



General Terms and Conditions of Sale and Delivery

Gustav Parmentier GmbH, Eichendorffstrasse 37, 60320 Frankfurt am Main

§ 1 Scope, Form

(1) These General Terms and Conditions of Sale and Delivery (GTCS) apply to all business relationships between Gustav Parmentier GmbH ("we", "us" or "Seller") and our customers ("Buyer"). The GTCS only apply if the buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law .

(2) The GTCS apply in particular to contracts for the sale and/or delivery of movable goods ("Goods"), irrespective of whether we manufacture the Goods ourselves or purchase them from suppliers. Unless otherwise agreed, the GTCS in the version valid at the time of the Buyer's order or in any case in the version last notified to the Buyer in text form shall also apply as a framework agreement for similar future contracts without having to refer to them again in each individual case. The Buyer agrees to the applicability of these conditions to future contracts.

(3) Our GTCS shall apply exclusively. Amendments to these GTCS will be made available by us on our website and can be viewed there by the Buyer. By placing an order after the amendments have come into force, the Buyer declares its consent to these amended terms and conditions. The Seller hereby objects to any counter-offers, deviating counter-confirmations or other references by the Buyer to its terms and conditions. Deviating, conflicting or supplementary general terms and conditions of the Buyer shall only become part of the contract if and to the extent that the Seller has expressly agreed to their validity. Our silence with regard to such deviating general terms and conditions shall expressly not be deemed to be an acknowledgement or consent.

(4) Individual agreements (e.g. framework supply agreements, quality assurance agreements) and details in our order confirmation take precedence over the GTCS. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms published by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.

(5) Legally relevant declarations and notifications by the Buyer in relation to the contract must be made in writing. Written form within the meaning of these GTCS includes written and text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.

(6) References to the applicability of statutory provisions shall only have a clarifying meaning. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCS.

§ 2 Conclusion of contract

(1) Our offers are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogues, technical documentation (e.g. data sheets, specifications, references to pharmacopoeias), other product descriptions or documents - also in electronic form - to which we reserve property rights and copyrights. These documents may not be made accessible to third parties. Anything to the contrary shall only apply insofar as offers from us are expressly marked as binding or contain a specific acceptance period.

(2) The order of the goods by the buyer shall be deemed a binding offer of contract. We are not obliged to accept an order. Orders placed by the buyer shall only be deemed to have been accepted when the seller has dispatched the goods or confirmed the order in writing, whereby an e-mail shall be sufficient. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 3 weeks of its receipt by us.

(3) Acceptance may be declared either in writing (e.g. by order confirmation) or by dispatch of the goods to the buyer. Verbal offers and verbal orders as well as any verbal promises made by representatives or other sales personnel require our written confirmation to be effective. This also applies to agreements made by telephone.



§ 3 Delivery period and delay in delivery

(1) The delivery period shall be agreed individually or stated by us upon acceptance of the order. Scheduled delivery dates and deadlines shall be complied with to the best of our ability. Delivery dates and deadlines are only binding if they have been confirmed as such by us in writing.

(2) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible ("non-availability of the service"), we shall inform the Buyer of this without delay and at the same time inform him of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the Buyer. Non-availability of the service shall be deemed to exist, for example, in the event of late delivery by our supplier, if we have concluded a congruent hedging transaction, in the event of other disruptions in the supply chain, for example due to force majeure, or if we are not obliged to procure in the individual case. Cases of force majeure include pandemics, epidemics, war, strike, lockout, shortage of raw materials and/or energy, official measures, interruption in the transport routes or similar cases and hindrance to operation through no fault of our own, e.g. due to fire, water and machine damage.

(3) The rights of the Buyer pursuant to § 9 of these GTCS and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected

§ 4 Delivery

(1) Delivery shall be made in customary condition and packaging. The delivery quantity shall be determined bindingly, at our discretion, according to one of the customary methods. Customary short or excess deliveries of the quantity sold shall be deemed fulfilment of the contract. We are entitled to make partial deliveries to a reasonable extent.

(2) Unless other delivery conditions have been confirmed in the order confirmation, delivery shall be ex warehouse, which is also the place of performance for the delivery and any subsequent performance. At the buyer's request and expense, the goods shall be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.

(3) Any freight increases, customs duties, taxes and other charges incurred after conclusion of the contract shall be borne by the buyer. Price increases that occur in the course of partial deliveries or that arise due to higher transport costs or ancillary costs shall be approved by the buyer in advance.

§ 5 Transfer of risk, acceptance, default of acceptance

(1) The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer at the latest upon handover. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the buyer upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment.

(2) If the Buyer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the Buyer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall charge a lump-sum compensation EUR 1.00 per 100 kg of goods or part thereof per calendar day, starting with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for dispatch.

