



## **i3 Membrane Corporation, Inc**

### **General Terms and Conditions**

These General Terms and Conditions of Sale ("GTCSS") of i3 Membrane Corporation, Inc., 13801 Reese Blvd West, Ste 310, Huntersville, NC shall apply to all our business relations with our customers.

#### **§ 1 Scope of Application; Form**

##### **(1) Validity in Commercial Transactions**

These General Terms and Conditions of Sale ("GTCSS") of i3 Membrane Corporation, Inc., 13801 Reese Blvd West, Ste 310, Huntersville, NC ("**i3 Membrane**" or "**we**") shall apply to all our business relations with our customers ("**Purchaser**" or "**you**").

##### **(2) Material Scope of Application**

The GTCS shall apply in particular to agreements for the sale and/or delivery of movable goods ("**Goods**"), regardless of whether we manufacture the Goods ourselves or purchase them from suppliers. Unless otherwise agreed, the GTCS in the version valid at the time of the Purchaser's purchase order or placement of the order or, in any case, in the version last communicated to the Purchaser in text form, shall also apply in the form of a framework agreement for similar future agreements without our having to refer to them again in each individual case.

##### **(3) Exclusive Application**

Our GTCSS shall apply exclusively. Any deviating, conflicting or supplementary general terms and conditions on the part of the Purchaser ("**Purchaser's GTCS**") shall only become an integral component of the agreement if and to the extent that we have expressly consented to their application. This requirement of consent shall apply in any case; for example, even if we carry out delivery to the Purchaser without reservation in the knowledge of the Purchaser's GTCS.

##### **(4) Precedence of Individual Agreements**

Individual agreements made with the Purchaser in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these GTCS. Subject to proof to the contrary, a written agreement or our written confirmation shall be decisive for the content of such agreements.

##### **(5) Formal Requirements**

Legally relevant declarations and notifications on the part of the Purchaser with regard to the agreement (e.g. stipulation of deadlines, notification of defects, rescission or reduction) shall be made in

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writing, i.e. in written or text form (e.g. letter, e-mail). Statutory forms and other verifications, in particular in case of doubts about the legitimacy of the declarant, shall remain unaffected.

## **(6) Statutory Provisions**

References to the applicability of statutory provisions shall only be for the purposes of clarification. Even without such clarification the statutory provisions shall therefore apply unless they are directly modified or expressly excluded in these GTCS.

## **(7) Partial Invalidity**

If any provision of these GTCS is or becomes invalid, then this shall in case of doubt not affect the validity of the remaining provisions of these GTCS or the agreement concluded regarding these GTCS.

# **§ 2 Specifications of the Goods; Conclusion of Contract**

## **(1) Subjective Requirements for the Goods**

Without prejudice to the stipulations contained in these GTCS, the subjective requirements for the Goods ("**Specifications**") shall be determined in detail between i3 Membrane and the Purchaser for each agreement. Within the scope of determining the Specifications the Purchaser shall communicated to i3 Membrane (a) a complete definition of the expected performance in terms of type, quantity, quality, functionality, compatibility, interoperability and with regard to any and all other relevant features of the Goods as well as (b) any and all other information essential for the use presupposed on the part of the Purchaser under the respective agreement. Notwithstanding the foregoing, only the subjective requirements agreed by the contracting parties in the specifications shall be binding for determining the subject matter of performance. If and insofar as the Goods represent a medical device, then the statutory requirements to be ensured by i3 Membrane as manufacturer, importer and/or distributor of medical devices within the meaning of Regulation (EU) 2017/745 when placing the Goods on the market or putting them into operation shall form part of the Specifications, unless otherwise agreed in the individual case.

