

GENERAL TERMS AND CONDITIONS OF SALE STOGGER MEDICAL B.V.

These General Terms and Conditions of Sale, deposited at the Chamber of Commerce in Roermond, shall govern the conclusion and the substance of any agreement concluded or yet to be concluded (the "Agreement") between Stogger Medical B.V., having its principal place of business at Haagveld 1a (5981 PK) Panningen, the Netherlands (the "Company") and its customers (the "Customers") with regard to the Company's Products and services (the "Products").

Unless otherwise stated in writing by the Company, the Company's General Terms and Conditions of Sale, are as follows:

1. **GENERAL**

- 1.1 These General Terms and Conditions of Sale are applicable to all Company's offers and Agreements (and/or changes or additions thereto). In the event that the Customers order contains conditions or a reference to any conditions, the order will be accepted on the distinct understanding that such conditions are binding only insofar as they are not at variance with these General Terms and Conditions of Sale. These General Terms and Conditions of Sale shall at all times prevail above any general terms and conditions or any other conditions of the Customers, unless otherwise agreed in writing by the Company.
- 1.2 If, for whatever reason, any provision of these General Terms and Conditions of Sale proves to be void, this shall not affect the validity of the (other) provisions of these General Terms and Conditions of Sale. Further, if, for whatever reason, any provision of an Agreement proves to be void, this shall not affect the validity of the (other) provisions of that Agreement, unless otherwise agreed.

2. **OFFERS**

- 2.1 All offers made by the Company are non-binding unless accepted in accordance with article 3 of these General Terms and Conditions of sale or unless stated otherwise.
- 2.2 The Company's offers are in euros.

3. **ACCEPTANCE**

Orders (or additional information thereto) shall not be deemed accepted by the Company unless and until confirmed in writing by the Company. Orders must be accompanied by sufficient information to enable the Company to proceed with the order forthwith. Where such information involves alteration in respect of previous specifications given by the Customer, the Company is at liberty to refuse such alterations or to amend the prices to cover any increase in cost which may reasonably be incurred as a consequence of these alterations.

4. **ORDERS**

The Company reserves the right to cancel any order or to suspend delivery of the Products when any of the Customer's commitments with the Company are not met or if the Company is of the opinion that such commitments will not be met by the Customer in the future. The Customer shall indemnify the Company against any loss incurred by virtue of cancellation or suspension as referred to in this article 4.

5. **DELIVERY**

- 5.1 The time quoted or agreed upon for delivery of the Products shall not be an absolute deadline. Therefore, the mere fact that the Company exceeds the agreed time for delivery of the Products shall not constitute an event of default on the Company's part and in such event there shall be no obligation on the Company's part to pay damages.
- 5.2 Unless otherwise agreed in writing, the Company shall deliver the Products to the Customer as stipulated in the order confirmation, either "Free Carrier (FCA) Company's address at Haagveld 1a (5981 PK) Panningen, the Netherlands" or "Free Carrier (FCA) the address of the (Dutch) supplier of Company who manufactures the Products on behalf of the Company" or "Delivered at Place (DAP) Customer's facility" in accordance with the relevant terms of the Incoterms 2020 or any later version thereof.
- 5.3 The Company shall give the Customer timely notification of the place where and time when the Products will be made available to the Customer. Mere receipt of such notification shall constitute delivery of the Products, at which moment the risk of loss of or damage to the Products shall pass to the Customer. At first request by the Company, Customer shall issue proof of delivery and/or proof of export of the Products.
- 5.4 Upon delivery of the Products within the meaning of this article 5, the Customer is required to take receipt of the Products and to remove them from the Company's sites within a period of seven (7) working days (between 09.00 a.m. and 5.00 p.m.) unless a different term for taking receipt of the Products has been agreed by the parties. If timely receipt of the Products is not made, the Products will be stored for the account and risk of the Customer.

6. **PRICE**

- 6.1 All prices quoted by the Company shall be subject to change without notice. All pricing and terms are confidential and shall not be used by Customer for distribution to a third party or to solicit competitive pricing.
- 6.2 Unless expressly indicated or agreed otherwise, the prices quoted by or agreed with the Company shall be net prices, therefore, exclusive of VAT and any import or export duties. The net prices shall, furthermore, not include costs of packaging, loading, transport, unloading, insurance, installation, assembly and/or other services. If applicable, these costs will be added to the net prices. Certificates of origin, consular documents or any other export documents, insofar as the Company shall be required to deliver them, will be charged extra at cost.

