



TSI Health Sciences Europe Ltd

## General Terms and Conditions of Sale

Important note: where the conditions of sale are a translation from the original conditions written in English, the English version shall be taken as prevailing.

### 1. Area of applicability

a. These General Terms and Conditions of Sale shall apply to all contracts entered into by TSI Health Sciences Europe Ltd (TSI) and the Customer. If the conditions of purchase, sale or delivery of the Customer are contradictory to these conditions, the conditions of TSI will prevail, unless agreed otherwise in writing. The conditions of the Customer are in no case binding for TSI, even if they were not explicitly declared by TSI.

b. Unless otherwise agreed in writing, deliveries by TSI shall only take place according to the following sales conditions.

c. TSI's terms and conditions of sale shall become a component of the contract upon TSI's acceptance of a Customer's purchase order.

### 2. Contract

a. Any purchase orders submitted to TSI shall be effective solely upon written confirmation by TSI.

b. Amendments or variations to this written confirmation shall only be valid if agreed in writing.

c. If the Customer should cancel an order or fails to accept a delivery, TSI shall be entitled to claim compensation in lieu of performance. In such event, TSI shall be entitled to claim either 10% of the agreed invoice amount or compensation to the actual value suffered.

### 3. Offers to deliver

a. Offers made by TSI shall not be binding.

b. Offers shall only become binding upon receipt of a purchase order from the customer and TSI's subsequent written confirmation of acceptance.

c. Mistakes in writing or calculations represented in an offer shall be disregarded and can be amended or removed by TSI.

### 4. Prices and terms of payment

a. Prices and terms of payment will be fixed in TSI's written confirmation. VAT is not included in the price and shall be additional. Prices shall be to the Incoterms (2000) specified in the written confirmation; where agreed, duties and any other applicable taxes shall be additional to the price.

b. Other additional conditions required by TSI shall be included in any offer and confirmed upon written confirmation of acceptance.

c. Invoices must be paid within 30 days from the date of invoice, dated to day

of delivery, unless specifically agreed otherwise and confirmed in writing.

d. Should the Customer not comply with the agreed terms of payment, they shall be considered in default and TSI shall have the right to charge legal interest, calculated at the current bank rate of the leading federal bank for the currency the invoice is based on + 5%. TSI shall also be entitled to claim compensation for further damages and to be released from further obligations related to that Customer.

e. Increases in prices; should the effective delivery cost significantly increase before the contracted date of delivery, TSI and the Customer will discuss the prices bound in the written order confirmation again. The prices will be adjusted subject to mutual agreement of both parties.

f. Mistakes made by TSI on any invoice shall result in their not being regarded as valid and shall be amended or removed by TSI.

g. If after written confirmation of order by TSI the pecuniary circumstances of the Customer should deteriorate, or TSI becomes aware of adverse pecuniary circumstances, then TSI shall be entitled to claim for payment in advance or to claim for payment to be supported by securities or guarantee's. Should the Customer refuse to render security within a reasonable period granted by TSI, then TSI shall have the right to completely or partially rescind any contracts in place with the Customer. All other rights are reserved.

### 5. Delivery

a. The goods and services to be supplied are defined by TSI in the written order confirmation. Unless otherwise agreed, TSI shall be entitled to make part deliveries. Such part deliveries shall be invoiced as appropriate to the quantity. TSI is entitled to an extent of delivery which differs from the agreed delivery by +/- 10%; should TSI deliver within these parameters and subject to another part delivery not being forthcoming, the Customer shall consider the order fulfilled. The invoice value shall be amended accordingly.

b. If the Customer is contracted to meet obligations by a specified date, TSI is not liable and will accept no responsibility for any costs or damages arising from any failure of TSI to meet its delivery obligations.

c. Statements in an offer relating to the period or time of delivery by TSI are not binding and shall be considered indicative by the Customer, unless explicitly agreed in writing by TSI.

d. If a period or time of delivery is agreed between the parties, TSI shall be deemed to have complied with this period or time when the goods to be delivered are ready for dispatch. If under the terms of the contract TSI has also to deliver documentation, these may be delivered separately. Receipt of documentation by the Customer will not be considered to be requisite for TSI's compliance with the period or time of delivery.

e. If an agreed delivery date is exceeded by 2 weeks, the Customer shall have the right to set a grace period of not less than 2 additional weeks with threat of rejection after that date. If the delivery obligation has not been fulfilled by the time the grace period expires, then the Customer shall have the right to rescind the contract.

