

# **GENERAL TERMS OF SALE AND DELIVERY**

## **Article 1: Applicability**

1. These terms apply to all quotations, contracts of sale and other business transactions.
2. Any variations to these terms as well as terms of clients are only valid when accepted by CD Leycom in writing.

## **Article 2: Quotations**

1. Quotations are without engagement, unless indicated otherwise.
2. Any orders as well as alteration or cancellation of orders will not be binding on CD Leycom unless confirmed in writing.
3. Any oral information given, or promises made by or to CD Leycom's employees are, only binding after they have been confirmed in writing by CD Leycom's competent officers.

## **Article 3: Prices**

1. Any agreed trade term shall be construed in accordance with the INCOTERMS in force at the formation of the contract. In general prices are ex works Zoetermeer. Alternatives can be agreed upon.
2. All prices are exclusive of Value Added Tax or Sales Tax (if applicable) and inclusive of packing. The costs for these subjects can be indicated separately on request.
3. Prices are based on all factors which have determined the cost prices at the time of the quotation, such as prices of components, wages, costs of delivery and the rate of exchange of the European Euro into foreign currency, if goods are bought in foreign currency.
4. If, after the date of entering into the agreement, but before the delivery of the Products and/or services, one or more of these factors as mentioned above will alter, even if this is foreseeable, CD Leycom is authorized to change the agreed price and to charge the Purchaser a proportional rise of the price. CD Leycom will inform the Purchaser of this change and the Purchaser is obliged to pay this new purchase-price.  
The raise in price as mentioned under 3.4 is no reason to terminate the contract.

## **Article 4: Delivery and forwarding**

Unless otherwise agreed by CD Leycom in writing delivery is effected ex works Zoetermeer (EXW) (INCOTERMS, see above art. 3.1).

2. CD Leycom has the option to make partial deliveries on orders.  
The purchase price will not change in case of such partial deliveries.
3. If CD Leycom arranges the transport of Products, CD Leycom does so for the account and risk of the Purchaser, unless otherwise agreed upon in writing.  
If, in case of delivery EXW, CD Leycom, at the request of the Purchaser, undertakes to send the Product to its destination, the risk will pass no later than when the Product is handed over to the first carrier.
4. a) The Purchaser is deemed to have accepted the Products if :

he does not make a reservation in writing on the way-bill, consignment note or bill of lading in case of outwardly visible damage at the moment of delivery by the carrier;  
he does not make - in case of damage that is not outwardly visible - a complaint in writing within fifteen days after the delivery of the Products;  
he, after having received the invoice/packing list does not inform us within eight days of the non-arrival.

- b) The day of delivery is defined as the delivery date given on the waybill, consignment note or bill of lading.
5. The Purchaser shall ensure that the entrance to the location where delivery is to be effected is free and that assistance shall be given in making the delivery proceed smoothly. Failure to meet the aforesaid obligations makes the Purchaser liable to claims whatsoever.
6. If the Purchaser does not accept the Products presented for delivery or wishes to cancel the contract, CD Leycom may charge 20% of the purchase price and any 100% of the associated storage and transport expenses.
7. If the Purchaser does not accept Products destined for him, CD Leycom may store the goods for account and risk of the Purchaser for a period of up to three months, after which time CD Leycom may dispose of the goods at its own discretion without owing any indemnification on that score to the Purchaser.

#### **Article 5: Time of delivery**

1. Any time of delivery indicated by CD Leycom is only approximate and does not commit it in any way.
2. Except in cases of gross negligence, CD Leycom never owes any indemnification to the Purchaser or third parties for any delay in delivery time.

#### **Article 6: Retention of title**

1. All Products supplied by CD Leycom will remain its property until the Purchaser has paid all amounts related to these Products, such as the purchase price, interest inclusive, claims with regard to repairs, and claims on account of default of the Purchaser with regard of the agreement. Until then the Purchaser is not entitled to alienate or to pledge the Products or to encumber these ones in another way.
2. The Products will however be for the risk and the account of the Purchaser from the moment of delivery as meant in article 4.1, and the Purchaser will have to take care of them with proper diligence and to insure them sufficiently against loss and damage.

For the case where title to the Products would perish by merger or confusion with other goods the Purchaser, by giving any order or making any agreement with CD Leycom, transfers his rights or claims to such newly created goods to CD Leycom, as a security for the proper fulfillment of all of his obligations vis-a-vis CD Leycom, and will keep such goods in its name.

#### **Article 7: Payment**

1. Payment conditions for products which have to be installed by a CD Leycom employee:
  - 50% prepayment;
  - 30% after delivery;
  - 20% after installation;Payment conditions for other products:
  - 50% prepayment;
  - 50% after delivery

2. Payment must be made into CD Leycom's account within thirty days after date of invoice, unless otherwise agreed to in writing. The day of receipt is defined as the day the invoice amount is paid to the account of CD Leycom. The risk of any delay in payment is for the Purchaser.
2. If the Purchaser fails to pay the invoice amount within the period set, he is subject to an interest of 1,5% for every month or part of it on any late payment, unless otherwise agreed upon in writing. The period will start on the thirtieth day after the date of invoicing and will run until the day of the final payment.

