

## General Terms and Conditions

### 1. FORMATION AND INTERPRETATION OF CONTRACTS

- 1.1 All Contracts of Sale made by MDS Remanufacture (hereinafter called "the Company") shall be governed exclusively by the Terms and Conditions set out below (hereinafter called "the Contract Terms"). The Contract Terms shall override and take the place of all previous oral and written representations and any other terms and conditions in any document or other communication used by the Purchaser in concluding the contract with the Company whether or not the same are endorsed upon, delivered with or referred to in any purchase order or any document delivered by the Purchaser to the Company.
- 1.2 Any variation to these Contract Terms shall be inapplicable unless agreed in writing by the Company.
- 1.3 All orders for goods shall be deemed to be an offer by the Purchaser to purchase goods pursuant to these contract Terms.
- 1.4 If any provisions of the Contract Terms are held invalid in whole or in part the other provisions of the Contract Terms and the remainder of the provision in question shall not be affected.
- 1.5 The contract shall be governed by the laws of Switzerland and the Purchaser agrees to the non-exclusive jurisdiction of the Swiss courts

### 2. PRICE AND PAYMENT

- 2.1 The price charged is the net price of the goods at the time of despatch and is exclusive of Value Added Tax which the Purchaser shall be liable for if and when required by law.
- 2.2 The Company may without prior notice adjust the price stated to take account of any change of specification made at the Purchaser's request and any change before the date of delivery in the cost to the Company such as, without limitation, labour costs, materials, sub-contracted services, transport, foreign currency or any other costs of manufacture.
- 2.3 The Purchaser shall pay the price of the goods within 30 days from the last day of the month of the Company's invoice and the Company shall be entitled to recover the price, notwithstanding that the property in the goods has not passed to the Purchaser. The time of payment of the price shall be of the essence of the contract.<sup>55</sup>
- 2.4 If the Purchaser fails to make full and proper payment on the due date, a surcharge for administrative cost of Euro 10.00 for every reminder will be applied.
- 2.5 If the Purchaser fails to make full and proper payment on the due date then without limiting any other right or remedy available to the Company, the Company may:
  - 2.5.1 cancel the contract or suspend further deliveries to the Purchaser;
  - 2.5.1 appropriate any payment made by the Purchaser to such of the goods (or goods supplied under any other contract between the Purchaser and the Company) as the Company may see fit (notwithstanding any purported appropriation by the Purchaser).

### 3. DESPATCH AND DELIVERY

- 3.1 Any dates quoted for delivery are approximate only and the Company will not be liable for any loss or damage whatsoever caused directly or indirectly by delay in the completion of the contract or delivery of the goods.
- 3.2 Unless otherwise agreed in writing costs of delivery shall be borne by the Purchaser.
- 3.3 The Purchaser shall on demand pay the Company for, and/or indemnify the Company against all liabilities in relation to any storage, handling

and insurance or other services provided or used by the Company because the Purchaser fails to accept delivery of the goods: or shall have a lien over goods in respect thereof.

- 3.4 Where the goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these terms or any claim by the Purchaser shall not entitle the Purchaser to treat the contract as a whole as repudiated.

### 4.4 RISK AND PROPERTY

- 4.1 Risk in the goods shall pass to the Purchaser on Delivery.
- 4.2 Title to the goods shall not pass to the Purchaser until the Purchaser has paid the Company for the goods in full.
- 4.3 The Company shall be entitled to recover the price of the goods plus VAT notwithstanding that title to the goods has not passed to the Purchaser.
- 4.4 The Purchaser shall hold all goods which remain the Company's property as bailee for the Company and shall store them separately from the Purchaser's property and shall keep them identifiable as the Company's property by labelling.
- 4.5 The Purchaser grants the Company and its agents and employees an irrevocable Licence at any time to enter any premises controlled by the Purchaser where the goods are stored in order to inspect them and where the Purchaser's right to Possession has terminated, to recover them.

### 5. USE OF CONSIGNMENT STOCK BY THE PURCHASER

- 5.1 The Purchaser agrees to store the Consignment Stock in a suitable, secure, environment, protect, insure and maintain the stock in good condition. In the event that any item of Consignment Stock is removed from packaging it must not be returned to Consignment Stock and will be invoiced by the Company.
- 5.2 The Purchaser agrees to update the Company on the usage of the stock at reasonable intervals.

