

**General Terms and Conditions of
MEDTRON AG, Hauptstraße 255, 66128 Saarbrücken**

- 1. Scope**
- 1.1 These General Terms and Conditions (hereinafter referred to as "GTC") are an integral part of all business relations between MEDTRON AG (hereinafter referred to as "MEDTRON") and commercial customers (hereinafter referred to as "Customer/s").
- 1.2 These GTC shall also apply to future business relations even if they are not explicitly agreed again.
- 1.3 The general terms and conditions of the Customer shall not become part of the contract even if the Customer, during the initiation of the business transaction or upon placement of the order, refers to his own conditions and even if MEDTRON does not expressly reject the validity of such conditions.
- 1.4 The Customer shall accept these GTC upon placing his order or, at the latest, upon receiving the delivered goods and/or services and shall relinquish his own general terms and conditions.
- 2. Relation between these GTC and other regulations and order of priority**
- 2.1 The following conditions shall take priority over these GTC in the order set out below:
 - individual written agreements
 - special GTC conditions issued by MEDTRON for specific services (e.g. GTC for the rendering of services)
- 2.2 Unless expressly set out in the respective special conditions, the special conditions shall complement these GTC.
- 2.3 The Incoterms in their respective up-to-date version – currently the 2010 version – shall apply in addition to these GTC.
- 3. Contract conclusion**
- 3.1 Any offers submitted by MEDTRON are at all times subject to change and non-binding.
- 3.2 A contract is not concluded until
 - it is signed by both contractual parties or
 - the order is placed by the Customer (equals submission of offer) and accepted by MEDTRON, with MEDTRON accepting the order by confirming it either in writing or electronically or
 - the service has been rendered/goods have been delivered by MEDTRON; in such a case the delivery note is a correct reflection of the contractual content unless the Customer challenges it in writing directly after receiving the delivery note. This consequence is explicitly pointed out by MEDTRON in the delivery note.
- 4. Payment**
- 4.1 The list prices of MEDTRON that are valid on the day of delivery shall apply. Any subsequent orders shall be subject to the prices that are set out as list prices of MEDTRON at the time of delivery.
- 4.2 Price changes are permitted as long as more than six weeks have passed between contract conclusion and the expressly agreed delivery date. If, afterwards and until delivery, there is a rise in wages, material costs or cost prices that are customary in the market, MEDTRON shall have the right to increase the price to reflect the corresponding increase in costs. The Customer shall be permitted to withdraw from the contract only if the price increase between order placement and delivery greatly exceeds the rise in general living costs.
- 4.3 All prices are stated in euros and net of the respectively valid statutory tax on the day of delivery.
- 4.4 The invoices of MEDTRON must be paid net ten days after the date of the invoice.
- 5. Performance, delivery**
- 5.1 The type of performance to be provided by MEDTRON and the place of performance are set out in the individual contract. The Incoterms in their respective up-to-date version – currently the 2010 version – apply in addition to these GTC.
- 5.2 Details concerning delivery times and delivery days are non-binding unless otherwise agreed in writing. Delivery times start on the day of order confirmation by MEDTRON. This does not apply to the delivery of disposables.
- 5.3 Partial deliveries are permitted as long as the Customer can reasonably be expected to accept such deliveries. Each partial delivery is deemed to be a separate contractual performance.
- 5.4.1 Delays concerning delivery and performance that are due to force majeure and unforeseeable circumstances that are beyond the control of MEDTRON, in particular government measures, strikes, material procurement problems, energy shortages – even if they affect the suppliers of MEDTRON or their subcontractors – shall entitle MEDTRON to postpone delivery for the duration of the hindrance plus an appropriate start-up period. MEDTRON shall forthwith inform the Customer of the respective circumstances unless they are generally known.
- 5.4.2 If the delivery and performance delay lasts longer than two months, the parties shall have the right to withdraw from the contract. In such a case, the parties shall be obliged forthwith to return any consideration granted to the respective contractual partner. In the case of partial deliveries, the withdrawal only extends to the respective delivery that has not yet taken place. The validity of the delivery contract as such shall, subject to any divergent individual contractual provisions, be unaffected hereby.
- 5.4.3 Equally unaffected hereby shall be the right of the parties to withdraw from the entire contract and/or cancel the continuing obligation that exists between them if, due to the delivery and performance delay, they cannot be reasonably expected to continue to adhere to the entire contract.
- 5.5 Subject to the cases set out in clauses 5.4.1 to 5.4.3 of these GTC, the Customer may, if a binding delivery date or period has been agreed, ask MEDTRON after expiry of the date or period to either deliver or declare withdrawal. Should delivery or a declaration of withdrawal not take place within two weeks of receipt of the Customer's request, the Customer shall, in turn, be entitled to withdraw from the contract. In such a case, the withdrawal provisions set out in clauses 5.4.2 and 5.4.3 shall apply.
