

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF ACE PHARMACEUTICALS B.V.

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1. APPLICABILITY

- A. These General Terms and Conditions of sale and delivery (hereinafter referred to as 'General Terms and Conditions') apply to every offer, quotation and agreement made by ACE Pharmaceuticals B.V. (hereinafter referred to as 'ACE') in which ACE undertakes to deliver products and/or to render services (hereinafter referred to as 'goods') to the other party (hereinafter referred to as 'Counter party').
- B. The applicability of the Counter party's general terms and conditions or any other general conditions is hereby explicitly rejected.
- C. If one or more provisions of these General Terms and Conditions is/are at any time wholly or partially invalid or void, the other provisions in these General Terms and Conditions are fully applicable. If uncertainty exists regarding the interpretation of a provision in these General Terms and Conditions, then the explication must be "in the spirit" of said provision.
- D. In the event of any conflicts between the content of the agreement concluded between the Counter party and ACE on the one hand and these General Terms and Conditions on the other, the provisions set out in the agreement have precedence.
- E. Alterations to these General Terms and Conditions shall only be applicable if expressly agreed upon in writing by both parties.
- F. Wherever these General Terms and Conditions use the term 'in writing', this shall mean by document signed by parties, or by letter, fax, electronic mail and by such other means as are agreed by the parties.

2. OFFERS AND CONCLUSION OF AGREEMENTS

- A. All offers are made without obligation even if they contain an acceptance period. An agreement shall come into effect once ACE has confirmed the order in writing. Verbal offers and commitments are only binding after and to the extent that they have been confirmed in writing by ACE. Offers and agreements are only binding when they are signed by an authorized person of ACE.
- B. ACE shall not be bound by an offer or agreement, if the Counter party should reasonably understand that the offer or agreement, or a part thereof, contains an obvious mistake or clerical error.
- C. All offers have limited validity. The offer is only valid for that specific agreement.
- D. ACE reserves the right to reject an order.

3. DELIVERY

- A. All terms and conditions of delivery and transport shall be explained in accordance with the INCOTERMS version in force at the moment of conclusion of the agreement. The specific Incoterm shall be laid down in writing per transaction.
- B. The delivery time stated by ACE shall only be approximately and shall under no circumstances be deemed to constitute a fatal date. ACE shall not be in default in respect of such delivery time until the Counter party notifies in writing that she is in default, in doing so the Counter party stipulates a reasonable period of time within which ACE has the opportunity to effect delivery, and the latter still fails to do so.
- C. The Counter party is obliged to accept the delivered goods at the time of delivery. If the goods are not collected and/or accepted by the Counter party, they will be stored by ACE at the expense and risk of the Counter party, possibly at the discretion of ACE with a third party. If after a certain storage period, that is deemed reasonable in view of the type of product, no acceptance by the Counter party has occurred and the risk of quality loss and/or deterioration of the goods leaves no choice, ACE is entitled to consider the agreement as annulled with immediate effect. Any possible price difference resulting from the sale of the goods to a third party, as well as all costs, damage and loss incurred by ACE shall be borne by the Counter party.
- D. The delivery time shall commence at such time as the relevant agreement is concluded and ACE has also accepted any security for payment which may have been agreed or have received any prepayment.

- E. If the time for delivery is exceeded, the Counter party shall not be entitled to cancel or terminate the agreement, unless the time for delivery is exceeded with more than two (2) weeks, without the Counter party being entitled to any compensation.
- F. The Counter party's failure to comply with his duty to effect payment (or to do so on time), shall have the effect of suspending ACE's duty to effect a delivery.
- G. ACE reserves the right to execute a delivery in separate parts. Each partial delivery shall be deemed to represent a separate agreement. ACE shall be entitled to demand payment for each partial delivery before proceeding with any other.

