

General terms and conditions of commercial sale

1. Offer, confirmation or agreement

These terms and conditions of commercial sale of Concord Neonatal B.V. (the "Terms and Conditions") apply to and form an integral part of all quotations and offers made by Concord Neonatal B.V. ("Concord"), all acceptances, acknowledgements and confirmations by Concord of any orders by Buyer and any agreements ("Agreements") regarding the sale by Concord and purchase by Buyer of goods and services ("Products"), unless and to the extent Concord explicitly agrees otherwise.

Any terms and conditions set forth on any document or documents issued by Buyer either before or after issuance of any document by Concord setting forth or referring to these Terms and Conditions are hereby explicitly rejected and disregarded by Concord, and any such terms shall be wholly inapplicable to any sale made by Concord to Buyer and shall not be binding in any way on Concord.

Concord's offers are open for acceptance within the period stated by Concord in the offer or, when no period is stated, within thirty (30) days from the date of the offer, but any offer may be withdrawn or revoked by Concord at any time prior to the receipt by Concord of Buyer's acceptance thereof. The offer by Concord shall govern the scope of performance.

Any samples, drawings, descriptive matters or advertising issued by Concord and any descriptions of the Products contained in Concord's brochures or on her website are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the contract or have any contractual force.

2. Pricing

The prices quoted in the order confirmation shall solely apply.

Prices in any offer, confirmation or Agreement are in Euros, based on delivery in Europe under DAP (INCOTERMS 2010) and outside Europe under FCA (INCOTERMS 2010) unless agreed otherwise in writing between Buyer and Concord and do not include any taxes, duties or similar levies, now or hereafter enacted, applicable to the Products. Concord will add taxes, duties and similar levies to the sales price where Concord is required by law to pay or collect them and these will be paid by Buyer together with the price.

3. Payment

- a. Unless agreed otherwise between Concord and Buyer in writing, Concord may invoice Buyer for the price of the Products as follows:
- 30% upon order acceptance
 - 50% upon delivery of the Products in accordance with the applicable INCOTERM; and
 - 20% upon acceptance by the Buyer.

Payment is due within thirty (30) days of date of invoice unless agreed otherwise between Concord and Buyer in writing. All payments shall be made to the designated Concord bank account.

If deliveries are made in installments, each installment may be separately invoiced and shall be paid for when due. No discount applies for early payment unless agreed to in writing by Concord. In addition to any other rights and remedies Concord may have under applicable law, interest will accrue on all late payments at the rate of eight percent (8%) per annum or the applicable statutory rate, whichever is higher and to the extent permitted by applicable law, from the due date until payment in full. An administration fee for late payments will also be incurred at 5% of the invoice value with a minimum of EUR 75.

- b. All deliveries of Products agreed to by Concord shall at all times be subject to credit approval of Concord. If, in Concord's judgment, Buyer's financial condition at any time does not justify production or delivery of Products on the above payment terms, Concord may require full or partial payment in advance or other payment terms as a condition to delivery, and Concord may suspend, delay or cancel any credit, delivery or any other performance by Concord.
- c. In the event of any default by Buyer in the payment of any fees or charges due, or any other default by Buyer, Concord shall have the right to refuse performance and/or delivery of any Products until payments are brought current and Concord may suspend, delay or cancel any credit, delivery or any other performance by Concord. Such right shall be in addition to, and not in lieu of, any other rights and remedies available under the Agreement or at law.

General terms and conditions of commercial sale

4. Delivery and quantities

- a. Concord will deliver the Product at a certain date and time under the DAP INCOTERMS 2010. Products shall be delivered by Concord in the number and to the location agreed with Buyer at the agreed time. Buyer receives the Products and sends a product receipt confirmation to Concord. Buyer shall inspect the Product upon delivery and has 48 hours from delivery confirmation in which to claim the Product is incomplete or not in conformance with the Agreement (damaged packaging or missing parts). Risk of loss or damage in the Products shall pass to Buyer upon Concord's delivery in accordance with the applicable INCOTERMS.
- b. Installation is performed by Concord's service engineer in cooperation with the hospital at an agreed date and time, including initial testing. Buyer will do its own acceptance testing. If Buyer wishes to mount third party medical devices on the Product, such will be installed and made ready for use at the sole risk of Buyer.
- c. Concord will release the Product for use after installation and testing as per above. Concord will not be liable for mounting or use of third party devices in combination with the Product. Concord will deliver all necessary user documentation and will train the user on the use of the Product (but not any mounted medical devices). The Product will be delivered in a clean and complete state. An acceptance protocol will be signed by both Parties once the Buyer personnel has been trained and the Product is working in accordance with its intended use and within its specifications.
- d. Concord's training program will be scheduled around the planned delivery dates in mutual agreement.
- e. Buyer will confirm acceptance of the Products within 5 working days of execution of the training.
- f. Delivery dates communicated or acknowledged by Concord are approximate only, and Concord shall not be liable for, nor shall Concord be in breach of its obligations to Buyer, for any delivery made within a reasonable time before or after the communicated delivery date. Concord agrees to use commercially reasonable efforts to meet the delivery dates communicated or acknowledged by it on the condition that Buyer provides all necessary order and delivery information prior to such delivery date.
- g. Buyer will give Concord written notice in case of failure to deliver and thirty (30) days within which to cure. If Concord does not deliver within such thirty (30) day period, Buyer's sole and exclusive

