

STANDARD TERMS OF SALE AND DELIVERY AREVIPHARMA GMBH

Section § 1 • Area of Application

These standard terms of delivery and/or performance, in their valid form as at the time of the placement of order in each case - hereinafter referred to as "Standard Terms" - shall apply exclusively and to all contractual relationships between Arevipharma GmbH and "businessmen" in the sense of the German Commercial Code, public corporate bodies or public special assets. Counter terms, or terms of the buyer deviating from these Standard Terms of the seller are not recognized by Arevipharma GmbH - hereinafter also referred to as "Arevipharma" - and form no part of this contract, unless Arevipharma has explicitly approved their validity in writing.

Our Standard Terms of Sale and Delivery apply exclusively even when we deliver to the customer without confirmation of order and without reservation, though in knowledge of existence of terms of the buyer deviating from our Standard Terms of Sale and Delivery.

These Standard Terms also apply to all future deliveries and performance provided by us to the buyer, until such time as Arevipharma adopts new Standard Terms.

Section § 2 • Offers, Contracts

Offers are made provisionally; a contract first comes into force as a result of our written or preprinted confirmation of order, or, without the buyer having received confirmation of order from us, with the hand-over of the goods to the forwarding agent or to the commissioned carrier. Confirmations of order can be sent by post, e-mail or fax.

To be valid, supplements, amendments and ancillary agreements relating to this contract must be made in writing. This also holds for this written-form clause.

Arevipharma shall be entitled to correct apparent errors or mistakes in quotations, price lists, confirmations of order, or invoices. No legal claims shall be derived from any of these apparent errors or mistakes.

Section § 3 • Prices, Terms of Payment

Unless some other arrangement is made in the context of the confirmation of order, prices shall apply "ex works, Radebeul", the costs of packaging and transport not being included.

The prices are net prices. Turnover tax will be separately charged at the statutory rate applicable at the time of delivery.

Unless otherwise regulated in the confirmation of order, gross payment is due within 30 days of the invoice date, without any deduction. The statutory regulations apply to all consequences arising from default in payment.

Down payments and advance payments are made subject to additional turnover tax.

Payments are not regarded as having been made until they are finally available on an account of Arevipharma.

If Arevipharma comes to learn of circumstances that indicate an impairment of the creditworthiness of the buyer or inability to pay, Arevipharma can make its deliveries dependent on advance payment

of the invoice amount due immediately. This also applies if the circumstances in question become known between the times of conclusion of contract and delivery, or after one or more part deliveries. If the buyer refuses to make advance payment or fails to make payment by a given deadline, Arevipharma is entitled to withdraw from the contract and to enforce compensation claims. If an application for insolvency proceedings against the assets of the buyer is lodged, or if such insolvency proceedings are initiated, Arevipharma then has a right of withdrawal and a right to compensation without any further preconditions having to be satisfied. Upon delivery of the declaration of withdrawal from the contract all Arevipharma's open invoices and payment entitlements will become both due and payable immediately.

Cheques and bills of exchange are only acceptable subject to special agreement, and solely on the basis that they effect payment. Costs and expenses associated with bills of exchange and discount must be borne by the buyer. If the buyer defaults on a payment, whether wholly or partially, all payment claims against the buyer arising from ongoing business transactions will become due immediately, regardless of the period of the accepted bills of exchange.

Arevipharma reserves the right to make use of payments received for settlement of the oldest due invoices and associated default interest and costs first, this in the following order: costs and expenses, interest, main claim.

The buyer has a right to offset only if the buyer's counterclaims are uncontested or have been legally established. Moreover, the exercising of a right of retention by the buyer is only admissible to the extent that the buyer's counterclaim rests on the same contractual relationship, is contested or has been legally established.

Section § 4 • Dispatch, Deliveries

Unless some other agreement is reached, Arevipharma will send the goods uninsured ex works, at the risk and at the cost of the buyer. Arevipharma will determine the type and route of the consignment, as well as the carrier. Part deliveries are permissible. Arevipharma is entitled, at the order and at the cost of the buyer, to arrange for transport insurance sufficient to cover at least the invoice value of the goods.

The risk of loss of the goods, or of damage to the goods, passes with their dispatch, their handover to the carrier, or in the even of collection by the buyer, with their readiness for collection.

Section § 5 • Dates, Deadlines

Dates and deadlines for deliveries and performance are only binding if explicitly confirmed in writing by Arevipharma.

