General Terms and Conditions

Mit Sicherheit HAEMATO pharm

§ 1 General, scope of application

(1) Our deliveries, services and proposals are only provided on the basis of these conditions of sale. Any terms and conditions of the client contradicting or deviating from our conditions of sale will not be accepted by us, unless we explicitly agree to their application. Our conditions of sale also apply if we execute the delivery to the client without reserves while being aware of conditions of the client contradicting or deviating from our conditions of sale. In case of ongoing business relations, the conditions of sale also apply to all future business transactions between us and the client.

(2) All agreements and side agreements entered into for the purchase contract before and at its conclusion require the written or text form.

(3) Our conditions of sale only apply vis-à-vis entrepreneurs and legal entities under public law or special funds under public law within the meaning of §§ 14, 310 section 1 BGB (Civil Code).

§ 2 Proposal, contract conclusion

(1) All our proposals remain non-binding, unless they are explicitly declared or agreed as binding.

(2) The contract enters into force only by our written confirmation of the order received by us, but at the latest by the reception of our product delivery by the client. In the latter case, § 1 (2) does not apply.

§ 3 Prices

(1) The prices indicated in our price lists or other general notifications are without obligation and non-binding.

(2) As far as nothing else is agreed in the concrete case, the respective delivery is subject to the price valid on the day of readiness for dispatch, i.e., in the case of medicinal products subject to prescription, the “Lauer” price applicable to the concrete level of trade in the “Lauer list” in connection with the relevant provisions of the German Drug Price Regulation; and the price indicated in our price list for products that are not included in the Lauer list. The prices are understood as net prices, respectively, including packaging, plus shipping costs (postage, freight) and plus legal value added tax.

§ 4 Payment, maturity, default of payment, setoff, right of retention

(1) As far as nothing else is agreed in the individual case, the invoice amount is due and payable 10 days after the invoice date without deductions. A payment is deemed made only when we can dispose of the amount (receipt of payment).

(2) If the client enters into default of payment, we are entitled to charge default interest at the amount of the usual bank debit interest, but at least of 8 percentage points above the respectively applicable base rate. We reserve the claim of a higher default damage. In addition, the client must pay, in case of a default of payment, dunning costs of 3.00 € per reminder. The proof of a lower damage is respectively reserved to the client.

(3) If the client enters into default of payment, our other invoice claims against the client from the business relationship with him are accelerated and fall immediately due and payable.

(4) Payments from the client will be first credited against the costs, then against interest and finally against the principal of the claim, as far as no deviating performance is determined. (5) The client is entitled to set-offs only with recognized or legally confirmed counterclaims. The client can claim a right of retention only insofar as it is based on undisputed counterclaims from the same contractual relationship that are legally confirmed or ready for decision.

(6) If, after contract conclusion, we realize that our payment claim is endangered due to a lack of economic strength of the purchaser, we can refuse the fulfillment of our performance obligation until the client realizes his counterpart or has provided a security for it. In such case, we are entitled to execute the delivery, by derogation from § 4 (1) against cash on delivery or prepayment.

§ 5 Delivery

(1) As far as nothing else is agreed, our delivery will be made ex works/warehouse to our registered office for the account and risk of the client. If the delivery is made, upon a special request from the client, on a special shipment route or until a special (express) deadline, any potential additional costs caused thereby must be borne in addition by the client. The risk is transferred to the client as soon as we have handed over the merchandise to a duly selected forwarding or transport company (e.g. carrier, haulage contractor, post, parcel service) or otherwise to the person charged with the execution of the delivery. With this duly executed transfer, our obligation of delivery is deemed fulfilled.

(2) We are entitled to make partial deliveries to the extent reasonable for the client.

(3) As far as nothing else is agreed in writing between the client and us, delivery dates and deadlines are non-binding. Binding delivery periods agreed in writing start running from the conclusion of the contract, unless the client is obliged to advance performance. In the latter case, the agreed delays start running from the reception of the client's consideration by us.

