

Article 1 – General provisions

1.1 These general conditions annul and replace the conditions previously applicable and govern the relationship between BODYCAP, a public limited company with capital of €740,000 and whose registered office is located at 3 rue du Dr Laennec, 14200 Hérouville, Saint-Clair and which is registered at the RCS of CAEN under no. 537 927 733 with VAT number FR31537927733 (hereinafter referred to as “BODYCAP”), and its professional clients (hereinafter referred to as “Clients”). Any other document issued by BODYCAP, in particular catalogues, prospectuses and advertisements, are only of informative and indicative value.

1.2 Acceptance by the Client of a quote from BODYCAP and, in general, of any order from the Client, implies acceptance without reservation by the latter and their full acceptance of these conditions. In the event of a contradiction between the provisions of these conditions and those of the specific conditions contained in the quote, it is agreed that the latter shall prevail.

1.3 The fact that one of the Parties has not availed themselves of one or more provisions of these general conditions at any time shall not be interpreted to mean that they waive the right to avail themselves of said provisions at some time in the future. The cancellation of a clause of these general conditions shall not affect the validity of other clauses as a whole.

1.4 Except in the event of a specific request on its part, the Client expressly recognises the right of BODYCAP to state for advertising purposes that it is a supplier of the Client, with BODYCAP free to include the company name or any other distinctive symbol of the Client on its advertising documents, and to inform all third parties of its status as a supplier, once the order has been delivered. However, within this context BODYCAP shall abstain from all actions that could harm the image or reputation of the Client and from all actions that could breach the confidentiality of projects.

1.5 As an independent business, BODYCAP reserves the right to outsource all or part of its contractual obligations.

Article 2 – Information

The Client must provide BODYCAP with all useful information for BODYCAP, as the supplier, to assess the feasibility of the delivery of the products concerned in the country of the Client and the adaptation of the order of the Client to its requirements. This being the case, BODYCAP considers all information provided to it by the Client to be accurate and genuine, with the Client promising to inform BODYCAP of any amendment to this information as soon as possible via e-mail or any other written means of communication of certain date. In this regard, the Client remains responsible for the content and the accuracy of information it sends to BODYCAP and shall hold the latter harmless against any legal action the result of said information.

Article 3 - Orders / Quotes

3.1 The terms and conditions for placing orders with BODYCAP differ according to whether or not its Clients have a catalogue price list.

3.2 For Clients who do not have a catalogue price list, any intervention by BODYCAP will must be conditional on the submission of an estimated, detailed and personalised quote issued to the Client following analysis by BODYCAP to determine the compliance of its products with regulations applicable in the country concerned. This quote shall contain a description of the products and services based on the order submitted by the Client, set out in the quote, as well as the terms and conditions and costs of the same. Within this context, all orders of the Client will be actioned once BODYCAP has received the quote, signed and dated and accompanied by any down payment required. The quote can also be accepted in the form of an e-mail from the Client confirming their acceptance of the quote, with said e-mail to be accompanied by any required down payment. Unless otherwise stated, quotes provided by BODYCAP will be valid for thirty (30) days from their date of issue. Once this deadline has passed, the commercial offer made by BODYCAP must be considered null and void and the Client must request a new quote.

3.3 A prior quote from BODYCAP will not be required in the case of Clients who have a catalogue price list. In this case, BODYCAP will action the order of the Client upon receipt of the order form completed by the Client. The contract will then be deemed to have been concluded once BODYCAP has issued written confirmation of the order confirming acceptance of the order placed by the Client.

3.4 In any event, the Client promises to send BODYCAP its orders with sufficient time to allow the latter to organise itself to fulfil its contractual obligations.

3.5 The amount paid by Client when placing its order will be considered a down payment to the exclusion of any other description, in particular a deposit as defined in article 1590 of the Civil Code.

3.6 The contract is only validly agreed between the Parties when the following three circumstances have been met:

- BODYCAP has received the quote signed by the Client or the e-mail confirming its acceptance of the quote under the conditions set out above, accompanied by any required down payment;
- BODYCAP has confirmed the order form sent by the Client under the conditions set out above;
- BODYCAP has started to execute the contract.