remedy is to cancel the affected and undelivered portions of the Agreement.

- h. Title in the Products shall pass to Buyer upon payment in full of the purchase price in respect thereof. Until title to the Products has passed to Buyer, the Buyer shall: (i) store the Products separately from all other goods held by Buyer so that they remain readily identifiable as Concord's property; and (ii) not remove, deface or obscure any identifying mark or packaging on or relating to the Products .
- i. If Buyer fails to take delivery of Products ordered, then Concord may deliver the Products in consignment at Buyer's cost.
- j. In the event Concord's production is curtailed for any reason, Concord shall have the right to allocate its available production and Products, in its sole discretion, among its various customers and as a result may sell and deliver to Buyer fewer Products than specified in the Agreement, as the case may be.

5. Force Majeure

Concord shall not be liable for any failure or delay in performance if:

- i. such failure or delay results from interruptions in the Product manufacturing process; or
- ii. such failure or delay is caused by Force Majeure as defined below or by law.

In case of such a failure as set forth above, the performance of the relevant part(s) of the Agreement will be suspended for the period such failure continues, without Concord being responsible or liable to Buyer for any damage resulting therefrom.

The expression "Force Majeure" shall mean and include any circumstances or occurrences beyond Concord's reasonable control - whether or not foreseeable at the time of the Agreement - as a result of which Concord cannot reasonably be required to execute its obligations including force majeure and/or default by one of Concord's suppliers. In the event that the Force Majeure extends for a period of three (3) consecutive months (or in the event that the delay is reasonably expected by Concord to extend for a period of three (3) consecutive months), Concord shall be entitled to cancel all or any part of the Agreement without any liability towards Buyer.'

6. Limited warranty and disclaimer

- a. Concord warrants that under normal use in accordance with the applicable user manual and the Concord product training the Products shall,