(4) Any recognizable transport damage must be reported by the client to us and to the transport company charged with the delivery (carrier, haulage contractor, post, parcel service etc.) in writing immediately, any hidden transport damage at the latest 4 working days after delivery. The client must check the merchandise upon reception immediately for completeness and

compliance with the order and delivery documents and report any damage or deviations immediately, otherwise, the delivery is insofar deemed approved.

(5) If our supplier does not deliver the merchandise ordered by the client to us on time, we do not enter into default vis-à-vis the client due to the delay thus caused, unless we are accountable for the non-fulfillment or delay of the delivery to us. If the delivery of the merchandise ordered by the client to us is delayed by more than 6 weeks or if it is certain that our supplier will not deliver to us at all, without us being accountable for that, we are entitled to withdraw from the contract. In case of a partial or total default of our supplier that is not caused by us, we are not obliged to purchase from a third supplier, unless this would be possible for us without any substantial additional economic and time expenditure.

(6) In cases of force majeure and other events that even with due care we cannot foresee and avoid, like e.g. strikes or lockouts, import or export bans, other governmental measures and requirements, war or warlike circumstances, which keep us, without our own attributable fault, from delivering the merchandise on dates or within deadlines agreed in a binding or nonbinding manner, these deadlines or delays are extended - even during a period of default – by the duration of the disturbances caused by force majeure or by the mentioned circumstances. If the delay of our delivery thus caused exceeds the period of 6 weeks, we and/or our client can withdraw from the contract with respect to the concerned scope of performance. If due to the force majeure or other circumstances mentioned in phrase 1, our delivery becomes wholly or partially impossible or unreasonable, then we are insofar exempted from our obligation of delivery or entitled to withdrawal. Potential legal rights of withdrawal are unaffected thereby. In the cases mentioned in §§ 5 (5) and 5 (6), the client can claim no other rights.

(7) If the client enters into default of acceptance and/or payment or if he culpably violates other duties of cooperation, we are entitled to claim compensation for the damage insofar incurred by us, including possible additional expenses. Any further claims and rights are reserved. As far as the preconditions according to phrase 1 are fulfilled, the risk of an accidental loss or deterioration of the purchased products is transferred to the client in the moment in which he has entered into default of acceptance and/or payment.

§ 6 Retention of title

(1) The products delivered by us remain our property as reserved goods until the complete payment of all our claims from the supply contract and other claims against the client that we subsequently acquire in direct relation to the delivered goods – no matter on which legal ground.

(2) Besides, the merchandise delivered by us remains our property as reserved goods until the fulfillment of all other claims against the client that we acquire or will acquire within the business relationship with him - no matter on which legal ground. This also applies, in particular, to outstanding current account balances owed to us by the client within the business relationship. In cases of a current account, the reserved goods therefore serve as a security for the balance of our claims.

(3) The client is obliged to treat the reserved goods carefully and to sufficiently insure them against fire and property damage and theft at his own expense and to maintain their insurance coverage. Upon request, this must be proven to us by submitting the insurance certificate. If the client suspends his payments not only temporarily or if he files an application for insolvency proceedings against his assets or if insolvency proceedings are opened against his assets upon third parties' request, he is obliged, upon request from our side, to return the reserved goods to us which are still our property. This also applies in cases of a breach of contract by the client, in particular if he is in default of payment.

(4) In case of distraint or other seizures of the reserved goods by third parties, e.g. execution measures by third parties, the client must inform the third party on our ownership of the reserved goods and notify us immediately in writing to enable us to initiate legal proceedings against that third party (e.g. action pursuant to § 771 ZPO) in time. As far as the third party is not capable, despite its legal obligation, of reimbursing the judicial and/or extra-judicial costs of an action pursuant to § 771 ZPO to us, the client is liable for the loss thus incurred by us. As long as the reservation of title subsists, a pledge, chattel mortgage or another disposition, disposal or modification of the reserved goods concerning our reserved property require our prior written consent. The right of the client to resell the merchandise within the ordinary course of business pursuant to § 6 (5) – § 6 (7) remains unaffected thereby.