4. RETENTION OF TITLE

- A. Where delivery occurs before payment of the entire amount owed pursuant to the agreement, ACE will retain title to the goods delivered until all that is owed for the supply of those goods, including any collection costs and interest, as well as any amount payable due to the Counter party's failure to comply with his obligations pursuant to this agreement or any other, is paid in full. The Counter party, however, is not entitled to sell the goods to third parties whose registered office is located outside the territory of the European Economic Area. The risk of loss, damage or depreciation in value shall pass to the Counter party at the moment the goods are brought under the control of the Counter party as defined in the INCOTERMS. As long as the ownership of the goods has not passed to the Counter party, it shall not be entitled to transfer title to them to a third party, to tender them by way of security, to encumber or to pledge them, or to place them at the disposal of a third party in any other way. The Counter party, however, shall be entitled, as long as it meets its obligations towards ACE, to dispose of the goods in the course of its normal business. In addition, the Counter party is obliged to inform ACE immediately of any actions taken by third parties with respect to goods belonging to ACE. In the event of a seizure, a suspension of payments or bankruptcy/liquidation of the Counter party, the Counter party shall inform the bailiff, the administrator or the trustee in bankruptcy/liquidation immediately of ACE's retention of title as laid down in this clause.
- B. In the event of the Counter party's whole or partial non-compliance with its obligations, ACE shall be entitled to repossess the delivered goods at the expense of the Counter party, without the requirement of a summons, notice of default or judicial intervention. To this purpose the Counter party shall grant ACE access to those places, where the properties of ACE are located.
- C. Up to and including the moment of full compliance with the agreement by the Counter party, the Counter party shall be obliged to store the delivered goods under retention of title, carefully and as identifiable property of ACE. The Counter party shall also insure these goods against theft, fire and water damage. Possible claims by the Counter party in relation to said insurances shall be pledged by the Counter party to ACE upon request as additional security for the claims of ACE against the Counter party.
- D. The Counter party shall at all times help ACE to exercise her right of ownership. As long as retention of title applies, the Counter party shall have a duty to grant ACE access to her buildings and premises.
- E. When first so requested by ACE, the Counter party shall be obliged to pledge to ACE any accounts receivable he acquires in respect of goods supplied by ACE which are subject to retention of title and have been sold to her buyers.

5. PRICES

- A. Unless otherwise stated or agreed upon in writing, all prices are net and ex works, Zeewolde, the Netherlands (EXW, Incoterms version in force at the moment of conclusion of the agreement). Therefore excluding sales tax, other taxes, government levies and transport costs. The quoted prices shall only apply if the whole offer is accepted.
- B. All prices referred to in the offer and/or agreement are in EUROS, unless specifically stated otherwise in writing.

- C. All prices are based on the official monetary relationships of domestic and foreign currencies, import duties, prices of raw materials and energy and other taxes and levies valid at the time the concerned agreement is concluded.
- D. If a change in one or more of the factors as referred to under article 5C leads to a price increase after conclusion of the agreement but before delivery has taken place, ACE reserves the right to increase its prices in such way that the price increase is reasonably incorporated in the price.
- E. ACE shall inform the Counter party in writing of a price increase as referred to in article 5D.

6. PAYMENT

- A. The Counter party is obliged to pay the invoice within 30 days after the relevant invoice date, unless otherwise agreed upon in writing. Payment shall be in EUROS. The obligation to pay will only be deemed fulfilled, if the full amount has been received by ACE and the entire amount is at ACE's disposal.
- B. At all times and for each delivery, ACE shall be entitled to deviate from the provisions of article 6A by demanding payment in advance at her account.
- C. In the event that payment is not effected on time, the Counter party shall be deemed to be in default by the simple expiry of the payment term, without the need for any notice of default or judicial intervention. Without prejudice to any other right ACE may possess, the consequence hereof will be that:
 - I. as of the due date of invoice until the moment in which the amount due is paid in full, the Counter party shall owe 1,5% per month on the amount due.
 - II. the Counter party shall be obliged to fully reimburse all judicial and extrajudicial collection costs including all costs incurred by ACE for attorneys, lawyers, bailiffs and debt-collecting agencies. The extrajudicial costs shall amount to at least 15% of the sum to be collected, subject to a minimum of EURO 170.=.
- D. The Counter party shall never be entitled to any discount, suspension or claim of compensation.
- E. Complaints regarding the amount of an invoice shall not suspend the obligation to pay. The Counter party who is not entitled to invoke the provisions by means of Part 6.5.3. (sections 231 to 247 of Book 6 of the Dutch Civil Code, BW) will neither be entitled to suspend payment of an invoice for other reasons.
- F. Upon or after entering into the agreement and before its implementation, ACE will be entitled to demand a guarantee from the Counter party that both the payment obligations and any other obligations arising from this agreement will be fulfilled. Refusal by the Counter party to provide the required guarantee gives ACE the right to suspend her obligations and ultimately, without any notice of default or legal intervention, the right to annul the agreement wholly or partially, without prejudice to her right to compensation for any damages suffered by her.

