

1 Scope of Application

1.1 These terms and conditions apply exclusively. Differing or contrary terms shall not apply except if expressly agreed upon writing.

1.2 These terms and conditions also apply to all future transactions between the Parties, even if we carry out delivery while aware of differing or conflicting terms and conditions.

1.3 These terms only apply vis a vis merchants, governmental entities, or special governmental estates..

2 Conclusion of the Agreement

2.1 Our offers are non-binding, unless an offer is designated as binding in writing.

2.2 A legally binding relationship can only become effective through a mutually signed contract or by the Customer's order and written confirmation from us, and also through the fact that we are starting (or have started) the performance of the contractual services. The prices and conditions of the signed contract or written order confirmation shall apply.

2.3 Insofar as the order constitutes an offer within the meaning of § 145 BGB (German legal code), we shall be entitled to accept such offer within a period of two weeks.

3 Subject of the Agreement

3.1 If the subject of the Agreement is software and/or hardware, product descriptions and representations in test programs are only descriptions of services, not guarantees. In order to be valid, a guaranty must be made in writing from company management.

3.2 The Customer has no rights to the surrender or delivery of the source code. We shall render our performance in accordance with the state of technology at the time the Agreement was concluded. The scope of performance of the software is derived from the current description of the software in question. Unavailable software features which extend beyond this scope of performance do not entitle the Customer to withhold payments unless the availability of these features was previously assured by us in writing.

3.3 The software is legally protected. Copyrights, patents, trademarks and all other ancillary rights to the software as well as to other objects which we provide or make available to the Customer in the context of contract negotiations and execution remain our exclusive property in the relationship of the parties. If the rights belong to third parties, we have corresponding exploitation rights.

3.4 The Customer purchases the software for internal purposes (basic usage right) for his own perpetual use. To exercise the usage right, the Customer receives the computer program in object version on a computer-readable medium or via remote data transmission, as well as the documentation and installation instructions. Usage may not

exceed the number of workplaces stipulated in the Agreement. We hereby grant the Customer the program rights that are necessary for its usage, as well as the right to copy the program to memory and hard disks, and the right to correct errors. The Customer may make backup copies of the program that are deemed necessary for secure operation. These copies shall be marked as such and provided with copyright identification of the original data media. Copyright notices may neither be removed, altered nor covered. The user manual may only be copied for internal use within the Customer's company. The Customer must inform us in writing of any subsequent changes to installation locations.

3.5 Redistribution of the software (in whole or in part) to a third party, in particular by renting, lending or distribution in any tangible or intangible form, is not permitted without our prior written consent. This consent is given under the following conditions:

3.5.1 The Purchaser shall deliver to the third parties (if any) the original disks, destroy all copies, especially on disks in hard drives or storage, cease usage totally and confirm in writing the performance of such obligations.

3.5.2 The third party shall provide us with written notification that it shall adhere to the provision of this Agreement, and particularly those in this Section 3.

3.5.3 There are no salient grounds for objections.

3.6 The right to decompile the software is granted only subject to the conditions of § 69 e Section 1, paragraphs 1-3 of the German Copyright Act and § 69 e Section 2, paragraphs 1 to 3 of the German Copyright Act.

3.7 Construction or design modifications arising from technology improvements or required by law shall remain reserved during the delivery period, insofar as the article of sale is not considerably modified and any modifications are deemed reasonable for the Customer.

4 Delivery

4.1 The delivery requires the timely and proper fulfillment of the obligation of the Customer. Defences based on non-performance of the contract are reserved.

4.2 In case of default in acceptance or other breach of duties to cooperate by the Customer we are entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the goods passes to the Customer at the time of such default or breach of duty to cooperate.

4.3 Humanetics reserves the right to perform partial deliveries or services, insofar as deemed reasonable for the Customer.

5 Prices, Payment

5.1 Our prices are ex-works, plus the statutory VAT and excluding the costs of packing, unless otherwise expressly

agreed. Invoices are payable without deduction within 14 days of the date of the invoice.

