

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

COLTENE Group (includes all companies of the COLTENE Group), [www.coltene.com](http://www.coltene.com)

## 1. General

These General Terms and Conditions shall be binding for all deliveries by COLTENE.

Acceptance of the order and conclusion of the contract to supply goods shall take place exclusively by means of a written confirmation of the order based on these General Terms and Conditions of Sale and Delivery. Transactions concluded by our representatives shall also be subject to these provisions. Agreements to the contrary shall require the express written consent of COLTENE. Taking delivery of the goods shall be deemed acceptance of these General Terms and Conditions of Sale and Delivery even if they were previously refused by the customer. Customer's contrary or additional general terms and conditions or differing purchasing terms shall not be accepted even if designated the only applicable terms and conditions. They shall not become part of the contract, even if not expressly opposed by us.

COLTENE products shall be used only in accordance with the manufacturer's directions and in compliance with statutory and official regulations.

## 2. Prices

COLTENE issues annually a new price list. In general, the sales prices are quoted excl. VAT, ex works and are only final once we have accepted the order unconditionally. A minimum order volume of Euros 500, exclusive of VAT, is requested. A minimum quantity surcharge of Euros 50 is added to orders totaling less than the minimum order volume. Additional expenditures, such as attestation fees, costs of certificates of origin and others, are charged at cost.

COLTENE reserves the right to adjust confirmed prices in cases of increase of the cost of materials of officially planned price adjustments during the delivery period at the time of delivery. If the customer requests a delivery date of three months or more from the date of the order confirmation, the prices valid at the time of delivery shall be binding.

## 3. Delivery Periods

Quoted delivery times are approximate and not binding. Overruns shall not entitle the customer to compensation nor withdrawal from the contract. In cases of an act of God or a force majeure event (e. g. acts of war, accidents, transport disruptions, strikes, pandemics (incl. COVID-19), lockouts, etc.) and in cases of labour, energy or raw material or supply shortage or official orders, COLTENE shall, without liability for damages, be released from the obligation to meet delivery dates and abide by prices and shall be entitled to withdraw from the contract in full or in part without any compensation claim thereby accruing to the customer. The same shall apply if COLTENE suppliers or subcontractors do not deliver on time and/or in proper form.

## 4. Packaging and Transport, Passing of Risk

The immediate sales packaging is included in the price. Transport packing (e. g. pallets, sea freight packaging etc.), on the other hand, will be charged for separately. Unless expressly stated otherwise in writing, goods are normally shipped at the customer's expense and risk (EXW Incoterms 2020). COLTENE shall organize dispatch and transport to the best of its judgment but does not guarantee the use of the cheapest means of carriage or transport (CPT Incoterms 2020). COLTENE reserves the right to deliver up to 10% more or less than the quantity ordered respectively matches the shipping boxes quantities correspondingly.

## 5. Period for Payment

Unless otherwise specified, COLTENE's invoices are payable in cash and in full without any discount within 30 days net, from the date of invoice. In case cash discounts are requested, prices have to be increased by the corresponding amount. Bill of exchange and cheque payment charges as well as any and all bank charges, bank transfer expenses and remittance fees shall be borne fully by the customer and be paid additionally by the customer if the invoiced amount has not been credited in full to COLTENE's bank account. If the stipulated terms of payment are not observed, COLTENE shall be entitled to charge the customer interest and expenses from the due date to the date

of receipt of full payment without any need for a special reminder or formal notice of default. In this case, the customer shall pay default interest of 10 % (ten per cent).

### Retention of Title

**5.1** The delivered goods shall remain the property of COLTENE pending full settlement of all claims in connection with the business relationship between the ordering party and COLTENE. In the case of open accounts, title shall be retained to secure balance amounts due to COLTENE. Upon request of COLTENE, the ordering party shall assist COLTENE with the registration of the goods in the applicable retention of ownership register or similar national or international registers at the cost of the ordering party.

**5.2** The ordering party undertakes to make all necessary arrangements to ensure that the goods are individualized as property of COLTENE.

**5.3** The ordering party shall only be entitled to sell the goods in the course of its ordinary business activities and only to the extent that the ordering party has not defaulted on payment. The goods may not be disposed of in any way which may jeopardize the title of COLTENE.

**5.4** The ordering party herewith assigns all claims arising from the resale of the goods which are subject to a retention of title to COLTENE; should the ordering party sell the goods subject to reservation of title after these have been processed, joined, blended, or mixed with or together with other goods, such assignment shall only apply to those parts of the goods which correspond in value to the purchase price agreed between COLTENE and the ordering party plus a safety margin of 20% of such price. The ordering party is authorized to collect claims assigned to COLTENE; COLTENE shall be entitled to revoke this authorization and the entitlement to resell the goods subject to reservation of title should the ordering party fail to meet its obligations to COLTENE.

