

VAN STRATEN MEDICAL

Conditions which apply to Purchase of Goods by and provision of Services to Van Straten Medical or its affiliated Companies hereafter named Van Straten

1. General Conditions

- 1.1 These conditions shall apply to all offers and orders regarding the sale of goods and/or provision of services by a supplier hereof (hereafter to be referred to as: Supplier) to J. van Straten Beheer B.V. (hereafter to be referred to as: "Van Straten"), and to all agreements in this respect with Van Straten. In these conditions services include contracting for work.
- 1.2 Applicability of the General Terms and Conditions from the Supplier is hereby explicitly rejected.
- 1.3 Provisions contrary to these Conditions may only be invoked by the Supplier if and to the extent that they have been accepted in writing by Van Straten.

2. Conclusion of the Agreement

- 2.1 All of the Supplier's offers are irrevocable. All orders from Van Straten which do not correspond with previous offers from the Supplier are without obligation.
- 2.2 The agreement shall only be concluded after and as recorded in writing by Van Straten.

3. Price

- 3.1 The agreed price is excluding VAT but inclusive of all costs and rights, adequate packing, inspections, tests, certificates etc. The agreed price shall be fixed for the term of the agreement.

4. Delivery

- 4.1 Delivery shall be made at the agreed INCO terms (INCO terms 2000). If the INCO terms do not apply, then delivery will be made, including unloading which is included in these conditions, at a location designated by Van Straten.
- 4.2 The agreed delivery time is of the essence. The Supplier shall be in default without a notice of default being required if the delivery time is exceeded.
- 4.3 The Supplier shall inform Van Straten on time and properly of the exact time of delivery and any threat that the delivery time will be exceeded.
- 4.4 Partial deliveries or deliveries more than 14 days before the agreed delivery time need prior written permission from Van Straten.
- 4.5 At the request of Van Straten, the Supplier shall provide Van Straten with a production or performance planning and/or co-operate with progress inspection on the part of Van Straten.
- 4.6 The delivery will only be deemed to be completed if that which has been agreed has been supplied or delivered fully and in accordance with the agreement at the location designated by Van Straten.

5. Alterations/additional Work

- 5.1 The Supplier shall not, without written permission or a written request from Van Straten, introduce any alterations in design or specifications. If execution in accordance with the design and specifications is not possible then Van Straten shall not unreasonably refuse permission.
- 5.2 The Supplier shall at all times introduce or deliver alterations or additions which are technically possible and required by Van Straten to agreed goods or services.
- 5.3 Alterations and additions will not lead to an increase of the agreed price or extension of the agreed delivery time except if and in so far as this is reasonable and apart from that a proposal from the Supplier to increase or extend has been communicated to Van Straten in writing before implementation of the alteration or addition and within five days after Van Straten's request for this alteration or addition.
- 5.4 Van Straten has the right to dissolve or terminate the agreement, in whole or in part, if execution of the alterations or additions Van Straten requires are found to be impossible on conditions which are acceptable to Van Straten.

6. Planning

- 6.1 The Supplier shall comply with the operating hours and the planning – and any changes thereof – of Van Straten and shall organise its work in such a manner that disturbing operations of Van Straten or third parties does not take place.
- 6.2 The Supplier shall handle peak needs. If so required, the Supplier shall perform the work in shifts or overtime. The costs thereof shall be determined in further consultations.

7. Auxiliary Materials, Tools and Deliveries Van Straten

- 7.1 The Supplier itself takes care of the required auxiliary materials and tools, including safety means.
- 7.2 If by or on behalf of Van Straten auxiliary materials or oxygen, gas, electricity, light or water are made available, then Van Straten shall have the right to charge the Supplier for the costs thereof.

8. Prohibition of subcontracting

- 8.1 The Supplier is not allowed to transfer or subcontract the fulfilment of the agreement, in whole or in part, to third parties without Van Straten's written permission, or to use workers which are put at its disposal or hired in.

9. Inspection

- 9.1 Van Straten has the right, at any time – and therefore also in the interim – to examine or to have examined, to make inspections or to have them made, to test and/or to have tested, irrespective of the location of the goods involved or the location where the services in question are provided.
- 9.2 Examination, inspection, tests, purchase and/or payment by or on behalf of Van Straten do not release the Supplier from any obligation or liability.

10. Risk and Transfer of Ownership

- 10.1 Employees of the Supplier work, also at locations from Van Straten, at its own expense and risk. Goods of the Supplier are, also at locations from Van Straten, for its own expense and risk.
- 10.2 Goods to be delivered and/or goods whereto services are provided are at the expense and risk of the Supplier until completion of the delivery or completion as referred to in article 4.6.
- 10.3 If Van Straten has made any payment before delivery or completion, then the ownership of the goods for which the payment was made and/or parts or materials already present at the Supplier's for these goods (jointly to be referred to as: the goods) at the time of payment shall be transferred to Van Straten. The Supplier shall identify the goods in question still present at its location for Van Straten and shall keep the goods identifiable. The Supplier shall be deemed to be the keeper of the goods for Van Straten for the goods present at its location.

