

## **Standard Terms and Conditions for the Purchase of Goods**

### 1. Preamble

These Standard Terms and Conditions for the Purchase shall exclusively apply, save as varied by express agreement accepted in writing by both parties. These Conditions shall also apply if the buyer accepts delivery of Goods under the existence of the Supplier's contradictory Standard terms not being subject of the contract. They are also applicable if the Supplier refers to his own general business terms when accepting a purchase order or in his order confirmation except if explicitly agreed with.

Any agreement being concluded between buyer and Supplier shall only be binding between the parties if they are laid down in writing. Any conditional or different terms proposed by the Supplier are objected to and will not binding upon the buyer unless assented in writing by the buyer.

These conditions shall govern any future individual contract of purchase between buyer and Supplier to the exclusion of any other terms and conditions. These provisions extend to standard contract conditions which are used in a contract with a merchant in the course of business only.

### 2. Formation of Contract

#### 2.1

The Contract shall be deemed to have been entered into when, upon receipt of an order, the Supplier has sent an acceptance in writing, the time limit of fourteen days hereby fixed by the buyer. Purchase orders need to be accepted through signature on the copy order within two weeks from date of order; we otherwise reserve the right to withdraw from the order. The receipt of the declaration of acceptance of the Supplier among us is authoritative for the maintenance of the period.

#### 2.2

An order is regarded as valid only when drawn up by us in writing and signed.

Orders placed verbally or by phone are only binding for us if subsequently confirmed in writing. In respect of valid signatures, the above mentioned has to be applied.

#### 2.3

Any weights, dimensions, capacities, prices, performance ratings or any other data contained in catalogues, circulars, advertisements or price lists constitute an approximate guide and shall not be binding save to the extent that they are by reference expressly included in a contract. Any such data submitted to the Supplier prior or subsequent to the formation of the contract remain the exclusive property of the buyer. They must not be communicated to a third party.

#### 2.4

Variations in quantity and quality against the wording and context of our order as well as later amendments to the contract can only be regarded as agreed after our formal written confirmation.

### 3. Delivery

#### 3.1

Delivery shall be effected on due date as fixed in the contract or the order of purchase being subject to the contract. Agreed delivery periods and dates are obliging. They count from the date of order. Goods have to arrive at the receive position instructed by us within the delivery period res. at the due date.

If delays are to be expected, the Supplier has to advice us by return and obtains our decision as to the maintenance of the order.

#### 3.2

If delivery of goods is not in conformance with the agreed delivery dates, we reserve our rights to charge the Supplier with the additional costs and losses caused by the delayed delivery.

Furthermore, in case of delivery delay we are entitled to deduct the following expenses from the Supplier's invoice without further reminder:

3 – 5 days 2, 5 %

6 - 10 days 5 %

11 – 20 days 10 %

21 – 30 days 15 %

more than 30 days 20 %

Calculation is on the basis of 5 working-days, always referring to the agreed original delivery date.

#### 3.3

If the Supplier falls behind schedule, after dunning letter we reserve the right to demand an additional contractual penalty of 0,5 % of the net-order-value per week commenced at maximum 5% of the net-order-value or to demand the delivery or to stand back from the contract. The contractual penalty paid will be calculated as contribution to a claim for compensation.

This does not apply, if there is evidence that the purchaser does not suffer damage or depreciation or the damage respectively the depreciation is substantial lower than the agreed lump sum.

#### 3.4

We are not obliged to accept the goods before due date.

### 3.5

There is however no commitment to a claim for compensation in case of acts of God or other undeserved operational disturbances having lasted longer than 48 hours or presumably are responsible for the time delay. In these cases delay of delivery will be prolonged without further ado for the duration of the disturbance, but by a maximum of 4 weeks plus extended period of delivery. However, this extended delivery is only valid in case the Supplier has informed us of the hindrance without delay and as soon as it can be overlooked that the agreed delivery date cannot be met. If interruption of operations occur, the supplier has to do a photo documentation.