5.2 Price changes are permitted in cases where more than four months have expired between the close of purchase and the agreed-upon delivery date. In the case of subsequent increases (until completion of delivery) in wages, material costs or the standard market purchasing costs, we are entitled to increase our prices commensurate with such cost increases. The Customer may withdraw from the Agreement only if the aforesaid price increases more than moderately exceeds the increase in the general cost of living.

5.3 Any additional services demanded by the Customer (e.g., consultancy and support during program installation) shall be invoiced in accordance with our current price list.

5.4 In the case of any delay in payment, we shall have the right to suspend delivery until payment has been made.

5.5 Overdue payments are at an interest rate of nine percentage points over the current base interest rate. We retain the right to claim further default damages.

5.6 Any set-off by the Customer is permitted only with undisputed or legally established counterclaims. The same applies to the retention rights of the Customer.

5.7 With continued obligation agreements (such as care & maintenance) we may adjust the prices (e.g. the maintenance fee) annually to match the general price trend. Such increase will become effective at the beginning of the new contract year. Should these adjustments result in a price increase of more than 4%, the Customer may terminate the Agreement.

6 Passing of Risk

When shipping the goods at the Customer's request, the risk of accidental loss and accidental deterioration of the goods passes to the Customer at the time of dispatch.

7 Customer Participation

7.1 The Customer will provide us with support for previously-agreed installation and training to the extent required. The Customer shall pass on the necessary information and documents and grant access to his business, if such access is required for installation work and training.

7.2 The Customer shall ensure that all spatial, technical, infrastructure and other setup and connection conditions required for system installation and start-up are in place.

8 Acceptance

8.1 Completed works must be accepted. The acceptance is validated by the signature of the Customer below the receipt form.

8.2 If the Customer does not sign the acceptance without delay, we may set a time limit of one week (in writing) for the Customer to do so. Acceptance shall be deemed to

have taken place, if the Customer does not specify (in writing and within this period) the reasons for the refusal of the acceptance.

8.3 The Certificate of Acceptance shall list the results of system testing. If necessary, an agreement shall be made with the Customer on required repairs/improvements and a time for additional testing.

9 Training

We shall train the employees of the Customer in accordance with the contractual provisions. In the event of legitimate Customer dissatisfaction, we shall have the opportunity to remedy the situation.

10 Defects

10.1 The subject of the Agreement shall have the features and properties stipulated in the Agreement, shall be suitable for the otherwise standard usage stipulated in the conditions of the Agreement and shall be of standard quality for software of this type. Product descriptions without a separate written agreement shall not constitute a guarantee. Software errors resulting from hardware defects, environmental conditions or improper usage shall not be considered as defects. Insignificant deteriorations in quality will not be taken into account. In respect of updates, upgrades and the delivery of new versions, the warranty shall be limited to new features of the update, upgrade or new versions compared to the previous version release.

10.2.1 Purchase The Customer only has the right to replacement performance in the case of defect claims. Such replacement performance may consist of the repair of the defects or the replacement of the defective part. Subsequent performance may also take place through the delivery or installation of a new program version or a work-around. If the replacement performance fails or if we definitively refuse to execute subsequent performance, the Customer may cancel the contract or reduce the purchase price and, if we are responsible for the defect, claim compensation or reimbursement of the futile expenses incurred pursuant to Section 12. If the defect does not affect functionality, or only slightly affects it, we are entitled (to the exclusion of further warranty rights) to remedy the defect by providing a new version or an update in the context of version, update and upgrade planning. Prerequisite for any warranty claims, however, is that the Customer shall properly fulfill its duties regarding inspection obligations and its duty to give notice of defects pursuant to § 377 of the German Commercial Code.

10.2.2 Rent If the subject of the Agreement has defects, and those defects detract not immaterially from its contractual use, the Customer (if it has complied with its duty to report defects) has the right to a reduction of rent and to damages, and the right to demand the remedying of such defects from us without prejudice to the Customer's legal claims. We may provide a replacement instead of taking remedial measures. The Customer may terminate

the Agreement without notice if defects are not remedied by us, or if we do not deliver replacements.

