

Standard Business Terms of Purchasing Of the Haupt Pharma Group

1. General Provisions

1.1. All our orders are exclusively subject to our **standard business terms of purchase (hereinafter referred to as “SBT”)** as they are laid down hereinafter. Standard business terms of the supplier do not become part of the **contract of purchase of goods, or of the contract of work and services, or of the contract dealing with the supply of movable things to be produced or manufactured, or of other purchase agreements (hereinafter referred to as “Supply Agreement”)** even if we do not object to them expressly. If we accept delivery of **any shipment, goods, merchandise, work, work and services, or movable things to be produced or manufactured (altogether hereinafter referred to as “Goods”)** without expressly objecting to standard business terms others than ours, this shall not be considered as acceptance or approval of the supplier’s standard business terms.

In case the Supply Agreement, including these SBT, is subject to French law, provisions of the standard business terms of the supplier shall apply, unless these have been expressly derogated to by our SBT; this altogether reflects an agreement between us and the supplier.

1.2. Our SBT apply

- Only towards entrepreneurs,
- Also to all future Supply Agreements with the same supplier,
- To all Supply Agreements.

1.3. This English version of our SBT applies to any Supply Agreement or order in other than German, French, or Japanese language.

2. Conclusion of Contract, Written Form

2.1. We are only bound by our written orders. Written form in terms of these SBT may be fulfilled through facsimile or email. Word-of-mouth negotiations have to be confirmed in written form. This does not apply to negotiations regarding a Supply Agreement after its conclusion in written form.

2.2. In his bidding or offer the supplier is obliged to exactly observe our inquiry. Variations have to be indicated expressly. The bidding or offer shall be free of charge and shall not bind us in any way. Budget calculations or estimates of costs are free of charge unless agreed differently.

2.3. Every order has to be confirmed by the supplier in written form within two weeks stating the binding date of delivery and the price. **All drawings, norms, guidelines, methods of analysis, dispending, and any other documentation provided to the supplier for the production of the object of supply as well as all documentation having been fabricated by the supplier according to our information, data, or specifications (altogether hereinafter referred to as “Documentation”)** transmitted with our order become integral part of the Supply Agreement by the supplier’s confirmation of the order (also confer to sec. 12 of these SBT).

2.4. Our order number, the order date and order position, our responsible department, and/or our reference have to be quoted in all writs concerning the order, in particular in invoices and shipping documents. Otherwise we are not responsible for any delay in handling incoming deliveries and our payment. Each order has to be handled separately in all correspondence. Under no circumstances partial deliveries shall count as separate order.

3. Delivery Time, Consequences of Non-compliance

3.1. Agreed dates, periods and times of delivery are binding. Periods of delivery are calculated counting from the day of order. As soon as it is recognisable to the supplier that he, on the whole or in parts, will fail to perform properly, or will fail to perform when performance is due, he is obliged to inform us in written form without negligent delay about the grounds and the estimated duration of the delay of performance.

3.2. The delivery shall be effected within the opening hours of our respective goods receiving department. The respective opening hours will be provided with our order and/or buy on call.

3.3. The supplier has to compensate all damages for delay of performance according to statutory law unless he can show that he is not responsible for the delay of performance.

3.4. The acceptance of Goods shall not be considered as a waiver of claims. Our reservation regarding a contractual penalty for delay of performance shall in any case be considered as declared in time when we discount the amount of the contractual penalty in the final payment at the latest. Under these circumstances a reservation is expendable.

3.5. If agreed dates, periods and times of delivery are not met by the supplier due to a circumstance for which the supplier bears responsibility, after the expiry of a reasonable period set by us we shall have the right to demand damages in lieu of performance, respectively to procure substitution with third parties. This does not affect our statutory rights.

3.6. In case of a premature delivery before the due delivery time we shall have the right to charge the supplier reasonable storage costs and/or warehouse charges for the longer duration of storage. Though we are not obliged to accept any delivery before the due delivery time agreed.

4. Bearing the Risk, Transportation Insurance, Packaging

4.1. The risk of the Goods shall pass according to the international trade clause “DDP” (Incoterms 2010).

4.2. Unless otherwise agreed we effect insurance of Goods in transit. We shall not be charged transportation insurance premiums.