3.7 No total or partial quantitative or qualitative amendment to the order or quote can be accepted without the prior written consent of BODYCAP. If expressly accepted by BODYCAP, any changes to the order or to the quote requested by the Client can result in an increase in the agreed prices and could result in new delivery times. If the Client cancels its order, any monies paid will in any event be retained by BODYCAP by way of provisional indemnity, without prejudice to any damages due.

3.8 The benefit of the offer made by BODYCAP is strictly personal to the Client, and cannot be transferred without the prior express consent of BODYCAP.

Article 4 – Installation / Software

4.1 Unless otherwise stated, BODYCAP does not install products; installation is the responsibility of the Client. To install BODYCAP solutions, the Client must use the USB key provided to it and install the software supplied.

4.2 BODYCAP products include the following software (hereinafter referred to as “Software”):

- e-Performance Manager Software
- Anipill Software
- eTact Watcher
- e-Celsius Manager Software
- Anilogger Manager Software

4.3 BODYCAP issues the Client with a user licence (non-transferrable and non-exclusive) for the Software.

4.4 In any event, the right to use to the Software granted to the Client is strictly limited to the use of BODYCAP products. BODYCAP does not grant the Client any other rights to the Software.

4.5 The Client is prohibited from making any copies of the Software, whether in full or in part, except under the circumstances expressly provided for in these conditions. The Client may not assign and/or communicate, either directly or indirectly, all or part of the Software to a third party, whether for free or in exchange for payment, except with the prior express written agreement of BODYCAP and unless the BODYCAP products are made available to users.

4.6 Any modification of the Software by the Client is prohibited except with the prior express consent of BODYCAP. The Client may not disassemble or decompile the Software, subject to

the legal provisions in force on the date the quote is signed by the Client. The Client may not correct errors or bugs contained in the Software; only BODYCAP can correct these problems or appoint a third party to correct them.

Article 5 – Training

At the specific request of the Client (and, in any event, for any new Client, unless otherwise stated), BODYCAP can hold training sessions in particular on the use of its products. The training methods used by BODYCAP, in particular the content, duration and pricing conditions, are specified in the quote. Unless otherwise stated, training sessions are held remotely via Skype or teleconference.

Article 6 – Services

6.1 At the request of the Client, BODYCAP may be required to provide services relating to the implementation of integration products and services on its behalf. The terms of these services are set out in the quote addressed to the Client.

6.2 If the provision of BODYCAP services results in the need for specific products, documents or information from the Client, the Client promises to submit said products, documents or information as soon as possible. BODYCAP will not, in this regard, be required to assume any guarantee or liability resulting from a failure to fulfil its obligations if said failure is due, even in part, to the late delivery of (or failure on the part of the Client to provide) said product, document or information.

6.3 If the services of BODYCAP require hardware and/or services from a third party expressly designated by the Client, BODYCAP shall not assume any guarantee or liability resulting from a failure to fulfil its obligations if said failure can be attributed, even in part, to the failure of this third party to provide the agreed hardware and/or services.

6.4 The commitments referred to in the quote accepted by the Client can only be met in close collaboration with the competent services of the Client and as a function of information provided to BODYCAP. The Client thus promises to do all they can to provide BODYCAP with this information, so that the latter can provide the services referred to in the quote. In general, the Parties promise to conduct themselves in their dealings with each other as loyal partners acting in good faith and, in particular, to inform each other of any difficulties they may experience in the fulfilment of their obligations.

Article 7 - Deliveries / Acceptance

7.1 Unless a specific agreement has been reached between the Parties, deliveries are subject to the FCA Incoterms 2010 (3 rue du Docteur Laennec, 14200 HEROUVILLE-SAINT-CLAIR). Under these incoterms, deliveries are considered to have been made when products are delivered to the Client or to a transport company on the premises of BODYCAP.

7.2 In view of the specificities inherent to the production of BODYCAP products, products are delivered up to the amount of inventory available. BODYCAP promises to do whatever it can to deliver to the Client the amounts ordered, and to inform them as soon as possible of any difficulties concerning the delivery of a particular product. In this regard, if a product ordered is temporarily or permanently unavailable, in particular due to a failure on the part of a BODYCAP supplier, BODYCAP will warn the Client and specify the date the order is likely to be honoured and can, where appropriate, offer the Client a product or service of comparable quality.

