

## General Terms and Conditions

### 1. Subject matter and contract components

- 1.1 These General Terms and Conditions of ENDOMOBIL GmbH (hereinafter: "**ENDOMOBIL**") apply to all contracts for sales, service and repair work (hereinafter: "**Individual Contracts**") between ENDOMOBIL and its contractual partners (hereinafter: "**Customer**").
- 1.2 ENDOMOBIL's services and offers are aimed exclusively at entrepreneurs within the meaning of § 14 BGB (German Civil Code).

### 2. Subject matter of the contract

- 2.1 The subject matter of the contract is exclusively the services of ENDOMOBIL specified in the Individual Contract. ENDOMOBIL reserves the right to perform services through vicarious agents.
- 2.2 ENDOMOBIL's General Terms and Conditions shall apply exclusively. These shall also apply to all future Individual Contracts between ENDOMOBIL and the Client.
- 2.3 General terms and conditions of the Customer shall not apply, even if ENDOMOBIL does not separately object to their validity. Deviating or contradictory terms and conditions shall therefore only apply if ENDOMOBIL has recognized them in writing.

### 3. Repair services

- 3.1 The Customer is aware that ENDOMOBIL uses original new and used spare parts as well as rebuilt spare parts to carry out repairs.
- 3.2 Information on repair times is based on estimates and is therefore not binding.
- 3.3 The Customer may only demand a binding repair deadline once the scope of the work has been precisely determined and subject to our own correct and timely delivery. In the case of additional and extension orders placed at a later date or in the case of necessary additional repair work, the agreed repair period shall be extended accordingly. This shall also apply if such circumstances occur after ENDOMOBIL is in default.

#### **4. Return of unrepaired devices**

4.1 If the Customer does not place a repair order after receiving the cost estimate or after receiving information that a spare part is not in stock and the repair may be delayed as a result, the device will be returned to the Customer free of charge. The following applies:

- If the device is received by ENDOMOBIL in assembled condition, it will be returned as it was received by ENDOMOBIL, but without the bending rubber.
- If the device is received by ENDOMOBIL in a disassembled state, ENDOMOBIL will assemble the device to the extent necessary for the preparation of a cost estimate and return it to the Customer in an assembled state, whereby the functionality of the device will not be restored.

4.2 If the repair cannot be carried out, the appliance to be repaired need only be returned to its original condition at the express request of the Customer against reimbursement of the costs, unless the work carried out was not necessary.

4.3 There is no hygienic cleaning of unrepaired devices. ENDOMOBIL is not liable for the functionality of the unrepaired device and expressly advises against further use of the device.

4.4 Devices that cannot be repaired by ENDOMOBIL will be returned to the Customer within 48 hours on working days, starting from the time the Customer receives notification that the device cannot be repaired. This rule applies, for example, to video endoscopes if they require a replacement CCD chip and this is not available as a spare part at the time of repair, as well as other spare parts such as housings. Any costs incurred by other repair companies shall not be borne by ENDOMOBIL.

#### **5. Remuneration; rights of set-off and retention**

5.1 Unless otherwise agreed in writing, the amount of remuneration and all payment modalities are based on the respective Individual Contracts. The same applies to travel costs and expenses.

5.2 All prices are net prices and are subject to the applicable statutory value added tax.

5.3 ENDOMOBIL reserves the right to assert rights of set-off and retention against the Customer in the event of payment arrears arising from the same contractual relationship to the extent permitted by law.

5.4 The Customer may only offset against legally established or undisputed counter-claims.

## **6. Time of performance; delay**

6.1 Unless otherwise agreed in writing, payments by the Customer are due within 30 days of receipt of a verifiable invoice and must be made to one of the accounts specified in the invoice in favor of ENDOMOBIL.

6.2 The Customer shall be in default 30 days after receipt of the verifiable invoice without the need for a reminder from ENDOMOBIL (Section 286 (3) BGB). In this case, ENDOMOBIL may charge interest at a rate of 9 percentage points above the base interest rate. The assertion of further damages caused by default remains reserved.

6.3 If the Customer fails to specify the debt to which it is paying, incoming payments are initially booked against existing ancillary claims (interest, etc.) and then against the oldest debt of the Customer.