7. NON-COMPLIANCE

- A. In the event of filing of a petition for bankruptcy, bankruptcy, seizure, statutory debt, liquidation or when the Counter party has applied for or was granted a suspension of payments, ACE shall be entitled to unilaterally terminate the agreement by registered mail without any notice of default and without judicial intervention, or to suspend the execution thereof wholly or partially without the obligation to compensate, and without prejudice to all its other rights.
- B. If one of the circumstances as referred to in article 7A occurs with the Counter party, all outstanding claims by virtue of any legal relationship shall immediately be fully claimable by ACE. ACE shall also be entitled to suspend or terminate all other agreements with the Counter party.
- C. In the same way as referred to in 7A, ACE shall be entitled to suspend the obligations or to terminate the agreement, if:
 - I. the Counter party -despite a reminder- does not fulfill (wholly or partially) the obligations of the agreement, does not fulfill them in time, or if it is feared that the Counter party will not meet the obligations;
 - II. as a result of a delay on the part of the Counter party, ACE can no longer be expected to fulfill the agreement against the originally agreed upon conditions.

- D. When applying articles 7A, 7B and/or 7C, the Counter party shall be liable for all resulting damage, direct or indirect, on the part of ACE (including expenses).
- E. Cancellation of an agreement by the Counter party is solely possible if the cancellation is in writing and takes place before the delivery of goods or the rendering of services. In the event that the Counter party cancels a placed order completely or partially, the goods ordered or prepared for this purpose, plus the possible supply-, transport-, and delivery costs thereof and the working hours reserved for the execution of the agreement, shall be charged to the Counter party in full. Financial obligations of ACE towards third parties, related to the cancellation of the agreement and which still have to be fulfilled by ACE, shall also be fully charged to the Counter party.
- F. If cancellation takes place less than five working days before the planned delivery of the ordered goods, the Counter party, in addition to the costs as referred to in the other provisions of this article, shall be obliged to pay compensation, which is determined to be 10 (ten) percent of the agreed price. If cancellation takes place less than 48 (forty-eight) hours before the planned delivery of the ordered goods, the compensation is set at the full price. The terms mentioned in these provisions are working days.

8. FORCE MAJEURE

- A. Force majeure of any nature, such as mobilization, war, revolution, terrorism, fire, strike, epidemics, transport interruptions, confiscation, production disruptions, lack of raw- and auxiliary materials and/or energy, natural disasters, restrictive government measures of any kind, not timely or not properly functioning of installations used for the execution of this agreement, the failure in whole or in part of a third party to supply goods or render services and any circumstances that ACE could not reasonably foresee and cannot influence, or a circumstance that is not due to her fault and that, had she known such a circumstance at the time of the conclusion of the agreement, would have induced her not to enter or not enter it under the same conditions, shall entitle ACE to terminate the agreement in whole or in part without judicial intervention, or to suspend it without the Counter party being entitled to any compensation.
- B. Performance by ACE in one or more circumstances as referred to in 8A, does not impair ACE's right to suspend or to terminate the agreement in other cases.
- C. If as a result of force majeure, the delay of the delivery or the acceptance of the goods exceeds eight weeks, both parties shall be entitled to terminate the agreement.

