

## **Terms & Conditions**

### **1. General**

**1.1** STADA Arzneimittel GmbH shall provide its services exclusively based on the following General Terms and Conditions for the Purchase of Goods and General Terms and Conditions for the Sale of Goods, unless otherwise individually agreed between STADA Arzneimittel GmbH and the supplier or the customer, respectively.

**1.2** Even if a contract was entered into in a language other than German, the German version of STADA Arzneimittel GmbH's Terms & Conditions shall apply. Any other language version shall be for information purposes only.

**1.3** Any terms and conditions of the supplier or the customer shall not be accepted unless STADA Arzneimittel GmbH has expressly agreed to their validity in writing on a case-by-case basis.

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

### **2. Quote**

The supplier's quote must reflect the inquiry of STADA Arzneimittel GmbH. Any departure therefrom must be expressly pointed out. The quote shall be prepared free of charge. The supplier is bound to the quote for a period of 6 weeks following receipt thereof by STADA Arzneimittel GmbH.

### **3. Order Placement and Correspondence**

**3.1** STADA Arzneimittel GmbH may place an order in writing, by fax, by telephone or electronically. Orders shall require the supplier to send a written order confirmation. A fax confirmation is sufficient. The department in question at STADA Arzneimittel GmbH must receive the order confirmations without undue delay, but no later than 14 days after the order was placed, otherwise the order shall be deemed to have been accepted.

**3.2** The prices agreed with the supplier are fixed prices. The supplier shall bear all transportation costs, including packaging, insurance and all other duties and incidental costs, unless expressly agreed otherwise. STADA Arzneimittel GmbH will not recognise any price escalation clauses and the like, unless they have been negotiated with STADA Arzneimittel GmbH on a case-by-case basis and agreed to in writing. The place of performance with respect to all deliveries shall be, unless otherwise agreed in writing: DDP Schachinger, Engelhorngasse 3, 1210 Vienna, Austria.

**3.3** All of the supplier's correspondence must be addressed to the department at STADA Arzneimittel GmbH which placed the order.

### **4. Delivery Time**

**4.1** The supplier must have made the delivery to STADA Arzneimittel GmbH by the delivery date and within the delivery time frame specified in the order.

**4.2** If the supplier anticipates a delivery delay, or if the delivery is already delayed, the supplier shall notify the relevant department at STADA Arzneimittel GmbH thereof immediately and in writing, providing the reasons and the expected delivery date.

**4.3** If a delivery is made before the deadline, STADA Arzneimittel GmbH shall have the right to either refuse acceptance of the delivery or to invoice the supplier for the costs incurred as a result of early delivery, such as rent for a warehouse, etc. In the event the delivery is accepted before the delivery date, the goods shall be deemed to have been delivered on the agreed delivery date with regard to the payment due date.

**4.4** In case of a failure to meet the delivery date, STADA Arzneimittel GmbH shall have the right either (a) to demand performance and damages for delay from the supplier or (b) after

setting a reasonable period of 14 days to cure such delay, to terminate the order and demand damages for non-performance in lieu of performance.

## **5. Warranty**

**5.1** STADA Arzneimittel GmbH is not under a duty to inspect and has no duty to notify defects; the obligations to inspect and notify pursuant to Sec. 377 and 378 of the Austrian Commercial Code (UGB) are excluded hereby. STADA Arzneimittel GmbH must notify visually recognisable defects in a delivery within 30 calendar days of receiving the goods, all other defects within 30 calendar days of becoming aware of the defect. If a defect is detected in part of a delivery, the entire delivery shall automatically be deemed defective. All other claims of STADA Arzneimittel GmbH resulting from a defective delivery (including claims for compensation for indirect and direct damage) shall not be limited by the aforementioned.

**5.2** STADA Arzneimittel GmbH will not recognise the supplier's exclusions of liability in all respects as well as any limitations of liability, in particular on the ground of warranty or damages, unless they have been expressly negotiated in detail with STADA Arzneimittel GmbH and agreed to in writing.