6.4 If the Customer fails to meet its payment obligations despite a reminder setting a reasonable grace period, ENDOMOBIL shall be entitled, without prejudice to the rights set out in Section 6.2, to cease work on all services agreed in the Individual Contract and the associated agreements or in the context of the provision of continuing obligations for the services not yet paid for and to withdraw from the relevant contract and to demand payment of all costs incurred by the Customer up to that point.

## **7. Warranty and statute of limitations; limitation of rescission**

7.1 In the event of defects in the contractual services, ENDOMOBIL shall initially provide warranty through subsequent performance. ENDOMOBIL shall be entitled to choose the type of subsequent performance. The defect must be reported to ENDOMOBIL in text form (e.g. by email).

7.2 The limitation period for claims arising from defects in a repair or new, installed spare parts is 12 months and begins with the acceptance of the agreed services. Claims for damages due to material defects, with the exception of claims due to intentional or grossly negligent behavior and claims due to damage to life, limb and health, shall also expire after 12 months. The warranty for material defects in installed, used spare parts is excluded, with the exception of claims for damages due to intentional or grossly negligent breach of ENDOMOBIL's obligations and claims based on injury to life, limb and health.

- 7.3 The right to withdraw from the Individual Contract due to the existence of a minor defect that only insignificantly restricts the usability of the functions of the device is excluded. The right to substitute performance in accordance with § 637 BGB is excluded if ENDOMOBIL is able and willing to remedy the defect.

## **8. Limitation of liability**

- 8.1 ENDOMOBIL shall only be liable for damages if the occurrence of damage is due to an intentional or grossly negligent breach of contract by ENDOMOBIL or if the occurrence of damage is due to a slightly negligent breach of a material contractual obligation. Material contractual obligations include those obligations which enable the proper performance of the contract only upon fulfillment and on the fulfillment of which the Customer relies and may regularly rely. In the event of a slightly negligent breach of material contractual obligations, ENDOMOBIL shall only be liable for foreseeable damage typical of the contract at the time of conclusion of the contract. Contractually typical, foreseeable damages are those that the contractual partner foresaw as a possible consequence of a breach of contract at the time of conclusion of the contract or should have foreseen, taking into account the circumstances of which it was aware or should have been aware, if it had exercised due diligence.
- 8.2 The limitations of liability shall not apply in the event of injury to life, limb or health resulting from a negligent or intentional breach of duty by ENDOMOBIL or an intentional or negligent breach of duty by a legal representative or vicarious agent of ENDOMOBIL.
- 8.3 In cases of negligence, ENDOMOBIL's liability for data loss and recovery shall be limited to the typical recovery costs that would have been incurred in the event of regular, state-of-the-art data backup appropriate to the importance of the content.
- 8.4 The limitations of liability also apply to breaches of duty by or for the benefit of persons for whose negligence ENDOMOBIL is liable in accordance with statutory provisions.

## **9. Duty to cooperate**

- 9.1 The obligations to cooperate arise from the respective Individual Contract and the following provisions:
- 9.2 Apart from the special regulations, the following general obligations to cooperate apply to the Customer. The Customer must create the necessary organizational prerequisites for the acts of cooperation; in particular, the Customer shall

- to the best of its ability, assist ENDOMOBIL in the search for the causes of faults and, if necessary, encourage its employees to cooperate with the employees deployed by ENDOMOBIL;
- actively participate in the fault analysis when faults occur and document faults in such a way (a diagnostic sheet will be provided to help document the fault) that it is possible to reproduce the fault. This obligation is based on the Customer's ability to identify and name technical faults in the device. A fault report should contain information about the type of technical fault, the module in which the technical fault occurred, the version number and all work that was being carried out on the device when the technical fault occurred. The fault report must be made in text form.

9.3 If it is apparent to ENDOMOBIL that the Customer is not fulfilling an obligation to cooperate in accordance with the contract, ENDOMOBIL shall inform the Customer of this and point out the consequences. ENDOMOBIL shall not be in default as long as the Customer fails to fulfill an obligation to cooperate in accordance with the contract. In all other respects, the statutory provisions shall apply.