Such rescission must be declared in writing without undue delay after expiration of the set grace period, at the latest within 2 weeks of the expiration of the grace period.

f. The Customer is not entitled to claim compensation due to delay in delivery; this limitation shall not apply in case of gross negligence or intentional action by TSI. In such an event the Customer may only find TSI in default if a final demand has been issued to TSI to fulfil delivery within a period of at least 30 days and such delivery obligation has not been fulfilled within this period.

g. In such case (clause 5f) the Customer shall only be entitled to claim for compensation of his costs, such compensation to be limited to the invoiced value of the goods.

h. Occurrences beyond the seller's control, including but not limited to customs delays, shipping delays, regulatory developments etc, through which the delivery or its transport is impossible or unreasonably difficult, shall give the seller the right to rescind the contract or to delay the delivery until the hindrances are removed. These circumstances shall be communicated to the Customer without undue delay. Partial deliveries which have already been made shall be considered as an independent transaction; the settlement of the partial delivery may not be refused on account of the parts still outstanding. In the event of a postponement of delivery due to the reasons mentioned above, a right of the Customer to set a grace period and to rescind does not arise.

### 6. Dispatch / shipment and passing of risk

a. Unless otherwise agreed in writing, the benefit and risk of the goods to be delivered pass to the Customer at the time of dispatch from TSI's warehouse. The Customer shall bear the risk of all deliveries sent back during the return transport as well as for the packing during the transport there and back.

b. Unless otherwise agreed in writing, TSI shall be free to choose packaging including but not limited to commercial transport packaging.

c. For the determination of the weight or count of the delivery, the weight or count determined at the time of dispatch from TSI's works shall be determinative.

d. In the absence of special instructions from the Customer that have been agreed in writing, the selection of route and means of transport shall be made by TSI at its own discretion.

e. In the event of a transport loss, the Customer must immediately announce such loss to TSI upon receipt of the delivery goods. Loss claims to an invoice / credit value of less than £50 (or its equivalent) cannot be accepted for service cost reasons.

f. The Customer shall immediately store the delivered goods after receipt in suitable storage facilities and the Customer shall immediately carry out inspection of the delivered goods according to clause 7 below.

g. If the Customer does not accept delivery of the goods at the due time, TSI is entitled to store the dispatchable goods at cost and risk to the Customer and to ask for payment, or to resign from the contract subject to having set a suitable grace period to the Customer in order to fulfil their

obligations, and to claim for damages due to default of the Customer.

#### **7. Inspection of the delivered goods**

a. The Customer must carry out inspection of the goods immediately upon receipt, and at the latest within four days after receipt of the delivery at the place of destination and must raise any complaint due to obvious defects immediately and in writing to TSI. If the Customer fails to carry out inspection in this way, he is considered to have accepted the goods.

b. In the event of hidden defects the time limit shall be 30 days from receipt. If the Customer fails to carry out inspection within this period, the delivered goods shall be considered as accepted.

c. A notification of defects does not release the Customer from his payment obligations and payment periods.

#### **8. Warranty and Liability**

a. TSI's warranty against defects in goods supplied is limited to fault in the material. The warranty period shall be three (3) months from the date of delivery to the Customer. If delivery is delayed, and the delay is not caused by TSI, the warranty period shall be 3 months from the date of readiness for shipment notified to the Customer. TSI gives this warranty provided that the delivery is competently handled and stored by the Customer.

b. TSI's warranty against defects is in any case limited to replacement delivery of duly produced goods. In the event that replacement cannot be made, cannot be delivered in an appropriate time period or is not considered appropriate by TSI, the Customer is only entitled to claim for reduction of price or for rescission of contract. Unless TSI acts with gross negligence or intent, the Customer has no claim for damages or compensation of other costs. All claims for damages of the Customer remaining thereafter shall be limited to the value of the goods sold.