7. **DESPATCH**

Unless otherwise stated, the Company shall be authorized to deliver the Products in parts and to send invoices for such partial deliveries.

8. **PAYMENT**

- 8.1 Payment shall be deemed to have been made by the Customer no sooner than the amount payable has been received by the Company's bank in the Netherlands.
- 8.2 Payments shall be made in full, without discount, deduction or counterclaim, as per the Company's offers and invoices.
- 8.3 Notwithstanding article 8.2 of these General Terms and Conditions of Sale, payments shall be made within thirty (30) days after the date shown on the invoice. All payments will be made in Euros.
- 8.4 The payments made by the Customer shall in the first place be allocated to interest and costs and subsequently to the longest outstanding invoices. Even in the event that the Customer notifies the Company that a payment relates to an invoice of a more recent date, such payment shall first be allocated to interest and costs and subsequently to the longest outstanding invoices.
- 8.5 Objections concerning an invoice must be made in writing and must be received by the Company within fourteen (14) days after the invoice date, however this does not suspend the Customer's obligation to pay the amount indicated on the invoice.
- 8.6 In the event that the validity of the invoice has been disputed by the Customer and the Company concludes that the invoice has been justly disputed, the Company shall credit the relevant amount to the Customer.

- 8.7 If a due date for payment of an invoice is exceeded, the Customer shall be automatically in default, without any notice of default or summons being required. In that event, The Company shall be entitled to charge the Customer the highest interest allowed by law over the outstanding amount as well as five percent (5%) of the outstanding amount, without any further notice.
- 8.8 If the Customer continues to fail to pay the amount owed increased by the highest interest rate allowed by law and the five per cent (5%) of the outstanding amount, the Company may, after notifying the Customer thereof, pass the claim to a debt collecting agency. The Customer shall then be responsible, in addition to payment of the principal sum, interest and further amounts owed, for any costs incurred, such as court- and attorneys' fees and any other reasonable expenses which have to be made for the collection of the amount owed. The amount of these costs shall not be less than fifteen percent (15%) of the principal sum.
- 8.9 If at any time Company reasonably determines that Customer's financial condition or payment history does not justify continuation of Company's performance or acceptance of any (subsequent) purchase orders, Company shall be entitled to require full or partial payment in advance or otherwise restructure payments, request additional forms of payment security and/or suspend its performance or terminate the Agreement and/or any purchase by Customer hereunder.
- 8.10 At Company's first request, Customer shall, at its expense, establish and keep in force payment security in the form of an irrevocable, unconditional, sight letter of credit or bank guarantee allowing for (pro-rata) payments as Products are shipped and services are performed, plus payment of cancellation and termination charges, and all other amounts due from Customer under the Agreement and/or any purchase by Customer hereunder ("Payment Security"). The Payment Security shall be (a) in a form, and issued or confirmed by a bank acceptable to Company, (b) payable at the counters of such acceptable bank, (c) opened at least sixty (60) days prior to both the earliest scheduled shipment of Products and commencement of services, and (d) remain in effect until the latest of ninety (90) days after the last scheduled Product shipment, completion of all services and Company receipt of the final payment required under the Agreement and/or any purchase by Customer hereunder. Customer shall, at its expense, increase the amount(s), extend the validity period(s) and make other appropriate modifications to any Payment Security within ten (10) days of Company's notification that such adjustment is necessary in connection with Customer's obligations under the Agreement and/or any purchase by Customer hereunder.
- 8.11 Company is not required to commence, continue its performance and/or accept any (subsequent) purchase orders unless and until any requested Payment Security is received, operative and in effect.
9. **OWNERSHIP**
- 9.1 All Products delivered to the Customer shall remain the property of the Company until such moment as the Customer has paid in full all amounts receivable by the Company in connection with the delivery of the Products (including any costs and interest).
- 9.2 The Customer shall be allowed to use the Products delivered subject to the Company's retention of title in the normal course of his business. Any other use shall be prohibited. In particular, the Customer shall not be entitled to pledge or encumber with any other right the Products delivered subject to the Company's retention of title.
