

General Terms and Conditions of Sales

of *Pharmabex GmbH,*

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§ 1 General, scope of application

- (1) These General Terms and Conditions of Sale apply to all our business relationships with our customers (hereinafter referred to as "Buyer"). The Terms and Conditions of Sale shall apply if the Buyer is an entrepreneur (§ 14 BGB [German Civil Code]), a legal entity under public law or a special fund under public law. Our offers are only aimed at commercial customers.
- (2) The Terms and Conditions of Sale apply in particular to contracts for the sale and delivery of movable goods (hereinafter also referred to as "goods"), irrespective of whether the Seller manufactures the goods itself or purchases them from suppliers. The Terms and Conditions of Sale shall also apply in their respective version as a framework agreement for future contracts for the sale and delivery of movable goods with the same buyer, without us having to refer to them again in each case.
- (3) Our Terms and Conditions of Sale shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the buyer shall only become part of the contract if and insofar as we have expressly agreed to their validity. This requirement of consent shall apply in any case, for example even if we carry out the delivery to the Buyer without reservation in the knowledge of the Buyer's General Terms and Conditions.
- (4) Agreements made with the Buyer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over the Terms and Conditions of Sale. A written contract or our written confirmation shall be decisive for the content of such agreements. Legally relevant declarations and notifications to be made to us by the buyer after conclusion of the contract (e.g. setting of deadlines, reminders, declaration of cancellation) must be made in text form to be effective.
- (5) The Buyer acknowledges that information regarding Pharmabex's sources of supply constitutes trade secrets within the meaning of applicable trade secret protection laws and undertakes not to disclose such information, directly or indirectly.
- (6) We are authorised to assign the claims arising from our business relations.

§ 2 Conclusion of contract

- (1) Our offers are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogues, technical documentation, other product descriptions or documents - including in electronic form - to which we reserve ownership rights and copyrights.

- (2) The order of the goods by the Buyer shall be deemed a binding contractual offer. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 2 weeks of its receipt by us.
- (3) Acceptance can be declared either in writing (e.g. by order confirmation, commercial letter of confirmation, etc.) or by delivery of the goods to the buyer.
- (4) Orders must be placed in writing by letter or e-mail.

§ 3 Delivery period and delay in delivery

- (1) The delivery period shall be agreed individually or specified by us upon acceptance of the order. Delivery dates or deadlines that have not been expressly agreed as binding are exclusively non-binding information.
- (2) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we will inform the buyer of this immediately and at the same time inform him of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately reimburse any consideration already paid by the Buyer. A case of non-availability of the service in this sense is in particular the failure of our supplier to deliver to us on time if we have concluded a congruent hedging transaction. Our statutory rights of cancellation and termination as well as the statutory provisions on the performance of the contract in the event of an exclusion of the obligation to perform remain unaffected. The Buyer's rights of cancellation and termination pursuant to § 8 of these Terms and Conditions of Sale shall also remain unaffected.
- (3) We shall not be liable for impossibility of delivery or for delays in delivery insofar as these are caused by force majeure or other events unforeseeable at the time of conclusion of the contract (e.g. operational disruptions of all kinds, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, difficulties in obtaining necessary official permits, pandemics or epidemics, official measures) for which we are not responsible. If such events make delivery or performance significantly more difficult or impossible for us and the hindrance is not only of a temporary nature, we are entitled to withdraw from the contract. In the event of hindrances of a temporary nature, the delivery or performance periods shall be extended or the delivery or performance dates postponed by the period of the hindrance plus a reasonable start-up period. If the buyer cannot reasonably be expected to accept the delivery or service as a result of the delay, he may withdraw from the contract by immediate written declaration to the seller.
- (4) We reserve the right to make a partial delivery if this appears to be advantageous for speedy processing and the partial delivery is not unreasonable for the Buyer in exceptional cases. The Buyer shall not be charged for any additional costs incurred as a result of partial deliveries.
- (5) The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder from the buyer is required.

§ 4 Delivery, transfer of risk, acceptance, default of acceptance

- (1) Delivery shall be ex warehouse (Hallbergmoos), which is also the place of fulfilment. At the request and expense of the Buyer, the goods shall be dispatched to another destination (sale to destination). Unless otherwise agreed, we are entitled to determine the type of dispatch (in particular transport company, dispatch route, packaging) ourselves.
- (2) The Buyer is obliged to comply with the applicable Good Distribution Practice (GDP) requirements in accordance with the relevant EU guidelines when collecting and transporting the goods. Upon making the goods available at the warehouse, ownership and responsibility for transport pass entirely to the Buyer. Responsibility for maintaining GDP-compliant transport conditions, including in particular temperature control, vehicle requirements and documentation, lies exclusively with the Buyer.
- (3) The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer at the latest upon handover. In the case of sale by despatch, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall already pass upon delivery of the goods to the forwarding agent, the carrier or the person or organisation otherwise designated to carry out the shipment. If acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply accordingly to an agreed acceptance. If the Buyer is in default of acceptance, this shall be deemed equivalent to handover or acceptance.
- (4) Unless expressly agreed otherwise, the Buyer must accept goods on call within four weeks of conclusion of the contract. If the buyer does not call off the goods in due time, he shall be in default of acceptance after the expiry of a further grace period of 2 weeks set in writing.
- (5) If the buyer is in default of acceptance, fails to co-operate or if our delivery is delayed for other reasons for which the buyer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs).
- (6) Justified returns are only possible after prior notification by e-mail. Documentation of the damaged original shipping carton or pallet with pictures is mandatory for insurance reasons. Otherwise the damage will not be compensated by the insurance company and we will not be able to issue a credit note. Complaints can only be accepted within 3 working days of delivery. External damage must be recorded on the carrier's shipping documents or in the window above the electronic heading. Refrigerated goods are excluded from the returns regulation and will not be taken back

