



General Terms and conditions

1. General

The buyer acknowledges that our General Terms and Conditions in their current version shall be the basis for all present and future contracts of the buyer with F. & A. PHARMA-Handels-GmbH (hereinafter called seller). Deviations from these General Terms and Conditions require our explicit written confirmation.

2. Offers

2.1 Offers made by the seller are not binding and free of charge. Any differences from the request for proposal must be specified expressly.

2.2 The buyer has the right to accept any offer or to reject all offers.

3. Orders

3.1 The buyer will be bound by written orders only.

3.2 The seller shall normally confirm the order within five working days. If confirmation of the order does not reach the buyer within fourteen days of order date, the buyer may revoke the order without penalty. If there is no cancellation of the order within period of fourteen days of order date, then the buyer is obliged to accept the delivery of the goods and the order cannot be disputed any more at a later stage.

3.3 To be valid, any changes regarding the order (quantity, quality, delivery terms etc.) must be done in written form and have to be signed by both parties.

4. Prices

The prices specified in the order are firm unless otherwise agreed in writing.

5. Payment terms

5.1 The terms of payment are individually agreed in the contract. All invoices shall clearly indicate to what the amount refers, as well as payment address. Additional handling charges or transportation costs will be mentioned separately in the invoice.

5.2 After expiration of the agreed payment period the seller may charge interests on overdue payment pursuant to the German norms.

6. Delivery terms

6.1 The delivery shall be properly packaged and marked, and shall be delivered at the agreed time and destination.

6.2 The incoterms clause specified in the order shall be INCOTERMS 2020.

6.3 The products will be either shipped by air, sea, motor, railroad or combined transport according to the agreed terms in 6.2.

6.4 Provided there are no explicit agreements to the contrary, partial shipments or partial deliveries are permitted.

6.5 The seller agrees to notify the buyer immediately in the case of delay in contractually determined delivery terms (which are not to be deemed fixed deadlines unless so agreed upon in writing). The seller also has to give the reason(s) for the delay and shall inform the buyer of what steps he will take to reduce the delay as well as specify a new delivery date.

6.6 For as long as the buyer is in arrears with a payment or its solvency is at risk, the seller is entitled to hold back further deliveries.

6.7. In case of direct shipment from the manufacturing site (India, China etc.) to the final destination of the goods (airport etc.), the buyer is responsible for the customs clearance and the payment of the upcoming import turnover taxes. This will be mentioned in the order confirmation and invoice of the seller.

6.8 Certificates and documentation specified in the order shall be delivered simultaneously with the goods and shall be deemed to the part of delivery.

7. Reservation of ownership

Until receipt of the entire payment, the goods shall remain the property of the seller.

8. Packing material

The seller is not obliged to take back packing and transport material unless a legal duty to do so exists. The buyer agrees to dispose of the packing material at its own expense.

9. Responsibility of the parties

9.1 The seller shall immediately notify the buyer concerning changes in circumstances which may be of importance for the use of the product, such as for instance changes of importance in the manufacturing process, quality control, availability of the raw materials and the production time.

9.2 The seller shall give the buyer all the facts of the product which might be of interest from a medical, environmental and industrial hygienic point of view, in order to make sure that the buyer's obligation to inform his own employees, clients and official authorities can be accomplished. Should the seller, upon delivery, get the slightest suspicion that the delivered goods may be harmful to health or environment, the buyer must be informed immediately in writing.

9.3 Both seller and buyer are obliged to advice if there is any act of bankruptcy, or voluntarily or involuntarily engage in reorganisation or arrangement proceedings under the bankruptcy laws or will wind up/sell his company while effectuating the assignment or when still in the warranty period.

9.4. All sales and deliveries shall be made in conformity with patent laws applicable in the country where the product is to be shipped. Any liability for patent infringement is at the final buyer's risk.



