

GENERAL CONDITIONS OF SALE AND DELIVERY

These Conditions of Sale and Delivery shall apply to all orders accepted by us. Any terms and conditions of the purchaser shall only apply to the extent that they are not in contradiction to the General Terms and Conditions of the vendor. By accepting delivery of the goods, the customer also accepts our Conditions of Sale and Delivery in any case – notwithstanding any conditions of the customer, which may be in conflict therewith.

1. All our offers are not binding and without engagement, and they are conditional upon the fact that we are able to procure the materials. Sales contracts are only deemed to be concluded by us if they have been confirmed by us in writing.
2. Quantity tolerances of plus/minus 10 per cent are permitted for all deliveries. The quantity delivered shall be paid by the purchaser at the agreed unit price.
3. Our prices are ex works excluding packaging. The packaging will be invoiced by us at the lowest price. It will only be taken back after prior agreement.

4. We assume no warranty whatsoever for the finished or semi finished product produced by us with regard to its therapeutical or pharmacological properties, and we are not obliged to check whether prescriptions received by us for making up are pharmacologically correct and appropriate, harmless or useful. This also applies to raw materials purchased or delivered by us.

The purchaser shall assume sole liability that fabrication and distribution are admissible under the medical preparations act, trade law, patent law, trademarks law or other regulations, and it shall indemnify us immediately from any claims of third parties which may be raised against us for reasons of the admissibility of fabrication or distribution.

5. Should any of the substances delivered to us be hygroscopic, toxic, explosive, inflammable or come under the ordinance regulating hazardous materials, this shall be notified to us in writing before receipt of the shipment. The sender and the orderer of such a shipment shall be jointly and severally liable to us for any damage occurring as a result of a violation of this agreement.

6. We will confirm and grant delivery terms to the best of our judgement, but without engagement. Such terms shall commence at conclusion of the examination whether the instruction given us can be carried out in the normal course of business, however not before we have received all raw materials required for execution of the order. If the time limits for delivery are not kept, the purchaser shall have the right to cancel the order after two letters of reminder setting a reasonable deadline. Any claims for delay or non-compliance shall be excluded.

In the event of force majeure, strike, lockout or stoppage of any kind, including failure of machinery and labour, we shall be entitled to cancel the contract in whole or in part or extend the specified delivery times within reasonable limits. This shall also apply if such failures occur in the plants of our suppliers.

Should any damage or work stoppages occur in our plant for reasons for which the purchaser is responsible under statutory provisions or these Conditions, we shall be entitled to fair and reasonable compensation.

7. We deliver the ordered goods ex works. Delivery will be accomplished by handing over the goods to a carrier. The risk of accidental loss or the accidental deterioration in the quality of the goods shall pass to the customer with the notice of preparation of the goods latest with the handing over the goods to a carrier.
8. If we promised equal prices for repeated or long-term orders, we may increase such prices in proportion to the change in pay rates or market prices of base materials to be supplied by us.
9. Formal complaints for defective quality or quantity may only be lodged against us within 8 days from receipt of the goods. This also applies if we ship the goods to another consignee at the purchaser's instructions. Should the examination according to the pharmacopoeia or equal regulation take some time, the time limit for lodging a complaint for quality defects is deemed extended by the examination time needed. The right to complain shall lapse and any claims shall be excluded upon commencement of processing, repackaging or resale of the goods.

We assume no liability whatsoever for damage to, loss or deterioration of materials furnished to us. The customer or person handing over such materials to us for processing shall be responsible for obtaining the corresponding insurance coverage.

If complaints are legitimate, we may optionally either replace the defective goods by non-defective goods or repair same. If the material processed by us was supplied by the customer, we may optionally either process an equal quantity of new materials made available to us, or waive the claim for payment of our service in whole or in part.

In accordance with the legal regulations we are liable for damage caused by an intended or grossly negligent breach of contract and for damage resulting in damage to life, body or health. All other and more far-reaching claims against us shall be excluded.

Warranty claims shall be excluded if a production specification was not sent to us in time or the defect results from such specification or the specification proves to be not feasible. The warranty period shall be three months from the date of acceptance of the risk.
10. The customer shall conclude an effective knock-for-knock agreement in our favour with its liability insurer within the meaning of Articles 84 ff AMG (German Medicines Act) to the extent our liability against it is excluded or has extinguished.
11. Until the complete payment of any and all claims from the business relationship including any refinancing or return bills, the vendor shall reserve the title to the delivered goods that may only be sold in the regular course of business, i.e. before any provisions on account balances or current accounts.

The purchaser shall not acquire any title to the entirely or partly manufactured goods by processing them; any processing shall exclusively be done for the vendor free of costs. If, nevertheless, the retention of title becomes extinct due to any circumstances, the vendor and the purchaser shall already now agree that the title to the goods shall upon their processing pass to the vendor, who shall accept such transfer. The purchaser shall continue to keep them in custody free of charge.

When processing any goods that are still owned by third parties, the vendor shall acquire co-ownership of the new items. The extent of such co-ownership shall result from the ratio between the invoiced value of the goods delivered by the vendor and the invoiced value of the remaining goods.

The purchaser shall hereby assign the receivables from the resale of the reserved goods to the vendor, including to the extent that the goods have been processed. If apart from the reserved goods of the vendor the processed product only contains items that were either owned by the purchaser or have only been delivered under the so-called single retention of title, the purchaser shall assign the entire purchase price value to the vendor. Otherwise, i.e. if the advance cessions have been granted to several suppliers, the vendor shall be entitled to a proportion of the receivables, according to the ratio between the invoiced value of his reserved goods to the invoiced value of the remaining processed items.

The vendor shall, if requested by the purchaser, undertake to release at his own discretion any securities that he is entitled to in accordance with the above provisions to the extent that the realisable value of such securities exceeds the receivables to be secured by more than 20 per cent.

The purchaser may, provided that he complies with his payment obligations towards the vendor, seize for himself any outstanding receivables until further notice. The right to resell or process any goods and to seize any outstanding receivables shall become extinct upon a suspension of payments, application for insolvency proceedings, any protest against cheques or bills of exchange or any distraints. Any assigned outstanding receivables that are received at a later point of time shall immediately be collected on a special account.

If any goods are taken back, this shall only be due to reasons of security and shall not constitute a withdrawal from the Agreement, even if instalments have subsequently been permitted.

12. The purchaser shall only be entitled to any rights of offset if his counter-claims are legally binding, undisputed or acknowledged; furthermore, he shall only be entitled to a right of retention if his counter-claim is based on the same legal relationship. This shall also apply in case of a forfeiture of property of the vendor.
13. The vendor shall be entitled to collect, save, process, use and disclose to third parties for the purpose of collection of receivables or any external debtor management any information and data on the purchaser for storage, processing and utilisation.
14. Terms of payment: net within 30 days. If the time allowed for payment is exceeded, interest at a rate of 8 percentage points above the base rate according to § 288 Abs. 2 BGB (German Civil Code) will be billed by us.
15. Place of performance shall be 31789 Hameln, Germany.
Place of jurisdiction for all disputes arising out of or in connection with a supply contract shall be 31789 Hameln, Germany.
This also applies to actions on dishonoured bills or cheques, regardless of any domicile provisions.
16. German law shall govern. Statutory limitation shall be governed by German sales law.