- 5.5 If an event such as force majeure or if circumstances such as those described in clauses 5.4.1 to 5.4.3 occur during an ongoing delay of MEDTRON, clauses 5.4.1 to 5.4.3 shall apply mutatis mutandis. Any claims that the Customer, due to debtor's default, is entitled to until these circumstances occur shall be unaffected.
- 6. Transfer of risk**
- 6.1 The provisions regarding the transfer of risk are set out in the individual contract or the respective up-to-date version of the Incoterms referred to – currently the 2010 version.
- 6.2 Otherwise the risk of accidental destruction or accidental deterioration of the goods shall pass to the Customer as soon as the goods are handed over to the Customer or, if the goods are sent, as soon as the goods have left the warehouse of MEDTRON or the warehouse of the subcontractor if so instructed by MEDTRON, in order to be sent to the Customer.
- 7. Transport**
- 7.1 The provisions regarding transport services are set out in the individual contract or the respective up-to-date version of the Incoterms referred to – currently the 2010 version.
- 7.2 Otherwise the following rules shall apply: Unless the Customer has issued instructions to the contrary, MEDTRON shall, with the care required for commercial transactions, choose the means of transport, the transport route and the transport insurance without being responsible for choosing the fastest or cheapest option. If the goods are damaged or lost in transit, the Customer must forthwith ask the transport company to explain the respective details in writing.
- 8. Retention of title**
- 8.1 The title to the delivered goods remains vested in MEDTRON until the Customer has met all his liabilities arising from the business relationship with MEDTRON and, in particular, until he has paid all outstanding debts. If payment is made by cheque or direct debit, the respective amount must be credited to the account of MEDTRON prior to the expiry of the payment period.
- 8.2 Prior to final payment, it shall not be permitted to pledge or transfer the goods by way of security.
- 8.3 The Customer shall notify MEDTRON forthwith in writing of all enforcement measures and other interventions concerning the goods that have been delivered subject to retention of title. The written notification must be accompanied by the necessary documents. The costs of potential interventions by MEDTRON concerning judgment creditors shall be borne by the Customer.
- 8.4 The Customer shall be entitled to use and resell the goods owned by MEDTRON during the regular course of business. If the goods that are subject to retention of title are resold, the Customer assigns his resale-related receivables vis-à-vis the buyer to MEDTRON now and MEDTRON accepts this assignment. Even after assigning the goods, the Customer shall remain entitled to collect the receivables. Subject to clause 8.5 of these GTC MEDTRON shall not be permitted to collect the receivables itself.
- 8.5 If the Customer fails to pay the full or partial amount owed of if otherwise justified doubts concerning his ability to pay arise, he shall no longer be entitled to dispose of the goods. In such a case, MEDTRON can, subject to its right to claim damages, assert its rights under section 323 of the German Code of Civil Law (BGB) and/or revoke or rescind the Customer's authorisation to collect outstanding debts from the recipient of the goods. MEDTRON shall then be entitled to request information about the recipients of the goods, inform them of the transfer of the receivable to MEDTRON and collect the receivable owed to the Customer by the recipient of the goods.
- 8.6 If the delivered goods have been processed or transformed, MEDTRON shall at all times be deemed to be the manufacturer in accordance with the statutory regulations. If the goods have been transformed or combined with other goods, MEDTRON shall, as a rule, become co-owner of the new goods; if the goods have been transformed, co-ownership in the newly created goods is in proportion to the value of the goods that are subject to retention of title versus the value of the newly created goods. If the Customer were to become sole owner, he assigns co-ownership in proportion to the listed values to MEDTRON now and stores the goods for MEDTRON free of charge. If the goods created by transformation or combination are resold, the agreed advance assignment shall only apply to the value of the goods that are subject to retention of title.
- 8.7 If the value of all security interests that, according to these provisions, are due to MEDTRON exceeds the value of all secured claims by more than 20 per cent MEDTRON shall, at the request of the Customer, surrender an appropriate proportion of these security interests.
- 8.8 If the receivables due to the Customer from the resale of the goods that are subject to retention of title are included in a current account, the Customer assigns to MEDTRON now his payment claim from the respective or recognised balance to the extent that it contains receivables from the resale of the goods that are subject to retention of title. If goods that are subject to retention of title are sold together with other products at an overall price, the aforementioned assignment shall only apply to the invoiced value of the goods that are subject to retention of title.
- 8.9 The inclusion of some or all receivables of MEDTRON in a current invoice and the establishment of the account balance does not cancel the retention of title.
- 8.10 During the duration of the retention of title, the Customer must insure the goods owned by MEDTRON against fire, water damage and theft. The rights under this insurance shall be assigned to MEDTRON who accepts the assignment.

