

§ 1 Scope of application, jurisdiction and place of performance

- (1) The following Terms and Conditions apply for all business relationships, in particular supply contracts and other services of Otto Leibinger GmbH, Griesweg 27, 78570 Mühlheim (hereinafter GmbH), with the customer. In as far as ongoing business relationships are concerned, the following Terms and Conditions shall apply with effect from 27 May 2019. Older terms and conditions shall lose their validity with effect from this date.
- (2) The following Terms and Conditions shall apply exclusively. Other terms and conditions of purchase and other conditions of the customer shall not form part of the contract, even if the GmbH does not expressly reject these.
- (3) These Terms and Conditions shall apply exclusively vis-à-vis entrepreneurs within the meaning of §§ 310, 14 BGB (German Civil Code).
- (4) German law shall apply.
- (5) For all present and future claims arising from the business relationship with the customer the exclusive place of jurisdiction shall be the head office of the GmbH. For business relationships with merchants the place of performance shall be the head office of the GmbH.

§ 2 Minimum order value, quotation and conclusion of contracts

- (1) Orders from Germany with an order value of less than EUR 25 will not be accepted and executed by the GmbH.
Orders within Europe are subject to a minimum order value of EUR 150, outside Europe, EUR 250 and/or by individual agreement.
- (2) Offers by the GmbH are subject to change. If after an offer submittal changes are made that were not evident from the specifications of the inquiry, we reserve the right to recalculate the offer price.
- (3) The documents making up the offer, such as illustrations, drawings and data on weights and dimensions, provide only approximate indications unless they are expressly designated as binding. The GmbH shall retain ownership and copyright of all cost estimates, drawings and other documents; they may not be made available to third parties. In the event that an order is not placed, the complete documentation shall be returned immediately upon request.
The GmbH shall assume a guarantee for technical information from third-party manufacturers only if a special agreement has been made.
- (4) An order of the customer shall be deemed accepted upon delivery of the goods or by order confirmation from the GmbH. Confirmations and deviating agreements must in principle be made in writing.

§ 3 Orders of samples

Goods samples are generally not provided free of charge. A selection of samples can be purchased on a one-off basis under special conditions. When the samples are returned, a credit note shall be issued. Any preparation costs will be deducted from the credit note.

§ 4 Returns

- (1) The customer must ensure in the case of returns that the goods are in a clean and sterile condition. In addition, every instrument must be packed individually in a PE bag. With every return, suitable evidence of decontamination should be attached to the package and/or sent in advance. For safety reasons (risk of injury, contamination) acceptance may be rejected if this evidence is not provided. An up-to-date version of the form is available at www.leibinger-dental.de.
- (2) If the reason for the return of the goods is attributable to the GmbH, the latter shall assume the costs of the return.
- (3) If the reason for the return of the goods is not attributable to the GmbH, the customer shall assume the costs of the return.

§ 5 Prices, packaging costs, shipping, transfer of risk, transport insurance

- (1) Unless otherwise agreed in writing the prices of the GmbH shall apply net ex works in Mühlheim. They relate strictly to the value of the goods and are always non-binding; however, the given price is the minimum price. In particular, VAT, customs, freight, packaging and insurance costs shall be added to the actual costs. The prices apply for the individual order, not retroactively or for future orders. Follow-on orders shall be new orders.
- (2) Goods are dispatched at the expense and risk of the ordering party/customer. The risk transfers to the customer at the latest with dispatch of the goods. Unless otherwise agreed the GmbH shall determine the means of transport and the route of transport, without being responsible for this being the fastest and cheapest method.
- (3) Unless otherwise agreed we calculate the transport insurance as follows: goods value up to EUR 15,000 = 1‰
– goods value of more than EUR 15,000 = 0.5‰

§ 6 Order changes, custom-made products

- (1) The GmbH will only consider changes to the order before or after receiving the order confirmation if any additional costs are assumed by the customer and if a sufficient extension of the delivery time is agreed.
- (2) Custom-made products can be made according to samples, drawings or other documents. The cancellation of orders for custom-made products or the return of these is excluded. A delivery of +/-10% is permitted.

§ 7 Delivery time, partial deliveries

- (1) Delivery time information indicates the anticipated delivery date and is not regarded as binding. Compliance with the delivery date is, however, prioritised.
A delivery time shall only be deemed binding if this has been expressly agreed in writing with the customer.
- (2) Partial deliveries desired by the customer are possible by arrangement, but must be paid for separately in each case. Packaging costs are also incurred in these cases.

§ 8 Terms of payment, default of payment

- (1) If payment is made within 10 days of invoice we shall grant a discount of 2%. Net payment within 30 days shall otherwise apply.
If the net value of the goods is below EUR 50 no deduction of discount is possible.
In the case of transactions outside Germany, advance payment shall apply in principle until a different payment term has been agreed in writing.
- (2) The customer shall be in default of payment after the expiry of the agreed payment term. The GmbH is entitled to charge default interest at the rate of 5% from the date the payment is due.