- 9.3 The Customer shall be required to notify the Company as swiftly as possible in the event that third parties (may) enforce claims upon any of the Products delivered subject to the Company's retention of title. Furthermore, at the Company's request the Customer shall be required
- (A) to mark as the Company's property the Products delivered subject to the Company's retention of title and to keep them separate from those of the Customer and third parties;
- (B) to establish a right of pledge for the Company's benefit on the debts of third parties arising out of the sale of the Products delivered subject to the Company's retention of title;
- (C) to take out insurance for and keep insured the Products delivered subject to the Company's retention of title against destruction, fire, water damage and theft, and to allow the Company to inspect the insurance policy.
10. **REJECTION**
- The Customer is required to examine the Products as soon as possible after delivery of the Products. Any complaints or rejection of the Products due to incorrect or incomplete performance of the Agreement must be submitted to the Company within fourteen (14) days after the day of delivery of the Products to the Customer, unless otherwise agreed in writing. Failure to do so shall result in the forfeiture of any right of action that may arise from the incorrect or incomplete performance of the Agreement.
11. **RETURN OF PRODUCTS**
- Notwithstanding anything to the contrary herein, Customer shall not return any Products to the Company without prior written authorization from the Company and without obtaining from the Company a return number. Customer hereby waives any and all claims it might have as to its rights to set-off. Shipping for the return of Products shall be paid by Customer. If Customer's claim is valid, as shall be determined in the sole discretion of the Company, then the Company shall pay the shipping fee to return the repaired or replacement Products to Customer and such shipment shall be at the standard ground transportation rates.
12. **INTELLECTUAL PROPERTY RIGHTS; CONFIDENTIALITY**
- 12.1 Company is and remains the owner of its intellectual property (the "IP") that is part of the Product. Use of Company's IP is only permitted if and in so far as this is evidenced by the agreement concluded between the Parties and these Terms and Conditions.
- 12.2 The Intellectual Property Rights that exist in the Company's Products are held by the Company and its licensors. By supplying the Customer with the Products, the Company is not transferring or assigning the entitlement of any Intellectual Property Rights in or relating to them to the Customer.
- 12.3 Where the Company creates Intellectual Property Rights during or as a result of the supply by the Company's Products to the Customer, the Company shall be entitled to all such Intellectual Property Rights.
- 12.4 The Customer shall not jeopardize the Company's or its licensor's Intellectual Property Rights, including (i) register or attempt to register any competing Intellectual Property Rights to the Company or its licensor's Intellectual Property Rights; (ii) delete or tamper with any proprietary notice on or in the Company or its licensor's Intellectual Property Rights; (iii) take or use any action that diminishes the value of any trade marks included in the Company or its licensor's Intellectual Property Rights; and (iv) use any the Products in violation of any applicable laws.
- 12.5 The Customer obtains a one-off, non-exclusive, worldwide licence from Company for the use of and trade in Company's IP, but only in so far as this IP of the Company is part of what is delivered by the Company to the Customer and in so far as this is necessary for the normal use of what is delivered. The aforementioned licence explicitly does not give the Customer the right to reverse engineer the Product and/or to (re)use parts of the delivered Product and the IP resting on it separately from the Product.
- 12.6 The Customer will only obtain the licence referred to in paragraph 5 after the Customer has met all of its payment obligations towards the Company under the Agreement.
- 12.7 Any proposals, visuals or quotes, which have been produced by the Company, are to be treated confidentially and must not be disclosed to any third party.
13. **GUARANTEE AND COMPLAINTS**
- 13.1 Should a Product delivered by the Company nevertheless fail to satisfy the Agreement, then the Customer must inform the Company of this as quickly as possible but no later than within fourteen days after the discovery of the defect or after the Buyer should reasonably have discovered the defect. If said notification is verbal, it must be immediately confirmed to the Company in writing (by letter, fax, email and/or bailiff's writ). This notification must contain a clear description of the Buyer's complaint.

