

# Standard Terms and Conditions of Sale and Delivery

of

## HANSEANDINA Deutschland GmbH

### 1. Scope

1.1. The following provisions are an integral part of all our contract offers and contracts. Our Standard Terms and Conditions of Sale and Delivery apply exclusively, also to all future business. Conflicting or deviating conditions of the Buyer shall not apply unless we have explicitly given written consent to their application.

1.2. These provisions shall only apply to entrepreneurs as defined in §14 of the BGB (German Civil Code).

1.3. The INCOTERMS, latest version, shall apply as a supplement.

### 2. Offers

Our offers are non-binding. Orders from Buyer shall not be binding on us until we have confirmed them in writing or in text form or until we have delivered.

### 3. Calculation of price

3.1. If we increase our prices in general between the conclusion of the contract and the delivery, the Buyer shall have the right to withdraw from the contract in respect of the amount that has not yet been delivered within seven calendar days from notification of the price increase.

3.2. The sales price shall be calculated on the basis of our valid prices on the date of delivery plus statutory VAT.

3.3. The sales price shall be calculated in accordance with the quantities, weights or dimensions ascertained at the place of shipment.

3.4. If, with respect to the import or distribution of the goods, public dues are increased or newly imposed between conclusion of contract and delivery of goods, we are entitled to cancel the contract.

### 4. Payment

4.1. The sales price is payable "net cash in advance".

4.2. Credit terms can be only granted, after approval by our contracted credit insurance company

4.3. If the Buyer shall be in arrears we shall have the right to demand default interest of 0.8% per month after 25 days and 1.2% per month after 40 days. We reserve the right to claim for additional damage or loss.

4.4. In case of reasonable doubts regarding the ability to pay or the credit worthiness of Buyer, in particular in case of arrears, we shall be entitled to revoke any credit terms we granted and to demand payment in advance or security for further deliveries.

4.4. Payment of the purchase price shall be deemed effected only when the amount is finally at our disposal in one of our accounts. Bills of exchange or checks do not constitute payment. Bank charges, bill tax etc. are for Buyer's account.

4.5. Setting off with counterclaims other than those that are not disputed or are confirmed by final court decision, or exercising rights to refuse or to withhold performance, are excluded.

## 5. Delivery

5.1. Our delivery obligation is subject to the correct and timely delivery by our formulator/supplier.

5.2. We are entitled to make part deliveries, provided that these make up at least 25% of the contractual quantity.

5.3. Final acceptance is done in the port of destination. The goods are accepted:

- i. By quantity - at the moment of reception of the Goods from the Carrier in destination;
- ii. By quality - within 30 days from the moment of reception of the Goods from the Carrier.

5.4. Transactions for fixed delivery dates must be expressly agreed as such.

5.5. If "prompt" is agreed as the delivery date, the delivery period shall be 14 calendar days.

5.6. In case of delays in delivery the Buyer shall grant us a reasonable grace period of not less than two weeks.

5.7. Unless otherwise agreed our goods are destined for distribution / re-sale by buyer in the authorized territory.

5.8. The Goods are considered to be delivered by the Seller and accepted by the Buyer:

- i. by gross weight and (or) the number of units - according to the gross weight and quantity of units specified in the BL;
- ii. By net weight and (or) the quantity of units – according to the specification of the Seller's manufacturing plant;
- iii. By quality – according to the quality specified in the manufacturer's Certificate or Certificate of Analysis of the Seller.

Acceptance is carried out by authorized representative of the Buyer, with a representative of the Chamber of commerce invited (as for the Buyer's preference) in case if needed, with registration of the certificate of acceptance.

## 6. Impediments to delivery

War, strikes, lockouts, scarcity of raw material or energy, plant or traffic disruptions, acts of government and all other cases of force majeure that prevent or delay the production or shipment of the goods or make them uneconomical shall exempt us from the duty to deliver for the duration and to the extent of the disruption. If the disruption lasts for longer than three months, we shall have the right to cancel. In case of partial or complete discontinuation of our sources of supply due to force majeure, we shall not be obliged to obtain stock from other suppliers. In this case we shall be entitled to allocate the existing stocks, taking into account our obligations to supply.

## **7. Quality of the goods / samples / technical advice / applications**

7.1. Unless otherwise agreed, the quality of the goods is exclusively defined in our product specifications and/or in the product sales registration approved by the local regulating entity.

7.2. Samples that we make available and our technical and chemical data are intended only for a general description of the goods. They do not contain any warranty regarding quality or shelf life and do not relieve the Buyer from inspecting every single delivery.

7.3. Advice on technical applications that we provide is based on recommendations of use approved by the local regulating entity and/or to the best of our knowledge and therefore is not binding and does not relieve the Buyer from testing every single delivery for its suitability for the intended purpose before re-sales and/or processing. The Buyer is solely responsible how it uses, applies and processes our supplied goods and to comply with all applicable laws and regulations for these purposes.

