

## **Standard Form Contract Conditions for ThermoSecure medical equipment GmbH business clients**

### **1. Application Area**

For all mutual claims from and in connection with the conclusion of a contract between business clients who are not consumers in the intentions of § 13 BGB (German Civil Code), these Standard Form Contract Conditions in the respective version valid at the time of the conclusion of the contract, shall always apply. All description, data and pictures or images of the listed articles are non-binding. Construction and design are subject to change without notice, deviating provisions shall not be valid.

### **2. Subject matter of the contract**

ThermoSecure GmbH will deliver the goods ordered by business clients after acceptance of quotation. Should ThermoSecure subsequently discover that an error has occurred in the specifications for a product, a price or for deliverability, ThermoSecure GmbH will inform the business client forthwith. The client can then reconfirm the order at the changed conditions. Otherwise ThermoSecure shall be entitled to cancel the contract.

### **3. Delivery**

- 3.1 Use and danger shall, on principle, pass over to the buyer at the time of dispatch, i.e. as soon as the goods have left the factory.
- 3.2 ThermoSecure GmbH will conclude and bill freight insurance for the business client at a price of 0.85% of the net order value.
- 3.3 The specified delivery times will be met as far as possible, but are not binding. When periods are exceeded, the buyer shall not be entitled to cancel the order or make damage claims.
- 3.4 Part-deliveries are permissible and shall be deemed as independent business.
- 3.5 The delivered goods shall remain the property of ThermoSecure GmbH until full payment has been made.

### **4. Price/Date due**

- 4.1 The prices specified in the pricelist are net prices excluding the respective value added tax. The prices do not contain costs for packaging, insurance and other charges. Invoices will be rounded off to a minimum amount of 30.00 Euro. Prices are subject to change without notice.
- 4.2 The prices apply ex ThermoSecure GmbH, Cologne.
- 4.3 The accounts receivable are to be paid to ThermoSecure within 14 days from date of invoice without deductions. The payments for part deliveries must be made in accordance with the invoices made out. The customary interest in arrears shall be paid when exceeding the payment deadline.
- 4.4 Bank draft, c.o.d. or advance payment are binding for new customers.

## **5. Conclusion of contract**

- 5.1 The written or telephone acceptance of contracts shall be binding, the orders shall be deemed as accepted. We recommend ordering by fax or email.
- 5.2 The order is realized by ThermoSecure accepting the customer order. The customer shall waive receipt of acceptance notification accord. to § 151 sentence 1 BGB (German Civil Code). The customer shall be informed about the conclusion of the contract either by ThermoSecure through a confirmation or at the latest by the execution of delivery of the ordered goods resp. by the quotation or the provision of the service.
- 5.3 If the business client orders via the Internet, ThermoSecure GmbH will confirm receipt of the order forthwith by electronic means.

## **6. Availability reservation**

Should ThermoSecure GmbH find, that after conclusion of contract, the ordered goods are no longer available from ThermoSecure GmbH, or the goods cannot be delivered for legal reasons, ThermoSecure GmbH may offer goods which are of equal quality and price or rescind from the contract. Payments already received will be repaid by ThermoSecure GmbH immediately after rescission from a contract.

## **7. Warranty**

- 7.1 ThermoSecure GmbH guarantees that the products are free of faults and titles in accordance with § 434, 435 BGB (German Civil Code) at the time of passing of risk.
- 7.2 The business client must check the delivery immediately after receipt for completeness or any faults, this at the latest within one week of receipt, and must send a notice of defect forthwith in the case of any deviation. In the case of hidden defects, the notice must be made immediately after discovery of the hidden defect within the warranty period.
- 7.3 The period of warranty is one year from receipt of the goods. If the business client sells the received items commercially, (consumer goods purchase) § 479 BG shall apply in supplement.
- 7.4 The business client shall have the right to demand either rectification of the defect or delivery of a fault-free item. ThermoSecure may, within the scope of § 439 BGB, refuse the type of subsequent performance chosen by the buyer, if this is possible only with disproportionate costs. If the rectification of a defect is unsuccessful at the second attempt of repair, the customer, within the scope of § 439 BGB, shall be entitled to demand delivery of a defect-free item or to reduce the purchase price or to rescind from the contract. Rescission is, however, excluded when the defect is minor and insignificant.
- 7.5 Damage claims due to defects of the item are excluded. We cannot be made liable for consequential damages of any kind which are caused by non-functioning or incorrect use of our products.
- 7.6 Warranty cannot be accepted for defects which are due to improper use or an above average wear of the goods by the business clients, or for wear-and-tear parts.
- 7.7 In the case of rescission, § 346 BGB shall apply.

## **8. Export**

A flat rate of Euro 30.00 will be charged for the issue of export papers and country of origin declarations.

## **9. Complaints**

Complaints regarding the quality and quantity can only be accepted when these are made in writing within 10 days of arrival of the delivery. There shall be no liability for damages which are incurred during transport or at the place of delivery. The buyer must notify damage to or loss of goods to the carrier before accepting the goods and must lay damage claims with him.

## **10. Warranty**

There is a one year warranty for material when it is operated suitably and correctly. Goods which are evidentially unusable due to manufacturing defects or for other reasons, will be repaired free of charge or replaced in case of **free** return. Any further claims will not be accepted. There is no liability for damages which are caused by inaccurate specifications about the purpose of use or improper treatment of the goods by the buyer. Liability is excluded for defects which are not known and which appear over the course of time.

## **11. Applicable law**

German law shall apply for the legal relations between ThermoSecure GmbH and business clients as well as to the Standard form contract conditions. The application of the UN Convention on Contracts for the International sale of Goods (CISG) of 11. April 1988 is excluded.

## **12. Place of fulfilment and place of jurisdiction**

Place of fulfilment and place of jurisdiction is Cologne. The legal relations are subject to German law and also apply to export business.