

**GENERAL TERMS AND CONDITIONS
FOR SALES TRANSACTIONS
OF SIFo GMBH (SIFo)
VERSION DATED OCTOBER 18, 2023**

**§ 1
Scope**

- 1.1 These General Terms and Conditions (GTC) apply to all sales transactions between SIFo and its customers. Any purchasing terms of the customer that deviate from these GTC or any changes and additions confirmed in writing by SIFo are expressly excluded. Deviations from these GTC can only be agreed upon in writing.
- 1.2 These GTC shall also apply to all future sales transactions between SIFo and the customer until new GTC are issued by SIFo, even if these transactions are concluded without express reference to these GTC. The version valid at the time of contract conclusion shall apply.

**§ 2
Contract Conclusion**

- 2.1 Offers from SIFo are non-binding. Contracts concerning the customer's orders are only concluded upon the signing of a written individual order between the parties or upon delivery of the goods by SIFo. The customer is bound by their offer for fourteen days from receipt by SIFo.
- 2.2 The dimensions, weights, illustrations, descriptions, colors, and similar specifications provided in SIFo's catalogs, brochures, webshop, and other materials or on the internet are approximate and provided without guarantee. Color deviations in the ordered goods are possible. Changes to the goods ordered by the customer that are based on technical improvements or legal requirements (particularly statutory or case law) are reserved during the delivery period, provided that these changes are reasonable for the customer. SIFo is not obliged to notify the customer of changes outside of written order confirmations.
- 2.3 Obvious errors, misprints, miscalculations, typographical errors, and calculation errors in the written order are not binding for SIFo and do not entitle the customer to compensation.
- 2.4 Assurances by SIFo employees or contractors are insignificant unless confirmed in writing by authorized representatives of SIFo.
- 2.5 The customer is not entitled to transfer rights and obligations from a contractual relationship with SIFo to a third party without prior written consent from SIFo.

§ 3

Custom-Made Products

- 3.1 The customer can commission SIFo not only for the supply of standard goods but also for the custom production of goods according to the customer's specific requirements.
- 3.2 SIFo requires all relevant information and documents from the customer necessary for the execution of the order. The customer undertakes to provide the technical and economic information and documents available to them in a timely manner and without a separate request, to the extent that this is necessary for the proper execution of the order. SIFo may base its actions on the information received from the customer, provided an error or misinformation by the customer is not immediately apparent to SIFo.
- 3.3 Before the production of the entire order quantity of the commissioned custom-made product, the customer shall receive a sample of the custom-made product created according to the customer's specifications. The customer shall examine the sample within a period of 14 days from provision and approve it or notify SIFo of any specific changes required. If SIFo does not receive feedback with specific changes within this period, SIFo may assume the sample's approval and proceed with the production of the ordered quantity.
- 3.4 Changes to custom-made products after their approval or after the deadline pursuant to § 3.3 by the customer are not included in the agreed price and must be paid for separately.

§ 4

Collection and Delivery, Deadlines and Dates

- 4.1 Unless expressly agreed otherwise, the goods are sold "ex works" (EXW). SIFo will either send the goods to the customer or make them available for collection at a location of one of its subcontractors, which will be communicated to the customer in a timely manner. If delivery is agreed upon, the risk is transferred to the customer as soon as the shipment is handed over to the person responsible for transport. If shipment is delayed at the customer's request, the risk is transferred upon notification of readiness for dispatch. Partial deliveries by SIFo are permissible. If collection is agreed, the risk is transferred to the customer at the earliest of the following points:

- Actual handover of the goods,
- Expiry of the collection date, or
- Three days after the start of a collection period.

If the customer is in default of acceptance, SIFo is entitled to store the goods and claim reasonable storage costs.

- 4.2 If collection dates or delivery dates or deadlines are agreed, SIFo will endeavor to comply with them. If SIFo is unable to meet a date or deadline, it will notify the customer in a timely manner.
- 4.3 The failure to meet deadlines or dates entitles the customer to assert the rights to which they are legally entitled only after the customer has set SIFo a reasonable grace period of at least 14 days for supplementary performance.
- 4.4 Unless expressly and in writing agreed otherwise, a delivery period begins at the latest of the following points:
- Date of contract conclusion,
 - Date of fulfillment of all technical, business, and financial conditions incumbent on the customer, particularly the submission of necessary documents, approvals, releases, and compliance with the agreed payment terms.