7.4. The products sold and/or supplied by us are not destined for the manufacture (i) of medical devices according to EU directive 93/42/EEC, in particular of implants, (ii) of human and veterinary pharmaceuticals, (iii) of food and feed products, (iv) of cosmetics, (v) of weapons or other objects, designed to take human life or causing injuries.

Any exception of the above-mentioned restrictions requires the manufacturer's express release in writing.

## **8. Complaints of defects / Buyer's claims due to defects**

8.1. The Buyer shall inspect the goods promptly after delivery and shall report any defects, false deliveries or deviations from quantity in writing promptly, but no later than two weeks of delivery. In case of part deliveries, this obligation on the part of the Buyer shall cover every part amount.

8.2. The Buyer shall report hidden defects promptly after the defect is detected but no later than twelve months after delivery.

8.3. Notification of a defect shall not entitle the Buyer to withhold due payments or refuse to accept further deliveries.

8.4. In case of timely and justified complaints of defects, the buyer's claims arising from the defects shall be restricted to the right to subsequent performance.

8.5. Subsequent performance shall be effected by remedy of the defect or by supply of non-defective replacement goods at our choice.

8.6. If subsequent performance on our part is unsuccessful, the Buyer shall have the option of reducing the purchase price or withdrawing from the contract. This shall not affect claims for damages under Clause 9.

8.7. The warranty period is one year from delivery of the goods, unless mandatory statutory provisions provide for a longer period of limitation.

8.8. We do not guarantee that the product is free from patents or other third party industrial property rights in the destination country.

8.9. The Buyer shall not have any warranty rights for defects in case of goods that were sold contractually as NT goods, seconds, remnants, off-the-line items, recycled or similar.

## **9. Liability**

9.1. The Buyer's contractual and non-contractual claims for damages arising from a slight negligent breach of an obligation by us, our senior executives or our other vicarious agents are excluded. This does not apply if an obligation was breached that is of material importance for achieving the purpose of the contract; however, our liability is limited to the foreseeable damage typical for the contract.

9.2. Only in cases of gross negligence or intent on our part or that of our senior executives we are liable for indirect damage or damage that was not foreseeable at the time the contract was concluded.

9.3. The above limitations shall not apply to cases of injuries to life, body or health. Mandatory statutory liability provisions are not affected.

## **10. Retention of title**

The following conditions in paragraphs 10.1 to 10.9 do not apply to cash transactions for which we have received payment in advance, nor to goods which have been delivered and paid in part upon delivery.

10.1. We retain title to goods delivered until full and complete payment of all our claims under the business relationship.

10.2. If retained goods are processed, we are deemed to be the manufacturer and acquire title to the new products that are created.

10.3. If retained goods are processed, combined or mixed with goods that are the property of a third party, we acquire joint title to the products that are created in this way in proportion of the invoice value of the reserved goods to the invoice value of the other materials. If the retained goods are processed, combined or mixed with a main material that is the Buyer's property, the Buyer hereby assigns his property rights in the new product to us.

10.4. The Buyer hereby assigns to us as security all claims incl. V.A.T. from the sale of goods that we own or own in part to the extent of our ownership share.

10.5. Any other assignment, including in the framework of a factoring transaction, shall not be permissible.

10.6. The Buyer is obliged to take the retained goods into safekeeping with the care of a diligent businessman and to insure them against standard storage risks. He hereby assigns his claims under the insurance policies to us.

10.7. As long as the Buyer duly complies with his obligations to us he is entitled to dispose of the retained goods in the ordinary course of business and to collect debts arising from the resale of the retained goods. However, the Buyer is not entitled to pledge the retained goods or the assigned claims to third parties or to assign them as security. The authority to resell shall not apply if the Buyer excludes the assignability of the claim from the resale with his buyer. The Buyer shall notify us of seizure by a third party of the retained goods or the assigned claims without delay after this becomes known.

10.8. If the Buyer is in default of payment, we shall have the right to demand surrender of the retained goods without setting a period of grace and without withdrawal from the contract. In addition, the Buyer shall provide us on first demand with all the necessary information and give us all documents on the inventory of the retained goods and the assigned claims and shall inform his buyers of the assignment of claims without delay.

10.9. If the value of the security exceeds the sum of our claims by more than 10% we shall release the excess security at our choice on request from the Buyer.

## 11. Miscellaneous

11.1. The place of performance for payment is Hamburg.

11.2. The exclusive place of jurisdiction is Hamburg. However, we are entitled to take legal action against the Buyer at his general venue.

11.3. The laws of the Federal Republic of Germany apply excluding the German rules regarding the conflict of laws and the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

11.4. All dispute in connection with any Sales transaction or the executor thereof shall be amicably settled through negotiation, in case no settlement can be reached between the two parties, the case under dispute shall be submitted it to arbitral Commission.

11.5. The arbitration shall take place in Hamburg, Germany and shall be executed in accordance with the Procedure of the said Commission and the decision made by the Arbitration Commission shall be accepted as final and binding upon both Parties. The fees for arbitration shall be borne by the losing Party unless otherwise awarded.

11.4. If one of the above provisions proves to be wholly or partially invalid, that shall not affect the validity of the remaining provisions.