11. Intellectual and industrial Property

- 11.1 The Supplier guarantees that (the use of) the delivery does not violate any intellectual or industrial property rights. The Supplier shall indemnify Van Straten against claims in this respect from third parties and the Supplier shall pay the damage and costs incurred by Van Straten in this respect.
- 11.2 Drawings, images, designs, models, calculations, methods, tools etc, provided by Van Straten or on the instructions of Van Straten or made by the Supplier in connection thereto or on behalf of the Supplier and the intellectual and industrial property rights relating thereto shall only belong to Van Straten which will also be deemed to be the maker and designer, irrespective whether this will be charged separately to Van Straten. The Supplier shall take any actions required or appropriate to provide Van Straten with the rights as abovementioned.

12. Confidentiality

- 12.1 The Supplier shall keep confidential any information originating from Van Straten and any information the Supplier has obtained or developed within the context of the fulfilment of the agreement. The Supplier is prohibited from using such information for its own use or use by third parties.

13. Order, Safety, Environment and unauthorised Gifts

- 13.1 The Supplier and its employees or third parties engaged by the Supplier shall comply with the governmental safety and environmental regulations and otherwise to comply with the local regulations, instructions and directions regarding order, safety, environment and inspection, which apply at the location where the work is performed.
- 13.2 The Supplier and its employees or third parties engaged by the Supplier shall by no means offer Van Straten or employees of Van Straten gifts (including, but not limited to trips) exceeding a value of 50 euros.

14. Guarantee and Liability

- 14.1 The Supplier guarantees that all goods delivered and services provided are of first class design, construction, execution, material, composition and quality, in accordance with drawings, other data and the standards and specifications employed by Van Straten, suitable for the designated use, safe and in compliance with any government regulations.

- 14.2 The Supplier shall be liable for all costs and damage which for Van Straten are a consequence of any failure of the Supplier in the fulfilment of its obligations as well as for any damage caused by the Supplier, its personnel, persons and companies engaged by the Supplier and/or by failures in the goods delivered or to be delivered by the Supplier; the Supplier shall indemnify Van Straten in this respect against any adverse consequences relating to third party claims.
- 14.3 A guarantee period under the agreement shall mean a term in which the Supplier without charge shall take care of repairing defects or redelivery, irrespective of the cause of the defect and without prejudice to the other liability of the Supplier under the agreement.
- 14.4 The guarantee period of the Supplier shall be at least 12 months after start-up but no longer than 24 months after delivery.

15. Prohibition of Assignment/Set-off

- 15.1 The Supplier is prohibited to assign its claims against Van Straten to third parties without written permission from Van Straten.
- 15.2 Van Straten at all times shall have the right to set off what it owes the Supplier against the amounts owed to Van Straten by the Supplier or companies affiliated with the Supplier, whether or not due and payable, or subject to a condition or time period. The Supplier shall only be entitled to any set-off after written permission from Van Straten.

16. Suspension/Dissolution/Termination

- 16.1 Van Straten has the right to suspend its obligations under the agreement or to dissolve or terminate the agreement in whole or in part (hereafter: dissolve) by means of a written statement and without prior notice of default, if and as soon as the Supplier, does not, not in time or not properly fulfil any obligation against Van Straten, as well as in the event of suspension of payment or winding-up of the Supplier, attachment on (a part of) its company assets or goods destined for the fulfilment of the agreement and shutting down or liquidation of its company. Van Straten shall then only be held to pay the Supplier the pro rata price for the services or goods already delivered, but only to the extent that the delivered services were in effect useful for Van Straten and/or Van Straten wishes to keep the delivered goods, all without prejudice to Van Straten's right to damages pursuant to article 14.
- 16.2 Late compliance as referred to in article 16.1 shall also include the event that a backlog is formed with respect to the planning received or prescribed by Van Straten or if under the circumstances the suspicion is reasonably justified that a backlog will be formed in the fulfilment of any (part) obligation under the agreement.
- 16.3 Van Straten has the right to dissolve the agreement, in whole or in part, by means of a written statement, in the event that the agreement with its customer or principal, for which the agreement with the Supplier was only or also concluded, for any reason will be dissolved, terminated or suspended, in whole or in part. In this case as well as the case referred to under article 5.4, Van Straten will only be held to pay the Supplier the pro-rata price for the services and goods already delivered.

- 16.4 In the event that Van Straten or the Supplier due to force majeure for a period longer than 30 days is prevented from fulfilling the agreement, then both parties have the right to dissolve the agreement by means of a written statement against payment of the pro-rata price for the services already provided or the goods already delivered.
- 16.5 Outside the cases referred to Van Straten shall have the right to dissolve the agreement by means of a written statement against payment of the pro-rata price for the services already provided and the goods already delivered and if the Supplier can prove to have incurred damage and loss as a result of this dissolution, then with a surcharge of a maximum of 10% of the remaining agreed price to compensate this damage and loss (including loss of profits). Every claim from the Supplier for further additional or replacing damages is excluded.

17. Disputes and applicable law

- 17.1 Any disputes between the Parties shall be judged exclusively by the competent Court in Rotterdam, unless Van Straten prefers another competent Court.
- 17.2 The agreement shall be governed by Dutch law.