General terms and conditions of commercial sale

- at the time of delivery to Buyer and for a period of twelve (12) months from the date of delivery, be of satisfactory quality and free from defects in design, material or workmanship and shall conform in all material respects to Concord's specifications for the Product. Concord's sole and exclusive obligation, and Buyer's sole and exclusive right with respect to claims under this warranty shall be limited, at Concord's option, either to the replacement or repair of a defective or non-conforming Product or to an appropriate credit for the purchase price thereof. Concord will have a reasonable time to repair, replace or credit. The non-conforming or defective Products or parts shall become Concord's property as soon as they have been replaced or credited. The terms of these Terms and Conditions shall apply to any repaired or replacement Products supplied by Concord. Repairs shall take place on-site by Concord's engineer.
- b. Notwithstanding the foregoing, Concord shall have no obligations under warranty if the alleged defect or non-conformance is found to have occurred as a result of environmental or stress testing, misuse, use other than as set forth in the user manual or in the user training, neglect, improper installation or accident, or as a result of improper repair, alteration, modification, storage, transportation or improper handling. Buyer shall indemnify Concord in the event of a third party claim resulting from Buyer's or its personnel's misuse, or use other than as set forth in the user manual or Concord training program.
 - c. The express warranty granted above shall extend directly to Buyer only and is in lieu of all other warranties, whether express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, or non-infringement of intellectual property rights. All other warranties are hereby specifically disclaimed by Concord.
 - d. Concord accepts no liability whatsoever in the event the Products are used by Buyer or Buyer's personnel without having followed the Concord Product training program and having received the appropriate certification for such use. Neither Concord nor the trainer accept any liability whatsoever for any medical decisions or medical treatment. Decisions, analyses, and patient treatments will at all times remain the full responsibility of the Buyer and its personnel or insofar applicable other persons taking medical decisions or performing medical treatment.
 - e. Subject to the exclusions and limitations set forth in Section 9 of these Terms and Conditions, the foregoing states the entire liability of Concord in connection with defective or non-conforming Products supplied hereunder.
- ### 7. Buyer's obligations
- 7.1 Buyer shall:
- a. Ensure that the terms of the order are complete and accurate;
 - b. Co-operate with Concord in all matters relating to the Concord training program;
 - c. Provide Concord, its employees, agents, consultants and subcontractors, with access to the Buyer's premises, office accommodation and other facilities as reasonably required by Concord to effectuate delivery and provide the training program;
 - d. Provide Concord with such information and materials as Concord may reasonably require in order to supply the Concord training program (Supplier Materials) at the Buyer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to Concord, and not dispose of or use the Supplier Materials other than in accordance with the Concord's written instructions or authorization.
- 7.2 Buyer shall be responsible for compliance with applicable laws and safety provisions, in particular, in relation to admission, installation, operation, maintenance and repair of the delivered Products and agrees to comply therewith. Buyer shall indemnify Concord against any and all claims deriving from noncompliance with such provisions by Buyer.
- 7.3 Buyer warrants that it is acting and will continue to act in accordance with applicable laws. If there is reason to suspect that the Buyer is in breach of above obligations, Concord is entitled to terminate the Agreement if it would be unreasonable to Concord to continue the Agreement. In the event of such termination,
- i. Concord is released from any obligation to execute the Agreement,
 - ii. Buyer shall indemnify and keep harmless Concord against any and all damage and costs to the extent such damage or costs are based on Buyer's violation of its obligations under this Agreement.

General terms and conditions of commercial sale

8. Intellectual property rights indemnity

- a. Concord, at its sole expense, shall:
 - i. defend any legal proceeding brought by a third party against Buyer to the extent that the proceeding includes a claim that any Product as furnished by Concord under an Agreement directly infringes the claimant's patent, copyright, trademark, or trade secret; and
 - ii. hold Buyer harmless against damage and costs awarded by final judgment in such proceeding to the extent directly and solely attributable to such infringement.
- b. Concord shall have no obligation or liability to Buyer under Section 8.a. (1) if Concord is not: (i) promptly notified in writing of any such claim; (ii) given the sole right to control and direct the investigation, preparation, defense and settlement of such claim, including the selection of counsel; and (iii) given full reasonable assistance and cooperation by Buyer in such investigation, preparation, settlement and defense; (2) if the claim is made after a period of one (1) year from the date of delivery of the Product.
- c. If any Product is, or in Concord's opinion is likely to become, the subject of a claim of infringement as referred to under Section 8.a. above, Concord shall have the right, without obligation and at its sole option, to: (i) procure for Buyer the right to continue to use the Product; (ii) provide a replacement Product, (iii) modify the Product in such a way as to make the modified Product non-infringing; or (iv) terminate any Agreement to the extent related to such Product.
- d. Subject to the exclusions and limitations set forth in Section 9 of these Terms and Conditions, the foregoing states Concord's entire liability and obligation to Buyer and Buyer's sole remedy with respect to any actual or alleged infringement of any intellectual property rights or any other proprietary rights of any kind.

9. Limitations of liability

- a. CONCORD SHALL NOT BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS, LOSS OF REPUTATION, LOSS OF GOODWILL, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR THE SALE OF ANY PRODUCTS OR SERVICES BY CONCORD OR THE USE THEREOF WHETHER OR NOT SUCH DAMAGE OR COSTS ARE BASED ON TORT, WARRANTY,

CONTRACT OR ANY OTHER LEGAL THEORY – EVEN IF CONCORD HAS BEEN ADVISED, OR IS AWARE, OF THE POSSIBILITY OF SUCH DAMAGE OR COSTS. CONCORD'S AGGREGATE AND CUMULATIVE LIABILITY FOR ANY LIABILITY TOWARDS BUYER INCLUDING PERSONAL INJURY AND DEATH SHALL NEVER EXCEED AN AMOUNT OF TEN PERCENT (10%) OF THE VALUE OF THE RELATED AGREEMENT. Compensatory damages claims against Concord – whatever the legal basis therefor – shall be excluded.

