

ROTTENDORF PHARMA GMBH¹

P.O. Box 1452 - D-59306 Ennigerloh
Ostenfelder Strasse 51-61 - D-59320 Ennigerloh

General Terms and Conditions of Purchase

1 General

- 1.1 These terms and conditions of purchase are exclusively binding for all current and future orders and purchases of the ordering party.
- 1.2 Declarations of the ordering party must be effected in writing in order to come into force. Any kind of subsidiary agreements, promises, arrangements, messages and requests made over the phone or orally will only come into force once written confirmation has been issued.
- 1.3 Modifications of or supplementations to the contract must be effected in writing; this is also valid for any change of this clause.
- 1.4 The contractor resigns from any contrarious general terms of business and delivery. These are invalid unless the ordering party explicitly acknowledges them in writing. By delivering the merchandise ordered, the contractor in any case accepts the present terms and conditions of purchase as set forth by the ordering party, despite of possibly contrarious own conditions and declarations.

2 Conclusion of the Contract

- 2.1 The contractor is bound to his offers for a period of three months.
- 2.2 The contract is concluded by the ordering party placing the order in writing.
- 2.3 Orders effected orally, over the telephone or in writing by the ordering party will be binding as per the relevant date, provided they are confirmed in writing within one week. In the case of

¹Abbreviation for „Gesellschaft mit beschränkter Haftung“ = *engl.* „Ltd.“

divergence the contents and date of the written order are valid.

- 2.4 Due to the absence of explicit other written agreements, subsequent orders are always placed according to the conditions of the main order.

3 Merchandise

- 3.1 Specimen and samples submitted by the contractor are binding. Their characteristics are being guaranteed for the overall delivery.
- 3.2 The contractor guarantees the ordering party that the merchandise conforms to the requirements as put forth by the ordering party and as per the valid pharmacopoeia, especially with regard to stability, solubility, disintegration or other special qualities or quality characteristics.

4 Delivery, Deadlines, Liquidated Damages, Passing of Risks

- 4.1 The quantities ordered have to be adhered to exactly. In the case of orders where the quantity description is „circa“ or similar, only an upward or downward deviation of a maximum of 5% is permitted.
- 4.2 Unless not explicitly otherwise stated, the delivery address is Ostfelder Strasse 51-61, D-59320 Ennigerloh.
- 4.3 The contractor guarantees the delivery times mentioned and the timely delivery in the case of deliveries at call. The parties may agree on liquidated damages in case of delivery times being exceeded. In this case the right to claim liquidated damages remains unaffected.
- 4.4 All deliveries are to be effected free to the incoming goods' ramp of the ordering party and all costs are to be borne by the contractor.
- 4.5 Passing of risks takes place at the same time as passing of property is effected, namely after the delivery is completed and after the merchandise has been accepted at the place of delivery.

4.6 Retention of title is excluded and cannot be founded after the conclusion of the contract.

5 Prices

5.1 Prices agreed upon are valid including standard transportation packaging. Additional costs arising from special transportation instructions or delivery times as well as from customs clearance are treated according to written instruction of the ordering party.

5.2 Orders for which a price has not been agreed upon are to be debited by the contractor according to the customary prices as per the delivery day at the ordering party's domicile.

5.3 Price agreements remain valid even in the case of smaller quantities being purchased.

6 Terms of Payment

6.1 Payment has to be effected at the payment date agreed upon or in the absence of other agreements within 14 days less 3% discount or within 30 days net cash. The time of payment starts after goods delivery and upon receipt of the invoice.

6.2 Already when the invoice is being issued, the discount has to be deducted from the value of the merchandise; then the value-added tax has to be allocated specially, also for invoices amounting to less than € 25.-. The method of payment and in the case of cross claims no matter of which nature also setoffs remain reserved; this is also valid in the case of warranty claims, where an equitable lien amounting to 120% of the expected warranty amount. The remaining amount due will only be payable after the conclusion of the warranty case.

6.3 Assignment of claims against the ordering party as well as intercorporate settlements is not permitted.

7 Warranty

- 7.1 The obligation to immediate inspection of §§377 and 378 HGB² is excluded.
- 7.2 The contractor fully guarantees for his deliveries and services even without timely demonstration of defects.
- 7.3 If a warranty claim exists, the contractor is free to demand either the changing of the contract, a price reduction, a replacement delivery or repairs.
- 7.4 The contractor is liable for all costs arising from repairs or replacement deliveries, provided these are not disproportionate.
- 7.5 The contractor is completely liable to the full, legally permitted extent for all guaranteed characteristics and also for the fact that defects according to Para. 3.2 do not occur and also for all costs resulting from defects.

8 Cancellation

- 8.1 Superior forces, including strikes or lockouts, other persistent stoppages as well as other business restrictions especially due to official directions etc, which result in a diminution or suspension of the consumption enable the ordering party to refuse the acceptance for the duration of the restrictions or refuse the acceptance altogether in part or completely.
- 8.2 Relative to the above the contractor has the right to appoint a fair and reasonable date for the ordering party to make a statement; the period covered must be minimum until the stoppage has been remedied.

9 Final Provisions

- 9.1 Place of performance for both parties is Ennigerloh.
- 9.2 Place of jurisdiction for all disputes is exclusively Warendof/Westphalia insofar as the jurisdiction of the county court is applicable;

² Abbreviation for „Handelsgesetzbuch“ = *engl.* „commercial code“

else it is the district court Münster. The ordering party, however, has the right to lodge claims against the contractor at a court competent for his domicile or at the county/district court in Düsseldorf.

- 9.3 Regarding the above agreement German law is exclusively applicable. The Uniform Law on the International Sale of Goods and the Uniform Law on the Formation of Contracts for the International Sale of Goods are explicitly excluded.
- 9.4 Insofar as the provisions of these General Terms and Conditions of Purchase and of special agreements might prove to be ineffective or in case a loophole turns out, they shall be replaced by such a regulation, which would have been sensibly chosen by both parties in pursuit of the economic purpose of their agreements, if they had been aware of the ineffectiveness of the provisions or of the loophole. The validity of all other provisions remains unaffected.