- 13.2 If the delivered Product is faulty as a result of attributable non-performance by the Company of the Agreement with the Customer, the Company shall at its discretion replace or repair the delivered Product or credit the Customer in as far as reasonable in whole or in part for the invoice value of such Product, with due observance of the provisions of these General Terms and Conditions.
- 13.3 There is no entitlement to replacement, repair, or damages (as replacement) if:
- the Customer does not report the defect in writing within the term laid down in the first paragraph;
 - the defect occurred at a point in time later than one year after delivery. If the extent of use of the Product is higher than agreed, this term is reduced proportionately;
 - the defect is caused by normal wear and tear, overloading, improper use, use in deviation of the application possibilities as described in the Product description or as a result of lack of or incorrect maintenance of the Product by the Customer or a third party. Improper use also includes use without the presence or supervision of an expert physician;
 - the defect is the result of manufacture, installation, assembly or disassembly, change or repair of the Product by the Customer itself or a third party engaged by the Customer;
- 13.4 Company's responsibility for replacement or repair of a Product is limited. The costs to be incurred by the Company for replacement or repair will never amount to more than the net invoice value of the defective Product delivered. If the net invoice value is more than the amount that will be paid out to the Company by any liability insurance, Company's liability is furthermore limited to the coverage offered to the Company by the liability insurance. Additional costs attached to replacement or repair of the Product, for example costs for disassembly and assembly or transport will be at the Customer's expense. If, despite notification by the Customer as referred to in paragraph 1 of this Article, no defect is found that is attributable to the Company, the Company is entitled to compensation of the costs incurred by it as a result of the notification and activities or replacement carried out within that context.
- 13.5 The delivered Product is to be returned by the Customer to the Company to the extent possible in order to give the Company an opportunity to investigate the delivered Product. Return of the delivered Product is subject to prior written consent from the Company.
- 13.6 If the Company decides to replace the delivered Product, the Company shall provide the replacement as quickly as possible. The replacement Product is then delivered to the Customer. The Customer waives its proprietary rights on the replaced Product by accepting the replacement Product. The replaced Product becomes the property of the Company.
- 13.7 The Customer shall take due care to conserve the delivered Product at all times.

14. **LIABILITY**

- 14.1 With due observance of the provisions of the previous and the present article, the Company is only liable for personal injury and material damage suffered by the Customer if and to the extent that said injury or damage is the direct consequence of a failure attributable to the Company. The Company furthermore excludes any liability for damage ensuing indirectly from defects in the delivered Product, such as damage due to Production losses, lost profits and other consequential damage. This restriction of liability does not apply in the event of intent or wilful recklessness on the part of the Company.
- 14.2 Customer acknowledges, represents and warrants that it has selected the Product(s) based on its professional judgment and expressly disclaims any reliance upon any statements made by the Company or any agent, representative or employee of the Company not expressly stated herein. Unless otherwise stated in the agreement, the Company specifically disclaims all warranties with regard to the Products and services provided hereunder, express or implied, including without limitation, the warranties of merchantability or fitness for a particular purpose. The company does not guarantee or warrant the Products to Customer except to the extent provided in article 13.
- 14.3 Irrespective of the grounds for this liability, Company's liability is limited at all times to the net invoice value of the delivered Product. If the net invoice value is more than the amount that will be paid out to the Company by the liability insurance, Company's liability is furthermore limited to the coverage offered to the Company by the liability insurance.
- 14.4 The Customer indemnifies the Company for all claims from third parties for damage they have suffered. In particular, the Customer indemnifies the Company against all third-party claims on account of Product liability resulting from a defect in a Product delivered by the Customer to a third party that consists entirely or partly of Products delivered by the Company.

15. **ASSIGNMENT**

The rights and obligations arising out of these General Terms and Conditions of Sale may not be assigned to any third party, except with the prior written consent of the Company.