§ 9 Force majeure

In cases of force majeure (particularly in the case of war-like events or natural catastrophes) or other business disruption occurring at the GmbH or its suppliers which prevent the GmbH, without it being at fault, from executing the provision/delivery on the agreed date and/or within the agreed period, the GmbH is entitled to postpone the provision/delivery by the duration of the hindrance. If such disruption results in a delay in delivery or provision of more than two (2) months the customer can withdraw from the contract. This shall not affect any other rights to withdraw.

§ 10 Acceptance

- (1) The customer is obliged to accept and pay for delivered goods as per the contract. In the case that a non-binding supply period has been agreed, the customer must accept the goods at the head office of the GmbH within seven (7) days of receipt of the notification that the goods are ready for collection.
- (2) In the case that a binding supply date has been agreed, the customer must accept the goods on this date. In the case of non-acceptance the GmbH shall set the customer an acceptance period of a further seven (7) days, after the expiry of which the GmbH is entitled to withdraw from the contract in full or in part by written declaration and demand damage compensation.
- (3) Should the GmbH demand damage compensation if the cause for the return does not lie with the GmbH, this shall be 10% of the purchase price. The customer reserves the right to provide evidence that the GmbH has suffered no or substantially less damage. The GmbH reserves the right to provide evidence that a higher loss was incurred. Custom-made products may not be returned.

§ 11 Reservation of title

Until full payment of all obligations from the business relationship, including from other and future transactions of the buyer, the delivered goods shall remain our property. The buyer undertakes to treat the goods properly and carefully for the duration of the reservation of title. The buyer may sell and process the goods in the scope of its ordinary business activities. The receivables of the buyer from the resale of the reserved goods are hereby assigned to us with all ancillary rights until full payment of our receivables from deliveries of goods, namely irrespective of whether the reserved goods have been sold without or after processing and whether they have been sold to one or more buyers. The assigned receivables serve as security for us, however only up to the value of the respective reserved goods sold. The buyer is entitled to resell and further process the reserved goods only according to the foregoing agreements on the assignment of the purchase price receivable. If the goods are pledged or the claim taking their place is resold to a third party, the buyer is obliged to inform us immediately. We undertake to release and sign back the securities due to us on the basis of the above provisions at our discretion to the extent that their value exceeds the claims secured by 20%.

§ 12 Responsibility for the goods conforming to the contract

- (1) **Obligation to inspect and give notice of defects:** The customer shall be entitled to claims from liability for defects only if it has fulfilled its obligations to inspect pursuant to § 377 HGB (German Commercial Code) properly. The goods shall be deemed accepted if the customer does not assert obvious defect claims immediately—no later than eight (8) days after delivery of the goods. The same applies if in the case of hidden defects the customer does not assert and specify its claims for defects in writing immediately after the detection of these. The customer shall by agreement with the GmbH be responsible for ensuring all evidence of the defects.
- (2) **Customary deviations, constructive changes:** Defect claims shall not exist in the event of insignificant deviations from the agreed quality or in the case of insignificant impairment to usability.
- (3) In the case of a justified complaint the GmbH is in no way obliged to redeliver and/or re-manufacture the goods within the scope of the subsequent performance. The GmbH has in every case the right to choose between rectifying the defect, redelivery and reversing the transaction. If the replacement delivery fails, the customer has the right to reduce the price or, according to its choice, withdraw from the contract. The customer's right under statutory, contractual and, in particular, these Terms and Conditions (§ 11) remains reserved. The limitation period for claims and rights due to defects in the goods or the service—regardless of the legal grounds—shall be one (1) year. The limitation period shall also apply for all damage claims against the GmbH which are connected to the defect, regardless of the legal basis for the claim. Insofar as damage compensation claims of a different kind exist against the GmbH which are not connected with a defect, the limitation period of one (1) year shall apply for these as well. The reduced limitation period does not generally apply in cases of intent or if the GmbH has fraudulently concealed a defect or has assumed a guarantee for the quality of the goods or service. The reduced limitation period does not apply either in cases of injury to life, body of health or freedom, nor does it apply for claims under the Product Liability Act, in the case of intent or grossly negligent breach of duty or in the case of breach of essential contractual duties. The limitation period begins with acceptance and/or delivery.

§ 13 Damage compensation claims/Liability

In the case of damage compensation for breach of duty, our liability for simple negligence shall be limited to the damages we have caused which are foreseeable and are typically associated with the specific transaction in question. We shall otherwise only be liable for intent and gross negligence. Our liability for culpable injury to a

person, to body or to health, including death, remains unaffected.

§ 14 Tools, plans, sales documents, confidentiality

All rights to tools, drawings, designs and plans produced by the GmbH, in particular, copyrights, patent rights and rights to inventions, shall remain exclusively with the GmbH. All sales documentation, such as catalogues, price lists, etc. which are provided to the customer shall remain the property of the GmbH and must be returned on request.

The contract partners agree to keep all economic and technical details of their mutual business agreements confidential, provided these have not become publicly known. This also applies to any failures to conform to the contract; these may neither be copied, nor disclosed to third parties nor made public in any other manner without prior authorisation.

§ 15 Final provisions

In the event that one or more provisions of these GTC is or becomes invalid, the validity of the other provisions shall remain unaffected. The invalid provisions shall be replaced by valid provisions, which best reflect the intended purpose of the invalid provisions.

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Otto Leibinger GmbH, Griesweg 27, 78570 Mühlheim