4.3. The supplier is obliged to provide appropriate and sufficient packaging and declaration, in particular to obey mandatory legal provisions concerning these points. Packaging shall be included in the price unless agreed differently.

5. Payment, Means of Payment, Prices, and Other Conditions

5.1. The term of payment starts on the date of receipt of Goods and product documentation as appropriate in perfect condition or the date of invoice receipt, whichever occurs later. However, the term of payment shall not start before the due delivery time agreed,

irrespective of a premature delivery. In case of a contract of work and services the term starts on the date on which the work is accepted.

5.2. Payment shall not be considered as acceptance or approval of contractual conditions or prices.

5.3. We reserve the right to choose the means of payment. We pay either within a period of 14 days with an allowance of 3%, or net within a period of 30 days from the end of the month of invoice date, if not agreed differently in the individual case.

5.4. Payment by bank transfer is in due time when the transfer data is transmitted to our bank, payment by cheque upon having initiated cheque shipment.

5.5. The supplier bears all risks related to the shipment of the cheque, in particular all risks related to loss, damage, theft, unauthorised encashment, and all other damages arising, in particular bank fees in connection with the blocking of a cheque.

5.6. In case of delay of payment the default interest rates are limited to the statutory interest rates.

5.7. Rate and amount of value-added tax have to be shown in offers, confirmations of orders, and invoices separately. Otherwise it is considered to be included in the price.

5.8. All prices relate to the international trade clause „DDP“ (Incoterms 2010). Allowance (confer sec. 5.3.), and packaging and declaration (confer sec. 4.3.) are included in the price.

5.9. In case the supplier reduces his prices in the time between order and delivery or ameliorates other conditions of sale or supply, the new prices and/or conditions are considered to be agreed.

5.10. Excess and short deliveries have to be stated in the delivery note and in the invoice.

5.11. We shall have our statutory rights to offset and retention. In case of an objection to delivered Goods we reserve our statutory right to defence of failure to perform the contract.

5.12. The assignment of the supplier's claim of payment requires our prior approval. This does not affect the supplier's statutory rights. We are obliged not to refuse our consent without justified reason.

5.13. In case of **any assays, audits, quality inspections, or other checks (hereinafter referred to as “Check” or “Checks”)** being intended, the supplier is obliged to pay his personnel and all other costs of testing conducted by him. We shall pay our personnel costs. The supplier is obliged to declare the stand-by of Check at least one week in advance and bindingly, and is obliged to agree upon a date of Check. If the supplier does not meet the date then he shall be charged our personnel costs. In case of necessity of repeated or further Checks due to deficiencies of delivered Goods, the supplier is obliged to pay all general and personnel costs. Analyses of basic materials are paid by the supplier.

6. Warranty of Defects, Limitation

6.1. The supplier's liability in case of defective Goods / warranty of defects is determined by statutory law unless set otherwise in the following provisions.

6.2. The supplier guarantees that all Goods supplied meet the state of the art, the relevant legal provisions, and other regulations, directives, or provisions enacted by state authorities,

employers' liability insurance associations, industrial unions, professional associations, or trade associations at the point of conclusion of the Supply Agreement, and that he is not informed about forthcoming amendments, so that all Goods may be used, sold, transported, and exported legally. In particular he guarantees to meet any applicable environmental regulations. The supplier is obliged to inform us about any forthcoming amendments to any provisions or regulations without negligent delay. The supplier is liable for any damage due to non-compliance to any of the provisions regarded to in this sec. 6.2. in case of wilful or negligent acts or omissions.

6.3. As far as any variation of sec. 6.2. is necessary our prior approval (consent) is required. This does not affect our contractual claims or statutory rights, including other guarantees, on the agreed quality of Goods.

6.4. In case of any concerns or objections of the supplier regarding the realisation, achievement or performance of the Supply Agreement, the supplier is obliged to give written notification without negligent delay.

6.5. We shall give notification to the supplier about defective Goods without negligent delay in consideration of a due process of business as soon as detected. Having initiated sending the notification within five working days (Monday to Friday except public holidays) after receipt of Goods shall be considered as a notification effected in due time.