§ 5 Prices and terms of payment

- (1) Unless otherwise agreed in individual cases, our current prices in EUR at the time of conclusion of the contract shall apply, ex warehouse, plus statutory VAT.
- (2) If, after conclusion of the contract, there are cost increases for which we are not responsible and which we could not have foreseen in our calculations, we shall be entitled to adjust the prices accordingly.
- (3) In the case of sale by despatch, the Buyer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the Buyer. Any customs duties, fees, taxes and other public charges shall be borne by the Buyer. We do not take back transport packaging and all other packaging in accordance with the Packaging Ordinance; it becomes the property of the Buyer, with the exception of pallets.
- (4) For intra-Community deliveries to EU member states, the Buyer is obliged to provide us with all documents required to evidence VAT exemption no later than the 10th day of the month following delivery. These include in particular: the delivery note signed by the Buyer and the

transport company, the CMR consignment note, and a goods receipt confirmation. If these documents are not provided in time, we reserve the right to invoice the applicable German VAT rate on all affected line items. Any changes to the Buyer's EU VAT number must be communicated to us without delay.

- (5) As a general rule for new customers, the purchase price must be paid in advance via bank transfer to Pharmabex GmbH's account. As the business relationship develops, supplementary agreements regarding payment terms may be made. If the purchaser is in arrears with any payment obligations to us, all existing claims shall become due immediately. Our claim to commercial maturity interest against merchants shall remain unaffected.
- (6) The purchaser shall only be entitled to set-off or retention rights insofar as his claim has been legally established or is undisputed.
- (7) If it becomes apparent after conclusion of the contract that our claim to the purchase price is jeopardised by the Buyer's inability to pay (e.g. by an application for the opening of insolvency proceedings), we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract.

§ 6 Retention of title

- (1) We reserve title to the goods sold until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims).
- (2) The goods subject to retention of title may not be pledged to third parties or assigned as security until the secured claims have been paid in full. The buyer must inform us immediately in writing if and insofar as third parties seize the goods belonging to us.
- (3) The buyer must treat the goods subject to retention of title with care and insure them adequately at his own expense against fire, water damage and theft at replacement value. Any maintenance and inspection work that becomes necessary must be carried out by the buyer in good time at his own expense.
- (4) In the event of behaviour contrary to the contract on the part of the buyer, in particular non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and to demand the return of the goods on the basis of the retention of title and the withdrawal. If the buyer does not pay the purchase price due, we may only assert these rights if we have previously set the buyer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- (5) The buyer is authorised to resell or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition:
 - (a) The Buyer hereby assigns to us as security the claims against third parties arising from the resale of the goods in total or in the amount of our possible co-ownership share in accordance with the above paragraph. We accept the assignment.
 - (b) The purchaser remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the purchaser fulfils his payment obligations to us, is not in default of payment, has not filed an application for the opening of insolvency proceedings and there is no other deficiency in his ability to pay. If this is the case, however, we can demand that the buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.

- (c) If the realisable value of the securities exceeds our claims by more than 10 %, we shall release securities of our choice at the buyer's request.

