I. Validity of delivery, service and payment conditions, data protection

a) These terms and conditions of delivery, service and payment (hereinafter referred to as "Terms") regulate the business relationship between AngioConsult GmbH (hereinafter referred to as "us") and you (hereinafter referred to as "contractual partner"). They apply exclusively to entrepreneurs, legal entities of public law or special funds under public law in terms of § 14 BGB.

b) With the acceptance of our offer, these terms and conditions apply if they have been sent to the contractual partner with the offer or if they have been brought to the contractual partner's attention in some other way before or at the same time as the offer.

c) The entire business relationship between us and the contractual partner is based on these terms and conditions, including future operations, as long as these are operations of a related type.

d) Any terms and conditions of business or purchase of the contractual partner, irrespective of their designation, do not apply unless their validity has been explicitly agreed in writing.

II. Offer and conclusion of contract

a) Our offer is subject to confirmation and non-binding. The contractual partner has the option of placing an order within six months of the date of the offer.

b) A contract is only concluded if we confirm the order of the contractual partner within two weeks of receipt by us in writing, by fax or e-mail. An invoice also serves as confirmation.

c) If the object of the contract is the development of software or the provision of a service, in particular consulting, the contractual partner prepares a written requirement profile and makes this available to us free of charge with all necessary information before we prepare the offer. The same applies to any adaptation of the contractual terms and conditions. The minimum standard are the latest generally accessible information technology knowledge existing at the time the contract is concluded.

III. Contractual Object

a) Descriptions, dimensions, drawings, illustrations and similar representations of the subject matter of the contract are for illustration purposes only and are not binding unless explicitly agreed in writing.

b) The delivery or performance of a contractual object other than the agreed one is permitted if it is at least equivalent and can be used in the same way and if this is reasonable for the contractual partner considering his legitimate interests.

c) If the subject matter of the contract is software, the contractual partner is generally not entitled to further develop, exploit or sell the software created by us to third parties unless an exclusive, transferable, irrevocable and unlimited right of use has been transferred to the contractual partner in written form.

The installation of the software is guided by us and designated persons are instructed on how to use the application. We reserve the right to demand additional remuneration for repetitive training.

d) If the contractual partner intends to change the task in whole or in part with regard to a contractual object which consists in the manufacture, maintenance or modification of an object (including software) or in the provision of services, we are only obliged to agree to this if and to the extent that it is reasonable for us, in particular with regard to the expenditure and scheduling. If the realization of a modification request has an effect on the contractual conditions or results in a higher workload, we may demand an appropriate adjustment of the contractual conditions, in particular an increase in remuneration or a rescheduling of deadlines.

IV. Items and documents provided

a) We reserve the property rights, copyrights and rights of use to all objects and documents provided to the contractual partner in connection with the contractual relationship, such as calculations, illustrations, drawings, samples, etc.. These objects and documents may not be made accessible to third parties unless we give our explicit written consent to the contractual partner to do so.

b) If no contract is concluded, the objects and documents have to be returned to us immediately upon request and at the expense of the contractual partner.

V. Prices and Payment

a) All prices are quoted exclusive of any actual costs incurred, in particular transport costs, freight insurance costs, customs duties, import and export charges, foreign exchange control costs, travel costs, accommodation costs, other expenses as well as the applicable value added tax, even if these are not expressly stated in the offer. If all or individual costs are stated as a lump sum in the offer, this shall be deemed owed upon conclusion of the contract. If the value of the goods or services exceeds € 250.00 net, delivery takes place without transport costs.

b) All prices are understood from warehouse or direct shipment from the German border respectively FOB German import port.

c) The purchase price is due upon receipt of the invoice by the contracting party unless and to the extent explicitly agreed otherwise in writing in favor of the contracting party or specified by us.

d) Partial deliveries and partial services can be invoiced separately.

e) The delivery against prepayment or cash on delivery remains reserved.

f) A percentage discount is only permitted with a special written agreement.

g) The purchase price is to be paid free of charge and exclusively to one of the accounts named by us. Payment is considered effected upon receipt on our account.

h) In the case of on-call contracts, the price may be adjusted based on the price agreed upon when the contract was concluded if price changes arise for us.

i) The exercise of retention, set-off or reduction rights of the contractual partner is only permissible if and insofar as they are based on legally established, recognised or undisputed claims. Claims of the contractual partner according to § 812 BGB remain unaffected. In addition, the contractual partner is only entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

VI. Delivery and time of service

a) We are entitled to partial deliveries and services if these are reasonable for the contractual partner taking into account his legitimate interests.

b) If it is not a transaction for delivery by a fixed date in the sense of § 286 Para. 2 No. 4 BGB or § 376 HGB, delivery dates or periods which have not been expressly agreed as binding in writing are non-binding reference dates or estimates. This applies in particular to service and development orders.

c) The commencement of any agreed delivery periods presupposes technical clarification and the timely and proper fulfilment of the contractual partner's obligations. The defence of non-performance of the contract remains reserved.