7.3 Delivery times agreed between the Parties are determined on a case-by-case basis as a function of the specificities of the order in question, and are stated on the quote. The Parties agree that delivery times are provided for informative and indicative purposes, and that BODYCAP will do everything it can to meet these times. In this regard, compliance with these times shall depend in particular on the availability of transport companies, the order in which orders arrive and collaboration between the Parties for the completion of the products. As a result, late deliveries shall not give rise to the payment of damages, penalties, withholdings or the cancellation of orders in progress and/or a refusal to deliver all or part of the products of deliveries unless delivery is more than thirty (30) days late, except in the event of a grave error on the part of BODYCAP.

7.4 When a down payment is required, the delivery time shall start on the date said down payment is made by the Client.

7.5 If the products are to be delivered early, BODYCAP will inform the Client via all means as soon as possible. In general, BODYCAP promises to inform the Client of any difficulties foreseen or experienced in the fulfilment of the obligations entrusted to it as soon as possible.

7.6 BODYCAP is authorised to make full or partial deliveries.

7.7 In the event of a failure on the part of the Client to fulfil its contractual obligations, BODYCAP reserves the right to suspend the execution of the order.

7.8 Irrespective of the conditions under which they are transported, BODYCAP products travel at the risk and peril of the Client. As a result, the Client will bear all risks that the products could cause based on the delivery of the products; therefore, it must assume responsibility for and bear any expenses resulting from the same. The Client must at all times ensure receipt of the products and, as a result, must be present at the location of the delivery at the time of delivery and provide the appropriate handling equipment. In the event of damage, missing product or late delivery, the Client must make clear and precise comments on the document of receipt of the carrier and inform the carrier, via registered mail with acknowledgement of receipt, of their justified objection within three days (excluding public holidays) after receiving the products. In this regard, it is agreed that in view of the fact that the expression “subject to unpacking” makes no express mention of the anomaly found, it cannot be interpreted as a handwritten objection.

7.9 Without prejudice to the provisions against the carrier, complaints in relation to apparent faults or a mismatch between the products delivered and those in fact ordered must be submitted to BODYCAP in writing within eight (8) days of receipt of the products, with a copy of the e-mail sent to the carrier also being sent to BODYCAP.

Article 8 - Price / Payment

8.1 The prices applied by BODYCAP are set for each order according to the prior quote sent to the Client or the catalogue price lists for Clients who have such a list. These prices are exclusive of taxes, with the VAT applicable being that in force on the date of the invoice. Furthermore, all additional costs, such as insurance, transit, authorisations and certificates, will be met by the Client. The Client will also pay any imposts, taxes, contributions, customs duties and other amounts payable in relation to the contract.

8.2 The tariffs in force specified in the catalogue price lists can be revised by BODYCAP at any time, once the Clients have been informed in advance. Under no circumstances can BODYCAP amend prices once the order has been taken.

8.3 Unless otherwise stated in the quote, payment is made within thirty (30) days after the end of the month by bank transfer. The obligation to pay is met once the amount in euros is credited to the account of BODYCAP. No discount is given for early payment.

8.4 Non-payment of an invoice by the due date shall result in the application of a penalty for late payment, ipso jure and following formal notification, equal to the rate of interest of the European Central Bank on its most recent refinancing operation, plus ten basis points (for each invoice issued in the first half of the calendar year the rate to be used is the rate in force as at January 1, while for invoices issued in the second half of the year the rate to be used is that applicable as at July 1) and the application of a fixed sum of €40 for recovery costs, irrespective of legal, court, operating and recovery costs. Penalties are payable the day after the settlement date on the invoice, without the need for any reminder to this effect. BODYCAP also reserves the right to apply to the competent court to end this non-payment, with penalties for each day payment is

overdue. In any event, the non-payment of an invoice by its due date shall result in all amounts due to BODYCAP being payable with immediate effect. In the event of non-payment of an invoice by its due date, BODYCAP also reserves the right to suspend the fulfilment of orders in progress, refuse all new orders and/or requests for a quote from the Client and/or implement the title retention clause referred to below until the invoice has been paid in full.

