

## General Terms and Conditions of Purchase of Sensile Medical AG

Version 2018

### 1. General

- 1.1 Any contract for the procurement of goods and/or services ("Products") between Sensile Medical AG ("Sensile") as purchaser and its suppliers ("Supplier") shall be subject exclusively to these General Terms and Conditions of Purchase ("Purchase GTCs"), insofar as these are not amended or replaced by means of individual written agreements. Other conditions, including general terms and conditions of business of Supplier, which contradict these Purchase GTCs shall be applicable only insofar as Sensile has expressly approved them in writing.
- 1.2 Sensile reserves the right to amend these Purchase GTCs at any time.

### 2. Offers and orders

- 2.1 Requests from Sensile regarding the Products and the terms of delivery of Supplier or simple requests for quotations shall not be binding upon Sensile. Offers shall be submitted free of charge.
- 2.2 The offer submitted by Supplier must detail all secondary costs for taxes, fees, duties, packaging, transportation, royalties etc. which are to be incurred by Sensile.
- 2.3 If Supplier does not expressly stipulate another deadline in its offer, the offer shall be binding for 60 (sixty) days from the date of receipt by Sensile.
- 2.4 Sensile purchase orders ("Orders") as well as amendments or additions to the Orders shall be binding on Sensile only if placed in writing (including by e-mail) and identified by a purchase order number of Sensile.
- 2.5 If Supplier issues an order confirmation which deviates from the Order, Sensile shall not be bound by this order confirmation without express written approval.

### 3. Packaging, documents and delivery

- 3.1 Supplier bears the sole responsibility for proper packaging and must draw attention to any special circumstances pertaining to the removal thereof.
- 3.2 Every consignment must be accompanied by a delivery note containing at least the Order number, date of Order, Product designation, number of packages, quantity, weight and delivery address.
- 3.3 Unless otherwise agreed on a case-by-case basis, deliveries shall be made DDP (Incoterms 2010).
- 3.4 The delivery dates set out in the Order are binding. Partial delivery and delivery ahead of schedule is only permitted if agreed upon.
- 3.5 If Supplier fails to deliver on the agreed delivery date, Supplier shall be deemed to be in default, without any further reminder. As from the date of default, Supplier shall be liable for liquidated damages in the amount of 0.3% (zero point three percent) of the total Order value for every day of delay, up to a maximum of 10% (ten percent) of the total Order value. Such liquidated damages shall be due even if the delayed delivery of Products is accepted by Sensile without any reservation. Payment of the liquidated damages shall be credited against any damages for which Supplier may be liable but shall not release Supplier from its contractual obligations.
- 3.6 If Supplier is in default of delivery, Sensile may at any time without further reminder and irrespective of its further rights withdraw from the contract and refuse to accept the Products.
- 3.7 The use of subcontractors is only permitted with Sensile's prior written permission.
- 3.8 Subject to mandatory provisions of applicable law, Supplier shall in all cases be exclusively responsible for adhering to all export, import and transit regulations and formalities.

### 4. Working on Sensile business premises

- 4.1 Insofar as Supplier performs services on the business premises of Sensile, Supplier retains sole authority to issue instructions to its employees. The employees of Supplier are not incorporated into the business operation of Sensile, however, they shall abide by all internal rules and regulations as well as instructions on safety in the workplace issued by Sensile on a general basis or in the individual case.

### 5. Materials and tools

- 5.1 Materials (notably documents, drawings, photographs, data carriers, tools, forms, samples) provided by or made for Sensile shall remain Sensile's property and shall be returned to Sensile not later than 10 (ten) days after the termination of the contract.
- 5.2 Without the prior written consent of Sensile, Supplier shall not copy or otherwise reproduce such materials or supply such materials or give access thereto to third parties.

### 6. Prices and payment

- 6.1 The prices specified in the Order are deemed to be fixed prices (including costs of packaging, storage and shipment, etc.), net of VAT. General price increases must be reported to Sensile in writing at least 2 (two) months before these come into effect. No price increases for current Orders shall be possible.
- 6.2 Unless otherwise agreed, invoices will be paid net within 60 (sixty) days following receipt of the Products. In the event of nonconformity with the terms specified in the Order, Sensile shall reserve the right to withhold the payment.
- 6.3 The invoice is to be sent in duplicate by separate mail to the billing address noted on the Order.
- 6.4 Payment by Sensile does not mean that the Product has been recognised as being contractually compliant. In the event of an incomplete delivery or faulty Product, Sensile shall to a reasonable extent and irrespective of all other rights be entitled to withhold payments on all claims arising out of the business relationship until these have been properly fulfilled.