### 3.6

A commitment to a claim for compensation irrespective of the cause exists in any event if the Supplier neglects to notify us promptly of an occurring delay. Furthermore we reserve the right to withdraw from the contract immediately should we not be notified without delay.

### 3.7

Should an act of God hinder to accept the goods ordered the date of acceptance of the goods will be delayed by the length of time for the hindrance. Should the period of hindrance be in excess of six months, we are entitled to withdraw from the contract without a claim for compensation occurring on the Supplier's side. This will be valid for any of our orders not treated by the Supplier at this point. Orders already carried out will be compensated according to the agreements made.

### 3.8

We do accept over-deliveries of up to 3 %. For over-deliveries of more than 3 % we will receive a price reduction of 35 %.

Under-deliveries will not be accepted by us even if goods have been received.

### 3.9

In the subsequent cases we have the right to cancel the order:

- Production of the goods is transmitted to a subcontractor/Supplier without our written authorisation and is executed in a different location instead of the local plant.
- Quality and standard of agents' sampling do not comply with our quality standard and technical requirements.
- Delayed presentation of samples for our quality control.
- Delayed dispatch of agents' samples ordered separately.

## 4. Documentation

### 4.1

As soon as the Supplier has confirmed the order in accordance with § 2. 1 in due time and has been advised by us about the blocked/detailed quantities he needs to preliminary confirm delivery dates and order quantities.

### 4.2

Each shipment has to be accompanied by delivery notes and packing slips, Certificate of analysis has to be enclosed in duplicate.

These documents need to contain:

- order number and article number also the precise name of the goods
- the batch number
- Quantity and quantity unit
- Remaining quantity in case of part shipments
- Labelling of dangerous substances according GHS/CLP
- Material Safety Data Sheet MSDS

### 4.3

For freight consignments a dispatch note needs to be transmitted to us separately on the day of dispatch.

## 5. Prices

### 5.1

If not explicitly defined otherwise, the prices agreed are fix prices unless the Supplier reduces his respective prices in general.

Prices are stipulated to be "all in" prices; this means goods plus packaging and trimmings inclusive.

### 5.2

The price of the order or the Supplier's quotation and offer as accepted by the buyer shall be binding and shall be based on "delivery (duty paid)". Prices as agreed upon shall include delivery „free domicil" and the cost of packing or protection required under normal transport conditions to prevent damage, and shall also include VAT.

### 5.3

The Supplier will not grant us prices and conditions any less favourable than for other customers providing they offer identical or equivalent suppositions in this specific case.

### 5.4

Packaging is included in the price. If by way of exception agreed differently, packaging has to be invoiced at net-cost-price. The Supplier has to go for the packaging pre-determined by us and to ensure that the packaging protects the goods. On return of empties at least two thirds of the invoiced values have to be credited.

The Supplier is obliged to take the transportation packing's back free of charge at our desire.

## 6. Terms of Payment

### 6.1

Payment shall be made in the manner and at the time or times agreed by the parties.

### 6.2

As a basic principle payment will be agreed against invoice.

### 6.3

Invoices are to be established separately for each order. Payment will only be effected after complete reception of goods without defects or completely impeccable performance as well as upon receipt of invoice.

Delays caused by incorrect or incomplete invoices have no influence to the discount periods.

### 6.4

The invoice needs to be sent to PHARMACHEMICALS HANDELS GmbH Spaldingstr. 210 in D-20097 Hamburg, to ensure a punctual payment.

### 6.5

Supplier's claims to us can only be assigned to Third Parties with our agreement. Payment will only be effected to the Supplier.

### 6.6

Our silence to a Supplier invoice is not regarded as an acknowledgment of the respective invoice even if the Supplier has particularly demanded us for such an explanation.

### 6.7

We reserve all rights to offset or retain payments provided by applicable law. We shall be entitled to assign any rights or claims under this Agreement without prior written consent.

### 6.8

The period of payment is already regarded as adhered provided that the transfer instruction has come in at the bank in front of lapse of time.