If a binding delivery date is exceeded for reasons attributable to Arevipharma, the buyer must grant Arevipharma, in writing, an appropriate period of extension for the delivery. This extension period must be at least four weeks. If the delivery has still not been made after expiry of the extension period and if the buyer decides, for the reasons mentioned above, to make use of the right to cancel the contract or to demand compensation instead of performance, the buyer is first obliged to inform Arevipharma of this explicitly in writing, giving Arevipharma a further appropriate period of extension within which to make the delivery. The buyer is obliged, at the request of Arevipharma, to declare within a reasonable period, whether the buyer intends, because of the delay in delivery, to withdraw from the contract and/or to demand compensation instead of performance, or insists on delivery.

If a delivery is delayed due to unforeseeable, exceptional circumstances at Arevipharma or at one of its suppliers, despite reasonable though unsuccessful efforts to avoid or avert such circumstances (e.g. work interruptions, labour disputes, delays in deliveries of necessary raw materials, etc.), the

delivery dates and delivery deadline will be extended appropriately, even within a period of existing default.

Section § 6 • Notice of Defects

Arevipharma must be notified of any defects without delay, and within 10 days of receipt of the goods at the latest (in cases of hidden defects Arevipharma must be notified immediately, and within 10 days of their discovery at the latest, no later than 3 months after receipt of delivery of the goods), notification to be in writing and accompanied by submission of evidence, samples, packing slips and to include the invoice number, the invoice date and the signing(s) on the packaging. If the buyer fails to give notification of defects in good time, or in the agreed written form, the delivery and performance will be considered free of such defects for which complaints were not made, or were made incorrectly, or too late. The timely sending of notification of defects is determined by proof of sending by the buyer. If the buyer accepts delivery or performance in the knowledge of an existing defect, rights associated with the said defect are only enforceable by the buyer if these rights are explicitly reserved by the buyer in writing.

Section § 7 • Rights of the Buyer in Cases of Defect

In the event of defects in delivered goods or performance rendered, the buyer is first entitled to demand subsequent performance. This can, at the choice of Arevipharma, take the form of correction of the defects, or of subsequent delivery of new, non-defective goods, or of subsequent performance. Liability for defects is excluded if the defects in the delivered goods or performance delivered or rendered Arevipharma also relates to basic materials provided by the buyer, or to some other prior involvement of the buyer. In such circumstances Arevipharma must always be given an opportunity, in the form of an appropriate deadline, to respond.

In cases of correction of defects, Arevipharma is obliged to bear all of the necessary expenses required for such correction, in particular transport costs, route costs, work costs and material costs, provided these do not increase as a result of costs associated with transferring the goods to another location than that of the place of performance.

If subsequent performance proves unsuccessful, the buyer can demand a reduction in the purchase price or – if the defect is not insignificant – can withdraw from the contract. Instead of withdrawal or price reduction, the buyer is also entitled to demand compensation in accordance with prerequisites stipulated in section § 8 of these Standard Terms. All cooperative measures and obligations of the buyer, such as the provision of raw materials, remain unaffected, even in cases of subsequent performance. The buyer is, however, entitled to demand reimbursement of necessary additional costs occurred in this connection.

In the event of warranty based on recourse by the buyer, after the latter has been forced to render performance in accordance with the provisions of consumer-goods purchases, recourse entitlements based on the provisions of consumer-goods purchases remain unaffected. Claims for compensation are based on section § 8 of these Standard Terms.

Arevipharma is obliged to inform the buyer immediately of any knowledge it has of cases of redress arising in the context of the delivery chain. Statutory rights of recourse against Arevipharma exist only if, and to the extent that, Arevipharma has reached no agreement with its buyer as to statutory notification of defects.

Agreement as to a guarantee must be made in writing and must satisfy the requirements of section § 477 of BGB [German Civil Code].

As regards limitation periods for notices of defect by the buyer, reference is made here to section § 9, paragraphs 1 and 2 of these Standard Terms.

Section § 8 • Compensation

Arevipharma is liable in accordance with the statutory regulations if the buyer enforces claims for compensation based on malintent or on gross negligence, including malintent or gross negligence on the part of representatives or agents of Arevipharma. If Arevipharma has not violated the contract with malintent, liability is limited, in the context of compensation, to foreseeable, typical damage incurred.

