

## 1. GENERAL

(1) The terms and conditions set out below are the only conditions upon which Tillomed pharma ("the Seller") is prepared to deal with its customer ("the Buyer") and they shall govern the contract between the Seller and the Buyer for the sale and purchase of the Seller's goods ("Contract") to the entire exclusion of any other express or implied terms and conditions.

(2) These terms and conditions may only be modified by a variation in writing signed on behalf of the Seller and no other action on the part of the Seller (whether delivery of the goods or otherwise) shall be construed as an acceptance of any other conditions.

(3) These terms and conditions (as modified in accordance with paragraph (2) above) embody the entire understanding of the parties and supersede any prior promises, representations, undertakings or implications.

## 2. PERFORMANCE AND INDEMNITY

(1) The Seller warrants that the goods shall at the time of delivery conform in all respects to the relevant product licence and comply with specifications in respect to DE licensing. If any goods do not conform to this warranty the Seller will at its option:-

(a) Replace the goods found not to conform to the warranty;

(b) Take back the goods found not to conform to the warranty and refund the appropriate part of the purchase price;

Provided that the liability of the Seller shall in no event exceed the purchase price of the goods, and performance of any one of the above options shall constitute an entire discharge of the Seller's liability under this warranty.

(2) The foregoing warranty is conditional upon:-

(a) the Buyer giving written notice to the Seller of the alleged defect in the goods such notice to be received by the Seller within seven days of the time when the Buyer discovers or ought to have discovered the defect and in any event within one month of delivery of the goods; and

(b) the Buyer affording the Seller a reasonable opportunity to inspect the goods, and if so requested by the Seller, returning the allegedly defective goods to the Seller's site, carriage pre-paid, for inspection to take place there.

(3) Save as provided in paragraph (1) of this Condition 2 and in Section 12 of the Sale of Goods Act 1979:-

(a) All conditions and warranties, express or implied, as to the quality or fitness for any purpose of the goods or that the goods correspond with description are hereby expressly excluded; and

(b) The Seller shall be under no liability for any loss, liability or damage (whether direct, indirect or consequential (whether for loss of profit, loss of business depletion or goodwill or otherwise and whether or not caused by the negligence of the Seller)) howsoever arising which may be suffered by the Buyer.

(4) In the event that, notwithstanding the foregoing provisions of this Condition 2, the Seller is found liable for any loss or damage suffered by the Buyer, and whether for breach of Condition 2(1) or otherwise, the Buyer's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise arising in connection with the Contractor shall in no event exceed the purchase price of the goods and the Seller shall not be liable for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise) (whether or not caused by the negligence of the Seller) which arises out of or in connection with the Contract.

(5) The Seller supplies the goods to the Buyer strictly on the basis that the Buyer agrees to indemnify and keep indemnified the Seller from and against all costs (including the costs of enforcement) expenses, liabilities, losses, damages, claims, demands or legal costs (on a full indemnity basis) which the Seller suffers as a consequence of any direct or indirect breach or negligent performance by the Buyer of its obligations to its customers, patients or other third parties (including without limitation but for the avoidance of doubt the supply of incorrect or inappropriate literature with medication).

(6) The foregoing provisions of this Condition shall not apply to sales which are made to persons who deal as consumers (as that expression is defined in Section 12 of the Unfair Contract Terms Act 1977), unless the contract is an international supply contract (as described in Section 26 of that Act).

(7) Nothing in these Conditions excludes or limits the Seller's liability for death or personal injury caused by the Seller's negligence.

## 3. PRICE AND ORDERS

(1) The price for the goods will be the Seller's quoted price on the date on which such goods are dispatched to the Buyer and all prices are expressed in Euro for each unit pack.

(2) The price is exclusive of value added tax or any similar taxes, levies or duties, which will be added to or charged on invoices at the appropriate rates and will be payable by the Buyer.

(3) Order handling will be facilitated if the Finished Product (FP) number is quoted to the order processing staff. The appropriate number is clearly indicated on the Seller's product list. All goods are packed in shipping units as indicated. Orders for fractions of a shipping unit can be handled but orders for whole number multiples of shipping units are preferred.

## 4. PAYMENT AND DELIVERY

(1) All accounts are due for settlement 5 days from date of invoice date. The Seller invoices on despatch of goods. The Seller reserves the right to charge interest accruing on a daily basis at 3% per annum over the Commerz Bank base rate from time to time on all overdue accounts from the date the invoice falls due for payment until payment has been made in full.

(2) Prices are carriage paid DE address on orders of € 500,0 or over. On orders below or international carriage charge per order will be made.

(3) Delivery of each consignment of the goods shall be made to the DE address designated by the Buyer in its order.