6.5.1. In case of dissensions about the weight, Goods are regarded to weigh as much as detected by our reception inspection unless the supplier shows that the weight he weighed has been detected with the means of a generally accepted method. Dissensions about the amount of Goods shall be handled accordingly.

6.5.2. In case of partial delivery we are only obliged to give notification about quality-related defects of Goods if the partial delivery has been agreed. This shall not apply to nonessential short deliveries.

6.5.3. Quality assurance agreements between the supplier and us overrule these provisions (6.5. and sub.).

6.6.

6.6.1. The limitation period for warranty claims is 36 months. Defects of Goods notified within the limitation period have to be remedied within a reasonable period by the supplier free of charge and free of any related costs, by our choice either by reparation or by replacement of the defective parts of Goods. This does not affect our right to claim new supply of Goods free from defects. Removal of defects or new supply of Goods free from defects have to be carried out by the supplier without negligent delay, and they effectuate a restart of the limitation period, unless in consideration of extent, duration, and costs it cannot be concluded, that the supplier has acknowledged his warranty obligation. In case of a legitimate notification of defects the limitation period prolongs in respect of the period between notification and removal of defects or new supply.

6.6.2. All further statutory claims regarding defects, in particular the right to withdraw and our claim to demand damages in lieu of performance are not affected. If the supplier does not meet his duty to cure the defects within a reasonable period set by us we reserve the right to remedy the defects ourselves or have them remedied by a third party at the expense and the risk of the supplier, in cases of urgency also before expiration of the reasonable period and after clearance with the supplier. In cases of extreme urgency, in which it is not possible, neither to notify the supplier about the defect and the imminent damage, nor to set an, even though, very short period to let the supplier cure the defect, with respect to an uninterrupted production minor defects may be remedied by us without prior clearance with the supplier;

the supplier will be charged the costs and expenditures. The like shall apply in cases of an excessive damage.

6.6.3. For each defective supply being detected under due obedience of our obligations at a point of time after delivery, we have got the right to claim across-the-board handling costs (transport, storage, administration) of an amount of 250.00 Euros (net) unless the order value of the respective supply is less than 2,500.00 Euros (net). This does not affect our right to show further damage.

6.7. As far as the Goods delivered by the supplier have a defect of title we reserve the right to demand damage compensation relating to that defect if the supplier is responsible, respectively if he knew the defect or must have known.

7. Entrepreneurs recourse

As far as we are subject to claims of our customer within the concept of purchase of consumer goods and the claim is related to a defect of the Goods having been supplied by the supplier, our claim of recourse is only prescribed after a limitation period of five years, reckoned from the time of delivery of our supplier.

8. Guarantees, Assurances, Prescription

8.1. As far as the supplier has assumed an assuring guarantee for the quality or condition of Goods he is liable to damages pursuant to statutory law, including damages in lieu of performance.

8.2. The limitation period is 36 months, calculated from the detection of the lack of the assuredly guaranteed quality or condition.

9. Product Liability, Recourse

9.1. As far as we are subject to claims of product liability or other statutory provisions the supplier is obliged to release us from our liability on first demand inasmuch as he is directly liable towards the claimant himself and inasmuch as the damage originates from the supplier's domain and/or organisational sphere.

9.2. In case of a product recall in consequence of such an incidence the supplier shall be obliged to release us from all costs and expenditures on first demand inasmuch as the supplier is liable according to applicable law.

9.3. The supplier is obliged to have adequate product liability insurance and if appropriate adequate transportation insurance during the full duration of the Supply Agreement. We reserve the right to demand a confirmation of insurance coverage from the supplier.

10. Manufacturing of Pharmaceuticals / Medicinal Products and Life Science Products

10.1. As ordered products or other Goods are used for the manufacture of pharmaceuticals, medicinal products, healthcare or beauty care products, foods, foodstuffs, or dietary supplements, the relevant statutory provisions in the current version and other recognised rules have to be complied with.

10.2. Variations in the production, the specification, and other factors of such products that might have an actual or potential effect on the quality have to be notified by the supplier in written form without negligent delay.

10.3. Every delivery should originate from the same batch or lot as to constitute a homogeneous unit. The batch number has to be clearly stated on every container or pack and on every delivery note and has to be durably legible.