16. **FORCE MAJEURE**

- 16.1 The Company shall not be liable for non-performance to the extent that performance is rendered impossible by (without limitation) war, strikes, fire, flood, governmental acts or orders or restrictions, embargoes, sanctions, failures of suppliers, epidemics, disruption in electricity supply non-availability of telecommunication services or any other reason where failure to perform is beyond the control and not caused by the negligence of the Company. If the Company is prevented by force majeure from fulfilling its obligations under the Agreement for more than thirty (30) calendar days, the Company is entitled to immediately suspend and, at the Company's full discretion, terminate the Agreement by means of a written declaration taking into account a notice period of thirty (30) calendar days.
- 16.2 If upon the occurrence of the event of force majeure the Company has fulfilled part of its obligations or will be able to fulfil only part of its obligations, the Company shall have the right to send separate invoices for the Products already delivered or capable of being delivered and the Customer shall be obliged to effect payment of the amounts invoiced.

17. **INDEMNIFICATION**

Customer agrees to indemnify, defend and hold the Company, its affiliates and their respective employees, officers and directors harmless from and against any and all claims, damages, costs, expenses and other liabilities (including, but not limited to, legal and attorney's fees and other costs of investigation and defense) caused by or arising out of (i) Customer's acts or omissions of its obligations under the Agreement, (ii) its use of the Product(s) described in the Agreement and (iii) the suspension or termination in the event of a force majeure referred to in article 16.

18. **COMPLIANCE WITH LAWS**

Each party shall comply with all applicable laws, regulations, court decisions or administrative rulings regarding the provision or use of the Products. Failure to do so shall constitute a material breach of the Agreement.

19. **COMPLIANCE WITH TRADE LAWS**

- 19.1 Customer guarantees that it shall ascertain and comply with all applicable obligations and restrictions arising out of or following from any and all relevant sanctions and export controls legislation of the United Nations, the European Union, the United States of America, France, the Netherlands, the country where the Customer has its main place of business and any other country that is or may be or become relevant in respect of the Agreement (together, the "Trade Laws").
- 19.2 Customer guarantees that the Products are and will be solely used for medical purposes and are not and will not be used for, or in connection with, any illicit purposes, including, but not limited to, activities involving torture or repression or other human rights violations, weapons of mass destruction or chemical, biological, radiological and/or nuclear activities.