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9. Payment

- 9.1 Payments must be made without any deduction upon invoice receipt by the Customer. If payment is made by cheque of direct debit, it shall only be deemed to have been settled when the amount has been credited to the respective account. Any fees and similar costs shall be borne by the Customer. This applies in particular to any fees that arise under the direct debiting system. Payment by bill of exchange shall not be accepted.
- 9.2 MEDTRON reserves the right to ask first-time customers and customers from abroad to pay cash on delivery or make advance payments.
- 9.3 Payments shall, as a rule, first service the oldest debt unless otherwise agreed by the Customer.
- 9.4 If, ten days after invoice receipt or an equivalent request for payment, the Customer has failed to pay, he shall be in default. The right of MEDTRON to put the Customer in default by reminder after the due date has expired shall remain unaffected hereby.
- 9.5 If the Customer is in default, MEDTRON shall – subject to the assertion of further damage caused by default – be entitled to charge interest and a fixed amount for collection costs at the respective statutory level (current interest for delayed payments: 9 percentage points above the base rate; set collection costs: €40.00).
- 9.6 If the Customer's financial situation deteriorates leading to doubts concerning his ability or willingness to pay – in particular in the case of payment default, protested cheques, returned direct debits, execution proceedings or sluggish payment – MEDTRON shall, subject to any other rights due to MEDTRON, be entitled to call in all open receivables, even if cheques have been accepted or a deferral has been granted. In addition, MEDTRON shall be entitled to refuse the performance owed and set the Customer a deadline of two weeks during which the Customer must match each performance with a counter-performance chosen at his discretion or supply the respective securities. If the deadline has expired without success, MEDTRON may withdraw from the entire or from part of the contract. This shall also apply if MEDTRON does not learn until after contract conclusion that a material deterioration of the Customer's financial circumstances had occurred prior to contract conclusion.
- 9.7 The Customer can only set off receivables, which are undisputed or which have been adjudicated as final and absolute, or exercise his right of retention concerning such receivables. In the case of dissimilar receivables, the right of retention shall be limited to receivables of the Customer under the same contract.

10. Securities

- 10.1 MEDTRON shall be entitled to ask the Customer to provide adequate securities.
- 10.2 The securities can, among other things, be provided in the form of a guarantee bond. MEDTRON shall, at any time, be entitled to use the securities provided by the Customer to pay any outstanding receivables due under the contractual relationship. If MEDTRON makes use of such securities and if the contractual relationship continues (e.g. in the case of partial delivery), the Customer shall be obliged forthwith to top up the securities to the level that has been originally agreed. The securities shall be released at the end of the contractual relationship as long as the Customer has paid all outstanding receivables made by MEDTRON.
- 10.3 If the Customer fails to supply securities, MEDTRON shall, following the respective reminder pointing out the consequences of failing to provide securities, be entitled to terminate the contract concerning the delivery concerned without further notice.

11. Warranty

- 11.1 Any claims concerning defective deliveries made by the Customer shall be excluded if the Customer fails to notify MEDTRON in writing of any visible defects within one week of receipt of goods. A timely dispatch of the complaint shall suffice to comply with the aforementioned deadline.
- 11.2 In the case of defects that are not immediately obvious, the warranty period shall extend to one year as far as new goods are concerned. If used goods are supplied, they are not subject to warranty unless otherwise provided by mandatory law.
- 11.3 If the complaint is justified, supplementary performance shall be due on the part of MEDTRON who, at its discretion, shall have the right to choose between repair or replacement. The Customer must allow MEDTRON sufficient time for supplementary performance. If supplementary performance fails, the right of the Customer, to reduce the price or, at his discretion, withdraw from the contract shall remain unaffected hereby.
- 11.4 In the event of supplementary performance, MEDTRON shall be obliged to bear the costs arising from supplementary performance, in particular any transport, travel, labour and material costs unless there is an increase in costs due to the goods being delivered to a location other than the place of performance.
- 11.5 The obligation to inspect the goods and report any defects – an obligation set out in the German Code of Commercial Law (HGB) – shall not be affected by clauses 11.1 to 11.4 of these GTC.
- 11.6 If partial deliveries are permitted, any rights due to the Customer concerning defects in the delivered goods shall only apply to the delivery in question. The remainder of the contract shall remain unaffected hereby, unless, due to the defects in the delivered goods, the Customer cannot be reasonably expected to continue with the contract as a whole.
- 11.7 To assert any claims that are due to defects in the delivered goods, the Customer must notify MEDTRON in writing. To this end, he shall document the supposed defect with the care of a prudent businessman. In order to ensure an appropriate inspection by MEDTRON, the Customer shall, as part of this documentation, also indicate to what extent the supposedly defective goods have been combined with components that have not been manufactured or supplied by MEDTRON. The existence of defects does, however, not entitle him to refuse performance of his contractual obligations unless MEDTRON has recognised the Customer's right to do so in writing or has established it as final and absolute.
- 11.8 Assurances concerning the quality of the product shall constitute a quality and durability guarantee pursuant to section 443 of the German Code of Civil Law