**5.5** The ordering party shall provide COLTENE with information as and when required about the goods subject to reservation of title or about associated claims which have hereby been assigned to COLTENE. Should third parties seize or assert any claims to the goods subject to reservation of title, the ordering party shall immediately notify the same and provide the necessary documents to COLTENE. The ordering party shall also draw such third party's attention to COLTENE's reservation of title. The costs of averting such seizures or assertions shall be borne by the ordering party.

**5.6** Should the value of the security provided exceed the value of all the secured claims of COLTENE by more than 20 %, the ordering party shall be entitled to demand that such excessive security be released.

**5.7** Should the ordering party default on its obligations to COLTENE, COLTENE shall - notwithstanding any other rights - be entitled to repossess the goods. In such cases, the ordering party shall grant COLTENE or an agent appointed by COLTENE immediate access to the goods subject to reservation of title and shall thereby surrender the same.

## 6. Warranty / Liability

Unless otherwise stated, COLTENE products are sold without any additional guarantees other than the legal warranty provided by article 197 of the Swiss Code of Obligations. Within the framework of these General Terms and Conditions of Sale and Delivery, COLTENE warrants perfect quality products. Warranty periods/expiry dates shall be stated on the packaging, user information or leaflet, according to the product. Application advice on COLTENE products, whether verbal, written or by demonstration, shall be provided according to the best knowledge of the current state of the art in dentistry and shall be understood as non-binding information. This shall also apply with regard to safe-guarding of any third party industrial property rights which is not warranted. Application advice shall not release the user from the duty of personally examining the products to assess their suitability for the intended purpose and procedure. This shall apply in particular to application in a procedure not expressly recommended. Application, use and processing shall take place outside the control of COLTENE and under the user's responsibility.

The ordering party is expected to carry out any tests that it may deem and that are reasonably necessary to allow it to make all the relevant decisions as to its own intended use of the goods and/or the use by its customers:

We recommend you contact us; however, please note that the advice and information we provide is based on COLTENE's own experience, and we can in no way be held responsible for any errors in the information provided.

On a more general level, and subject to mandatory statutory provisions, COLTENE disclaims any and all liability and shall bear no responsibility whatsoever for any harm caused to the ordering party or to a third party as a result of using, handling, storing or transporting the purchased goods, be it accidents to people, damage to other goods outside of this contract, or financial losses.

## 7. Complaints

All complaints must be notified to COLTENE in writing within 10 days from arrival of the goods at the destination at the latest and in the case of hidden defects within 10 days from discovery. If a justified complaint is made about the quality of the supply or goods and the defects are not due to damage in transport, the goods shall at COLTENE's option be replaced or a credit note shall be issued. No other claims will be accepted, and no goods should be returned to us without COLTENE's express agreement. Shortfalls shall be made up if possible; otherwise a credit note shall be issued. COLTENE reserves the right to charge a handling and restocking fee of 20% on goods which are returned if they were ordered in error or are no longer required. All returned goods must be originally packed. If the goods are faulty then the restocking charge will not apply.

Apart from the right to replacement or a credit note the customer shall have no other claims, including but not limited to claims for reimbursement of freight charges, or for compensation of direct or indirect damage (such as loss of profit, loss of sales, damage caused by default, etc.).

Under no circumstance will any disputes or complaints be considered after a product's normal shelf-life has expired.

## 8. Quality Assurance Conditions for Medical Devices

For the resale of medical devices, the Reseller Quality Assurance Conditions (RQAC) published on [www.coltene.com](http://www.coltene.com) do apply.

## 9. Prohibition of Retention and Set-off

Retention of payments or set-off of COLTENE's claim for payment of the purchase price against the customer's claims or counterclaims of any kind not expressly recognized by COLTENE in writing shall be prohibited.

## 10. Place of Performance and Place of Jurisdiction

The place of performance for all deliveries governed by the contractual relationship between COLTENE and the customer shall be the place of shipping (as defined in the corresponding order confirmation). The place of jurisdiction shall be the business domicile of the COLTENE company concluding the sale with the RESELLER OR CUSTOMER. However, COLTENE reserves the right to sue the customer for claims or debts due before the courts having jurisdiction at the customer's registered office or residence.

## 11. Invalidity, Amendment to these General Terms and Conditions of Sale and Delivery

Should any individual provision of these General Terms and Conditions of Sale and Delivery be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision or stipulation that approximates as closely as possible to the meaning and purpose of the invalid provision.

COLTENE reserves the right to amend these General Terms and Conditions of Sale and Delivery at any time without giving reasons or prior notice. The version valid at the date of order shall apply in each case. Otherwise, any deviations from these General Terms and Conditions of Sale and Delivery shall be valid only if expressly agreed to by COLTENE and set down in writing.

## 12. Applicable Law

The contractual relations between the customer and COLTENE shall be governed exclusively by these General Terms and Conditions of Sale and Delivery and, subsidiarily, by the provisions of Swiss Law. The applicability of the provisions of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded.

**Approved:** Altstätten, March 1, 2023