d) If the contractual partner is in default of acceptance or culpably violates its obligations to cooperate, we shall be entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. We reserve the right to assert further claims. Insofar as the above conditions exist, the risk of accidental loss or accidental deterioration of the subject matter of the contract shall pass to the contractual partner at the point in time at which he is in default.

e) In case of delay, except in case of intent or gross negligence or in case of injury to life or health of a person or in case of violation of essential contractual obligations (cardinal obligations), the contractual partner may claim a lump-sum compensation for delay amounting to 3% of the respective delivery value for each completed week of delay, but not more than 15% of the delivery value.

f) Furthermore, statutory claims and rights of the customer due to a delay in delivery shall remain unaffected.

VII. Shipping, Acceptance

a) If the contractual object is dispatched to the contractual partner at the latter's request, the risk of accidental loss or accidental deterioration of the contractual object passes to the contractual partner upon loading for dispatch to the contractual partner, at the latest upon leaving the warehouse or factory. This applies irrespective of whether the goods are dispatched from the place of performance or who bears the freight costs.

b) Loading and dispatch are uninsured unless expressly agreed otherwise in writing. If insurance is agreed, the costs of such insurance are borne by the contractual partner.

c) We will endeavour to take the wishes of the contractual partner into account with regard to the type and route of dispatch. Any additional costs resulting from this will be borne by the contractual partner.

d) We are not obliged to take back empty packaging, with the exception of pallets. The contractual partner organises the disposal at his own responsibility and expense. This does not apply to deliveries to private end consumers as defined by § 6 VerpackV.

e) If dispatch is delayed at the request of the contractual partner or otherwise without our fault, we will store the object of the contract at the risk and expense of the contractual partner. In this case, loading for dispatch or leaving the warehouse or factory within the meaning of Clause a) is equivalent to notification of readiness for dispatch to the contractual partner.

f) If the object of the contract is software and it is in accordance with the contract, the contractual partner must declare acceptance within one week of the first instruction and handover of the documentation belonging to the software and record this in an acceptance protocol to be signed by the contractual partner and us. Insignificant defects shall not prevent acceptance. Minor defects that do not significantly affect the function and usability of the software do not prevent acceptance by the contractual partner if we promise to remedy the defects immediately. If we set a deadline for acceptance and this expires without result, acceptance will be considered granted. In the case of substantial defects, Clause IX shall apply. After subsequent improvement, the above agreements on acceptance apply accordingly.

VIII. Securities, retention of title

a) We are entitled to demand advance payments, advances and/or securities for the fulfilment of the contractual partner's obligations under the contractual relationship, in particular in the form of an irrevocable, unlimited, unconditional, directly enforceable guarantee from a German credit institution. We are entitled to terminate the contractual relationship extraordinarily if the contractual partner is in default with an advance payment, an advance and/or a security deposit. We reserve the right to claim damages.

b) We reserve the title to the delivered or accepted object of the contract until full payment of all claims arising from the contract. This also applies to all future deliveries, even if we do not always explicitly refer to them. In the case of current invoices, the retention of title shall be considered as security for the balance claim. We are entitled to take back the object of the contract if the contractual partner behaves contrary to the terms of the contract.

c) The contractual partner is obliged to treat the object of the contract with care as long as the ownership has not yet been transferred to him. In particular, he shall be obliged to insure the object at his own expense against theft, fire and water damage at replacement value. If maintenance and inspection work has to be performed, the contractual partner must carry this out in good time at his own expense. As long as ownership has not been transferred, the contractual partner must inform us immediately in writing if the delivered contractual object is seized or subjected to other interventions by third parties. If the third party is not in a position to reimburse us for the judicial and extrajudicial costs of an action pursuant to § 771 ZPO, the contractual partner is liable for the loss incurred by us.

d) The contractual partner is entitled to resell the reserved goods in the normal course of business. The contractual partner hereby assigns to us the claims against the customer arising from the resale of the reserved goods in the amount of the purchase price agreed with us (including costs and value-added tax). This assignment applies regardless of whether the object of the contract has been resold without or after processing. The contractual partner remains authorised to collect the claim even after the assignment. Our authority to collect the claim ourselves remains unaffected. However, we will not collect the claim as long as the contractual partner meets his payment obligations from the proceeds received, is not in default of payment and, in particular, has not filed for insolvency or suspended payments.

e) The treatment and processing or transformation of the subject matter of the contract by the contractual partner always takes place in our name and on our behalf. In this case, the expectant right of the contractual partner to the object of the contract continues in the transformed object. If the contractual object is processed with other objects not belonging to us, we acquire co-ownership of the new object in the ratio of the objective value of the contractual object to the other processed objects at the time of processing. The same shall apply in the event of mixing. If the mixing is carried out in such a way that the object of the contractual partner is to be regarded as the main object, it is agreed that the contractual partner transfers co-ownership to us on a pro rata basis and keeps the resulting sole ownership or co-ownership for us. In order to secure our claims against the contractual partner, the contractual partner also assigns to us such claims which accrue to him against a third party as a result of the combination of the reserved goods with a piece of real estate; we hereby accept this assignment.

f) The contractual partner is not entitled to pledge or assign the reserved goods as security to third parties. In the event of impending access by third parties to the reserved goods, in particular seizure, the contractual partner is obliged to inform us immediately and to support us in asserting and enforcing our property rights.

f) We commit ourselves to release the securities to which we are entitled at the request of the contractual partner if their value exceeds the claims to be secured by more than 20%.