10.2.3 Contract for work and services (software development, installation and other contractual work services). In the case of defective performance in software development or other contractual work services, the Customer may demand replacement performance from us within a reasonable time. If replacement performance fails, the Customer (with respect to the software development or other additional services) may demand to cancel the Agreement or have the price reduced and, if we are responsible for the defect in question, demand damages or compensation for his futile expenditure from us, pursuant to Section 12.

10.2.4 Care and Maintenance We accept no responsibility for correction of the error. In case of defective performance in maintenance or care, the Customer may demand replacement performance from us within a reasonable time. If replacement performance fails, the Customer may terminate the care or maintenance agreement without notice or reduce the monthly care or maintenance fee and, if we are responsible for the defect, claim compensation or reimbursement of futile expenses incurred pursuant to Section 12. Replacement performance may also take place through the delivery or installation of a new program version or a work-around. Licensed product services for a release that is no longer maintained by us are not included in our Customer support services.

10.3 The warranties are waived if the Customer or third party improperly installs, uses, cares for, maintains or repairs the subject of the Agreement, or if the ambient conditions required by the manufacturer are not complied with. The Customer is free to prove that these circumstances are not the cause of the defect. In the case of software, the warranty obligation is also void if original labels or ID markings are changed.

11 Rights in Case of Defects in Title

11.1 We guarantee that the contractual usage of the subject of the Agreement by the Customer does not infringe upon the rights of any third party. In the case of defects, we guarantee (at the Customer's discretion) that we shall provide a legally sound usage method for the subject of the Agreement or for an equivalent subject of the agreement.

11.2 The Customer shall inform us immediately in writing if any third party makes infringement claims (e.g., copyright or patent rights) against it. The Customer grants us the right to conduct any legal actions against said third party on our own account. If the Customer makes use of this authorization, the Customer may not itself recognize the claims of any third party without our consent. We shall contest claims by third parties at our own expense and release the Customer from the payment of all costs connected with contesting these claims, insofar as the claims are not occasioned by conduct of the Customer in

violation of his obligations (e.g. the use of software programs in violation of the contract).

11.3 Liability is governed by the terms stipulated in Section 12; the statute of limitations is governed by the terms stipulated in Section 14.

12 Liability / Damages

12.1 We pay damages to the following extent, regardless of the legal basis:

12.1.1 The liability for intent, gross negligence and warranty shall be unlimited.

12.1.2 In the case of gross negligence of other vicarious agents, we shall be liable for damages typical for this type of agreement and which were foreseeable at the time of the conclusion of the Agreement.

12.1.3 We shall be liable for losses caused by any breach of our primary obligations and by our legal representatives or vicarious agents. Primary obligations are the basic duties which form the essence of the Agreement. Such duties were decisive for the conclusion of the Agreement and for the performance of which the Customer may rely. If we violate these primary obligations through simple negligence, liability is limited to the amount that was foreseeable at the time of the performance in question.

12.1.4 We shall be liable in accordance with the German Product Liability Act in the event of product liability.

12.1.5 We shall be liable for damages resulting from the absence of expressly agreed characteristics or any guarantees given, limited to the amount covered by the purpose of the respective agreement or guarantee and reasonably foreseeable at the time such agreement or guarantee was given.

12.2 The option of claiming contributory negligence remains open to us. The Customer has in particular the obligation to carry out data backup and to prevent any unauthorized third party access (esp. protection against viruses, Trojan-type viruses or similar) in accordance with current, state-of-the-art technology. Liability for loss of data shall be limited to the typical amount of effort involved in the data restoration, which also would have applied in the case of the regular and risk-pertinent manufacture of backup copies.

13. Rights to work results/Copyrights

13.1 We hereby grant the Customer non-exclusive, ordinary right of use for the software. Content and portability of this right of use are based on the provisions contained in paragraphs 3.4, 3.5 and 3.6.

13.2 The Customer shall immediately provide us with all relevant information about any inventions or other patentable results that arise in connection with the execution of the Agreement. All inventions shall be transferred to us. We reserve all rights in respect of any subsequent patentable rights. If we have no interest in

registering an invention for patent, we shall retransfer the invention to the Customer, whereby an ordinary, royalty-free and unrestricted right of use remains for us.

