

**Delivery and Payment Terms and  
Conditions of Biomet 3i Netherlands  
B.V. (Zimmer Biomet  
Group company)  
AccuraMesh™ -  
/AccuraPlate™-Products**

**1. General provisions**

- 1.1 The following terms and conditions are applicable to all our current and future offers and to contracts entered into with us. Divergent and contrary business and purchase terms and conditions of the customer are not accepted, unless we authorize them in writing.
- 1.2 The present terms and conditions apply to the design and manufacture of individualized Accura product ("Product") according to the specifications sent by the Customer.

**2. Contract establishment and content**

- 2.1 A contract exists when DICOM is uploaded by Customer as mentioned in clause 3.1 and the present Terms and Conditions are accepted. Our offers are subject to change and non-binding unless expressly marked as binding.
- 2.2 Designing and Manufacturing the Product will be carried out in accordance with the specifications sent by Customer by uploading a DICOM file with all necessary information for the design of the product.

**3. Obligations of the Customer**

- 3.1 Customer shall provide all the necessary specifications by means of uploading the DICOM file at [www.zbd-fileupload.com](http://www.zbd-fileupload.com) for the design of the Product ("Specifications").
- 3.2 Customer will receive the design draft of the Product ("Design") by ZimVie by the email [AccuraMesh@zimvie.com](mailto:AccuraMesh@zimvie.com), [AccuraPlate@zimvie.com](mailto:AccuraPlate@zimvie.com) and shall send his approval by sending the "Design verification form" signed to our Customer Service within 15 days after receiving the Design.
- 3.3 Upon receipt of Design verification form signed, our Customer service will order the manufacture of the Product according to the approved Design.
- 3.4 Upon receipt of the Design, if customer does not place the order and cancels the service, a fee of 75 euros will be applied.

**4. Price and payment terms and conditions**

- 4.1 Our prices are expressed in Euros. Sales tax and the costs of packing, insurance, and carriage are in addition.
- 4.2 The price agreed between the parties shall be the one indicated in the order confirmation or, in case that the product has been delivered without order confirmation, the one reflected in the delivery note.
- 4.3 All prices are based on cost factors at the time of order or confirmation of order. If unpredictable increases in labor costs or costs of material occur after the date of placement of order or confirmation of order, and if these increases lead to an increase in our procurement prices or costs, thus the execution of the order is excessively onerous, then we are entitled to adjust our prices in accordance with the cost increases. We will notify you accordingly.
- 4.4 The price adjustment provision of subsection 4.3 does not apply if the price has been explicitly confirmed as a fixed non-reviewable price.
- 4.5 Unless otherwise agreed with the customer, invoices are due and payable within 60 days from the date of the invoice. A discount on new invoices is not permissible so long as older invoices have not yet been paid or

have not been paid in full.

- 4.6 When payment is not made within the agreed deadline or if circumstances exist that confirm the customer's inability to pay the invoices on time, we are entitled to perform pending orders only against advance payment, or to make performance contingent upon issuance of a security guarantee.
- 4.7 In case of default of payment by the customer, we may charge default interest on overdue sums at the applicable statutory rate that we are entitled to claim for late payments on a daily basis until payment is received
- 4.8 The customer may offset our claims only against undisputed or legally confirmed counterclaims.

**5. Delivery; shipment**

- 5.1 Delivery deadlines are governed by the agreements made in the individual case. A delivery deadline has been met if the shipment is given to the carrier or shipment readiness has been established and reported.
- 5.2 Events that are unforeseeable, unavoidable and outside our control and sphere of influence and for which we do not bear responsibility, such as acts of God, war, natural disasters, strike, lockout stock shortage due to health authorities inspection or product recall and other similar events or causes release us from our obligation to perform the contract within the agreed deadline and to the extent such obstacles continue to exist. With regard to products that we do not produce ourselves, our obligation to deliver shall be subject to our correct and timely receipt of such products from our suppliers. We shall immediately inform the customer of any obstacles pursuant to this Section 5.2.
- 5.3 We are entitled to make partial deliveries provided the products covered by the order are not immediately available.
- 5.4 In the event of a delay in customer reception of the products for which the customer is responsible, we are entitled to demand compensation for damages caused to us, including any additional reasonable expenses.
- 5.5 Unless otherwise agreed between the parties, (i) we shall deliver the products to the customer at its premises, organizing the transport and bearing the risk on the products until they are delivered to the customer and (ii) the customer shall bear the cost of the transport.
- 5.6 In the event of products manufactured by third parties, the products may be delivered directly to the customer by the third-party manufacturer, unless otherwise agreed.