## 10. Force majeure

- 10.1 Neither party shall be liable to the other party in the event of a breach of its contractual obligations if a force majeure event delays, prevents or hinders the fulfillment of said obligations. Force majeure is an event beyond the control of either party which could not reasonably have been foreseen at the time of the conclusion of the contract and the effects of which cannot be avoided by appropriate measures (hereinafter: "**Force Majeure**"). The contracting parties agree that the following events in particular shall be deemed to constitute Force Majeure: Total or partial destruction by fire, floods, war, intervention by public authorities, energy supply difficulties, strike or lockout, pandemics or epidemics, acts of terrorism and/or threats of acts of terrorism on the premises of the contracting parties, as well as natural disasters recognized by the State.
- 10.2 The parties expressly agree that any event caused directly or indirectly by an epidemic situation and the measures taken following such a situation (including reasonable measures taken by the parties in this context), to the extent that it prevents either party from fulfilling its contractual obligations without unreasonable cost, shall constitute a Force Majeure Event. The parties shall nevertheless use their best endeavors to meet the agreed contractual deadlines and each party shall promptly inform the other party of any difficulties in this regard.

- 10.3 The contracting party invoking the rights referred to in this clause must immediately provide the other contracting party in writing or by fax or e-mail with evidence of the situation or circumstances that prevent it from fulfilling its obligations under this contract. In addition, the contracting party must indicate the period during which it is likely to be unable to fulfill its contractual obligations due to the situation or circumstances. In the event of the occurrence of such a force majeure event, the obligation to fulfill this contract shall be suspended until the force majeure event has ended. However, if the force majeure event lasts longer than thirty (30) days, or if the obstacle to the fulfillment of the obligation is definitive, either party shall have the right to terminate the contract in writing, subject to ten (10) days' notice, without any compensation being owed by either party.

## **11. Acceptance**

- 11.1 The Customer shall inspect ENDOMOBIL's contractual services immediately after delivery, in particular with regard to their basic functionality and operability.
- 11.2 Acceptance must be declared in writing or in text form (e.g. by e-mail) within 3 working days of receipt of the device, beginning on the day following the day on which the repaired device was received. If the Customer puts the repaired device into operation without asserting significant defects within the period specified in sentence 1, but at the latest after two weeks, tacit acceptance shall be assumed to exist. However, ENDOMOBIL must inform the Customer of this separately.

## **12. Retention of title; extended lien**

- 12.1 ENDOMOBIL retains title to merchandise such as sold endoscopes, essential accessories, spare parts and replacement units until the respective payments have been received in full. Further security agreements can be made.
- 12.2 ENDOMOBIL is entitled to a right of lien on the Customer's items that have come into its possession as a result of the contract. The right of lien may also be asserted for claims arising from work carried out earlier, spare parts deliveries and other services, insofar as they are related to the repair item. The right of lien shall only apply to other claims arising from the business relationship insofar as these are undisputed or legally binding.

- 12.3 ENDOMOBIL shall be entitled to assert its rights arising from the retention of title - in particular to take back the goods delivered under retention of title - without prior withdrawal from the respective contract.

### **13. Contract amendment**

There are no verbal collateral agreements. All amendments, additions or clarifications as well as special guarantee commitments must be made in writing; this also applies to the amendment of this agreed written form requirement. If declarations of the aforementioned type are made by representatives or auxiliary persons of ENDOMOBIL, they shall only be binding on ENDOMOBIL if ENDOMOBIL has given its written consent. The written form may be replaced by the text form in accordance with the provisions of the respective Individual Contract.

### **14. Applicable law; place of jurisdiction**

- 14.1 ENDOMOBIL is entitled to amend these General Terms and Conditions unilaterally insofar as this is necessary to eliminate subsequent equivalence problems or to adapt to changes in the legal or technical framework. ENDOMOBIL shall inform the Customer of any such amendment by notifying the content of the amended provisions to the contact addresses provided in each case (primarily the e-mail address). The amendment shall become part of the contract if the Client does not object to its inclusion in the contractual relationship in text form within 4 weeks of receipt of the notification of amendment.
- 14.2 The interpretation as well as the rights and obligations of these General Terms and Conditions are subject to German law.
- 14.3 The exclusive local place of jurisdiction for all disputes in connection with the interpretation, conclusion and implementation of these General Terms and Conditions is the registered office of ENDOMOBIL.