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## ***Standard terms & conditions of sale***

### **1. General Agreements**

- 1.1 In these terms and conditions, the company BioSemi B.V. will be called "we/us", and any person, organization or company purchasing goods and/or services from BioSemi will be called "client".
- 1.2 All our quotations, and contracts, and the implementation thereof shall be subject solely to the following terms and conditions. Modifications or derivations hereof shall be agreed upon in writing
- 1.3 Standard terms and conditions of purchase of the client shall be ineffective, unless agreed by us otherwise in writing.

### **2. Intended Use**

- 2.1 Our products are designed and intended to be used for research applications only.
- 2.2 Our products are not designed or intended to be used for diagnosis or treatment of disease. Our products are not sold as a Medical Device as defined in EU directive 93/42/EEC, Article 1, Sec 2 (a) (European Union), or as defined in the Federal Food Drug & Cosmetic (FD&C) Act, Chapter II, Sec 201 (h) (USA).
- 2.3 Our equipment is only authorized to be used on humans, if this application is explicitly stated in the respective manual.
- 2.4 Our products are not authorized for use as critical components in life support systems. As used herein:
  - a) Life support systems are systems which (1) are intended for surgical implant into the body, or (2) support or sustain life, and whose failure to perform when properly used in accordance with the instructions for use provided in the labeling can reasonable expected to result in significant injury to the user
  - b) A critical component is any component in a life support system whose failure can be reasonable expected to cause failure of the life support device or system, or to affect its safety or effectiveness

### **3. Quotations**

- 3.1 All our quotations are without commitment.
- 3.2 Supplying quotations and/or documentation does not commit us to the acceptance of an order.
- 3.3 All documentation, samples, software, etc. supplied with a quotation remain our intellectual property.
- 3.4 We are authorized to refuse orders without stating a reason.

### **4. Sales contracts**

- 4.1 A sales contract with us is only valid after we have confirmed the order in writing. The order-confirmation is assumed to reflect the contract faithfully and completely, unless the client has

protested in writing against the confirmation immediately after receipt.

- 4.2 After the closure of a sales contact, we are authorized to demand a down payment of at the most 30% of the total order costs, before we undertake any work. In the event of a cancellation of the order, the down payment, subtracted with costs defined in 3.3, is immediately returned to the client.
- 4.3 In case the client wants to cancel the order and we agree, we are authorized to charge the client with the expenses that have already been made during the implementation of the order. This charge shall not exceed 20% of the total order costs.

## **5. Pricing**

- 5.1 Our prices are without Value Added Taxes, and other government taxes. All prices in our quotations and invoices are in EURO.
- 5.2 We are authorized to charge the client with changes in supply cost

## **6. Delivery and transport**

- 6.1 The ordered goods are delivered to the client by a shipping company. The moment of delivery is the moment when the ordered goods are handed over to the shipping company.
- 6.2 Our delivery dates are only indicative, unless specified otherwise in writing. We are, even in case of an agreed deadline, only in default after the client has served notice upon us in writing.
- 6.3 In case of an accountable shortcoming with the result of an impossibility to deliver within the agreed date, we are authorized to confer with the client on a mutual agreeable solution. In case no agreement can be reached, we are authorized to cancel the order. The client will have no right on further observance of the order, except for a reimbursement of material losses with a maximum of 10% of the original order costs, reduced with the costs of the goods that were already delivered.

## **7. Payment and ownership**

- 7.1 Payment by the client takes place without discount, appeal for compensation, or postponement, by transfer of the amount due to our bank account, within 30 days after the invoice date. In case of delay, we are authorized to charge the client additional costs of 1% of the total amount due per month delay. The transfer date mentioned on our bank statement will apply as the day of payment.
- 7.2 We are authorized to charge the client with all our expenses, which may result from actions required making the client fulfill his obligations.
- 7.3 So long as the invoice is not paid in full, all delivered goods remain our property.

## **8. Intellectual property**

- 8.1 All products, documentation, technical data, manuals, software, etc. made by us during the implementation of the order, remain our inalienable intellectual property. The client is bound to use this information solely for its own, private use, and the client shall not supply and/or sell the information to anyone.

## **9. Circumstances beyond one's control**

- 9.1 In these terms and conditions, "circumstances beyond one's control" are understood to mean: every circumstance irrespective of the will of the contracting parties, and/or every unforeseen circumstance, as a result of which the implementation of the contract can not be reasonably expected. "Circumstances beyond one's control" do include: fire, natural disaster, riot and uprising, governmental action, strike, absence through illness, shipping and transport, supply of raw materials and components, and default of our subcontractors, with the result that we can not meet our obligations towards the client.
- 9.2 In case it is our judgement that the circumstance beyond our control is of a temporarily nature, we are

authorized to postpone the implementation of the contract until the circumstance does not occur anymore.

- 9.3 In case it is our judgement that the circumstance beyond our control is of a permanent nature, we are authorized to cancel the contract. In this case, we are authorized to charge the client with the expenses that have already been made during the implementation of the order, until the circumstance beyond our control appeared.

## **10. Warranty and service**

- 10.1 Considering the restrictions stated below, we give a 3 year warranty on our products. On some components that are subject to wear and ageing in normal applications (e.g. switches, connectors, batteries, and electrodes), the warranty is limited to 1 year. The components on which a 1 year warranty applies, will be explicitly stated in the respective quotation, sales contract, and order confirmation. The warranty is limited to errors in design and workmanship, in relation to the specifications stated by us in the respective quotation and manual.
- 10.2 The warranty will not apply to defects resulting from normal wear and ageing, as well as defects caused by use of the products in a way that differs from the application directions given in the manual supplied with the equipment.
- 10.3 Any repair or modification not performed by us voids the warranty, unless we have approved the repair or modification in advance in writing.
- 10.4 If warranty service is indicated, the product should be returned to us. Warranty service will normally take place at the BioSemi office in Amsterdam, during regular working hours. We will bear the shipping costs. In case the client prefers warranty work to be performed on-site, we are authorized to charge the client with the travel and accommodation expenses.
- 10.5 In case a product returned for warranty service shows no defects, we are authorized to charge the client with our expenses.
- 10.6 We guarantee the availability of repair services for our products for a period of 10 years. After this period, the availability of repair service is subject to the availability of components.
- 10.7 Warranty and service availability periods start on the day of delivery as defined in 5.1.

## **11. Liability**

- 11.1 We do not accept any liability, as far as not laid down in the Law
- 11.2 We do not accept any liability when equipment turned out by us is used in a way that differs from the Intended Use as defined in section 2, or in a way that differs from the application directions given in the manual supplied with the equipment.

## **12. Annulment**

- 12.1 We are authorized to cancel contracts with us fully or partially, or to postpone the implementation of the contract, in cases where there is an accountable shortcoming from the side of the client, as well as when the client has supplied inaccurate, or incomplete information, or when the client has withheld circumstances of the kind that would have made us abandon the contract, should we have been properly informed.

## **13. Final clauses**

- 13.1 Dutch Law shall apply to all our quotations, and contracts and the implementation thereof.
- 13.2 All disputes arising between us and the client shall be settled by the authorized civil judge in Amsterdam, unless the cantonal judge is authorized.

Amsterdam, May 01, 2008