§ 7 Warranty claims of the buyer

- (1) The statutory provisions shall apply to the Buyer's rights in the event of material defects and defects of title (including incorrect and short delivery), unless otherwise specified below. The basis of our liability for defects is above all the agreement reached on the quality of the goods. The product descriptions designated as such, which were provided to the buyer prior to his order or which were included in the contract in the same way as these Terms and Conditions of Sale, shall be deemed to be an agreement on the quality of the goods. In the case of customised products, excess or short deliveries of up to 10% shall be deemed to be in accordance with the contract.
- (2) If the quality has not been agreed, it shall be assessed in accordance with the statutory provisions whether a defect exists or not.
- (3) The buyer's claims for defects presuppose that he has complied with his statutory obligations to inspect and give notice of defects (§§ 377, 381 HGB). If a defect is discovered during the inspection or later, we must be notified of this in writing immediately after receipt of the goods. If the Buyer fails to carry out the proper inspection or fails to notify us of the defect in due time, our liability for the unreported defect shall be excluded.
- (4) If the delivered item is defective, we may initially choose whether to provide subsequent fulfilment by remedying the defect (subsequent improvement) or by delivering a defect-free item (replacement delivery). Our right to refuse the chosen type of subsequent fulfilment under the statutory conditions remains unaffected.
- (5) We are entitled to make the subsequent fulfilment owed dependent on the Buyer paying the purchase price due. However, the Buyer shall be entitled to retain a reasonable portion of the purchase price in proportion to the defect.
- (6) The buyer must give us the time and opportunity required for the subsequent fulfilment owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the buyer must return the defective item to us in accordance with the statutory provisions.
- (7) We shall bear the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs, if a defect actually exists. If, however, the Buyer's request to remedy a defect proves to be unjustified, we may demand reimbursement of the costs incurred from the Buyer.
- (8) If the subsequent fulfilment has failed or a reasonable deadline to be set by the buyer for the subsequent fulfilment has expired unsuccessfully or is dispensable according to the statutory provisions, the buyer can withdraw from the purchase contract or reduce the purchase price. In the case of an insignificant defect, there is no right of cancellation.
- (9) Claims of the buyer for damages or compensation for futile expenses shall only exist in accordance with the statutory provisions and are otherwise excluded.

§ 8 Liability for damages due to fault

- (1)** The Seller's liability for damages, irrespective of the legal grounds, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and unauthorised action, is limited in accordance with this § 8, insofar as fault is involved in each case.
- (2)** The Seller shall not be liable in the event of simple negligence on the part of its executive bodies, legal representatives, employees or other vicarious agents, insofar as this does not involve a breach of material contractual obligations. Material contractual obligations are the obligation to deliver the delivery item on time, its freedom from defects of title and such material defects that impair its functionality or usability more than insignificantly, as well as obligations to provide advice, protection and care that are intended to enable the customer to use the delivery item in accordance with the contract or to protect the life and limb of the customer's personnel or to protect the customer's property from significant damage.
- (3)** Insofar as the Seller is liable for damages in accordance with § 8 (2), this liability shall be limited to damages which the Seller foresaw as a possible consequence of a breach of contract at the time of conclusion of the contract or which he should have foreseen if he had exercised due care. Indirect damage and consequential damage resulting from defects in the delivery item are also only eligible for compensation if such damage is typically to be expected when the delivery item is used as intended. The above provisions of this paragraph 3 shall not apply in the event of intentional or grossly negligent behaviour on the part of members of the Seller's executive bodies or senior executives.
- (4)** In the event of liability for simple negligence, the Seller's obligation to pay compensation for property damage and any further financial losses resulting therefrom shall be limited to an amount of EUR 250,000 per claim, even if it is a breach of material contractual obligations.
- (5)** The above exclusions and limitations of liability shall apply to the same extent in favour of the executive bodies, legal representatives, employees and other vicarious agents of the Seller.
- (6)** Insofar as the seller provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by the seller, this is done free of charge and to the exclusion of any liability.
- (7)** The limitations of this § 8 do not apply to the Seller's liability for intentional behaviour, for guaranteed characteristics, for injury to life, limb or health or under the Product Liability Act.

§ 9 Limitation period

- (1)** Notwithstanding § 438 Para. 1 No. 3 BGB, the general limitation period for claims arising from material defects and defects of title is one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.
- (2)** The above limitation periods under sales law shall also apply to contractual and non-contractual claims for damages by the Buyer based on a defect in the goods, unless the application of the regular statutory limitation period (Sections 195, 199 BGB) would lead to a shorter limitation period in individual cases. The limitation periods of the Product Liability Act remain unaffected in each case. Otherwise apply for claims for damages of the buyer acc. § 8 exclusively the statutory limitation periods.

§ 10 Trade Controls and Sanctions

The Buyer represents and warrants that it complies with all applicable trade control laws, including export control, sanctions, embargo and anti-boycott regulations of the European Union, the United Nations, and any other applicable national or international legislation. The Buyer undertakes not to deliver, export, re-export or redirect the supplied products, directly or indirectly, to any person, organisation or territory that is subject to sanctions or listed on applicable restricted party lists. The Buyer shall impose equivalent obligations on its own customers, agents and affiliated entities. Any breach of this clause entitles Pharmabex GmbH to terminate all existing agreements without notice and to claim damages.

§ 11 Final provisions

- (1)** These Terms and Conditions of Sale and all legal relationships between us and the Buyer shall be governed by the law of the Federal Republic of Germany to the exclusion of all international and supranational (contractual) legal systems, in particular the UN Convention on Contracts for the International Sale of Goods. However, the conditions and effects of the retention of title in accordance with § 6 are subject to the law at the respective storage location of the item, insofar as the choice of law made in favour of German law is inadmissible or ineffective.
- (2)** If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Hallbergmoos. However, we are also entitled to bring an action at the buyer's general place of jurisdiction.
- (3)** Insofar as the contract or these General Terms and Conditions of Delivery contain loopholes, those legally effective provisions shall be deemed to have been agreed to fill these loopholes which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Delivery if they had been aware of the loophole