§ 5

Prices and Payment

- 5.1 The prices of the goods are stated in the specific offer from SIFo. All prices are subject to change and are considered net, ex the loading point named by SIFo. Prices do not include, in particular, any shipping, packaging, transport insurance, or similar charges, which will be charged additionally.
- 5.2 Price Adjustment Clause: SIFo purchases components and external services for the production of goods based on the US Dollar (USD). To compensate for significant currency fluctuations between the agreed price in EURO (EUR) and the purchase prices in USD, the agreed prices are secured in value according to the EUR/USD exchange rate published by the European Central Bank, available at [ECB website](#), under the following conditions: Prices will increase or decrease at the request of either party to the extent corresponding to the change in the EUR/USD exchange rate from the time of contract conclusion to the time of delivery (§ 4.1) of the respective goods, provided that the change in the exchange rate during this observation period exceeds 10%. If the exchange rate increases by more than 10%, the agreed price in EUR decreases proportionally; if the exchange rate decreases by more than 10%, the agreed price in EUR increases proportionally. The adjusted prices are rounded to whole EURO cents (up or down). A retroactive price

adjustment can only be demanded by both parties for invoices from the last 12 months.

- 5.3 SIFo will issue a proper invoice to the customer.
- 5.4 SIFo is entitled to send invoices to the customer in electronic form. The customer expressly agrees to the delivery of invoices in electronic form.
- 5.5 Invoices are due without any deductions within 14 days from the invoice date. The customer is automatically in default upon the expiry of the payment deadline without any reminder. Customers must raise justified objections to the invoice within one month; otherwise, the invoice is deemed acknowledged in terms of its basis and amount. If partial payments are agreed, delay in payment of even a single installment results in the forfeiture of the term.
- 5.6 SIFo is entitled to request advance payments from the customer.
- 5.7 In case of payment default by the customer, SIFo is entitled to demand statutory default interest. If the payment deadline is exceeded, SIFo reserves the right to charge reminder fees of EUR 4,000 net for reminders and all costs incurred for collection steps by third parties (legal fees or collection agency costs) according to the applicable attorney tariff or the provisions of the collection fee regulation. SIFo reserves the right to charge the customer for any further costs incurred in connection with the outstanding liability.
- 5.8 Compliance with the agreed payment dates and deadlines is a fundamental condition for SIFo's performance of the contract.
- 5.9 The goods remain the property of SIFo until full payment has been made. The retention of title also applies to the carrier to whom the goods are handed over at the request of the customer or on SIFo's behalf.
- 5.10 Payments can only be made with a debt-discharging effect directly to SIFo. If multiple claims against the customer are open, payments by the customer will be applied to the oldest claim in each case. The allocation always applies first to any costs, then to interest, and finally to the principal claim.
- 5.11 The customer is only entitled to a right of set-off in the event of SIFo's insolvency as well as for claims that are acknowledged in writing or have been legally established.

§ 6

Withdrawal from the Contract

- 6.1 Unless expressly and in writing agreed otherwise, SIFo does not grant the customer a contractual right of withdrawal.
- 6.2 In the event of operational disruptions, strikes, public unrest, lockouts, complete or partial shutdown of the delivery plant in the event of war, official orders, or in cases of force majeure, delivery periods are considered interrupted for the duration of the disruption and the elimination of operational consequences, and delivery dates must not be adhered to in any case. Each of these events entitles SIFo to withdraw from the contract without any obligation to pay compensation if delivery periods or delivery dates are extended or exceeded by more than four weeks due to these events.
- 6.3 SIFo is entitled to withdraw from the contract if:
- The customer is in default of payment and fails to make use of a reasonable grace period;
 - The customer fails to provide the necessary cooperation for the fulfillment of the order according to § 3 despite setting a reasonable grace period;
 - The customer violates the provisions of these GTC despite setting a reasonable grace period.

Any claims for damages by SIFo remain unaffected by the withdrawal from the contract.