(4) The Seller will not be liable to the Buyer for any loss or damage (whether direct, indirect or consequential) sustained by the Buyer as a result of any delay in delivery or dispatch of the goods even if caused by Tillomed pharma's negligence and time of delivery shall not be of the essence.

(5) If the Buyer being a company shall pass a resolution or suffer an order of a court to be made for its winding-up, or if a receiver shall be appointed, or if a petition for the appointment of an administrator shall be presented in respect of it, or being an individual or partnership shall suffer a bankruptcy order or if the Buyer shall suspend payment or propose to enter into any composition with creditors or become unable to pay its debts (or have no reasonable prospect of so doing) then the Seller may without prejudice to any other right rescind the contract, or suspend or cancel delivery or recover the possession of any goods for which payment in full has not been received.

(6) Where any sum owed by the Buyer to the Seller under this or any other contract is overdue the Seller may withhold any deliveries of goods due to be made under the Contract until arrangements as to payment or credit have been established which are satisfactory to the Seller.

(7) The Buyer shall make all payments due under this Contract without any deduction whether by way of set-off counterclaim or otherwise except for any liquidated sum due or payable by the Seller to the Buyer or unless such deduction has been agreed in advance with the Seller or unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid to the Seller.

## 5. RISK AND PROPERTY

(1) Risk in the goods shall pass to the Buyer upon delivery of the goods to the Buyer or any carrier for delivery to the Buyer.

(2) Property in the goods shall not pass to the Buyer until the full price of the goods under this Contract and goods which are the subject of any other contract between the Buyer and the Seller is paid.

(3) until such time as the full price of all such goods has been paid:-

(a) they shall be held by the Buyer in a fiduciary capacity as the Seller's bailee in a satisfactory condition and stored by the Buyer at its premises in such a manner that they are clearly identifiable as the goods of the Seller and shall be kept separate from any other goods whether or not supplied by the Seller and the Buyer shall not in any way tamper with the trade marks or packaging of the goods

(b) They shall be handed over to the Seller on demand and the Seller shall be entitled to re-take possession of them without prejudice to any of its other rights against the Buyer and the Seller is hereby granted a licence to enter into the Buyer's premises for the purpose of recovering the goods

(c) The Seller hereby authorises the Buyer to sell the goods in the normal course of the Buyer's business. If the Buyer sells the goods prior to paying the full price thereof the Buyer shall hold the proceeds of sale on trust for the Seller and shall immediately pay the proceeds of sale into a separate bank account. The Seller shall be entitled to call upon the Buyer to assign all claims that the Buyer may have against purchasers from the Buyer.

## 6. DAMAGE OR LOSS IN TRANSIT AND DEFECTS

(1) The Seller will replace, free of charge, goods damaged or lost in transit where delivery has been made by the Seller's carrier, provided the Buyer shall give to the Seller and to the carrier immediate notification of such damage or loss and confirms the same in writing within three working days. The Buyer shall similarly notify any claim for short delivery, and shall not be entitled to reject that consignment but shall be entitled to a further delivery of goods to make up the deficiency or (at the Seller's option) a refund of an appropriate part of the purchase price. In the case of damage in transit the Seller reserves the right to require the return of the goods before agreeing to replacement or refund.

(2) The Buyer shall have no claim in respect of the fact that the goods delivered are of the wrong description unless the notification procedure in paragraph 6(1) is again satisfied.

(3) In any event the Buyer shall be treated as having accepted any consignment of the goods if it retains them for longer than seven days after their delivery.

(4) Goods are not supplied on a sale or return basis with the exception of new products (which are specified as such by the Seller on the acknowledgement of order) and which are therefore returnable by agreement with the Seller during a period of 16 weeks after the launch of that product.

(5) In no event may goods be returned without prior written authorisation.

## 7. CANCELLATION

Contracts cannot be cancelled by the Buyer without the Seller's written consent. Where cancellation is accepted, the Seller shall in addition to any express terms of acceptance of cancellation be entitled to reimbursement of any costs incurred by the Seller in connection with the Contract.

## 8. FORCE MAJEURE

The Seller shall have the right to cancel the Contract or to reduce the volume of the goods delivered and shall not be liable to the Buyer or in breach of Contract if it is prevented from or delayed in manufacturing or prevented from or delayed in delivery of the goods through any circumstances beyond its control including (but not limited to) industrial action, involving the Seller's workforce, common carriers, utilities failure, machinery failure, shortage of raw materials, war, fire, or prohibition or enactment of any kind.

## 9. GOVERNING LAW

The Contract is governed by the Laws of Deutschland and the German Courts (to the jurisdiction of which the Buyer and the Seller hereby irrevocably submit) shall have the exclusive jurisdiction to resolve any disputes arising out of it.  
 Note: The Seller's prices are calculated on the basis that the above Conditions will apply. Buyers requiring prices to be quoted on a different basis should inform the Seller.