

**§ 1 Scope of application, deviating terms and conditions of the customer**

- (1) All legal relationships between Vamedis Swiss GmbH (hereinafter referred to as "we", "us", "our" etc.) and the respective customer shall be governed exclusively by these General Terms and Conditions (hereinafter referred to as "GTC").
- (2) Deviating or conflicting terms and conditions of the customer shall not apply unless we have expressly agreed to them in writing in individual cases. This also applies to all agreements made verbally with our employees.
- (3) In the event of ongoing business relations, our General Terms and Conditions shall also apply to all future transactions between us and the customer, even if they are not expressly included again in the individual case.

**§ 2 Offers, Orders, Conclusion of Contract**

- (1) Our offers, including information in brochures, price lists, electronic ordering systems, cost estimates etc., are subject to confirmation and non-binding, unless expressly stated otherwise in writing.
- (2) Orders can be placed in writing, electronically, by fax or by telephone. The customer must state his sales tax identification number (UID).
- (3) If an order relates to drugs, narcotics, medical products or other goods the delivery or use of which is subject to legal or official restrictions, the order shall at the same time be regarded as confirmation that the customer has the necessary permission for further use, resale or passing on. We are entitled to demand appropriate proof from the customer prior to delivery. We shall not be in default of delivery until receipt of the proof.
- (4) All orders require the designated order confirmation by us for the legally effective conclusion of the contract. This can take place after our choice by post office, courier, telefax, E-Mail or by the execution of the order.

**§ 3 Prices, sales commitment, packaging**

- (1) Unless otherwise agreed, the net prices of the pharmaceutical specialities (list of specialities) published on the day of delivery via the media of the Federal Office of Public Health or, if the goods are not listed there, the net prices stated in our price list or electronic ordering system, plus value added tax in each case, shall apply. The prices do not include packaging, postage, insurance costs, freight and the statutory value added tax applicable at the time of delivery, unless otherwise stated in writing. The items mentioned will be invoiced to the customer additionally.
- (2) The customer shall be responsible for disposing of the packaging unless we demand the return of the packaging.

**§ 4 Delivery periods**

- (1) Unless otherwise stated or agreed in writing, delivery dates and delivery periods are non-binding. Delivery periods shall commence upon conclusion of the contract, unless the customer is obliged to make advance payments. In this case, the delivery period shall commence upon receipt by us of the consideration of the customer.
- (2) We are entitled to partial deliveries and partial invoicing at our reasonable discretion, insofar as this is reasonable for the customer.
- (3) In cases of force majeure or other unforeseeable circumstances, e.g. operational disruptions, lawful strikes or lockouts, war, import and export bans, shortages of energy and raw materials, which temporarily prevent us from delivering the goods by the agreed date or deadline without any fault on our part or attributable to us, these dates or deadlines shall be extended - even during our delay in delivery - by the duration of the disruptions to performance caused by these circumstances. If such a disruption leads to a delay in performance of more than six weeks, either party may withdraw from the contract. If delivery becomes wholly or partly impossible or unreasonable as a result of the aforementioned circumstances, we shall be released from our obligation to deliver or entitled to withdraw from the contract. Possible legal rights of withdrawal remain unaffected.
- (4) In the event of a delay in delivery, we shall be liable without limitation, but at most in accordance with the statutory liability, but only in the event of intent or gross negligence. In the event of slight negligence, our liability shall be limited to the foreseeable damage typical of the contract; as a rule, this shall amount to a maximum of 5% of the sales price or remuneration. Any further obligation to pay compensation is excluded to the extent permitted by law.

**§ 5 Transfer of Risk, Acceptance of Goods**

- (1) Unless otherwise agreed, delivery shall be at our risk. The risk shall pass to the customer upon delivery of the goods. If dispatch is delayed due to circumstances for which we are not responsible or if the customer does not accept the goods in good time in accordance with paragraph 2 although they have been offered to him, the risk shall pass to the customer upon receipt of the notification of readiness for dispatch.
- (2) On working days Monday to Friday the customer shall ensure that our deliveries can be accepted between 9 am and 6 pm. The same applies to Saturdays which are not also public holidays at the place of delivery, for the period from 9 a.m. to 12 noon. In the event of default of acceptance on the part of the customer or any other breach of contractual obligations to cooperate by the customer, we shall be entitled to assert the damage caused thereby against the customer, including any additional expenses.