In terms of the statutory regulations, Arevipharma is liable for culpable violation of an essential contractual obligation, the level of liability being limited to foreseeable, typical damage incurred. The maximum level of liability in this case is again limited per instance of compensation to the value of the order in question.

In the event of slightly negligent violation of obligations on the part of Arevipharma, compensation claims are excluded, unless the contractual violation relates to obligations of significant importance for achievement of the purpose of the contract.

Liability for intentional injury to life, to limb or to bodily health remains unaffected; this also holds for mandatory liability in keeping with the product liability law and the pharmaceutical products act.

Unless some other deviating regulation has been agreed to above, liability – on whatever legal grounds – is excluded. This holds especially also for compensation claims for culpa in contrahendo at the time of conclusion of contract, for other breach of duties and for material claims for liability in tort in accordance with section § 823 of BGB. To the extent that liability for damages against Arevipharma is excluded or limited, this shall also apply to the personal liability for damages of employees, representatives and agents, executive bodies, affiliated companies and Arevipharma group member companies.

Section § 9 • Extinction of Claim by Lapse of Time

The period of limitation for compensation claims based on breach of duties and the period of limitation for notification of defects, i.e. for rights to subsequent performance, to price reduction, to rescission and to compensation for damage, is 12 months as from the time of commencement of the statutory period limitation. This does not apply to liability in cases of malintent, fraudulent concealment of a defect or the absence of a guaranteed characteristic.

The period of limitation in the event of redress against delivery in accordance with sections § 478 and § 479 of BGB remains unaffected by paragraph 1 above; it amounts to 5 years beginning as from the date of delivery, or transfer, of the defective goods.

Compulsory statutory periods of limitation and liability regulations remain unaffected.

Section § 10 • Refunding of Expenses

Claims of the buyer to refunding of effort and expenditure invested in vain, in accordance with section § 284 of BGB, are excluded.

Section § 11 • Retention of Ownership

Arevipharma reserves ownership of the assets until all liabilities arising from the overall business relationship with the buyer, including secondary claims, damage claims and the cashing of cheques and bills of exchange, have been settled. This reservation of ownership applies even if individual claims of Arevipharma have been included in a current invoice and the balance has been calculated and is recognized.

The buyer is authorized to resell the goods in the context of orderly business activities. Already at this time, however, the buyer assigns to Arevipharma all claims to the value of the final invoiced amount (including VAT) of the Arevipharma claim, owed to the buyer by the buyer's buyer or by another third party, as arising from the resale of the goods, regardless of whether the goods were resold with or without any subsequent processing. Even after such assignment(s), the present buyer remains authorized to collect the claims in question. The entitlement of Arevipharma to collect the claims itself remains unaffected by this. Arevipharma nevertheless undertakes not to collect its claims for as long as the buyer satisfies all payment obligations, does not default on payments, and avoids a situation in which insolvency proceedings are opened or payments are discontinued. Should the buyer however fail to do so, Arevipharma can demand that the buyer informs Arevipharma about the claims assigned and names the subsequent buyer, and informs the subsequent buyer as to the claims assigned to Arevipharma, does everything necessary to ensure that details required are collected, hands out the necessary documents, and notified the (third party) debtors of the assignment. If the goods are processed together with other materials not belonging to Arevipharma, Arevipharma acquires co-ownership of the new products in the ratio of the value of goods purchased (invoice amount, incl. statutory VAT) to the value of the other processed materials at the time of processing. This applies even if the value of the processing or of the remodelling is much less than that of the value of the processed materials. For the materials resulting from the processing the same applies as for the goods under reserve. The buyer must protect the resulting singly-owned assets or co-owned assets for Arevipharma.

In the event of behaviour by the buyer in breach of contract, especially in cases of default in payment, Arevipharma is entitled to recover the goods. Such recovery of goods by Arevipharma only represents withdrawal from the contract if this is declared explicitly. After recovery of the goods for sale, Arevipharma is entitled to make commercial use of them, deducting the proceeds from the liability of the buyer – after deduction of reasonable costs involved in the process. After withdrawal from the contract, Arevipharma is entitled to a reasonable reimbursement for the duration of the handling over of the goods.

In the event of seizure or other encroachment by a third party, the buyer must notify Arevipharma immediately in writing so that Arevipharma can take legal action in accordance with section § 771 of ZPO [Code of Civil Procedure]. Should the third party prove unable to reimburse Arevipharma for the court costs and out-of-court costs involved in such legal action, in accordance with section § 771 of ZPO, the buyer shall then be liable to Arevipharma for the missing sum.