(5) The client has the right to resell the merchandise within the ordinary course of business. As far as the client has an obligation to an advance performance to us, he may resell the reserved merchandise himself only with reservation of title. As long as we are the owner of the reserved goods, we can revoke the authorization to the resale if a factually justified reason exists. This applies e.g. in the case of a not only temporary suspension of payments by the client.

(6) Already now, the client transfers all claims to us which are owed to him by his clients or third parties from the resale or another legal ground with respect to the reserved goods. We hereby accept such transfer. In particular, the transfer also includes claims of the client owed to him by statutory health insurance funds, other social security institutions and/or private health insurance companies with respect to the resale of the reserved goods.

(7) We authorize the client irrevocably to collect the claims transferred to us pursuant to § 6 (6) for his own account and in his own name. In case of a factually justified reason, we can revoke this collection authorization. Our right to collect the claim ourselves remains unaffected by the mentioned authorization. However, we undertake not to collect the claim ourselves as long as the client fulfills his payment obligations towards us.

(8) If we are authorized, pursuant to § 6 (7), to collect the claims ourselves, the client is obliged, upon request, to disclose the transfer of the claim according to § 6 (6) to his clients and to provide all information and documents to us that are necessary or relevant for the collection of the claim. This includes, in particular, a list of the occurred transactions of resale of the reserved goods indicating the names and addresses of the debtors and the sum of the claims against the debtors from the resale. We have the right ourselves to inform the debtors about the transfer of the claims.

(9) Already now, the client transfers his claims against his insurer to us in case of a damage (about the insurance obligation see above § 6 (3)), as far as they refer to objects which are subject to our reservation of title. We accept this transfer. We undertake to reassign these

insurance claims to the client in case the reservation of title has expired due to the complete payment of all our claims.

(10) We undertake to release the securities we are entitled to upon request of the client when he has fulfilled all obligations from claims against us which are secured by the reservation of title or when the realizable value from all securities granted to us from the reservation of title, chattel mortgage and transfer of claims exceeds the total sum of our receivables against the client to be secured by more than 10 %. The selection of the securities to be released lies within our responsibility.

§ 7 Defect complaint, liability for defects

(1) The client is obliged to check the goods for freedom of defects immediately after delivery and, if a defect appears, to report it to us immediately in writing. Defects that can be detected through proper examination must be reported to us in writing at the latest 4 working days after reception of the merchandise, hidden defects within 4 working days after their detection. If the client does not conduct the examination or fails to provide the written notification in time, the merchandise is deemed approved (§ 377 HGB).

(2) For defects reported in time, our liability is first limited to the subsequent performance by delivering goods free of defects against return of the defective merchandise. If this subsequent performance does not turn out to be successful within a reasonable delay, the client can, at his discretion, use his legal rights to withdrawal or price reduction. The client can only claim damages for defects insofar as our liability is not excluded or limited pursuant to § 8 of these conditions of sale. Further claims or claims different from those regulated by this § 7 for a defect are excluded.

(3) There can be no claims for damages in case of defects arising after the transfer of risk from improper transport, use or storage.

§ 8 Liability

(1) In the case of willful misconduct, we assume unlimited liability for damages. In case of gross negligence, our liability for damages is limited to the foreseeable, typical damage. In case of a culpable violation of a major obligation or an essential accessory obligation without intent or gross negligence, our liability is limited to the typical damage foreseeable at the contract conclusion. „Essential“ accessory obligations within the meaning of phrase 3 are obligations, the violation of which endangers the achievement of the contract purpose or the fulfillment of which is a necessary precondition for the proper fulfillment of the contract and in the fulfillment of which the client could trust. In case of a culpable violation of essential accessory obligations which are not part of the essential accessory obligations pursuant to phrase 4 without intent or gross negligence, liability for damages is excluded.