9. COMPLAINTS AND LIABILITY

- A. Except in the case of legal liability according to provisions of mandatory law, ACE can only be held liable for loss or damage that is attributable to a deliberate act, omission or gross negligence on the part of ACE. ACE is never liable for consequential damage or trading loss, indirect damage and loss of profits or turnover. In case the delivered goods to the Counter party, are purchased from a supplier by ACE, ACE shall never be obliged to provide a further guarantee than ACE may claim against its supplier.
- B. Furthermore, ACE is not liable for damage of any kind arisen because ACE based its actions on incorrect and/or incomplete information provided by or in name of the Counter party.
- C. Information by or in name of ACE in concerning quality, composition, treatment in the broadest sense, application possibilities, characteristics of the goods shall not bind ACE, unless this information was provided in writing and explicitly in terms of a warranty.
 - D.1 The Counter party is obliged to inspect the goods from their original packaging upon arrival or as soon as possible before usage. Complaints with regard to damage, quality, a possible shortage or other deficiencies, should be submitted within a week after receiving the goods, or within one week after the defect could reasonably have been discovered. The complaints should be submitted in writing stating an adequate motivation and the number and date of the relevant order confirmation/invoice.
 - D.2 The Counter party is obliged to take measures in order to limit the damage to the delivered goods as much as possible.

- D.3 The Counter party is obliged to strictly comply with the provisions regarding the storage and handling of the delivered goods.
- D.4 The Counter party shall enable ACE to investigate a possible reported defect.
- D.5 ACE accepts no liability, if the Counter party fails to meet the provisions referred to in articles 9D.1, 9D.2, 9D.3 and 9D.4.
- D.6 In addition, ACE does not accept any liability, if a defect was caused by or results from injudicious or improper use or use after expiry date, incorrect storage or maintenance by the Counter party and/or by third parties or, if, without written consent of ACE, the Counter party or third parties made alterations to the goods or attempted to make alterations or if these goods were processed or adapted in another than the prescribed way. ACE rejects any liability if a defect has arisen from or is a result of circumstances beyond ACE's influence, including weather conditions (such as but not limited to, extreme temperatures) et cetera.
- E. If properly submitted and motivated well founded complaints shall be settled by ACE at her discretion by a price reduction, complementary supply of goods in case of a shortfall, by an exchange or by taking back the goods. The handling of complaints does not affect the payment obligation of the Counter party. If it is established by ACE that a complaint is unfounded, the costs, including research costs, incurred on the part of ACE are for the account of the Counter party.
- F. If ACE, for whatever reason, will be obliged to compensate any loss or damage, the aggregated liability of ACE to the Counter party shall at all times be confined to the net invoice value of the concerned good(s) or to that part of the net invoice value to which a claim for compensation is directly or indirectly related. Total compensation for damage payable by ACE shall in no event exceed 1.000,- EURO per event, whereby a series of related events will be considered as a single event.
- G. Contrary to the legal limitation periods, the limitation period of all claims and defences against ACE and third parties involved in the execution of the agreement through ACE, shall amount to one year.
- H. If the goods do not comply with what was agreed upon in writing, both parties will collaborate to find a solution.
- I. The Counter party shall indemnify ACE against any claim made by a third party in respect of which ACE is not liable under these terms and conditions.

10. RETURN OF GOODS

- A. The Counter party shall only be permitted to return the delivered goods by ACE after a written permission by ACE.
- B. ACE will never take back, replace or credit goods with a limited storage after the expiry of said period.
- C. Every return of goods shall at all times meet the following requirements (i) presence of proof of correct storage, (ii) an accompanying document containing the order number, article numbers, quantities and batch numbers.