## **6. Quality Audits and Intellectual Property Infringement**

**6.1** The supplier shall establish, and comply with, a quality management system. STADA Arzneimittel GmbH reserves the right to measure the effectiveness of the quality management system on site or to hire a suitable third party to do the same. In this sense, the supplier is obligated to provide all necessary documents and information for the performance of quality audits and to also grant access to its production facilities for this purpose. **6.2** To the extent that the supplier is not also the manufacturer of the goods which STADA Arzneimittel GmbH ordered, the supplier shall take appropriate measures to ensure that the manufacturer of these goods complies with the obligations under section 6.1.

**6.3** The supplier shall be liable for ensuring that no industrial property rights or other third-party rights are infringed by the delivery and the proper use of the delivered items. The supplier shall indemnify and hold STADA Arzneimittel GmbH and its customers harmless from and against any and all claims asserted in that respect.

## **7. Invoices and Payments**

**7.1** The supplier's invoices may not be enclosed with the delivery. They must be issued immediately upon delivery and must contain all legal requirements. They shall be sent to STADA Arzneimittel GmbH by mail or by e-mail and must include the order number. Any duplicates must be clearly marked as such. The payment period shall only commence with the receipt of a written confirmation that the goods were properly received, including the written receipt of all necessary release forms by STADA Arzneimittel GmbH or the logistics partner, Schachinger, Engelhorngasse 3, 1210 Vienna.

**7.2** An invoice that has been partially or fully paid by STADA Arzneimittel GmbH shall not be an acknowledgement on STADA Arzneimittel GmbH's part that the invoiced delivery is correct and in due order.

**7.3** The supplier shall only be entitled to set-off counterclaims if STADA Arzneimittel GmbH has approved them in writing.

## **8. Advertisements**

The supplier may only refer to the business relationship with STADA Arzneimittel GmbH in its advertisements after receiving the prior written approval of STADA Arzneimittel GmbH. This shall also apply to any links from the supplier's website to the website of STADA Arzneimittel GmbH.

## **9. Transfer**

**9.1** The supplier shall only be entitled to transfer its rights or obligations, in whole or in part, to third parties with the prior written consent of STADA Arzneimittel GmbH.

## **General Terms and Conditions for the Sale of Goods**

### **10. Delivery Terms**

**10.1** STADA Arzneimittel GmbH shall not be obligated to deliver the order if there are still outstanding receivables from a previous legal transaction with the customer.

**10.2** If delivery is delayed due to a circumstance on the part of STADA Arzneimittel GmbH, the buyer may terminate the contract by notice in writing, after setting a grace period of at least 4 weeks. The grace period shall commence on the day STADA Arzneimittel GmbH receives the customer's notice. The customer shall in any case accept delivery delays of up to 10 days without having the right to claim damages or cancel the order as a result.

**10.3** If it has been agreed that the customer will call off the goods during a certain period of time and the call-off is not made by the date on the call-off order, STADA Arzneimittel GmbH shall be entitled to withdraw from the contract, in whole or in part, without setting a grace period, or may claim damages at least in the amount of the production costs.

**10.4** The quotes made by STADA Arzneimittel GmbH are subject to change. They shall only become binding when STADA Arzneimittel GmbH has sent a written order confirmation (fax, e-mail, mail). Unless otherwise agreed in writing, the terms of delivery shall be EXW STADA Arzneimittel GmbH, Vienna (Austria) or Schachinger, Engelhorngasse 3, 1210 Vienna, in accordance with ICC INCOTERMS as amended from time to time.

### **11. Notices of Defect**

**11.1** The customer shall inspect the goods immediately upon receipt and notify STADA Arzneimittel GmbH in writing of any visible defects within 24 hours at the latest, otherwise they shall be deemed to have been approved.

**11.2** Defects which, despite careful inspection, cannot be discovered within the period specified in section 11.1 are excluded therefrom. These defects shall be deemed to have been approved if the customer has not notified them to STADA Arzneimittel GmbH in writing immediately after they were discovered, but no later than 60 days after the goods arrived at the place of destination, giving a precise description of the defect.

**11.3** The assertion of warranty claims or claims for damages including indirect or direct damages caused by a defect as well as the right to avoidance of the contract on the grounds of error due to defects shall be excluded when approval has been granted pursuant to sections 11.1 and 11.2. STADA Arzneimittel GmbH's receipt of the notice of defects must be verifiable.