14 Statutory Limitations

14.1 The statute of limitations shall be deemed to be:

14.1.1 one year from delivery of the subject of the Agreement for claims for repayment of purchase price arising from withdrawal or reduction;

14.1.2 one year for other claims arising from defects;

14.1.3 one year for claims arising from infringement, provided said infringement does not pertain to a third party, on the basis of which the third party can demand the return of the subject of the Agreement;

14.1.4 one year for other claims for damages or compensation for futile expenditure, beginning from the time at which the Customer becomes aware of the circumstances which give rise to the claim or would, in the absence of gross negligence, have found out about such circumstances.

The statute of limitations shall take effect at the latest upon expiration of the limits set forth in § 199 of the German legal code (BGB).

14.2 For damages and compensation claims arising from willful acts, gross negligence, guarantees, bad faith and the cases specified in paragraph 14.2, all legal statute of limitations provisions shall apply at all times.

15 Confidentiality

The parties agree that their contractual relationship may provide them with access to information that is confidential for the other party ("Confidential Information"). Confidential information shall mean information, documents, details and data, which is marked as such or is to be seen as confidential because of its nature. The parties agree that confidential information (a) shall be kept secret for an unlimited period; (b) shall not be made accessible in any form to third parties (other than those of their employees or consultants who are subject to the obligation of non-disclosure) and (c) shall not be used for purposes other than those provided for in this Agreement.

16 Term and Termination

16.1 Term and termination deadlines arise from continued obligation agreements which pertain to the respective individual agreements.

16.2 The right to ordinary termination is excluded. The right to terminate the Agreement for good cause remains unaffected. Grounds for such termination include

16.2.1 an application for the opening of insolvency proceedings over the assets of the other party has been made or

16.2.2 insolvency proceedings over the assets of the other party have been opened or such opening was rejected for lack of assets or

16.2.3 an affidavit has been or is being declared for the assets of the Customer.

Grounds for termination for us are also

16.2.4 if the Customer or its successor, despite repeated reminders with reasonable grace, does not meet, or fully meet its payment obligations

16.2.5 if facts become known that the Customer is involved in sufficiently-founded suspicions of criminal activity, especially any criminal offense for fraud, embezzlement, bankruptcy offenses, offenses against the competition, the granting of favors, the receiving of bribes, bribery, corruption, etc.

16.3 The provisions of paragraphs 13 and 15 shall survive termination of this Agreement.

17 Other Provisions

17.1 The transfer of rights and obligations under the Agreement concluded with us require written consent to become valid; however, § 354 a of the HGB shall remain unaffected.

17.2 Regarding purchasing, we shall retain title to the delivered goods until receipt of all payments from the entire business relationship. Until transfer of ownership has taken place, the Customer shall undertake to handle the article of sale with all due care. In case of breach of contract by the Customer, in particular through default of payment, we have the right, at the expense of the Customer, to demand the return of the purchase item, or all copies of the licensed product for which we have retained the property rights, or if applicable, to demand the assignment of the licensee's (the Customer's) right of return against third parties. In this case and upon request, the Customer shall confirm in writing that it has not retained any copies of the licensed product(s) and that all installations of the licensed product(s) have been permanently deleted from the system of the Customer or that of the third party. Before the final transfer of ownership, the Customer shall require our prior written consent to receive the rights to the licensed product.

17.3 Verbal agreements are not part of this contract. Modifications and additional provisions are effective only if agreed in writing. This also applies to agreements which abolish the written requirement.

17.4 If a provision is or becomes invalid, this shall not affect the validity of the remaining provisions.

17.5 We are entitled to employ sub-contractors to perform any of the agreed contractual obligations.

17.6 The laws of the Federal Republic of Germany shall apply exclusively with the exception of the UN Sales Convention (CISG), even if the Customer has its headquarters abroad.

17.7 For all disputes arising from the contractual relationship, the Customer shall agree that our headquarters shall be the place of jurisdiction, if the Customer is a registered trader, a legal entity or a special assets fund under public law or if the Customer has no

place of domicile in the Federal Republic of Germany at the time legal proceedings are started. We are also entitled to sue at the headquarters of the Customer. (Oktober 23)