11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- A. ACE reserves all of its intellectual property rights in connection with the goods which it supplies. The Counter party shall acquire no intellectual property right whatsoever as a result of the conclusion of an agreement with ACE.
- B. Unless the Counter party is under an obligation thereto by the authorities, the Counter party shall neither be permitted to change or remove trade- and/or recognition marks applied to goods supplied to him, the packaging of the goods and the patient information leaflets, nor to alter or copy the goods or any part thereof.
- C. ACE declares that to her best knowledge the goods do not infringe upon valid intellectual property rights of third parties. In case of a third party claim with regard to an infringement upon said rights, ACE can, if in her judgment this is required, replace or alter the goods in question, or terminate the agreement with the Counter party in whole or in part. In case of a third party claim with regard to an infringement upon said rights, the Counter party shall only be entitled to terminate an agreement with ACE, if continuation of the agreement in question cannot reasonably be expected of the Counter party.
- D. The Counter party shall forthwith inform ACE in writing of any third party claim regarding an infringement upon intellectual property rights regarding delivered goods to the Counter party. In this case ACE (also in name of the Counter

party) shall have an exclusive right to enter a defence, take legal measure against the third party in question or agree upon a settlement. In such a case the Counter party shall at all times cooperate with ACE.

- E. ACE and the Counter party shall maintain strict secrecy with regard to all information and/or data regarding their reciprocal business operations and not disclose this to third parties in any way whatsoever, unless this information and/or these data was/were already proven facts of general knowledge at the conclusion of the first agreement between ACE and the Counter party, or unless one party granted the other party permission in writing to disclose this information and/or these data to (a) third party/ parties.
- F. All data provided by ACE to the Counter party in the context of an offer or an agreement, such as technical specifications, drawings, models and instructions for use, shall remain the property of ACE and shall not be multiplied or disclosed to third parties without his prior written consent.
- G. Intellectual property rights regarding Intellectual Property that originates during an agreement or clinical trial, will be written down in a separate agreement.

12. PRODUCT RECALL

- A. The Counter party shall assist ACE in implementing a product recall. For the purpose of implementing a potential product recall, the Counter party shall maintain adequate records of its sales of goods to customers for a period of at least five years after the date of sale. Such records shall include dates and quantities of shipments, batch numbers and other information which would allow an expeditious recall. ACE may examine such records and receive copies of them upon request.

13. HARDSHIP CLAUSE

- A. If, during the term of the agreement the circumstances that the parties departed from at the time of the conclusion of this agreement change so fundamentally, that compliance with one or more provisions cannot reasonably be expected any more, the parties shall negotiate on an interim amendment of the agreement.

14. GOVERNMENT IMPEDIMENT

- A. The Counter party bears the risk of regulations by the authorities or by any other competent body that prevent or prohibit the use of goods supplied by ACE.

15. INDEMNITY

- A. The Counter party shall indemnify ACE against possible claims of third parties, who in connection with the execution of the agreement suffer damage, the cause of which is to be attributed to another party than ACE.
- B. If a third party brings an action on the account mentioned in article 15 against ACE, the Counter party shall assist ACE both judicially and extrajudicially, and forthwith do everything that may be expected of her in such a case. If the Counter party fails to take adequate measures, ACE shall be entitled to proceed hereto herself, without any notice of default. All resulting costs and loss or damage, both on the part of ACE and of third parties, shall be fully at the expense and risk of the Counter party.

16. APPLICABLE LAW AND COMPETENT COURT

- A. These general terms and conditions and any agreements entered into by ACE shall be solely governed by and construed in accordance with the law of the Netherlands.
- B. Only the Dutch civil court within whose jurisdiction ACE's place of business is situated is competent to pass judgement on disputes, unless ACE would elect to submit the dispute to competent courts elsewhere.
- C. Parties will only appeal to a judge, after they have tried the utmost to settle a difference between themselves.
- D. The provisions of article 16B leave intact the right of ACE to obtain a settlement by means of arbitration of the International Chamber of Commerce under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrator(s). The place of arbitration will be Amsterdam, the Netherlands. The arbitral procedure shall be conducted in the English language.