**11.4** At the request of STADA Arzneimittel GmbH, the customer shall provide samples of the defective goods or corresponding evidence of the defectiveness to STADA Arzneimittel GmbH at its own expense.

**11.5** Once the customer has identified a defect, the goods may not be further disposed of, including but not limited to their (further) processing or treatment, without the express written consent of STADA Arzneimittel GmbH; otherwise, any claims shall be deemed forfeited.

**11.6** The rejected goods may only be returned after STADA Arzneimittel GmbH has first given its consent thereto. Acceptance of such a return shall not be an acknowledgement of the asserted defects.

**11.7** Unless otherwise agreed, a notice of defect shall not release the customer from its payment obligation.

### **11.8 Returns**

Subject to the rights of the buyer **under section 11**, returns shall only be allowed in accordance with our separate return policy. STADA Arzneimittel GmbH shall not assume any liability for returns of goods not covered by this policy. STADA Arzneimittel GmbH reserves the right to refuse acceptance or to destroy such goods without substituting the same.

### **12. Warranty and Liability**

**12.1** Unless set out in writing above, the warranty shall be excluded if the goods are meant for a specific use or are suitable for a specific purpose.

**12.2** In the event of a duly notified and justified notice of defect, STADA Arzneimittel GmbH reserves the right either to reduce the price accordingly or to make improvements or to deliver a replacement or to take back the defective goods and refund the purchase price. If the goods were already defective at the time they were handed over, the burden shall be on the customer to prove the same for the entire duration of the warranty period.

**12.3** Any and all claims which the customer may assert against STADA Arzneimittel GmbH in connection with the respective legal transaction, including claims for damages as well as product liability claims and any recourse claims, shall be excluded to the extent legally permissible, except when a loss is caused by wilful misconduct or gross negligence on the part of STADA Arzneimittel GmbH. Regardless of the degree of fault, liability on the part of STADA Arzneimittel GmbH for loss of profit is excluded in any case to the extent legally permissible. Non-excluded claims, and legally non-excludable rights, of the customer shall be limited to an aggregate maximum of the purchase price of the respective goods to the extent legally permissible.

**12.4** The buyer shall pass on these limitations of STADA Arzneimittel GmbH's liability to its customers, if any, so that the validity of the limitation of liability is guaranteed up to the end purchaser.

### **13. Retention of Title**

**13.1** STADA Arzneimittel GmbH shall retain the title to the delivered item until the purchase price, including all incidental costs, has been paid in full. If the retention of title clause is asserted, this shall only constitute a withdrawal from the contract if this is expressly stated.

**13.2** The buyer shall not be entitled to pledge goods delivered with a retention of title or to assign them as security. In the event a court orders the seizure of these goods, the customer shall notify STADA Arzneimittel GmbH thereof without undue delay and shall lend its support to STADA Arzneimittel GmbH accordingly in asserting its retention of title.

### **14. Prohibition of Assignment and Set-Off**

The customer shall only be entitled to assign rights, obligations and claims, whether in whole or in part, or to pledge them to third parties with the prior written consent of STADA Arzneimittel GmbH, with the exception of the customer's monetary claims. The customer shall not be entitled to offset counterclaims against the purchase price which STADA Arzneimittel GmbH can claim, unless STADA Arzneimittel GmbH has given its written consent thereto.

### **15. Lesion Beyond Moiety**

The customer shall not be entitled to the legal remedy to rescind for lesion beyond moiety (*Verkürzung über die Hälfte*) (*laesio enormis*) if the customer receives less than half of the fair value of the consideration.

### **16. Final Provisions, Governing Law and Venue**

**16.1** These Terms & Conditions shall be governed by Austrian law, without giving effect to conflict of laws principles. The application of the “United Nations Convention on Contracts for the International Sale of Goods” is hereby excluded.

**16.2** The venue shall be the registered office of STADA Arzneimittel GmbH in Vienna, Austria. STADA Arzneimittel GmbH shall, however, be entitled to transfer the venue to another location, such as to the customer’s.