**§ 6 Duty of inspection and due diligence**

- (1) Transport damage must be reported to us and the delivering forwarding agent in writing immediately, but at the latest

within three days of delivery. The time of receipt of the complaint by us shall be decisive for the timely notification of defects. The customer must inspect the goods immediately upon receipt for completeness and conformity with the delivery documents and, if necessary, notify us immediately; otherwise the delivery shall be deemed approved to this extent and any warranty shall be excluded.

- (2) In addition, the customer is obliged to inspect the goods immediately upon receipt to ensure that they are free of defects. The customer must notify us in writing of obvious defects immediately, but no later than three days after their discovery. Obvious defects also include those which the customer would have had to recognise in the course of his inspection if the goods had been properly inspected, insofar as this was technically possible and economically reasonable. If a defect which was not recognisable at the time of the initial inspection becomes apparent at a later date, the customer must inform us immediately in writing. The time of receipt by us shall be decisive for the timely notification of defects. If the notification is omitted, the delivery shall be deemed to be faultless and approved and any warranty shall be excluded. In the event of a notice of defects, the customer undertakes to describe the defects in detail and in particular to inform the customer of the manner in which and under what circumstances a defect occurred.
- (3) Before passing the goods on to third parties, the purchaser undertakes in each case to carefully examine the goods independently for recognisable risks, in particular those of a health nature, for the consumer. If complaints arise or if risks or the necessity of corrective measures become apparent, the customer must keep all relevant documents and the goods as such and make them available to us on request. In addition, the customer undertakes to inform us immediately in writing of any such events. If the latter is not possible, the customer shall grant us access to the product. If the complaints are raised by a third party, the relevant documents and, if possible, the goods must also be made available. In any case, the shelf-life regulations specified on the product label must also be observed.
- (4) The customer undertakes to handle the goods carefully and properly. The customer shall provide facilities which guarantee that unauthorised access to the delivered goods is excluded. The shipping containers owned by us must be handled carefully and returned immediately. The purchaser undertakes to comply with all relevant regulations concerning handling and storage of the goods as well as all safety and other statutory provisions concerning labelling, expiry time and advertising ~~or to~~ ensure compliance therewith. The goods may only be passed on in original packaging with original imprint and original package insert.

#### § 7 Returns

Returns require our prior express written consent. They are only possible on the basis of a justified notice of defect or by exercising our ownership rights. Goods whose original packaging has been opened, labelled, damaged or marked waterproof in any other way shall not be returned unless there is damage in transit. The return is also excluded for expired goods. The vamedis returns policy applies to returns.

#### § 8 Warranty

- (1) In the case of defects or transport damage reported in due time, the customer shall be entitled at our discretion to a claim for repair or replacement free of charge.
- (2) Warranty claims do not exist for defects which arise after the passing of risk according to § 5 as a result of improper use or storage or due to insufficient cooling.
- (3) The customer shall only be entitled to claims for damages due to defects insofar as our liability is not excluded or limited in accordance with § 9 of these General Terms and Conditions. Further claims or claims other than those regulated in this § 8 due to a defect are excluded.
- (4) Irrespective of the possible statute of limitations, warranty claims are excluded if they are not asserted in court within six months of becoming aware of the defect or are not expressly acknowledged by us in writing. Inspection, rectification of defects or other efforts on our part shall not constitute a waiver of the objection of delay despite a late complaint.
- (5) The return transport of rejected goods is only permitted with our prior written consent. The freight costs shall be borne by the customer insofar as the notice of defects was not justified.