- 19.3 Customer will maintain adequate internal checks and procedures to monitor for suspicious activity and ensure compliance with the Trade Laws, including but not limited to procedures to ensure that all activities and transactions under the Agreement are accurately recorded and reported in its books and records to reflect the activities and transactions to which they pertain, including but not limited to the purpose of each transaction and to whom it was made or from whom it was received.
- 19.4 Customer guarantees that it will not directly or indirectly sell, deliver or provide the Products, or otherwise make the Products available, to any legal or natural person, entity, group or (government) organization that is subject to sanctions or restrictions under the Trade Laws.
- 19.5 Customer's failure to comply with any provision of this clause can be ground - subject to the sole discretion of the Company for immediate cancellation of the Agreement by the Company without any prior notification. In the event of such cancellation, the Company shall be under no further obligation resulting from the Agreement and the Customer shall indemnify the Company from any direct and indirect damages, claims, penalties or other losses resulting from that breach. The Company shall be entitled to any other remedies available at law or in equity.
- 19.6 Customer will ensure that all obligations under this clause be passed on to any third party that Customer contracts or uses in its performance of the Agreement, or that takes over any obligation, or part thereof.
- 20. COMPLIANCE WITH ANTI-BRIBERY AND ANTI-CORRUPTION LAWS**
- 20.1 Customer will at all times comply with all applicable obligations and restrictions arising out of or following from any and all relevant anti-bribery and anti-corruption legislation of the United States of America, the United Kingdom, France (Sapin II), the Netherlands, the country where the Customer has its main place of business and any other country that is or may be or become relevant in respect of the Agreement (together, the "Anti-Bribery Laws").
- 20.2 Customer will maintain adequate internal checks and procedures to monitor for suspicious activity and ensure compliance with the Anti-Bribery Laws, including but not limited to procedures to ensure that all activities and transactions under the Agreement are accurately recorded and reported in its books and records to reflect the activities and transactions to which they pertain, including but not limited to the purpose of each transaction and to whom it was made or from whom it was received.
- 20.3 Any offer to and acceptance by the Customer's board member(s) and/or employees of money, gifts, travel, entertainment or any other consideration, in relation to the Agreement or the Company, that is intended to or may be construed as an inducement to act in any manner is strictly prohibited. Customer will not offer, promise or give anything, including but not limited to political contributions, whether directly or indirectly, to anyone, including any political party or campaign, any official or employee of any public organization, any public international organization or any official or employee of any government-owned enterprise or institution for the purpose of obtaining or retaining business or otherwise securing an improper advantage in relation to the Agreement or the Company. In relation to the Agreement or the Company, Customer will not offer, promise, give or accept anything to or from a business relationship, unless it is for a genuine purpose, reasonable, given in the ordinary course of business and it complies with the local laws.
- 20.4 Customer will immediately notify the Company if it becomes aware of any behavior in the performance of the Agreement by its board member(s) and/or employees that is or may be inconsistent with the Anti-Bribery Laws.
- 21. WAIVER, PARTIAL INVALIDITY**
- No claim or right arising out of any term or condition of the Agreement or out of any breach of the Agreement may be waived in whole or in part unless the waiver is in writing signed by the party granting such waiver. In the case that any term or condition of the Agreement is held invalid by a court of competent jurisdiction and venue, the remaining terms and conditions of the Agreement shall not be affected thereby. In that case Company and Customer shall replace the invalid term or condition by a valid term or condition that comes closest to the intention of the invalid term or condition.
- 22. CHANGES TO THESE TERMS AND CONDITIONS OF SALE**
- The Company reserves the right to change these General Terms and Conditions of Sale from time to time. The most recent version of these General Terms and Conditions of Sale is available at www.freebreathing.org.
- 23. LEGAL PROVISIONS**
- 23.1 These General Terms and Conditions of Sale and any contractual and non-contractual obligations arising there from, shall be governed exclusively by Dutch law. The applicability of the Vienna Sales Convention is expressly excluded if Dutch law is applicable. However, if Dutch law is not applicable, the relationship between the Parties will be governed by the Vienna Sales Convention.
- 23.2 Any disputes arising out of or in connection with these General Terms and Conditions of Sale or out of any Agreement resulting thereof, shall be settled by submitting such dispute to the exclusive jurisdiction of the competent court in Roermond, the Netherlands, notwithstanding the right to bring a claim against the Customer within any other jurisdiction.
- 23.3 The original language of these General Terms and Conditions of Sale is English. In case of conflict between the English version of these General Terms and Conditions of Sale and any translation thereof, the English version of these General Terms and Conditions of Sale shall prevail.
- 23.4 In case of a conflict between an Agreement and these General Terms and Conditions of Sale and any translation thereof, the Agreement shall prevail.
- 23.5 These General Terms and Conditions of Sale and any contractual and non-contractual obligations arising there from, (i) do not create any legal or business relationship, an agency, partnership, labour, or any other kind of relationship between Company and Customer, nor does it create or imply any obligation to enter into such a relationship, and (ii) do not obligate Company and Customer to negotiate or enter into any other agreement. Neither Company nor Customer shall have any authority or power to represent, bind or obligate the other.
- 24. LIMITATION**
- Except where local mandatory law creates additional rights or remedies for the Customer, each claim against the Company, except those acknowledged by the Company, shall lapse on account of the mere expiration of a period of twelve (12) months after the claim arose.
- 25. SPECIAL CLAUSE AND EXCEPTION REGARDING VENTILATOR PAL PRO**
- In addition to other instructions of use and contrary to the provisions of article 18 the following applies to the Product Ventilator PAL Pro (hereinafter the "Ventilator"). The Ventilator was developed and produced at the time of the COVID-19 outbreak in the Netherlands in 2020. In these circumstances, Company has done its utmost to create a working and reliable Product. However, the development and Production of the Ventilator has taken place under great time pressure due to the sudden enormous global need for medical devices for the treatment of patients. This with all inherent risks. Company explicitly reports this to Customer and Customer accepts those risks. Customer hereby accepts that the Ventilator may not be error free and may not have all of the features that Customer may expect from such a Product under normal conditions. It is, therefore, that the Ventilator may only be used only by or in the presence of or under the supervision of an expert physician/doctor. Also, the Ventilator may be used only if more elaborate ventilators are absent, not needed or need to be relieved.