IX. Warranty and notice of defects, recourse/ manufacturer recourse, liability

a) Warranty rights of the purchaser presuppose that he has duly fulfilled his obligations to inspect and give notice of defects in accordance with § 377 HGB (German Commercial Code).

b) Warranty claims do not exist in the case of insignificant deviations from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear, as well as in the case of damage arising after the transfer of risk as a result of faulty or negligent handling, excessive strain, unsuitable operating materials, defective construction work, unsuitable building ground or due to special external influences which are not assumed under the contract. If the contractual partner or third parties carry out improper repair work or modifications, no claims based on defects exist either for these or for the resulting consequences.

Warranty claims of the contractual partner are excluded if the contractual partner itself or a third party has modified the delivered software, unless the contractual partner proves that a modification does not significantly complicate our analysis and processing costs and that the defect of the software was inherent in the acceptance. If the contractual use of the delivered software is impaired by the property rights of third parties, we have the right, without prejudice to the claims to which the contractual partner is entitled, at our discretion and to an extent that is reasonable for the contractual partner, either to modify the contractual services in such a way that they fall outside the scope of protection, but nevertheless comply with the contractual provisions, or to obtain the authority that they can be used in accordance with the contract without restriction and without additional costs for the contractual partner.

c) Warranty claims are subject to a limitation period of 12 months after delivery or transfer of the subject matter of the contract to the contractual partner. The statutory limitation period applies to claims for damages in cases of intent and gross negligence as well as in cases of injury to life, limb and health which are based on an intentional or negligent breach of duty by us. Insofar as the law pursuant to § 438 para. 1 no. 2 BGB (buildings and items for buildings), § 445 b BGB (right of recourse) and § 634a para. 1 BGB (construction defects) prescribes longer periods, these periods apply. Our consent must be obtained before any goods are returned.

d) If, despite all due care taken, the object of the contract delivered shows a defect which existed at the time of the transfer of risk, we will, at our discretion and subject to timely notification of the defect, either repair the object of the contract or supply replacement goods. We must always be given the opportunity to remedy the defect within a reasonable period of time. Subsequent performance is deemed to have failed with the second unsuccessful attempt if and as far as further attempts at rectification are not reasonable and reasonable for the contractual partner due to the characteristics of the subject matter of the contract. The contractual partner may only assert further warranty rights if and to the extent that subsequent performance has failed. If the supplementary performance fails, the customer may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration. Recourse claims remain unaffected by the above provision without restriction.

e) Claims of the contractual partner for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs, are excluded insofar as the expenses increase because the contractual object supplied by us has subsequently been moved to a location other than the contractual partner's branch office, unless the transfer corresponds to its intended use.

f) The contractual partner's right of recourse against us exists only to the extent that the contractual partner has not entered into any agreements with its customer that go beyond the legally mandatory claims based on defects. The scope of the contractual partner's right of recourse against the supplier is also governed by the above subsection e).

g) Our liability is excluded. This does not apply in the event of an intentional or grossly negligent breach of duty by us or our vicarious agents; if we have promised a certain characteristic of the subject matter of the contract or have fraudulently concealed a defect; in the event of injury to life, limb or health of a person; insofar as the damage is based on a breach of contractual obligations which make the proper performance of the contract possible in the first place and on the fulfilment of which the contractual partner therefore relies ("cardinal obligations"). All exclusions of liability also apply to third parties whose conduct is attributed to us by law, in particular vicarious agents.

X. Other (choice of law, place of performance, place of jurisdiction, written form, severability clause)

a) This contract and all legal relations between the parties are governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

b) The place of performance and exclusive place of jurisdiction for all disputes arising from this contract is our headquarters (Speyer), unless otherwise stated in the order confirmation.

c) All agreements between the parties will be recorded in writing. Verbal collateral agreements do not exist. Changes and additions to the contract as well as all declarations of intent to be made to the other contractual partner must be made in writing in order to be effective. This also applies to a cancellation or a waiver of the aforementioned written form requirement.

d) Should one or more provisions of the contract between the parties be or become invalid for any reason, this shall not affect the validity of the remainder of the contract. In such a case, the parties are obliged to reach an effective agreement which comes as close as possible to the economic purpose of the invalid provisions. The same applies to a gap in the contract.

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