(3) At the same time, we shall be entitled either to insist on performance of the contract or, after setting a reasonable period of grace of at least two weeks, to withdraw from the contract and to dispose of the goods elsewhere.

(4) The proof of higher damages and our statutory claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump sum shall be offset against further monetary claims. The Buyer shall be entitled to prove that we have not incurred any damage at all or only significantly less damage than the aforementioned lump sum.



§ 6 Prices and terms of payment

- (1) Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the contract shall apply, ex warehouse, plus statutory VAT.
- (2) In the case of a sale by delivery to a place other than the place of performance (§ 4 para. 2), the Buyer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the Buyer. Any customs duties, fees, taxes and other public charges shall be borne by the Buyer.
- (3) The purchase price is due and payable immediately after invoicing and delivery or acceptance of the goods. However, we are entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare a corresponding reservation at the latest with the order confirmation. We are entitled to assign the claims to a third party.
- (4) Payments made by the Buyer shall always be offset in accordance with § 366 para. 2 BGB.
- (5) Upon expiry of the payment deadline pursuant to para. 3, the Buyer shall be in default. If the Buyer defaults on payment of a claim, all other claims against the Buyer may be made due. During the period of default, interest shall be charged on the purchase price at the statutory default interest rate applicable at the time. We reserve the right to assert further damage caused by default. With respect to merchants, our claim to the commercial due date interest rate (§ 353 HGB) remains unaffected.
- (6) The Buyer shall only be entitled to rights of set-off or retention insofar as his claim has been legally established or is undisputed. In the event of defects in the delivery, the statutory counter rights of the Buyer shall remain unaffected.
- (7) If it becomes apparent after the conclusion of the contract (e.g. through an application for the opening of insolvency proceedings) that our claim to the purchase price is jeopardised by the Buyer's lack of ability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract. In the case of contracts for the manufacture of unjustifiable items (custom-made products), we may declare withdrawal immediately; the statutory regulations on the dispensability of setting a deadline remain unaffected.
- (8) The Buyer shall bear all fees, costs and expenses incurred by us or by a third party to whom we have assigned a claim arising from and in connection with successful collection proceedings against the Buyer outside the Federal Republic of Germany.

§ 7 Retention of title

- (1) We retain title to the goods sold until full payment of all our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims).
- (2) The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Buyer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) have access to the goods belonging to us.
- (3) In the event of conduct by the Buyer in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand surrender of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the Buyer does not pay the purchase price due, we may only assert these rights if we have previously set the Buyer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- (4) Until revoked in accordance with (c) below, the Buyer is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.
- (a) The retention of title extends to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.



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(b) The Buyer hereby assigns to us as security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our possible co-ownership share in accordance with the above paragraph. We accept the assignment. The obligations of the Buyer mentioned in para: 2 shall also apply with regard to the assigned claims.

(c) The Buyer remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the Buyer meets his payment obligations towards us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right pursuant to para. 3. If this is the case, however, we may demand that the Buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case we are entitled to revoke the buyer's authority to further sell and process the goods subject to retention of title.

(d) If the realisable value of the securities exceeds our claims by more than 10 %, we shall release securities of our choice at the Buyer's request.

§ 8 Liability

(1) Unless otherwise stipulated in these GTCS including the following provisions, we shall be liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.

(2) We shall be liable for damages - irrespective of the legal grounds - within the scope of fault liability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. diligence in own affairs; insignificant breach of duty), for

(a) for damages arising from injury to life, body or health,

(b) for damages arising from the breach of a material contractual obligation (obligation the fulfilment of which is a prerequisite for the proper performance of the contract and the observance of which the contractual partner regularly relies on and may rely on); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.

(3) The limitations of liability resulting from para. 2 shall also apply to third parties as well as to breaches of duty by persons (also in their favour) whose fault we are responsible for according to statutory provisions. They do not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the Buyer under the Product Liability Act.

(4) Due to a breach of duty which does not consist of a defect, the Buyer may only withdraw or terminate if we are responsible for the breach of duty. A free right of termination on the part of the Buyer is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

(5) All claims for damages by the Buyer shall become statute-barred one year after delivery of the goods or commission of the act causing the damage; longer periods due to mandatory statutory limitation periods shall remain unaffected.

§ 9 Choice of law and place of jurisdiction

(1) These GTCS and the contractual relationship between us and the Buyer shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods. In case of doubt, in particular in the event of any discrepancy between the German and English version of the GTCS and in the event of questions of interpretation, the German version shall prevail.

(2) If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Frankfurt am Main. No arbitration agreement shall be made. The same shall apply if the buyer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

German Version: <http://www.parmentier.de/ELO/gpf/gpf-agb.pdf>