(2) Our liability in case of fraudulent concealment or the assumption of a quality guarantee and our liability for culpable injury to life, body or health as well as a compulsory liability pursuant

to the German Product Liability Act (ProdHaftG) or the Medicinal Products Act (AMG) remains unaffected by the limitation of liability pursuant to § 8 (1).

§ 9 Resale, exports

(1) The goods delivered by us, in particular medicines, may only be offered, sold or dispensed in their unchanged original package, not in partial quantities. The client may resell them only within his ordinary course of business. The options pursuant to § 31 Apothekenbetriebsordnung (pharmacy operation regulation) remain unaffected thereby.

(2) The direct or indirect resale to a wholesaler is – as far as legally admissible – prohibited.

(3) The client undertakes not to sell the merchandise delivered by us into the territory outside the European Economic Area or into free zones or free warehouses / free port areas.

(4) The client himself must impose the obligations pursuant to §§ 9 (1) – 9 (3) to his purchasers, as far as they purchase our products from the client.

§ 10 Special regulation for the sale to hospitals and hospital pharmacies

For our delivery to hospitals and hospital pharmacies and to other institutions and persons within the meaning of § 1 section (3), n° 1 – 5 of the Pharmaceutical Price Ordinance (APO), the following special regulations apply:

(1) The hospital or the hospital pharmacy or the institution mentioned in phrase 1 undertake not to sell the drugs delivered to them by us to third parties and not to use them for outpatient purposes if they have been procured to cover the needs of the clinic.

(2) In case of a breach of the obligation pursuant to § 10 (1), the client must compensate us for the damage arising from this breach. In particular, he is obliged to pay an additional remuneration at the amount of the discount plus legal sales tax for the drugs wrongfully resold by him or used by him for outpatient purposes which is charged to us as a pharmaceutical company with respect to the drugs resold or used for outpatient purposes by the client pursuant to the provisions of SGB (Social Insurance Code) V (in particular § 130a SGB V) and regulations of the Pharmaceutical Price Ordinance. The amount of the additional remuneration to be paid is determined by the legal discount regulations within the meaning of phrase 2 that are applicable at the moment of our delivery.

(3) In case of a breach of the obligation pursuant to § 10 (1), the respective client (hospital a. o.) is obliged to send us, upon request, a written list of the drugs delivered by us which he has resold to third parties or used for outpatient purposes.

§ 11 Assignment, debt collection

(1) We are entitled to assign our existing receivables against our client to third parties, e.g. for financing purposes.

(2) Irrespective of § 11 (1), we are also entitled, in case of a payment default of the client, to engage a registered debt collection company to carry out the collection of the receivables. The client is obliged to reimburse the costs of engaging the debt collection company within reasonable limits as default damage.

§ 12 Return of goods free of defects

(1) There is no right to have duly delivered, flawless products taken back or replaced, therefore, this will only be done on the basis of a prior separate agreement.

(2) In case of merchandise returned without legal grounds, we reserve their destruction without replacement. Apart from this, our separate returns regulation applies in its respectively current version. According to that, a return is only possible together with the completed and signed return form.

§ 13 Data storage

(1) Client data are stored and processed by electronic data processing, as far as necessary for business and admissible pursuant to the General Data Protection Regulation (EU).

§ 14 Place of performance, place of jurisdiction, governing law

(1) As far as nothing else is agreed, the place of performance for our services is the place of our registered office.

(2) The relevant place of jurisdiction is the court which is responsible for the place of our registered office (place of business). However, we are entitled to optionally sue the client at his domicile or place of business as well.

(3) Only the law of the Federal Republic of Germany applies. The application of the UN sales law (CISG) is excluded.

(4) If individual provisions of this General Terms and Conditions are or become invalid, the legal validity of the remaining provisions is not affected thereby. The respective provision shall be replaced by a valid provision that comes as close as possible to the intended economic purpose.

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