### 6. REMANUFACTURING

- 6.1 Where the Purchaser delivers components for the Company to repair the Company shall be under no liability for delay of repair until 7 days notice is given by the Purchaser that the components have not been worked on and returned.

### 7.7 WARRANTIES AND LIABILITIES

- 7.1 The Company provides a 12 month warranty that the goods will correspond with their specification and will be free from defects arising in material and workmanship subject to the following conditions:
  - 7.1.1 Taxis have a 6 month warranty.
  - 7.1.2 Plant and Equipment have a 6 month warranty.
  - 7.1.3 All other products have a 12 month warranty.
  - 7.1.4 the Company shall be under no liability and give no warranty in respect of any defect arising from any design/specification supplied by the Purchaser.
  - 7.1.5 the Company shall be under no liability and give no warranty in respect of any defect arising from fair wear and tear, wilful damage, abnormal working conditions, failure to follow the Company's instructions, misuse or alteration or repair of the

goods without the Company's approval.

- 7.1.6 the Company shall be under no liability that the goods are of a quality or fit for a particular use if goods are made to the Purchaser's specification.
  - 7.1.7 the Company shall be under no liability if the total price for the goods has not been paid by the due date for payment.
  - 7.1.8 the warranty does not extend to goods not manufactured by the Company and the Purchaser shall only be entitled to the benefit of such warranty as is given by the manufacturer to the Company if reasonably possible.
- 7.9 Shortages and immediate defects must be notified to the Company by the Purchaser within 48 hours of delivery failing which the Company shall have no liability and the Purchaser shall be bound to pay the price as if the goods have been delivered in accordance with the contract.
  - 7.10 The maximum liability of the Company for faulty workmanship and materials is limited to the price of the goods supplied. The Company shall not be liable to the purchaser for any loss, injury or damage of any nature whatsoever whether direct or consequential arising out of or in connection with any goods supplied.
  - 7.11 Subject as expressly provided in these Contract Terms and where they are sold to a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
  - 7.12 Where the goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Purchaser are not affected by these terms.
  - 7.13 The Purchaser shall indemnify the Company against all loss, damages and costs incurred by the Company in connection with any infringement of patent, copyright design, trademark or other intellectual property rights of the person which results from the Company producing the goods to the Purchaser's specification.

## **8. INSOLVENCY OF PURCHASER**

- 8.1 If the Purchaser (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or liquidation or threatens to cease business without limiting any other right of the Company the Company may cancel the contract or suspend further deliveries without any liability to the Purchaser and if goods have been delivered the full price will become immediately due notwithstanding any previous agreement to the contrary.

## **9. FORCE MAJEURE**

- 9.1 The Company shall not be liable to the Purchaser or be in breach of contract for any delay or failure to perform any of the Company's obligations if the delay or failure to perform was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing causes beyond the Company's reasonable control shall include (not exhaustive list):
  - 9.1.1 Act of God, explosion, earthquake, flood, tempest, fire or accident.
  - 9.1.2 War or threat of war, insurrection, civil disturbance or requisition.
  - 9.1.3 acts, restrictions, regulations, by-law, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority.
  - 9.1.4 import or export regulations or embargoes.
  - 9.1.5 strikes, lock-outs or other industrial actions or trade disputes (whether of the Company or a third party).
  - 9.1.6 difficulties in obtaining raw materials, labour, fuel parts or

machinery.

- 9.1.7 power failure or breakdown in machinery.
  - 9.1.8 epidemic or pandemic.
- 9.2 If the Force Majeure in question prevails for a continuous period in excess of six months, the parties shall enter into bona fide discussion with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable.

## **10. OLD CORE RETURN**

- 10.1 Old cores are accepted only if they are usable and conform to our core criteria guidelines, available on our website.
- 10.2 The old cores will be accepted if they are from the same part number and quantity of the purchased one.
- 10.3 The credit note will be issued only if the old cores are returned within 90 days from invoice date

## **11. GENERAL**

- 11.1 Any notice required or permitted to be given by either party to the other under these contract terms shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may be at the relevant time notified pursuant to this provision to the party giving the notice.
- 11.2 Any dispute arising from out of or in connection with these Contract Terms shall be referred to arbitration by a single arbitrator appointed by agreement between the Company and the Purchaser or (in default) nominated on the application of either party by the President for the time being of the Law Society.
- 11.3 A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.