**6. Retention of title**

- 6.1 We retain title to the products we supply until we have received the full purchase price for said products.

**7. Conditions for returns**

- 7.1 Product are Custom-made medical devices according to Customer precise Specifications, Once made, the Product is only suitable for your use, and therefore cannot be cancelled or returned unless faulty or not made in accordance to the Specifications given.
- 7.2 Where incorrect Specifications were provided by Customer we cannot give refunds. In all cases we will try to work with Customer to try and achieve a satisfactory solution to the problem.
- 7.3 In the case where the products need to be returned to us due to our error in the preparation and/or delivery, we will bear the cost and risk related to the return of the products. In these cases, we will need to authorize and organize the pickup of the products.

**8. Warranty**

- 8.1 The products will be covered by the standard warranty which will be covered by the manufacturer of the Products or ZimVie as appropriate, (the "Warranty").

**9. Liability**

- 9.1 We shall only be liable, whether as a result of breach of contract, tort or otherwise, for: (a) direct damages caused by an attributable and negligent breach of a material contractual obligation, but only up to the amount of the invoice value of the relevant product that gave rise to the liability; (b) any damage or loss to the extent it is caused by our intent or willful recklessness; (c) any liability that cannot be excluded under mandatory law (in particular, product liability laws) and (d) culpably caused personal injuries.
- 9.2 We will not have any other liability. In particular, we shall not be liable for any indirect damages which include, but are not limited to: (i) any loss of profits, revenue, anticipated savings or loss of data or (ii) any indirect loss which are not directly the result of an event causing the damage.
- 9.3 Likewise, we shall not be liable for damages occurring as a result of unskillful processing of our products or combination of our products with third-party components if operating instructions and references to our user instructions and manuals are ignored in the processing and combining. This applies particularly if our products are combined with third-party supplier components that are not certified by us for this purpose.
- 9.4 As the products are intended for the use by the customer, ZimVie disclaim any liability arising from the resale of the products by the customer.
- 9.5 The products are intended for Customer use. Furthermore, the Customer acknowledges and agrees that (i) the distribution and re-sale of the products is a regulated activity and, as such, the distribution and commercialization of the products is subject to having an authorization from ZimVie (ii) Customer may not lawfully resell the products unless Customer holds an authorization from ZimVie to do so.
- 9.6 In the event of non-authorized resale of our products, we reserve the right to take any action we deem necessary for compensation of damages caused to us, including the right to cancel any order and stop selling our products to the non-complying Customer. We fully disclaim any liability arising out of the resale of our products.

**10. Closing provisions**

- 10.1 If one provision of the contract is or becomes null and void, the validity of the other provisions of the contract shall not be affected.
- 10.2 The contract shall be governed by the laws of The Netherlands expressly excluding its conflict rules and the United Nations Convention on Contracts for the International Sale of Goods.
- 10.3 The Courts and Tribunals of Dordrecht, The Netherlands shall have jurisdiction to solve any dispute or controversy related to the contract entered into between us and the customer. In our discretion, the customer may also be sued before the Courts and Tribunals of its domicile.
- 10.5 In the event that the Customer detects conduct by him or his employee(s) in connection with the performance of this Agreement that violates or may violate any applicable law and/or regulation, the Customer shall immediately notify ZimVie through the compliance website [www.zimvie.com/speakup](http://www.zimvie.com/speakup) as a communication tool established by the ZimVie globally.