Article 9 - Application and calculation of discounts / Penalties / Compensation

Discounts given by BODYCAP are only applicable if the Client is up to date with its obligations to BODYCAP, and if there are no disputes between the Parties. The various discounts agreed to by BODYCAP are applied on a sliding scale.

BODYCAP notes that all compensation and the arbitrary deduction of penalties are sanctioned by article L. 442-6-I-8 of the Commercial Code. The Client may not issue any debit note, invoice for penalties, penalty deduction or deduction of discounts as compensation without prior express written agreement from BODYCAP.

Article 10 – Liability / Guarantee

10.1 BODYCAP will endeavour to meet the obligations set out in the quote, and will take the greatest care with the quality of its products. Unless otherwise stated, BODYCAP does not provide a contractual guarantee for its products.

10.2 Products sold by BODYCAP are sold for the use and purpose and with the technical characteristics and affectation as stated. As such, the Client promises to clearly inform its own clients, patients and users of the terms of use of the products. Any different and/or improper use of the products shall release BODYCAP from any direct or indirectly liability. In particular, BODYCAP takes no responsibility for any harm caused to persons or property as a result of the improper, unsuitable and/or distorted use of the products sold by BODYCAP and, in particular, if the products ordered are stored in an inadequate, dilapidated or hazardous environment.

10.3 The Client must observe all of its legal obligations vis-à-vis its own clients, patients and product users. Under no circumstances can BODYCAP be held responsible for faults in or the deterioration of products delivered or installed as a consequence of abnormal or non-compliant conditions of use subsequent to their delivery. In particular, BODYCAP cannot be held responsible for:

- Normal wear-and-tear to its products;
- Deterioration or accidents the result of negligence or poor supervision;
- Damage the result of modifications, additions or repairs to products;
- Damage to products subject to abnormal loads.

10.4 When BODYCAP is held liable as a result of an error on its part, its liability is limited solely to direct, personal and certain damage suffered by the Client to the express exclusion of all direct and immaterial losses and/or damages, such as financial damages, reputational damage, etc. The amount of damages and interest that BODYCAP may be required to pay under the conditions mentioned above is in any event limited to the amount of the price specified in the order/order confirmation and/or its insurance limit.

10.5 The Parties are released ipso jure from their respective contractual obligations and cannot be held liable in the event of a case of force majeure. The term "force majeure" refers to any event that renders the fulfilment of an obligation impossible or manifestly more difficult to fulfil due to the unforeseeable, irresistible and external nature of the event (in order to be considered force majeure, the event must meet at least two of these criteria), such as war, riots, fire, flooding, total or partial transport strikes, the paralysis of road and other transport networks, interruptions to energy supplies (EDF, GDF, oil, etc.), interruptions to telecommunications and to IT networks, changes in regulations, late or non-intervention from external service providers, such as suppliers and outsourcers, as well as any other event considered a case of force majeure under the law or jurisprudence. Each Party will be able to terminate orders in progress via registered mail with acknowledgement of receipt in the event of a case of force majeure of a duration of more than one month.

Article 11 – Reservation of ownership

11.1 Products sold by BODYCAP remain its property until the price (including principal, fees, interest and additional costs) has been paid in full by the Client. Payment is understood to mean the effective receipt of the price and its inclusion on the financial statements of BODYCAP. However, risk is transferred to the Client upon delivery of the order; as a result, upon delivery of the products to the Client the latter will assume all risk in particular in relation to loss, destruction, theft or deterioration. Consequently, the Client promises to purchase an insurance policy from an insurance company known to be solvent to cover these risks.

11.2 In the event of non-payment by the Client, BODYCAP may demand the return of the products via registered mail with acknowledgement of receipt, without forfeiting any of its other rights. Products the property of BODYCAP will returned at the expense, risk and peril of the Client. The Client will also meet all legal fees and court costs.

