

## **General Terms and Conditions of Purchase (AEB)**

of PharmaSGP Holding SE,  
PharmaSGP GmbH, Remitan GmbH und Restaxil GmbH

**Valid from - Last update: May 25<sup>th</sup>, 2020**

### **§ 1 General - Scope of application**

- (1) Our Terms and Conditions of Purchase shall apply to all present and future deliveries and services; Supplier's terms and conditions which conflict with or deviate from our Terms and Conditions of Purchase shall not become part of the contract unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Purchase shall also apply exclusively if we accept the delivery or service without reserve but in the knowledge that the Supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase.
- (2) All agreements made between us and the supplier for the purpose of executing the contract are agreed in writing in the contract. Deviations, subsidiary agreements and verbal agreements require our written confirmation to be effective.
- (3) These Terms and Conditions of Purchase shall only apply to companies or legal entities under public law within the meaning of § 310 para. 1 BGB (German Civil Code).
- (4) Insofar as they are not directly amended or expressly excluded in these Terms and Conditions of Purchase, the statutory provisions shall apply.
- (5) We reserve the right to require the supplier to conclude a quality assurance agreement (QSV).

### **§ 2 Conclusion of contract, Written form**

- (1) The supplier must adhere exactly to the inquiry in the offer and expressly point out any deviations. Offers and cost estimates shall only be remunerated by special agreement.
- (2) Only orders placed in writing or by means of electronic data exchange shall be binding. Oral agreements, before or after conclusion of the contract, require our written confirmation in order to be effective.
- (3) The supplier undertakes to check the order immediately for recognisable errors, ambiguities, incompleteness and unsuitability of the specification chosen by us for the intended use and to inform us immediately of any necessary changes or clarifications to the order. Each order must be confirmed in writing by the supplier within two weeks, stating the binding delivery date and price as well as our order number.

### **§ 3 Delivery**

- (1) Goods shall be accepted exclusively at the times stated on the order. In the event of operational disruptions due to force majeure, in particular strike, lockout, riot, war, etc., our acceptance obligation shall be suspended for the duration of the hindrance.

- (2) Unloading shall only take place by presentation of the corresponding delivery note, which must contain information about the customer, the order number, the article (pharmaceutical central number and/or article number), the quantities and, if applicable, the best-before date and the product batch.
- (3) Full pallets may only consist of one batch per pallet. The maximum packing height on pallets is 1.30m incl. pallet.
- (4) Only pallets suitable for food industry and the goods there on shall be accepted.
- (5) Any exceedance or shortfall of the order quantity shall not be accepted. Should it be technically unavoidable to exceed or fall short of the order quantity, deviations of up to a maximum of 5% of the order quantity shall be accepted.
- (6) Partial deliveries will only be accepted after formal agreement. In the case of partial deliveries, the remaining quantity shall always be listed.

#### **§ 4 Shipping costs and packaging**

- (1) Shipping costs shall be borne by the supplier unless other agreements have been made expressly in writing. If the Supplier is responsible for installation or assembly and unless otherwise agreed, the Supplier shall bear all necessary ancillary costs (e.g. travel expenses, provision of tools).
- (2) The supplier shall be obliged to ensure proper packaging. Packaging costs shall be borne by the supplier unless other agreements have been expressly made in writing. Returnable packaging shall be clearly marked as such and indicated on the accompanying documents in quantities. There is no obligation on our part to return the goods.
- (3) At our request, the supplier must take back or dispose of non-recyclable packaging material at his own expense. If he does not comply with this obligation despite formal notice, he shall reimburse us for the resulting expenses and the resulting damage.