§ 7 Warranty

- 7.1 SIFo warrants that the goods are of the agreed quality at the time of delivery and free from material defects. The goods are suitable for the expressly intended contractual use and have the properties usual for goods of the same kind.
- 7.2 The customer must inspect the packaging of the goods immediately upon receipt for external damage and notify the carrier of such damage in writing. The goods themselves must also be checked immediately upon receipt, and any recognizable defects must be reported to SIFo in writing immediately, but no later than three working days after receipt. Defects that cannot be detected even with careful examination or only become apparent later must be reported to SIFo in writing immediately, but no later than three working days after their discovery. The customer bears the risk of the defect notification being received. If the customer does not comply with the inspection and notification obligations under this paragraph in a timely manner, the goods are deemed approved, and the customer can no longer assert any claims for the defect (particularly not from warranty, damages, and error). § 377 paragraph 5 UGB remains unaffected.

- 7.3 The warranty period expires six months after the transfer of risk according to § 4.1. Warranty claims can only be asserted by the respective customer. The customer must prove that the defect was already present at the time of delivery or collection of the goods; the presumption of defectiveness according to § 924 ABGB is excluded.
- 7.4 If a defect exists, SIFo is entitled to supplementary performance by eliminating the defect or delivering a defect-free item (replacement delivery). The choice between defect elimination and replacement delivery is at SIFo's discretion. SIFo's right to refuse supplementary performance if the legal requirements are met (cf. e.g., § 932 paragraph 4 ABGB) remains unaffected.
- 7.5 To carry out rectifications or replacement deliveries, the customer must give SIFo the necessary time and opportunity; otherwise, SIFo is released from the warranty.
- 7.6 SIFo may require the customer to send the defective goods at SIFo's expense to an address specified by SIFo, or, at SIFo's option, that the customer holds the defective goods ready and SIFo or a third party commissioned by SIFo carries out the defect removal or replacement directly at the customer's premises.
- 7.7 SIFo may refuse rectification or replacement delivery as long as the customer has not fulfilled their payment obligations to the extent corresponding to the non-defective part of the delivered goods if the non-defective part or goods is of interest to the customer (e.g., in the case of independent usability).
- 7.8 There is no warranty claim for insignificant defects. Defects in part of the delivery do not entitle the customer to complain about the rest of the delivery.
- 7.9 Normal wear and tear or normal use of the goods does not justify a warranty claim. Reference is expressly made to any operating, usage, care, and cleaning instructions as well as transport and storage conditions. SIFo assumes no warranty or liability for damages due to operation, use, cleaning, care, transport, storage, or use deviating from these or under extraordinary external conditions. This exclusion of warranty and liability also applies to unauthorized modification of the goods.
- 7.10 The customer is only entitled to terminate the contract (rescission) if it is not a minor defect and the supplementary performance by SIFo fails, is particularly impossible, or if SIFo does not succeed within a reasonable period of at least two weeks, is refused by SIFo, or is culpably delayed by SIFo.

- 7.11 SIFo does not guarantee compliance with special regulations in the country of destination.

§ 8

Liability and Damages

- 8.1 Claims for damages in cases of slight negligence are mutually excluded; this does not apply to personal injury. The customer bears the burden of proof for gross negligence or intent in causing the damage. Consequential damages and lost profits and unrealized efficiency gains are excluded from liability. The customer's right to warranty remains unaffected by the provisions of § 7.
- 8.2 The customer must provide proof that the damage is attributable to a fault on the part of SIFo.
- 8.3 Customer's claims for damages can only be asserted in court within six months from knowledge of the damage and the injuring party but no later than three years after the event giving rise to the claim.
- 8.5 SIFo is not liable for damages incurred by the customer due to non-compliance with operating, usage, care, and cleaning instructions or specified transport and storage conditions.
- 8.6 To the extent that SIFo's liability is excluded or limited, this also applies to the personal liability of SIFo's employees and subcontractors.

§ 9

Intellectual Property, Prohibition of Imitation, Customer Reference

- 9.1 The customer undertakes to use SIFo's goods exclusively under the name and trademark provided by SIFo.
- 9.2 The customer undertakes to refrain from imitating (duplicating) the goods distributed by SIFo in whole or in part and/or making imitations accessible to third parties, whether in identical or modified form. This obligation or prohibition of imitation applies in any case, regardless of whether SIFo can rely on respective industrial property rights.
- 9.3 The customer further undertakes not to make independent changes to the goods distributed by SIFo.
- 9.4 The customer undertakes not to duplicate or make accessible to third parties texts, sketches, drawings, images, photographs, and other content originating from or used by SIFo unless these are clearly intended by SIFo for general dissemination (e.g., advertising catalog).