(BGB) only if they have been explicitly and individually agreed in writing and are referred to as such.

- 11.9 In the event of a defect, the Customer cannot, subject to the cases set out in section 354(a) of the German Code of Commercial Law (HGB), assign to third parties the rights and claims due to him. If the Customer sells the goods supplied by MEDTRON to third parties, he shall not be permitted, due to the associated statutory and/or contractual claims, to refer to MEDTRON in the event of defects. The Customer must, at the discretion of MEDTRON, send the supplied goods that he believes to be defective to MEDTRON for inspection.
- 11.10 If, upon the inspection of the goods by MEDTRON, it were to turn out that the complaint submitted by the Customer was unjustified, MEDTRON can ask the Customer to pay any due inspection costs that have arisen based on the customary hourly rate.
- 11.11 The liability of MEDTRON for any consequences arising from changes, attempts to rectify the defect or other interventions carried out by the Customer or other third parties on the goods in question, as well as the liability for any consequences arising from the faulty or negligent handling of the goods shall be excluded. At the same time, the Customer shall be deprived of any rights that may otherwise be due to him on the account of defects.
- 11.12 It is impossible to ensure that components function together in every possible form. Hence, warranty for defects shall only be assumed if all components have been bought from MEDTRON. If incompatibilities arise between the components bought from MEDTRON and other components, the Customer shall release MEDTRON from any warranty for defects or any obligation to provide proof.

12. Liability

- 12.1 MEDTRON shall not be liable for loss of profit, indirect damage and consequential damage.
- 12.2 The liability of MEDTRON, in the event of a simple negligent violation of a material contractual obligation, shall be limited to typical contractual damage; otherwise liability for simple negligence shall be excluded.
- 12.3 The restrictions of liability set out in clauses 12.1 and 12.2 of these GTC do not apply to damage based on intent, gross negligence or any guarantee provided as such by MEDTRON. Furthermore they do not apply to bodily injuries including death and other impairments to health that are due to a negligent violation of duty by MEDTRON or a deliberate or negligent violation of duty by a statutory representative or vicarious agent of MEDTRON.
- 12.4 The aforementioned liability rules shall apply accordingly to direct claims by the Customer vis-à-vis the statutory representatives, employees and vicarious agents of MEDTRON.

13. Data processing

In accordance with the regulations on data protection, the Customer consents to the processing of his data as far as this is necessary for business transactions. This constitutes a notification pursuant to section 33 (1) of the German Law on Data Protection.

14. Assignment

To become effective, the assignment of rights or obligations by the Customer arising from the business relationship with MEDTRON requires at all times the written consent of MEDTRON subject to the cases listed in section 354(a) of the German Code of Commercial Law (HGB).

15. Final provisions

- 15.1 The place of performance for both contractual partners shall be the city/town where MEDTRON has its registered office unless otherwise agreed in the individual contract or otherwise stipulated by the Incoterms in their respective current version.
- 15.2 The place of jurisdiction for all disputes arising from this contract and from cheques shall be the place of performance. MEDTRON shall, however, also be entitled to sue the Customer at its general place of jurisdiction or at the place of jurisdiction of his subsidiary.
- 15.3 Additional verbal agreements do not exist. Any additions and amendments must be marked as such.
- 15.4 These General Terms and Conditions must be interpreted and, whenever required, amended in such a way that, as far as possible, its economic purpose is achieved.
- 15.5 If individual provisions of these General Terms and Conditions were to be or become wholly or partly ineffective, the validity of the remaining provisions shall not be affected hereby. The ineffective provision is to be replaced by a legally effective provision that, in economic terms, is as close as possible to the replaced provision.
- 15.6 The law of the Federal Republic of Germany shall apply.