### 7. Quality assurance and notice of defects

- 7.1 Supplier shall ensure that the Products comply with the specifications, quality and other characteristics demanded in the Order and that they are in conformity with the state of the art and meet the pertinent requirements of the authorities and technical associations, including GMP, as the case may be.
- 7.2 Supplier must check the Products before delivery with regard to quality and adherence to the Order. Any corresponding test records and results must be archived for 10 (ten) years at the least.
- 7.3 Sensile shall be entitled to monitor compliance with the relevant quality standards at Supplier's premises (e.g. by means of audit, client audit or inspection by regulatory authorities) and to extend this monitoring to sub-suppliers of Supplier.
- 7.4 Product changes must be reported to Sensile in good time and comprehensibly and shall be deemed to constitute a request for contractual amendment. Sensile may reject these within the framework of the existing legal agreement. Realisation of Product changes without prior notice shall be considered a breach of contract and entitle Sensile to take the corresponding measures (e.g. refusal of acceptance, price reduction, compensation, etc.)
- 7.5 The duty of the buyer to inspect the purchased object as soon as feasible in the normal course of business and to issue defect notices immediately pursuant to Art. 201 of the Swiss Code of Obligations shall be contractually excluded. Defects in the Products shall be reported by Sensile as soon as these have been ascertained. Supplier expressly waives the plea of overdue notice of defects or of approval. Sensile may issue defect notices throughout the entire warranty period.

### 8. Rights to results of work

- 8.1 In consideration of the price paid to Supplier and unless agreed otherwise in writing and to the extent legally permissible, all intellectual property rights, including but not limited to patents, copyrights, trademarks, database rights, design rights, and source files obtained or developed as a result of Supplier's fulfilment of the Order ("Resulting IP") shall become the sole property of Sensile and Supplier shall take such steps reasonably requested by Sensile from time to time to assign to Sensile any and all such rights, title and interest to the Resulting IP. Supplier agrees that Sensile shall have the

unrestricted, exclusive and free right to use and exploit all Resulting IP.

#### **9. Confidentiality**

- 9.1 Information supplied or otherwise made available by Sensile to Supplier for purposes of contract performance shall not be used for other purposes of Supplier nor disclosed to third parties. Sensile shall likewise not disclose Supplier's confidential information to third parties.
- 9.2 The aforementioned obligations shall also be applicable during the contractual negotiations and continue for a period of 5 (five) years beyond termination of the business relationship.
- 9.3 Supplier shall obtain a corresponding confidentiality undertaking from its employees, agents and subcontractors.

#### **10. Data Protection**

Insofar as the Order involves the processing of personal data of natural persons or data on third-party companies, an additional agreement regarding data protection will be concluded. The parties shall ensure that such data is protected with state-of-the-art systems and that all persons entrusted by them with the processing or fulfilment of orders in connection with the contract comply with the statutory provisions on data protection, in particular with regard to maintaining the confidentiality of such data, as well as to process such data only after being instructed to do so.

#### **11. Warranty**

- 11.1 Supplier warrants – in addition to the quality and agreed specifications – that the Product is free of material and production faults, is fully-operational, corresponds to all regulations in force at the place of destination and that the necessary certificates of conformity, approvals, permits, etc. have been obtained.
- 11.2 Unless otherwise agreed, the warranty period shall be 24 (twenty-four) months from the date of delivery at the agreed destination.
- 11.3 In case of a defect, Sensile is, at its sole discretion and at Supplier's cost, entitled during the entire warranty period to request replacement or improvement, to decrease the purchase price or to withdraw from the contract. Moreover and irrespective of fault, Supplier agrees to be fully liable for any damage Sensile incurs, including indirect and consequential damage. In urgent cases Sensile is entitled to take measures to remove or to repair the defect at the cost of Supplier. The same warranty shall begin to run again for all repaired or replaced Products.

#### **12. Infringements and product liability**

- 12.1 Supplier shall ensure that the Products and the use thereof do not infringe on any third-party intellectual property rights. Supplier shall be fully liable for all consequences – whether relating to Sensile or its customers – arising out of any such claimed or actual breach.
- 12.2 Supplier further agrees to release and hold Sensile fully harmless from any third party claims for product liability on first demand by Sensile. Supplier is obligated to take out adequate product liability insurance and to provide Sensile at any time with proof thereof, upon request. In this context, Supplier shall also reimburse Sensile for any expenses which arise from or in connection with any recall which Sensile or, respectively, a customer of Sensile has to conduct.

#### **13. Force majeure**

- 13.1 Neither party shall be liable for the non-performance of its obligations if this is attributable to events of force majeure. Each party undertakes to provide prompt notification to the other party of any such event and to adapt its obligations to the changed circumstances in good faith.

#### **14. Miscellaneous provisions**

- 14.1 Supplier is not entitled to use names, trademarks, logos and other identifying features of Sensile in any publication or advertising, nor to disclose the business relationship with Sensile in press releases without prior written authorisation by Sensile.
- 14.2 All legal relationships between Sensile and Supplier shall be exclusively governed by Swiss law, to the

exclusion of conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods ("CISG").

- 14.3 The ordinary courts at the registered domicile of Sensile shall have exclusive jurisdiction for any dispute between Supplier and Sensile. However, Sensile shall also be entitled to enforce its rights against the Supplier at the latter's registered domicile or before any other competent court.
- 14.4 The validity of these Purchase GTCs shall be unaffected by invalidity or avoidance of individual provisions. Null and void provisions shall be substituted by alternative provisions which approximate as closely as possible to the meaning and purpose of the invalid provisions.

#### **Sensile Medical AG**

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