3. Retaining liens or other rights to refuse performance may be asserted against Olympus only insofar as they are based on claims of the Supplier from the same contractual relationship.
- 17.4. The assignment and/or transfer of rights and/or obligations from this contract by the Supplier shall require Olympus' prior written approval. This shall not apply in case of payment claims.
- 17.5. Without prior written approval by Olympus the Supplier shall not be entitled to have the performance he owes rendered by third parties; however, this shall not apply in case the Supplier only acts as a reseller and Olympus is aware of this. If the Supplier, without prior approval by Olympus, commissions a third party to render the performance he owes, Olympus shall be entitled to withdraw from the contract, in whole or in part, as well as seek damages.