## **(2) i3 Membrane Offers**

Our offers shall be nonbinding and subject to change. Notwithstanding the foregoing, the Purchaser shall be obliged to immediately check i3 Membrane's offer for recognizable errors, ambiguities (in particular with regard to the Specifications), incompleteness as well as unsuitability of the Specifications for the use presupposed under the agreement and to immediately inform i3 Membrane of any necessary changes or clarifications of the offer so that i3 Membrane may resubmit an offer that is corrected, but nonetheless nonbinding, with regard to the Purchaser's subjective requirements.

## **(3) Samples or Specimens**

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Samples or specimens of the Goods (including drawings, plans, calculations, costing, references to DIN or other standards) provided to the Purchaser by i3 Membrane or by third parties (e.g. sales partners of i3 Membrane) prior to conclusion of the agreement shall only be binding for the contractual quality of the Goods instead of or in addition to the specifications if i3 Membrane expressly informs the Purchaser of such at the time of or following provision of the sample or specimen; otherwise, such samples or specimens shall only represent nonbinding examples of possible specifications. Public statements made by i3 Membrane or its upstream suppliers or on their behalf, which go beyond the quality specifications stipulated in the Specifications, shall be corrected by the concretizing or contradicting stipulation in the Specifications.

#### **(4) Purchase Order; Conclusion of Contract**

Any purchase order of the Goods placed by the Purchaser shall be deemed a binding contractual offer. Unless otherwise stated in the purchase order, we shall be entitled to accept this contractual offer within 30 days after its receipt by us. Acceptance may be declared by i3 Membrane either in writing (e.g. by order confirmation) or by delivery of the Goods to the Purchaser.

### **§3 Delivery, Transfer of the Risk, Acceptance, Default of Acceptance**

#### **(1) Terms and Conditions of Delivery**

Delivery of the Goods shall take place in accordance with the individual agreement between the contracting parties (a) through delivery by i3 Membrane to the Purchaser or (b) at the Purchaser's expense by sales shipment to the destination designated by the Purchaser. In the cases of letter (b) shipment shall be made from the warehouse of i3 Membrane, which is also the place of performance for the delivery and any subsequent performance. Unless otherwise agreed we shall be entitled to determine the type of shipment (in particular the transport company, shipping route, packaging) ourselves.

#### **(2) Delivery Period**

The delivery period shall be agreed on an individual case basis or stated by us upon acceptance of the purchase order.

#### **(3) Unavailability of the Service**

If we are unable to meet agreed binding delivery deadlines for reasons for which we may not be held responsible (unavailability of the service), then we shall immediately inform the Purchaser and at the same time notify the Purchaser of the expected new delivery period. If the service is also not available within the new delivery period, then we shall be entitled to withdraw from the agreement in whole or in part; we shall immediately refund any consideration already paid by the Purchaser. A case of

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unavailability of the service in this sense shall be deemed to be, in particular, the failure of our supplier to deliver on time if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obliged to procure in the individual case.

#### **(4) Delay in Delivery**

The occurrence of our delay in delivery shall be determined in accordance with statutory provisions. In any case, however, a reminder from the Purchaser shall be required. The rights of the Purchaser in accordance with Section 7 of these GTCS and our statutory rights, in particular in the event of exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

#### **(5) Passage of the Risk**

The risk of accidental perishing and degradation of the Goods shall pass to the Purchaser upon delivery at the latest. In the case of sale by delivery to a place other than the place of performance, however, the risk of accidental perishing and degradation of the Goods as well as the risk of delay shall pass to the Purchaser already upon delivery of the Goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. Delivery shall remain unaffected if the Purchaser is in default of acceptance.

### **§4 Prices and Terms of Payment; Set-off and Rights of Retention**

#### **(1) Prices**

Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the respective agreement shall apply, ex warehouse plus statutory added taxes.

#### **(2) Shipping Costs**

In the case of sale by delivery to a place other than the place of performance (Section 4 Paragraph 1 lit. b) the Purchaser shall bear the transport costs ex warehouse and the costs of any transport insurance that the Purchaser requests. The Purchaser shall be responsible for any customs duties, fees, taxes and other public charges.