- 9.5 If SIFo accepts custom-made products according to drawings, samples, or models provided by the customer, the customer is liable for ensuring that no infringement of third-party property rights occurs. The customer shall indemnify and hold SIFo harmless if SIFo is claimed by third parties due to such infringement of property rights.
- 9.6 SIFo is entitled to include the customer in its reference list for an indefinite period.

§ 10 Subcontractor Protection

- 10.1 During the execution of the contract and for a period of 2 years from the last delivery of goods, the customer shall not cooperate on a remunerated basis with the following persons without SIFo's consent (especially under employment, service, commercial agency, consultancy, or contract for work):
- Subcontractors, especially suppliers of SIFo
 - Companies affiliated with the subcontractor under § 15 of the Austrian Stock Corporation Act (AktG)
 - Employees of SIFo, their commercial agents, distribution partners of subcontractors, provided the customer has come into contact with them during the business relationship.

This applies regardless of whether the remunerated cooperation is initiated by the customer or the subcontractor.

- 10.2 The customer further undertakes to oblige its own subcontractors in accordance with § 10.1 and to provide corresponding proof to SIFo upon request.
- 10.3 In the event of non-compliance with this obligation, the customer is obliged to provide comprehensive information and to fully account for any violations, in particular by providing copies of all contracts or contract offers that violate the provision.
- 10.4 In case of non-compliance with this obligation, the customer must pay a contractual penalty of 30% of the respective order volume of the prohibited business, but at least EUR 50,000.00, irrespective of fault. The contractual penalty is due upon the occurrence of the event for which it was agreed. The assertion of damages exceeding the amount of the contractual penalty is not excluded.

§ 11 Data Protection

- 11.1 As part of the conclusion of the contract, SIFo stores and processes the customer's first and last name or company, VAT identification number,

salutation, address (postal address, e-mail address, telephone number), contact persons at the customer, the written order, and correspondence with the customer (hereinafter collectively: "personal data"). These personal data are processed solely for the purpose of fulfilling the contract and delivering the ordered goods unless the customer expressly consents to further processing. These data are lawfully collected according to Art. 6 para. 1 lit. b of the General Data Protection Regulation (GDPR) as they are necessary for the fulfillment of the contract between SIFo and the customer. No delivery of the ordered goods can take place without the provision of these personal data. After the delivery of the goods and the expiration of the warranty and absolute damage compensation period, the collected data will be deleted unless another legal basis for further use exists (especially the customer's explicit consent or statutory retention periods). Personal data of the customer will only be passed on to the extent necessary for the performance of this contract. The specific contract will be stored for the purpose of performing the consulting services.

- 11.2 The customer has the right to request information about the data SIFo has collected about them at any time. Should the collected data be or become incorrect, the customer may request correction of the data. Provided the legal requirements are met, the customer also has the right to deletion (Art. 17 GDPR), restriction of processing (Art. 18 f GDPR), and data portability (Art. 20 GDPR). A German version of the GDPR is available at [EUR-Lex](#).
- 11.3 For questions regarding data processing, customers can contact SIFo at the following address: office@sifo-medical.com.
- 11.4 Should the customer believe that SIFo is violating legal provisions in processing their personal data, they are free to lodge a complaint with the Austrian Data Protection Authority, Barichgasse 40-42, A-1030 Vienna, or the national supervisory authority of their country of residence.

§ 12 Final Provisions

- 12.1 All agreements that include changes, additions, or specifications to these GTC, as well as special assurances and agreements, must be in writing. This also applies to the agreement to deviate from this formal requirement. If declared by employees or subcontractors of SIFo, they are only binding if SIFo's authorized representatives provide their written consent. All notifications and declarations by the customer concerning this contractual relationship must be made in writing.
- 12.2 The contract language is German. The German version of these GTC is the authoritative version.

- 12.3 The contractual relationship between SIFo and the customer is governed by the law of the Republic of Austria, excluding the UN Convention on Contracts for the International Sale of Goods ("CISG") and excluding the reference norms of international private law and Rome I.
- 12.4 The competent court in Innsbruck has exclusive jurisdiction over all disputes. The place of performance is the registered office of SIFo.
- 12.5 Should any provision of these GTC be or become wholly or partially ineffective, the validity of the remaining provisions shall not be affected. In such cases, the ineffective provision shall be replaced by a legally effective provision that comes closest to the economic purpose of the ineffective provision or the presumed intent of the contracting parties. The same applies if a provision proves impractical for practical reasons.

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