- b. Any Buyer's claim for damages must be brought by Buyer within ninety (90) days of the date of the event giving rise to any such claim, and any lawsuit relative to any such claim must be filed within one (1) year of the date of the claim. Any claims that have been brought or filed not in accordance with the preceding sentence are null and void.
- c. The limitations and exclusions set forth above in this Section 9 shall apply only to the extent permitted by applicable mandatory law.

10. Confidentiality

Buyer acknowledges that all technical, commercial and financial data disclosed to Buyer by Concord is the confidential information of Concord. Buyer shall not disclose any such confidential information to any third party and shall not use any such confidential information for any purpose other than as agreed by the parties and in conformance with the purchase transaction contemplated herein.

11. Export/import controls

If the delivery of Products under the Agreement is subject to the granting of an export or import license by a government and/or any governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or import control laws or regulations, Concord may suspend its obligations and Buyer's rights regarding such delivery until such license is granted or for the duration of such restriction and/or prohibition, respectively, and Concord may even terminate the Agreement without incurring any liability towards Buyer.

Furthermore, if an end-user statement is required, Concord shall inform Buyer immediately thereof and Buyer shall provide Concord with such document upon Concord's first written request; if an import license is required, Buyer shall inform Concord immediately thereof and Buyer shall provide Concord with such document as soon as it is available. By accepting Concord's offer, entering into any

General terms and conditions of commercial sale

Agreement and/or accepting any Products, Buyer agrees that it will not deal with the Products and/or documentation related thereto in violation of any applicable export or import control laws and regulations.

12. Assignment and setoff

Buyer shall not assign any rights or obligations under the Agreement without the prior written consent of Concord. Buyer shall have no right to withhold or reduce any payments or to offset existing and future claims against any payments due for Products sold under the Agreement or under any other agreement that Buyer may have with Concord and agrees to pay the amounts hereunder regardless of any claimed offset which may be asserted by Buyer or on its behalf.

13. Governing law and forum

All offers, confirmations and Agreements are governed by and construed in accordance with the laws of the Netherlands. All disputes arising out of or in connection with any Agreement shall first be attempted by Buyer and Concord to be settled through consultation and negotiation in good faith in a spirit of mutual cooperation. All disputes which cannot be resolved amicably shall be submitted to the exclusive jurisdiction of the courts of Amsterdam, The Netherlands, provided that Concord shall always be permitted to bring any action or proceedings against Buyer in any other court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any offer, confirmation or Agreement. Nothing in this Section 13 shall be construed or interpreted as a limitation on either Concord's or Buyer's right under applicable law for injunctive or other equitable relief or to take any action to safeguard its possibility to have recourse on the other party.

14. Breach and termination

Without prejudice to any rights or remedies Concord may have under the Agreement or at law, Concord may, by written notice to Buyer, terminate with immediate effect the Agreement or any part thereof without any liability whatsoever, if:

- a. Buyer violates or breaches any of the material provisions of the Agreement;
- b. Any proceedings in insolvency, bankruptcy (including reorganization) liquidation or winding up are instituted against Buyer, whether filed or instituted by Buyer, voluntary or involuntary, a

trustee or receiver is appointed over Buyer, or any assignment is made for the benefit of creditors of Buyer.

Upon occurrence of any of the events referred to above, all payments to be made by Buyer under the Agreement shall become immediately due and payable.

In the event of cancellation, termination or expiration of an Agreement the terms and conditions destined to survive such cancellation, termination or expiration shall so survive.

15. Miscellaneous

- a. In the event that any provision(s) of these Terms and Conditions shall be held invalid or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions thereof. In the event that any provision of these Terms and Conditions shall finally be determined to be unlawful or unenforceable, such provision shall be deemed severed from these Terms and Conditions, but every other provision shall remain in full force and effect, and in substitution for any such provision held unlawful or unenforceable, there shall be substituted a provision of similar import reflecting the original intent of the clause to the extent permissible under applicable law.
- b. The failure on the part of either party to exercise, or any delay in exercising, any right or remedy arising from the Agreement shall not operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy arising therefrom preclude any other or future exercise thereof or the exercise of any other right or remedy arising from the Agreement or from any related document or by law.
- c. Concord warrants that all EU and statutory provisions concerning the data to be processed, such to in particular include the regulations imposed by or pursuant to the Dutch Personal Data Protection Act, are and shall strictly be complied with. Concord shall forthwith supply Buyer with relevant requested information in writing. Concord shall provide for adequate security of the personal data. Agreements between Buyer and Concord concerning the processing of personal data (including indirectly traceable personal data) will be laid down in a data processing agreement.