## 7. Quality assurance and control

### 7.1

The Supplier has to take all measures and arrangements to ensure delivery of consistent quality as accepted by us.

### 7.2

Acceptance of goods and payment will only be effected, if so agreed, after release on site and on the basis of the inspection protocol which has to be signed by one of our people in charge. This record doesn't release the Supplier from complaints eventually resulting from a random check after reception of goods.

### 7.3

After prior notification, we are entitled to carry out at our expenses during the usual business hours production controls and final inspections as well as quality examinations and controls. Faults thus located will be recorded in writing and eliminated by return through the Supplier. In case the Supplier might be absent, the examiners are obliged to prove their identity.

### 7.4

We will control every consignment again through a random inspection. In case of negative findings, additional checks will be carried out. Should these negative findings be confirmed a full control of the goods has to take place. The Supplier has to bear the corresponding charges.

### 7.5

We would like to point out that the goods delivered by the Supplier have to comply with the German legal requirements each in its latest version. Through delivery of the goods the Supplier ensures that the necessary checks on the goods have been made and that they comply with the legal requirements.

## 8. Transfer of Risks

Save as provided in an individual contractual agreement the time at which the risk of damage to or loss of the goods shall pass shall be fixed in accordance with the Interpretation of Trade Terms of the International Chamber of Commerce in the respectively currently valid setting. If no further indication is given in an individual contract of purchase (import), the goods shall be deemed to be sold "ddp" (delivery duty paid, Incoterms 2010).

## 9. Warranties

### 9.1 Warranties relating to the quality of goods

We reserve all rights and remedies for non-conformity by applicable law. The Supplier warrants that all items delivered under this agreement will be free from defects in material and workmanship, conform to applicable specifications. Especially all API's and excipients have to conform with the relevant pharmaceutical and foodstuff regulations in their composition, quality, packaging and declaration.

Supplier's warranties hereunder shall extend to any defect or non – conformity arising or manifesting itself within 36 months after delivery. With respect to items not in accordance with any such warranties, the buyer, without waiving any rights or remedies provided by law and/or elsewhere under these Standard Terms and Conditions, may require the Supplier to correct or replace such

items at the Supplier's risk and expense or refund such portion of the price as is equitable under the circumstances. Any items corrected or replaced shall be subject to the provisions of these Standard Terms and Conditions in the same manner as those originally delivered hereunder.

In case of imminent danger we are entitled, after giving notice to the Supplier, to remedy the defects on the Supplier's cost.

#### 9.2 Warranties of compliance with laws

The Supplier warrants and undertakes to the buyer that in the performance of any contract of sale he will comply with all laws, rules, regulations, decrees and other ordinances issued by any governmental, state or other authority relating to the subject matter of these Standard Terms and Conditions and to the performance by the parties hereto of their obligations hereunder.

#### 9.3 Warranty of title

The Supplier warrants that the Goods are in his absolute property and none are subject of any option, right to acquire, assignment, mortgage, charge, lien or hypothecation or any other encumbrance whatsoever or the subject of any factoring arrangement, hire-purchase, conditional sale or credit sale agreement.

### 10. Product, liability, Insurance

#### 10.1

The Supplier shall, upon first demand indemnify us and hold us harmless from and against any and all liability or claims of third parties based on manufacture, delivery, storage, or use of the delivered goods. The above indemnification shall not apply if the claim is based on our intentional or grossly negligent breach of duties.

#### 10.2

The Supplier shall, at all times during the term of this contract, maintain always product liability insurance amount of 15 Mio. € of personal and property damage. Further damages shall remain unaffected. The Supplier is obliged to inform us immediately if 50 % of the insured sum has been achieved.

### 11. Trade mark rights

The Supplier is liable that through his delivery and our utilisation no patents or other trade mark rights are being infringed. He will indemnify us and our customers from any claims resulting from the use of such trade mark rights. This does not apply if the Supplier has produced the goods delivered on the basis of sketches, models or other comparable descriptions or dispositions and if he is not aware or cannot know in connection with the articles produced by him whether or not trade mark rights will be infringed.