#### **(3) Payment Period**

The purchase price shall be due and payable within 14 days as of the date of invoice and delivery of the Goods.

#### **(4) Delay of Payment**

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The Purchaser shall be in default upon expiration of the aforementioned payment deadline. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate. We reserve the right to claim further damages caused by default, including the statutory lump sum for late payments.

#### **(5) Set-off; Rights of Retention**

The Purchaser shall only be entitled to rights to set-off or retention to the extent that the Purchaser's claim is undisputed or the subject of declaratory judgment. In the event of defects in the delivery, the Purchaser's opposing rights shall remain unaffected, in particular in accordance with Section 7 Paragraph 6 Sentence 2 of these GTCS.

### **§ 5 Retention of Title**

#### **(1) Retention of Title**

We retain title to the Goods sold until full payment of all our current and future claims arising out of the purchase agreement and an ongoing business relationship (secured claims).

#### **(2) Unlawful Acts**

The Goods subject to retention of title may not be pledged to third parties or assigned as security prior to full payment of the secured claims. The Purchaser must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties have access to the Goods belonging to us.

#### **(3) Request for Surrender; Rescission**

In the event of conduct on the part of the Purchaser that is contrary to the agreement – in particular in the event of nonpayment of the purchase price due – we shall be entitled to withdraw from the agreement in accordance with statutory provisions or/and to demand surrender of the Goods on the basis of our retention of title. The request for return does not at the same time include the declaration of withdrawal; rather, we shall be entitled to only request return of the Goods and to reserve the right to rescission. If the Purchaser fails to pay the purchase price due, then we may only assert these rights if we have previously specified a reasonable deadline for payment without success or if specification of such a deadline may be dispensed with in accordance with statutory provisions.

### **§ 6 Purchaser's Claims Related to Defects**

#### **(1) Statutory Warranty Rights**

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Unless otherwise stipulated in the following, statutory provisions shall apply to the rights on the part of the Purchaser in the event of material defects and defects of title (including misdelivery and short delivery).

## **(2) Basis of Liability for Defects**

The basis of our liability for defects shall be the agreed specifications, as well as the objective requirements for the Goods in question.

## **(3) Restrictions on Claims for Defects**

As a rule we shall not be liable for defects known to the Purchaser at the time of conclusion of the agreement or which the Purchaser is unaware of due to gross negligence. Furthermore, the Purchaser's claims for defects presuppose that the Purchaser has complied with statutory obligations to inspect and give notice of defects. If a defect becomes apparent upon delivery, inspection or at any time later, then we must be notified thereof in writing without delay. In any case obvious defects shall be communicated to us in writing within seven (7) working days of delivery and defects that are not apparent upon inspection shall be communicated to us within the same period of time following their discovery. If the Purchaser fails to carry out proper inspection and/or to give notice of defects, then our liability for the unreported defect or the defect that is not reported in time or that is not reported properly shall be excluded in accordance with statutory provisions.

## **(4) Priority of Subsequent Performance**

If the delivered item is defective, then we may initially choose whether to provide subsequent performance by remedying the defect (reworking) or by delivering an item free of defects (substitute delivery). Our right to refuse subsequent performance under statutory conditions shall remain unaffected. We shall be entitled to make any subsequent performance owed dependent on payment of the purchase price due by the Purchaser. However, the Purchaser shall be entitled to retain a reasonable part of the purchase price in proportion to the defect.

## **(5) Obligations within the Scope of Subsequent Performance**

The Purchaser shall provide us with the time and opportunity required for any subsequent performance owed, in particular hand over the Goods complained about for inspection purposes. In the event of a replacement delivery, the Purchaser shall return the defective Goods to us in accordance with statutory provisions. We shall be responsible for or reimburse the expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs in accordance with statutory provisions if a defect is actually given. Otherwise, we may demand reimbursement from the Purchaser of any costs incurred as a result of an unjustified request to remedy the defect (in particular inspection and transport costs), unless the absence of defect was not apparent to the Purchaser.