10.4. If identification by batch numbers is impossible, the specific quality has to be assured by the supplier. Every container or pack has to be labelled clearly. The label shall be durably legible and shall contain product denomination, net weight, tare, batch number, and potential hazard notes and storage instructions.

11. Withdrawal and Termination in Cases of Insufficient Performance

If assumedly the due performance of the Supply Agreement is jeopardised, for instance due to substantial economical deterioration or factual hindrances in performance, we reserve the rights to either withdraw or to terminate the Supply Agreement with immediate effect. The incidence described before is considered to constitute a good and just cause for cancellation.

12. Documentation, Confidentiality, Data Protection

12.1. All information given to the supplier related to the Supply Agreement has to be thoroughly kept in confidence, except information the supplier has been aware of before or has become aware of otherwise.

12.2. Any Documentation remains or becomes our property. The supplier is not authorised to use, to duplicate, or to deliver to third parties any Documentation for other purposes than the execution of the Supply Agreement. On demand all Documentation including all transcriptions, duplications, and copies has to be returned without negligent delay. We reserve all intellectual property rights in consideration of any Documentation. Inquiries, orders, and any work relating to these have to be treated as business secrets.

12.3. All Documentation that is required to discuss the object of supply has to be provided by the supplier. It is the supplier's duty to promote such discussions if necessary; such discussions do not discharge the supplier from his warranty or other liability. Any Documentation or other documents that is required for using, installing, assembling, handling, processing, storing, operating, preventive or corrective maintaining, repairing, and inspecting of the object of supply has to be provided by the supplier in due time, unasked and free of charge. All norms and guidelines provided by us apply in the current version.

12.4. The supplier is obliged to obey all statutory provisions on data protection. In particular he has to swear his employees to data protection secrecy according to applicable law.

12.5. Furthermore, the supplier has to commit his subcontractors to the same obligations.

12.6. The supplier is obliged to compensate any damage to us and to our affiliated companies due to responsible violation of these obligations (sec. 12.1. to 12.5.).

13. Property of Other Objects

Forms, models, samples, tools, films etc. fabricated by the supplier for the execution of the Supply Agreement become our property by payment of the Goods, irrespective of the supplier's potential possession. On demand the objects have to be surrendered.

14. Risk of Suppliers Materials

We do not bear the risk of loss, damage, or other deterioration of property of the supplier or of his employees that has been brought into our premises for the purpose of assemblies, maintenances, inspections etc.

15. Third Parties' Intellectual Property Rights

15.1. The supplier is liable that no patents, licences, or other intellectual property rights of third parties are violated, unless he is not responsible for the violation. Royalties are paid by the supplier.

15.2. As far as we are subject to claims of third parties in connection to such violations the supplier is obliged to release us from liability on first demand in written form; we are not authorised to make any agreements, esp. settlements, with the third party without prior approval of the supplier.

16. Advertising Material

Only with our explicit prior approval the supplier may refer to the existing business connection in his advertising and information material.

17. Place of Performance

Unless agreed otherwise the place of performance for all supplies, deliveries, and possible payments to us is at our respective company address.

18. Applicable Law

In consideration of the Supply Agreement including these SBT the substantive law of the country in which our respective affiliate being party to the Supply Agreement has got its place of business shall apply. The provisions of the United Nations Convention on Contracts for the International Sale of Goods – CISG – shall not apply.

19. Place of Jurisdiction

For all direct or indirect disputes, controversies, or claims in connection with the Supply Agreement including these SBT the parties submit to the competent courts of our respective affiliate's place of business. This applies as well to complaints in connection with cheques and bills of exchange. We are authorised to sue the supplier at his natural forum or at our natural forum.

20. Severability Clause

If individual provisions of the Supply Agreement including these SBT are, on the whole or in parts, not valid the validity of the other provisions shall not be affected. The contracting parties undertake to replace the non-valid provision by a provision which serves the intended economic purpose closest in a legally permissible way; the same shall apply to loopholes in the Supply Agreement. In case of the application of German law this shall not apply to invalidity due to an infringement of Book 2 Division 2 of the German Civil Code with the superscription "Shaping contractual obligations by means of standard business terms". In this case statutory law shall replace the invalid provision, unless additional interpretation of the contract demands to bridge the loophole.