#### **Article 8: Circumstances beyond control**

1. If CD Leycom is prevented from fulfilling the contract, due to circumstances beyond its control CD Leycom is entitled - without prejudice to the further rights belonging to CD Leycom - to suspend the performance of the contract, for a period of up to 6 (six) months or to consider the contract as dissolved in whole or in part, at the option of CD Leycom, without being obligated to pay any indemnification.
2. Circumstances beyond CD Leycom's control are the circumstances which are neither due to CD Leycom's fault nor coming for the account of CD Leycom, including but not limited to war, war danger, civil war, riots, rebellion, government regulations or government requirements, strike, lock out, transport difficulties, fire and other disturbance in relation to CD Leycom's enterprise and also delayed deliveries of goods, materials or parts to CD Leycom.

#### **Article 9: Warranty**

1. Products are warranted to meet design specifications. Defects in materials and craftsmanship are covered under the warranty.  
If a Product reveals defects within 1 year after date of delivery, CD Leycom will take appropriate action to correct such defects after notification by the Purchaser either by:
  - remedy and repair of such Products
  - replacement of such Products by new Products at it's option.

The warranty covers costs for parts and labour.

The above warranty is void if the defect is caused by improper handling or use by the Purchaser. In such case, to be decided by CD Leycom, costs for repair and parts will be charged to the Purchaser.

2. Warranty for catheters is the same warranty that is applied by the catheter's manufacturer. No warranty applies:
  - if the Purchaser fails to fulfill any of his obligations in the contract.
  - if the Products supplied by CD Leycom are not used in accordance with the instructions for use furnished by CD Leycom.

The warranty does not include, unless otherwise agreed by CD Leycom in writing:

- the shipping expenses for replacement or repair items;
- the travel expenses, if any, of CD Leycom's technicians.

The warranty does not apply to Products that have been repaired by any other party than CD Leycom or a party approved by CD Leycom in writing.

CD Leycom shall be under no liability for any defect which is due to accidents, fire, normal wear and tear, negligent use, tampering, improper handling, improper use, improper operation or improper storage or any other fault on the part of any person other than CD Leycom.

#### **Article 10: Complaints and returns**

1. Complaints must be made in writing within fifteen days from the recognition of any problem.
2. No Product may be returned without prior authorization in writing from CD Leycom.
3. Return shipments will be at the expense of the Purchaser.

#### **Article 11: Liability for Defects**

CD Leycom's liability is limited to the fulfillment of the obligations of warranty of article 9.

#### **Article 12: Liability for Damage caused by the Product**

With the exception of gross negligence on CD Leycom' side, CD Leycom is never liable for any direct or indirect loss or damage which is caused by the application and/or use of the Products supplied by CD Leycom.

The Purchaser is bound to hold CD Leycom harmless respectively to indemnify CD Leycom for all claims for damages made by third parties for which the liability of CD Leycom in relation to the Purchaser is excluded in these conditions.

#### **Article 13: Dissolution of the contract**

If the Purchaser does not fulfil any obligation arising from any contract with CD Leycom or does not fulfil the same properly or in time, as well as in the event of bankruptcy, suspension of payment, closing down, winding up, or full or partial transfer - whether or not as security - of the business of the Purchaser, CD Leycom is entitled to consider the contracts as dissolved without judicial intervention or/and without a notice of default, or to suspend the performance of each of these contracts, for a period of up to 6 (six) months, without being liable in damage or bound by any guarantee and without prejudice to CD Leycom's further rights.

#### **Article 14: Proprietary information**

1. Designs of the Products, Products and drawings are not to be disclosed or reproduced to any third party without CD Leycom written and duly signed agreement.  
Purchasers will not without CD Leycom previous written consent copy or enable others to copy any Product or parts thereof supplied by CD Leycom.

Design and construction of the Products and their options and/or modifications purchased with the Product are the sole property of CD Leycom. The Products nor any part or option thereof shall be copied, nor shall its design or construction be disseminated to others without specific written permission by CD Leycom.

#### **Article 15: Law and Competent Court**

1. The contract of which these terms form part shall be governed by the laws of the Netherlands.
2. All disputes arising from such contract will be settled by the competent Dutch Court.

**CD Leycom**, Argonstraat 116, 2718 SP Zoetermeer, The Netherlands, Tel: +31 (0)79 360 1780, Fax: +31 (0) 79 362 1743, Email: [sales@CDLeycom.com](mailto:sales@CDLeycom.com), website: [www.cdleycom.com](http://www.cdleycom.com)