c. To the extent to which the liability of TSI is excluded or limited, this shall apply equally in favour of TSI's employees in the event that the Customer brings a claim directly against them.

d. TSI is not liable for any damages which arise subsequent to a defect of delivered goods.

e. Minor variations of the goods produced by TSI are not regarded as defects, provided that the customary use and function of the delivered goods is not affected.

f. Retained samples taken from a production batch by TSI shall be taken as equivalent to the delivery and for the purpose of appraisal of a delivery complaint shall be taken as authoritative.

g. The agreement on characteristics made between the Customer and TSI exhaustively describes the characteristics of the delivery.

h. Claims based on warranted characteristics are admissible only if such warranty was confirmed by TSI in writing.

i. TSI's oral or written advice, including but not limited to applications, use for a specific purpose, general recommendations etc, shall be given without any obligations and shall not release the Customer from his own examination of the products for their suitability. If liability of TSI should

nevertheless come into question, the above described procedure of the stipulated liability for defective deliveries shall apply.

j. It shall be incumbent on the Customer alone to observe any proprietary rights of third parties e.g. application patents, statutory provisions with respect to the processing of the delivery.

#### **9. Disclaimer**

a. All claims not mentioned above are explicitly excluded. The Customer is not entitled to raise claims for damages, compensation, price reduction, rescission, which is not mentioned above.

b. The Customer is in no case entitled to claim for compensation for damages which do not directly arise from the product delivered, e.g. costs relating to production or machines, unless gross negligence or intent attributable to TSI is proven.

c. The Customer must indemnify TSI against all claims of product liability raised by third parties against TSI, unless there is proven misconduct by TSI in causing the damage.

d. Force Majeure; TSI is not liable for damages or delays rising from circumstances beyond its control. In this case TSI shall without responsibility be entitled to postpone the delivery and the performance of its obligations or to rescind the contract.

#### **10. Retention of ownership**

a. The delivered goods shall remain the property of TSI until all outstanding claims arising from the contract including interest and costs have been fully settled or until cheques relating to payment have been fully honoured. TSI shall be entitled to assert the retention of ownership through a simple declaration. The retention of ownership shall also extend to goods which are resold, packaged or processed. With respect to combination or mixture with material that does not belong to TSI, TSI shall without exception acquire co-ownership of the new items in the ratio of the value of the contracted product to the new item. In this case the Customer shall be considered as the custodian for TSI.

b. If the Customer should default on a payment obligation to TSI then the entire remaining debt shall become due at once. In these cases, the seller shall be entitled to demand the return of the delivery and to pick it up from the Customer or its third party location. The Customer shall have no right to possession. A possible taking back of goods will only be affected for reasons of security and shall not be interpreted as withdrawal from the contract.

#### **11. Assignment of claims**

a. Unless otherwise agreed in writing, the Customer is not entitled to assign claims arising from the contract or from the contractual relationship with TSI.

#### **12. Property rights and Confidentiality**

a. All copyrights, trademarks, patents, drawings, models, trade secrets, know-how, confidentiality rights and other property rights related to the product remain the property of TSI.

b. Unless otherwise agreed in writing, the Customer is not entitled to disclose any information relating to the

contract, contracted product or TSI, which is not known to the public and which he received from TSI, to a third party. The Customer is only entitled to use this information as is necessary for his own proper purposes and is responsible for ensuring such information does not become public or known to a third party. The Customer is referred to the fact that the disclosing such information is punishable under law.

#### **13. Applicable law**

a. The terms and conditions of sale, and all contracts entered into between TSI and the Customer pursuant thereto, shall be subject to UK law, or according to TSI's choice, by the ordinary Court of the Customers domicile.

#### **14. Final provisions**

a. All variations, amendments, additions etc to these Terms and Conditions are only valid and applicable between the Parties if agreed in writing.

b. Should individual provisions of these Conditions be or become invalid then this shall not affect the validity of the remaining provisions.