#### **§ 5 Delivery Period, Dates, Deadlines**

- (1) The agreed dates and deadlines are binding. The receipt of the goods by us or at the place where the goods are to be delivered in accordance with the order shall be decisive for compliance with the delivery date or the delivery period. The unconditional acceptance of a delayed delivery or service shall not constitute a waiver of any claims for compensation due to the delay.
- (2) The supplier shall be obliged to inform us immediately in writing if circumstances arise or become apparent which indicate that he cannot meet the agreed delivery time. He must state the reasons and the expected duration of the delay.
- (3) Should the delay be caused by the absence of documents or provisions to be supplied by us, the supplier may only refer to this if he has previously issued a written reminder and these have not been made available to him within a reasonable period.
- (4) If the agreed delivery time is not met due to circumstances for which the supplier is responsible, we shall be entitled, after expiry of a reasonable deadline set by us, at our discretion and without prejudice to further statutory claims, to demand compensation instead of performance or to procure replacement from a third party. The right of withdrawal remains unaffected.
- (5) Any contractually agreed contractual penalty for delay in delivery or performance shall remain unaffected pursuant to § 340 para. 2 BGB (German Civil Code). The contractual penalty can be

asserted until the due date of the final payment without this requiring a caveat in accordance with § 341 Para. 3 BGB.

#### **§ 6 Prices, Terms of payment, Invoice**

- (1) The price stated in the order is binding.
- (2) Prices shall be stated without statutory VAT. VAT shall be shown separately.
- (3) Unless otherwise agreed, payments shall be made either net within 30 calendar days or less 2% discount within 14 days. The payment period begins with the date of the proper receipt of goods and invoice, whereby the later date is decisive. The complete handover of all documentation, certificates, instructions for use, etc. is also part of the proper receipt of goods.
- (4) The consequences of the event of default shall be governed by the law. If claims for liability for defects are asserted within the payment period, the payment period shall be suspended until the defect has been remedied.
- (5) All requirements of § 14 UStG shall be complied with in each invoice.

#### **§ 7 Passing of risk, transport**

- (1) The risk passes according to the international trade clause "DDP" (Incoterms 2000) to us upon acceptance of the delivery at our place of receipt, unless otherwise agreed in writing. Insofar as delivery ex works has been agreed, the supplier shall be responsible for the correct declaration (at the value of the goods) and, at our request, for ensuring the most favourable shipment for us. Also in this case the supplier shall be liable for transport damage.
- (2) Unless otherwise expressly agreed, the transport insurance is covered by us.

#### **§ 8 Liability for defects, warranty, limitation periods**

- (1) The statutory provisions on material defects and defects of title shall apply, unless otherwise stipulated below.
- (2) The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial duty to inspect and give notice of defects (§§ 377, 381 HGB) subject to the following proviso: Our duty to inspect shall be limited to defects which become apparent during our incoming goods inspection after delivery with external inspection (e.g. transport damage, wrong and short delivery) or which are identifiable during our quality inspection by random sampling. If acceptance has been agreed, there shall be no obligation to inspect. Otherwise it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Notification of defects shall be made immediately after discovery. A period of 14 days from discovery shall apply to hidden defects. Otherwise § 377 para. 5 HGB applies.
- (3) We shall be entitled to choose the type of subsequent performance. If the supplier does not begin to remedy the defect immediately after our request to remedy the defect, we shall be entitled, in urgent cases for which the supplier is responsible and after unsuccessful reminders, to remedy the defect ourselves at the supplier's expense or have it remedied by a third party or to procure a replacement. We shall also be entitled to remedy the defect ourselves, have it remedied or procure a replacement at the supplier's expense if the supplier is in default with the fulfilment of his warranty obligations.
- (4) With regard to the elimination of defects, the statutory limitation period shall apply, unless expressly agreed otherwise, calculated from the transfer of risk.

- (5) If a material defect becomes apparent within three months of the passing of risk, it shall be presumed that the defect already existed, unless this presumption is incompatible with the nature of the object or defect. For essential spare parts of the delivery delivered within the limitation period for the fulfilment of claims for defects recognised by the supplier, the limitation period for claims for defects shall begin anew at the time when the repair is completed.
- (6) Supplier's warranty also covers the deliveries or services of possible subcontractors.
- (7) All further claims, in particular the right to withdraw from the contract and our claim to compensation for damages, including damages instead of performance, shall remain unaffected.
- (8) If the supplier has assumed a guarantee for the quality or durability of the delivery item, we shall also have the full scope of the claims deriving from the guarantee.