#### § 9 Liability

- (1) We shall be liable without limitation, but at most in accordance with the statutory liability, only for intent and gross negligence. In the event of a slightly negligent breach of a major performance obligation or an ancillary obligation, the breach of which endangers the achievement of the purpose of the contract or the fulfilment of which is essential for the proper performance of the contract and on the observance of which the customer could rely (hereinafter referred to as "major ancillary obligation"), our liability shall be limited to typical contractual damages foreseeable at the time of conclusion of the contract. We shall not be liable for the slightly negligent breach of ancillary obligations which do not belong to the essential ancillary obligations. Any further liability is excluded to the extent permitted by law.
- (2) The above exclusions of liability shall not apply in the event of fraudulent concealment of defects or warranted properties, nor to liability for claims based on the Product Liability Act and the Medicines Act, nor to damage resulting from injury to life, limb or health. This does not imply a change in the burden of proof to the detriment of the customer.
- (3) Insofar as our liability is excluded or limited, this shall also apply to the liability of our employees, workers and other

employees as well as vicarious agents. The exclusion of liability also applies to the personal liability of the aforementioned persons.

#### § 10 Retention of title

- (1) The delivered goods shall remain our property until all our claims against the customer arising from the contractual relationship have been paid in full. In the case of current invoicing, the reserved goods serve to secure our balance claims.
- (2) The customer is entitled to resell and/or process the goods subject to retention of title in the ordinary course of business. The right to resale or processing does not exist if the customer is in default of payment or if he has stopped payments not only temporarily. As long as we are the owner of the reserved goods, we shall be entitled to revoke the authorisation to resell with effect for the future if there is an objectively justified reason. In any case of justified or unauthorised resale or processing, the following provisions shall apply in addition.
  1. The retention of title extends to the full value of the products resulting from the processing, mixing or combining of our goods, whereby we are deemed to be processors within the meaning of Art. 726 of the German Civil Code (ZGB). If the ownership rights of third parties remain in force in the event of processing, mixing or combination with goods of third parties, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods (Art. 727 ZGB). For the rest, the same shall apply to the resulting product as to the goods delivered under retention of title. The purchaser is only the custodian who is entitled to the expectant right to the new product to the extent corresponding to the previous condition.
  2. The customer hereby assigns to us as security all claims to which he is entitled from the resale of the goods subject to retention of title with all ancillary rights, irrespective of whether the goods have been resold before or after processing. We hereby accept the assignment. This assignment also includes corresponding claims of the customer against the cost carriers of the statutory and private health insurances as well as against the computer centre commissioned with the billing of prescriptions. However, it is made clear that the customer is not obliged to take any action with regard to the claims assigned as security which would violate prohibitions or obligations under social or professional law. In particular, the customer shall not be obliged to hand over to us any patient or prescription data protected under social or data protection law, regardless of whether such data is available in documents or in electronic form.
  3. Until revoked, the customer shall be entitled to collect the claims assigned to us. We may revoke the collection authorization if there is an objective objective reason for doing so. The customer is not entitled to dispose of the claims assigned to us in any other way, e.g. by assignment or pledging. We shall be entitled to collect the claims ourselves, but shall not be obliged to collect the claims as long as the customer duly meets his payment obligations.
- (3) If the customer does not properly meet his payment obligations, the customer shall, upon our first request, provide us with a list of all goods subject to our retention of title. In the same case, at our first request, the customer shall provide us with a list of the claims assigned pursuant to § 10 para. 2 lit. b) of these General Terms and Conditions and, subject to the reservation and observance of para. 2 lit. b) sentence 3, state the names and addresses of the debtors with the amount of the claims and provide all information required for collection. Subject to and in compliance with paragraph 2 lit. b) sentence 3, the customer shall cooperate in all measures necessary to secure our rights. The customer shall also be obliged upon our first request and we shall be entitled to notify the debtors of the assignment of the claim.
- (4) The customer is obliged to store the goods subject to our reservation of title separately and to handle them properly and carefully. He shall insure them at his own expense against all usual risks, in particular against fire, burglary and water damage at replacement value and shall maintain the insurance cover. Upon request, the insurance policy shall be sent to us for inspection. The customer hereby assigns to us his claims against the insurance company insofar as they relate to our reserved property. As a maximum precaution, the customer is obliged to assign the aforementioned claims to us again effectively if necessary. We declare the reassignment to the customer with the proviso that this reassignment becomes effective if and as soon as the retention of title has expired due to complete payment of all our claims against the customer.
- (5) As long as the retention of title exists, any pledging, assignment by way of security, leasing or any other transfer or alteration of the reserved goods impairing our security shall require our prior written consent. The customer's right to resell the goods in the ordinary course of business under the aforementioned conditions shall remain unaffected thereby. Any access by third parties to the goods delivered under retention of title or to any claims assigned to us, attachments of the goods subject to retention of title or other access by third parties must be reported to us immediately in writing, stating the name and address of the attaching or accessing third party. The ordering party shall immediately inform the third party seizing the goods of the retention of title in our favour.
- (6) In the event of breach of contract by the customer, in particular default in payment, we shall be entitled to demand the return of the reserved goods from the customer. The customer must tolerate the removal by us and grant us access to his warehouse and business premises for this purpose. The repossession of the reserved goods shall not be deemed withdrawal from the contract unless we declare otherwise in writing. If we have set a grace period for performance and if we subsequently sell the reserved goods, the customer shall be liable for the difference between