11.3 Products that remain within the inventory of the Client will be presumed to be those for which payment has not been made. In all cases, BODYCAP will be authorised to carry out a contradictory inventory of the inventory of the Client at any time. The Client promises to allow BODYCAP unrestricted access to its premises.

11.4 If the products have been sold by the Client, either in their existing state or following their transformation, in accordance with the provisions of article 2372 of the Civil Code, BODYCAP will have a right of ownership to the debt of the Client to the sub-purchaser. In the event of the loss, theft or destruction of a product sold to the Client, BODYCAP, in accordance with the provisions of article 2372 of the Civil Code, will have a property right to the insurance payment made, or to be made, to the Client.

11.5 The Client must oppose, via all legal means at its disposal, claims made by third parties to the products sold, in particular by way of a seizure, and to immediately inform BODYCAP via any means so that it can safeguard its interests.

11.6 The Client expressly recognises that it is aware of this title retention clause, and accepts it without reservation as a result an informed decision.

Article 12 – Intellectual property / Confidentiality

12.1 The Client may not use or declare itself the owner of trademarks filed by BODYCAP and/or designs and models, as well as patents filed by BODYCAP with the INPI or any other office, logos and any other intellectual property right of BODYCAP except with the prior express written consent of BODYCAP and for the sole purpose of the resale or use of BODYCAP products.

12.2 BODYCAP reserves the right to oppose, end or demand reparations for any use of its products that it considers unfair or which constitutes an act of commercial parasitism, or which is contrary to its image or the rights it has granted, in particular if it is confirmed that brands filed by BODYCAP and/or designs and models, as well as patents filed by BODYCAP with the INPI or any other office, have been used for purposes other than the promotion of use of products sold by BODYCAP.

12.3 The Client promises not to use, file or attempt to file applications for the registration of a patent, logo, design or model or domain names, commercial names, company names and signs that could cause confusion with the intellectual property rights of BODYCAP, including in countries where BODYCAP has not made a deposit, for the duration of the commercial relationship between the Parties and after the termination of said relationship for whatever reason.

12.4 Except where otherwise agreed between the Parties, the creations, studies, projects, models and documents of all types proposed, realised, issued or sent by BODYCAP remain its property. BODYCAP shall retain intellectual property of all of its intermediate creations (know-how, copyright, trademarks, etc.) that cannot be used, represented, communicated, executed, adapted or translated without its prior written consent.

12.4 BODYCAP retains its intellectual property rights in relation to products made by BODYCAP, in particular Software.

12.5 All manufacturing and business secrets and processes, as well as all specifications, financial, commercial and technical information, know-how, reports and other information of any type that relates directly or indirectly to the business of the Parties communicated by on Party to the other for the purposes of the negotiation and execution of this document, or of which they become aware during its implementation, will be kept strictly confidential by each of the Parties both during and after their contractual relationship. Moreover, the Parties shall not disclose the above information via any means or for any reason and shall not use it for any purposes other than those provided for in this document. The Parties promise to adopt all measures necessary to ensure compliance with the regulations resulting from this provision by all agents, employees, agents, representatives and partners.

Article 13 – Personal data

In the context of the use of BODYCAP products, the Client may collect and use the personal data of the users of said products. BODYCAP has no access to these data or information. However, BODYCAP brings to the attention of the Client the critical need to observe regulations applicable in the area personal data protection. In any event, BODYCAP will not be held liable in the event of a breach of this regulation by the Client.

Article 14 – EEE obligation

The unique identification number FRO14664_05HPAV attesting to registration in the register of producers of the EEE sector, pursuant to article L.541-10-13 of the Environmental Code, has been assigned by ADEME to the company BodyCap (Siret 537 927 733). This identifier certifies its conformity regarding its obligation to register in the register of producers of Electrical and Electronic Equipment and the realization of its market releases declarations with ecosystem.

Article 15 - Applicable law / Jurisdiction clause

These conditions and their consequences are subject to French law. Any dispute relating to the application and/or execution of these conditions, including in particular rules on the transparency of tariffs and practices that restrict competition, will be the exclusive competence of the Caen commercial court, which has been expressly been given competence in such cases in advance, including in the event of an appeal or multiple defendants.