Arevipharma undertakes to release the security provided to Arevipharma, at the request of the buyer, to the extent that the realizable value of the security exceeds the value of the claims to be secured by more than 20 %, the choice of which security to release to be made at the discretion of Arevipharma.

Section § 12 • Force Majeure

Instances of force majeure, such as flooding, natural catastrophes, war or other threat of war, civil disorder, unstable political circumstances, terrorist attacks or threats, general supply problems, disturbances at transport companies, work stoppages – and other disturbances for which Arevipharma cannot be held responsible, be they at Arevipharma itself or at its suppliers or their cooperation partners, as well as the consequences of such instances, release Arevipharma for the duration of the disturbance and to the extent of its consequences, without requiring Arevipharma to make any substitution for its duty to perform. In the event of non-availability of the performance, Arevipharma will immediately inform the buyer as to this circumstance. In this case Arevipharma is entitled to make appropriate part performance. If the disturbance lasts for longer than 3 months, both parties are entitled to withdraw from the contract.

Section § 13 • Rights, Documents

All rights to performance rendered by Arevipharma, samples, drafts, plans and other documents, etc., especially Patent rights, copyright and rights to inventions, belong exclusively to Arevipharma. In the context of an order, the buyer may make use of prepared documents, etc., only after full payment of the due sum and only for the agreed purposes, or in the event that no explicit written agreement is available, only for the typical purpose. The full or partial publication, or duplication, of documents and industrial property rights of Arevipharma require the written approval of Arevipharma.

All document provided to the buyer by Arevipharma remain the property of Arevipharma and must be returned to Arevipharma at first request.

Section § 14 • Secrecy, Data Protection

The buyer must observe secrecy with respect to all details of the mutual business connection for as long as this mutual business connection lasts and for a period of 5 years after the ending of the business connection, unless these have become obvious. The buyer will make information subject to secrecy available only to such persons with subcontractors and within the buyers business that are also sworn to observe secrecy. These persons will only be provided with such information to the extent that they actually require it for their activities within the framework of the business relationship. At the request of Arevipharma, all of the information provided by Arevipharma (where applicable, including copies made and drawings) and provided on a lending basis, must be returned to Arevipharma immediately and in full, or destroyed.

Subject to compliance with the pertinent regulations of the German Data Protection Act, Arevipharma is entitled to store data relating to transfers of goods and to payments involving the party ordering, and to process and transfer such data, provided this is necessary for the customary support given and/or for proper and orderly execution of the order. The buyer explicitly grants consent to this.

In addition to this, and again subject to compliance with the pertinent regulations of the German Data Protection Act, Arevipharma reserves the right to store and to process customer data for the maintenance and further development of the business relationship. The customer, in recognizing these Standard Terms, explicitly grants consent to this. The data will not be passed on to a third party.

At all times, the customer has the possibility of inspecting the data and has a right to have it deleted. Any such request should be sent to Arevipharma GmbH, Kundenservice, Meissner Strasse 35, D-01445 Radebeul. Data that helps Arevipharma to observe statutory storage and safekeeping deadlines is exempted from such deletion.

Section § 15 • Place of Jurisdiction

The place of jurisdiction for all legal disputes arising directly or indirectly from contractual agreements underlined by these Standard Terms, is Dresden. Arevipharma is furthermore entitled to take legal action against the buyer at the court of jurisdiction at the place of its registered address, or at that of its subsidiary, or at the court of jurisdiction at the place of performance, this at the choice of Arevipharma.

Section § 16 • Partial Invalidity

If one of the provisions of these Standard Terms proves to be legally invalid, whether in part or in whole, the validity of the remaining provisions and of the other agreements reached will remain unaffected by this.



Section § 17 • Escape Clause

Should one of the provisions of these Standard Terms and the other agreements reached prove to be invalid or non-enforceable, whether at present or at some future date, or should there prove to be an omission, this will not affect the validity of these Standard Terms and the further agreements reached. In place of the invalid or impracticable provision, or to fill the omission, an appropriate regulation will be regarded as having been agreed to by the contracting parties; one that most closely approaches the commercial intention of the contracting parties and that they would have wanted had they previously considered the point.

Section § 18 • Applicable Law

The contractual agreements are exclusively subject to German law, to the exclusion of the collision law and of the United Nations' Accord on the International Sale of Goods (CISG).