the purchase price and the proceeds of the sale. In addition, the customer shall bear the costs of taking back the goods. The customer shall bear all costs which must be incurred for the cancellation of the access or replacement of the goods or the delivery items.

- (7) We undertake, at the request of the customer, to waive our retention of title to goods at our discretion or to release securities from assignments by way of security and assignments in advance if the customer has fulfilled all claims in connection with the reserved goods or if the realisable value of the total securities granted to us from retention of title, assignment by way of security and assignment in advance exceeds the total amount of our claims against the customer by more than 10%.

#### **§ 11 Terms of payment, default of payment, set-off, defence of non-performance of contract**

- (1) Our invoices are due upon invoicing and, unless otherwise agreed in individual cases and recorded accordingly on our order confirmation, are payable net within ten calendar days of the invoice date without deduction. Payment shall not be deemed to have been made until the amount has been credited to our account notified to the customer. Upon expiry of the aforementioned payment period, the default of the customer shall occur automatically and without a reminder or extension of the deadline.
- (2) In the event of default in payment, interest shall be charged on the outstanding claim at the rate of eight percentage points on the total amount of the claim. The assertion of a higher damage caused by default remains reserved.
- (3) Our due payment claims can only be set off against claims of the customer which we have acknowledged in writing or which have been legally established. The plea of non-performance of the contract (Art. 82 OR) may only be asserted against us if it is based on undisputed counterclaims from the same contractual relationship which are ready for a decision or have been legally established.
- (4) If the customer is in arrears with a payment, we may - in deviation from any agreements - invoice deliveries already made immediately and all our claims against the customer shall become due immediately, i.e. granted or agreed payment periods shall be reduced accordingly; this shall also apply to agreed instalment payments. If the customer is in arrears with a payment or if he has suspended his payments or if facts exist which are equivalent to a suspension of payments, we shall be entitled, subject to our other rights, to demand advance payments or securities for further orders and/or before making further partial deliveries. We shall also be entitled, after expiry of a reasonable period of grace, to withdraw from all current contracts with the Buyer in whole or in part and claim damages for non-performance.

#### **§ 12 Data protection**

Please refer to the data protection declaration on our website <https://www.vamedis.com/de/imprint/privacy.aspx> for all regulations regarding the protection of your data.

#### **§ 13 Final provisions**

- (1) If a provision of this contract is or becomes invalid, the validity of the remaining provisions shall remain unaffected.
- (2) Swiss law applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). The contractual and legal interpretation shall be made in accordance with Swiss law without taking into account any conflict-of-law provisions.
- (3) The place of jurisdiction for all our business relations with merchants, legal entities or special funds under public law as well as with persons domiciled abroad shall be St. Gallen. However, we are entitled to sue the customer at the customer's place of business.

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