### 12. Custody/Property

Material provided remains in our property. It has to be stored separately and may only be used for our orders. The Supplier is liable for diminution in value or loss even without fault. The objects produced from our material provided are our property in each respective state of production. The price comprises costs for storage of the objects and materials.

### 13. Assurance

The Supplier ensures that at any time he complies with the legal requirements for the execution of the orders placed, especially that he or his appointed subcontractors

- a) are not engaged in any practice inconsistent with the rights set forth in the 'convention of the Rights of the Child'. This also includes article 32 thereof which, inter alia, requires that a child (under the year of 14) shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health and physical, mental, spiritual, moral or social development.
- b) assures that foreign employees from countries outside the EU/EEA are only employed with the required work permit and makes certain that the personnel possesses the required documents (right of residence, work permit etc) in originals and – as far as required - together with a legally attested translation into the German language;
- c) will present on request the documents as per b) to the contractual partner or his contractual partners.
- d) that Supplier's employees possess the necessary qualifications.

### 14. Business secrets

#### 14.1

The Supplier shall not during the term of this agreement or thereafter, communicate, divulge, or use for the benefit of any other person, partnership, association or corporation any trade secret, knowledge, or know-how concerning the methods of the purchaser's business which may be communicated to the Supplier, or of which the Supplier may be informed, by virtue of the Suppliers operation in terms of this agreement.

#### 14.2

After completion of the contract the Supplier is not permitted to use the knowledge gained from us to produce and offer copied articles to competitors. This applies to any direct or indirect activity. As copied article we understand any item being identical or comparable to the one produced for us.

#### 14.3

In the event, that the Supplier negligently or wilfully breaches the confidential nature of the Confidential Information as against us, the Supplier shall be obliged to pay to us a contractual penalty of 50.000,- EUR. per each breach which shall be credited against the actual damage. If the breach of this Conditions is a continuing breach, the Supplier shall be obliged to make a further payment to us in the amount of 50.000, -- EUR for every month of this breach. In particular, the disclosure of Confidential information to an

indeterminate number of addresses, (e.g. through publication on the Internet) shall constitute a continuing breach. Our right to claim for additional losses shall remain unaffected.

#### 15. Duties on expiration of the contract

##### 15.1

On expiration of the contract each party is obliged to release immediately property of the other partner.

##### 15.2

On expiration of the contract the Supplier is obliged to release immediately property of all still existing specifications, documents and samples etc. submitted by us.

##### 15.3

The Supplier needs to advise us within a time limit of 14 days after receipt of the notice respectively the expiration of the contract of any outstanding debts. Notices after this time limit are without any legal claim.

#### 16. Miscellaneous Clauses

##### 16.1

This agreement supersedes and invalidates all other commitments and warranties relating to the subject matter hereof which may have been made by the parties either orally or in writing prior to the date hereof, and which shall become invalid and void by this agreement.

##### 16.2

This agreement shall not be assigned or transferred by either party without the written consent of the other.

##### 16.3

Each party shall be responsible for all its legal, accountancy or other costs and expenses incurred in the performance of its obligation hereunder.

#### 17. Place of Jurisdiction; Choice of Law

##### 17.1

This contract shall be governed by the laws of the Federal Republic of Germany. The Vienna Convention on the International Sale of Goods (CISG) shall be inapplicable.

##### 17.2

The place of performance and exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Landgericht Hamburg.

##### 17.3

If one or more provisions of this Agreement should be or become invalid or unenforceable, the balance of the Agreement shall remain unaffected thereby and remain in full force and effect. In this event, the parties shall substitute the invalid or unenforceable provision by a valid one which as closely as possible achieves the economic purpose of the invalid or unenforceable provision.

##### 17.4

This agreement and its terms shall be governed and construed in accordance with the laws of Germany. If the foreign legal meaning differs from the German legal meaning of this agreement and its terms, the German meaning shall prevail

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place, date

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place, date

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Pharmaceuticals Handels GmbH

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Supplier

(version August 2014)