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10. Warranty and claims

10.1 All information concerning suitability, processing and utilisation of the products sold, technical consultation and other information is provided to the best of the seller's knowledge and does not however release the buyer from the responsibility to make his own examinations and tests. Only that information expressly designated and confirmed as such in the seller's sales confirmation shall be deemed guaranteed.

10.2 The seller warrants for a period of 3 months after delivery that the delivery meets the specifications of the order, that it is free from defect, and that it has been produced identically under conditions similar to any corresponding deliveries, if any, made earlier to the buyer.

10.3 The goods must satisfy all legal requirements as to environmental, medical and industrial hygienic qualities. If the goods to be delivered require special transport, storing conditions, production requirements or other circumstances, omission of these facts are considered serious defects unless they have been accepted in writing by the buyer.

10.4 After delivery the buyer shall examine the goods for defects in quality or functionality as soon as feasible in the usual course of business, at latest however before processing; otherwise the product is regarded as approved. The buyer is not obligated to check the goods before they have arrived at the place where they are to be used according to the understanding of the parties.

10.5 In any case claims are only allowed if they are made in writing and supported by proof within 10 days after receipt of the goods - in case of hidden defects, immediately after their discovery, at the latest however 3 months following receipt and testing of the goods. After notification of the defects the seller is entitled to examine the goods himself. Up to that time the buyer shall provide access and proper storage.

10.6. The seller's warranty is limited at his discretion to replacement, repair and cancellation of the contract or reduction of the price. Rejected goods may only be returned with the seller's explicit consent. Additional guarantees and liabilities are excluded to the extent permissible by law, in particular for indirect and consequential losses such as lost profits or third-party claims.

11. Confidentiality

11.1 The seller shall undertake to treat in the strictest confidence all trial tests and all technical, scientific and financial information, including all data, description recipes and the like which the seller has received and will be receiving from the buyer or on behalf of the buyer, be it in writing or oral, electronically or in any other manner, and use such information only in connection with the delivery. The seller may only disclose such information to its employees on a need-to-know basis, after obtaining the buyer's prior written consent in each case. The seller guarantees that such subcontractors accept and will maintain confidentiality in the same way as mentioned to the seller, and that they are in fact maintaining such confidentiality.

11.2 Obligations pursuant to this article will remain in force also after the delivery has taken place and has been accepted as complete by the buyer. If a framework agreement of deliveries exists between the seller and the buyer, the obligations pursuant to this article shall apply as long as the framework agreement is valid.

12. Force majeure

12.1 Any and all acts of God, unforeseeable at present conditions and extraordinary circumstances, such as fires, floods, earthquakes or other natural calamities, strikes, lockouts, wars and military operations, or other events, for which neither party hereto is responsible, which delay or obstruct production, shipment, acceptance or use of the products shall, as long as such force major circumstances exist, relieve the affective party of its supply or, as the case may be, acceptance obligations.

12.2 Immediately upon the force major circumstances occur, the party that faces such the circumstances shall notify the other party in writing thereof. This notification has to be confirmed by the appropriate competent organisation.

12.3 If the delivery or its acceptance is thereby delayed by more than one month, buyer and seller shall agree on how to proceed. In case the force major circumstances and their consequence stated in 12.1 continue for more than 2 months any of the parties involved may terminate the present order/contract.

13. Applicable laws, jurisdiction and all disputes

13.1 German law shall be applicable, to the exclusion of the Convention of the United Nations on Contracts regarding International Sales of Goods dated April 11th, 1980 ("Vienna Sales Law").

13.2 The place of performance for all obligations shall be our principal place of business in Dorsten, provided that nothing to the contrary has been agreed upon expressly in writing.

13.3 For buyers domiciled abroad, our principal place of business in Dorsten shall be the recognised place of debt collection proceedings. The courts at our principal place of business in Dorsten shall always have jurisdiction over disputes arising out of and in connection with this contract, provided that the parties have not expressly and in writing agreed to arbitration. The seller reserves the right to initiate debt collection or other proceedings against the buyer in any other place provided by law.