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## **(6) Other Claims Related to Defects**

If subsequent performance has failed or if a reasonable period to be specified by the Purchaser for subsequent performance has expired without success or may be dispensed with in accordance with statutory provisions, then the Purchaser may withdraw from the purchase agreement or reduce the purchase price. However, there shall be no right to rescission in the case of an insignificant defect.

## **(7) Compensation for Damages; Reimbursement of Expense**

Claims on the part of the Purchaser for damages or reimbursement of futile expenses shall obtain in the case of defects also only in accordance with Section 7 and shall otherwise be excluded.

## **§ 7 Other Liability**

### **(1) Statutory Liability**

Insofar as nothing to the contrary arises out of these GTCS, including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with statutory provisions.

### **(2) Scope of Liability**

We shall be liable for damages – for whatever legal reason – within the scope of fault liability in the event of intent and gross negligence. In the case of simple negligence, we shall be liable, subject to statutory limitations of liability (e.g. care in own affairs; insignificant breach of duty), only (a) for damages arising out of injury to life, limb or health or (b) for damages arising out of the breach of a material contractual obligation (the fulfillment of which makes proper execution of the agreement at all possible and compliance with which the contracting party may as a rule rely on); in the case of letter (b), however, our liability shall be limited to compensation for the foreseeable damage typically occurring.

### **(3) Scope of the Limitation of Liability**

The limitations of liability resulting from Paragraph 2 shall also apply to third parties as well as to breaches of duty by persons (also to their benefit) whose fault we are responsible for according to statutory provisions. They shall not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the Goods has been assumed and for claims on the part of the Purchaser.

### **(4) Rescission; Cancellation**

The Purchaser may only withdraw from the agreement due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. Otherwise, statutory requirements and legal consequences shall apply.

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## **§ 8 Statute of Limitations**

### **(1) Period of Limitation**

The general period of limitation for claims arising out of material defects and defects of title shall be one year as of the date specified in Section 3 Paragraph 5 of these GTCS.

### **(2) Scope of the Shortened Limitation Period**

The above periods of limitation of the law on sales shall also apply to contractual and non-contractual claims for damages on the part of the Purchaser based on a defect of the Goods, unless the application of the regular statutory limitation period would result in a shorter period of limitation in individual cases. Claims for damages on the part of the Purchaser in accordance with Section 7 Paragraph 2 Sentence 1 and Sentence 2 letter (a) shall become time-barred exclusively in accordance with statutory periods of limitation.

## **§ 9 Choice of Law and Place of Jurisdiction**

### **(1) Choice of Law**

These GTCS and the contractual relationship between i3 Membrane and the Purchaser shall be governed by the laws of North Carolina to the exclusion of uniform law on the international sale of goods, in particular the UN Convention on Contracts for the International Sale of Goods.

### **(2) Place of Jurisdiction**

If the Purchaser is a Distributor / reseller, then the exclusive place of jurisdiction for any and all disputes arising directly or indirectly out of the contractual relationship shall be our registered office in Huntersville, North Carolina.

## **§ 10 Other Terms**

### **(1) Compliance with Laws**

The Parties shall comply with all applicable laws and regulations, including, but not limited to, any laws and regulations relating to the import, or export, of any Product or associated technical data.

### **(2) Notices**

Notices shall be in writing and shall be deemed served upon receipt and shall be delivered in person or by nationally recognized courier or certified mail to i3 Membrane Corporation, Inc., 13801 Reese Blvd West, Ste 310, Huntersville, NC, Attention President, with a copy to the same address to the attention of General Counsel (such copy shall not constitute service of process).

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## **§ 11 Changes**

i3 Membrane reserves the right to change its General Terms and Conditions of Sale at any time without notice.

Status: October, 2024

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