### **§ 9 Product liability, Recourse**

- (1) If claims are asserted against us by third parties on the basis of product liability or other statutory provisions, the supplier shall be obliged to indemnify us against all such claims at our first request, insofar as he is directly liable to the third party in the external relationship and insofar as the cause lies within his sphere of control and organisation.
- (2) Insofar as a product recall campaign is carried out as a result of such an event, the supplier shall indemnify us upon first request against the expenses and costs incurred by us as a result, insofar as he is liable pursuant to §§ 683, 670 BGB or pursuant to §§ 830, 840, 426 BGB.
- (3) The Supplier shall be obliged to maintain product liability insurance for the duration of the contract and, where appropriate, transport insurance with an appropriate minimum coverage; we shall be entitled to demand from the Supplier a corresponding confirmation of cover from his insurer.

### **§ 10 Pharmaceutical/food production**

- (1) Insofar as the products ordered by us are pharmaceuticals or foodstuffs or serve for their manufacture, the relevant statutory provisions and admitted rules in the respectively applicable version shall be complied with.
- (2) In this case, we must be notified immediately in writing of any changes in production, specification or other factors which may have an influence on the quality.
- (3) Each container and each delivery note must be permanently and clearly marked with: the product designation, the net weight, the batch number and any hazard and storage instructions.
- (4) Materials or parts provided shall remain our property. They may only be used within the scope of our orders. The processing of the materials and the assembly of the parts by the supplier shall be carried out on our behalf. If our materials and parts are combined, mixed or processed with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the materials and parts provided to the other processed items at the time of combination, mixing or processing. If our item is to be regarded as the main item, it shall be deemed agreed that the supplier shall transfer co-ownership to us on a pro rata basis. Our sole ownership and co-ownership shall be held in safe custody by the supplier free of charge.
- (5) An inventory must be made of any remaining quantities of materials provided after completion of production, the results of which will be communicated to us immediately. Any raw materials must be stored in a cool place if indicated in their storage instructions.

## **§ 11 Documents, secrecy, data protection**

- (1) All information which the supplier receives from us during the execution of the contract shall be treated confidentially without restriction. This shall not apply to information which was already known to the supplier or of which he has otherwise gained knowledge.
- (2) All drawings, standards, guidelines, analysis methods, recipes and other documents which we provide to the supplier for the manufacture of the delivery item, as well as documents prepared by the supplier in accordance with our specifications, shall remain our property and may not be used by the supplier for other purposes, duplicated or made accessible to third parties. Upon request, they shall be returned to us without delay together with all copies and duplicates. We reserve the industrial property rights to all documents handed over to the supplier. The supplier must regard the inquiry and order and the work relating thereto as business secrets and treat them confidentially accordingly.
- (3) The supplier is obliged to observe the statutory provisions of data protection.
- (4) In particular, the Supplier's employees shall be bound to data protection secrecy in accordance with § 5 BDSG.
- (5) The Supplier shall also impose these obligations on subcontractors.
- (6) The supplier shall be liable for all culpably caused damages incurred by us and our affiliated companies due to the violation of one of these obligations (items 10.1. to 10.5.).

## **§ 12 Termination and withdrawal due to lack of performance**

If it becomes apparent that our claim for delivery is due to the lack of performance of the supplier at risk (e.g. economic recession, actual obstacles to the performance, etc.), we shall be entitled to withdraw from the contract or to terminate it extraordinarily without notice. The circumstance in accordance with sentence 1 shall be deemed an important reason for termination.

## **§ 13 Jurisdiction - Place of performance**

- (1) If the supplier is a merchant, a legal entity under public law or a special fund under public law, Munich (Germany) shall be the place of jurisdiction; however, we shall also be entitled to sue the supplier at the court of his place of residence or business.
- (2) Unless otherwise agreed, our place of business shall be the place of performance.
- (3) These terms and conditions and all legal relations between us and the customer shall be governed exclusively by the law of the Federal Republic of Germany. The validity of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.