



General Terms and Conditions of Delivery of H+H SYSTEM GmbH, 5350 Strobl, Austria. As of March 2018.

1. Preamble

- 1.1. These General Terms and Conditions of Delivery shall apply to all legal transactions between H+H SYSTEM GmbH (Companies Register No. 103856f) and our corporate contractual partners, hereinafter referred to as Ordering Party/Parties.
- 1.2. These General Terms and Conditions of Delivery shall apply to all offers, orders, contracts, deliveries and other services unless otherwise agreed by the contractual parties in writing.
- 1.3. In the event of a permanent business relationship developing, these General Terms and Conditions of Delivery shall also apply to all orders made by the Ordering Party in future, irrespective of whether explicit reference is made to them in each individual case.
- 1.4. Austrian law shall apply. The applicability of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) is explicitly excluded.

2. Conclusion of contract

- 2.1. Our offers are subject to confirmation, unless otherwise agreed in writing.
- 2.2. Subject matter of the contract in line with the list below is:

- The offer, these General Terms and Conditions of Delivery, the written order confirmation.
- Side agreements shall only be effective if agreed in writing.

- 2.3. The contract shall be deemed concluded when we have sent a written order confirmation to the Ordering Party upon receipt of the order.
- 2.4. Changes and amendments of the contract require our written confirmation to be effective.

3. Plans and documents, logos and graphics

- 3.1. Any information and details relating to weight, dimensions, volume, load bearing capacity, price, performance and similar included in catalogues, brochures, circular letters, advertisements, illustrations and price lists, etc. shall only be binding if explicit reference is made to them in the offer and/or order confirmation.
- 3.2. Plans, sketches, cost estimates and other technical documents that may also be part of the offer shall remain our intellectual property at all times, so shall samples, catalogues, brochures, illustrations and similar material. Any use, duplication, reproduction, distribution and surrender to third parties, publications and presentations may only be made upon our explicit written approval and shall be discontinued if so requested by us.
- 3.3. If the Ordering Party provides logos or other graphics to be incorporated in our services, the Ordering Party ensures that it is entitled to use and exploit all templates, graphics, etc. provided and that they are free from third party rights; otherwise the Ordering Party shall indemnify and hold us harmless from any claims of third parties.

4. Prices and payment

- 4.1. Prices are ex works, excluding packaging. Value added tax at the statutory rate will be added to the prices.
- 4.2. If, by the time of delivery/performance of service, essential cost factors (such as prices of materials, wages and salaries, freight costs) have been increased, we shall be entitled to adjust the share in the total price accordingly.
- 4.3. For orders below a net value of goods of EUR 30 we shall charge a small-quantity surcharge of EUR 10 plus statutory VAT.
- 4.4. Unless otherwise agreed, the prices stated are without packaging; packaging will be customary to prevent damage of the goods during delivery to the specified destination under standard transport conditions at the expense of the Ordering Party and shall only be taken back if this is agreed.
There will be no additional corrosion protection of the material beyond the agreed surface protection of the material.
- 4.5. The invoice will be sent out simultaneously with the dispatch. Invoices will be due within 14 days from the date of invoice without discount.
- 4.6. Payment by means of money order, cheque, bill of exchange or promissory note shall only be possible upon our explicit written approval. Any costs and expenses resulting from discounting shall be at the Ordering Party's expense.
The value date for accepted bills of exchange and cheques shall be the day on which we can dispose of the equivalent value. We reserve the right to return non-discountable bills of exchange to the Ordering Party and demand payment in cash. Discount charges and all costs related to the redemption of the bill of exchange or cheque shall be borne by the Ordering Party.
- 4.7. If the payment date is exceeded, we shall charge default interest of 12 % p.a. without having to provide further proof. We reserve the right to claim any default interest beyond the above.
- 4.8. In addition to the default interest, the Ordering Party shall also be liable to reimburse all and any dunning, collection and enforcement costs incurred in taking appropriate legal action.
- 4.9. The Ordering Party shall only be entitled to withhold payments or offset them against counter claims to the extent its counter claims have been accepted by us in writing or legally established.
- 4.10. If payment by instalments has been agreed and the Ordering Party is in default with payment of an instalment in full or for more than seven days, the remaining amount shall be due for immediate payment, without the need for an additional reminder to declare the residual amount due.

- 4.11. If the Ordering Party is in default with an agreed payment or other service, we may either insist on performance of the contract and withhold the fulfilment of our own obligations until the outstanding payment has been effected or other services have been performed, claim the default interest specified in item 4.7., or withdraw from the contract by written notice upon provision of an appropriate period of grace.
If we so request, the Ordering Party shall return to the seller any goods which have already been supplied and reimburse the loss in value of the goods and compensate all justified expenses we incurred to perform the contract.
As far as goods not yet delivered are concerned, we shall be entitled to provide the finished and/or semi-finished components to the buyer and demand the respective share of the selling price for them.
- 4.12. If the Ordering Party is in default of payment, and in the event that circumstances become known that justify concerns that payment in due time is at risk, we shall be entitled to make any further processing of orders subject to payment in advance or to a deposit of security.
- 4.13. If payment is outstanding for more than one item, any payments received shall be allocated to the oldest unpaid item. We shall be entitled to allocate payments received that are not clearly dedicated at our choice to outstanding claims.
- 5. Delivery and default**
- 5.1. The time of delivery shall be agreed by the contractual parties. Observance of the agreed delivery time by us requires that all commercial and technical issues have been clarified between the contractual parties and that the Ordering Party has fulfilled all its obligations, such as providing all the necessary official approvals or permits and licenses of authorities or has made an advance and/or down payment. If this is not the case, the delivery time will be extended accordingly. This shall not apply if the delay is caused by us.
- 5.2. Observance of the delivery time is subject to the correct and timely supply by our own suppliers.
- 5.3. The delivery time shall be met if the subject of delivery has left our works by the end of the delivery time or readiness for dispatch has been reported by that time. To the extent that acceptance is required, the acceptance date, alternatively the reported readiness for acceptance, shall be decisive – with the exception of justified refusal of acceptance.
- 5.4. If a date of delivery of a certain calendar week has been agreed, the time of delivery shall be met when the goods are supplied by the end of that calendar week or – if "ex works" applies – when the readiness for dispatch was reported by then.
- 5.5. If dispatch and/or acceptance of the delivery are delayed for reasons caused by the Ordering Party, it will be charged the costs resulting from the delay starting one week after the notification of the readiness for dispatch and/or acceptance.
- 5.6. If the non-observance of the delivery time is due to force majeure, industrial action or other events that cannot be controlled by us, the time of delivery shall be extended accordingly. We shall inform the Ordering Party as soon as possible about the beginning and end of such circumstances.
- 5.7. If a default in delivery is due to us, the Ordering Party may either demand performance or declare its withdrawal from the contract by specifying an appropriate period of grace.
- 5.8. If we failed to use the period of grace granted under item 5.7, the Ordering Party may withdraw from the contract by written notice with regard to all goods not yet delivered. The same shall apply for goods already delivered that cannot be properly used without the goods still outstanding. In this case the Ordering Party shall be entitled to reimbursement of payments for the goods not delivered or the goods that cannot be used.
To the extent the default in delivery is caused by gross negligence on our part, the Ordering Party shall also be entitled to reimbursement of justified expenses that it incurred by the termination of the contract and that it cannot use otherwise. Goods delivered but not useable shall be returned to us.
Other claims of the Ordering Party against us for reasons of default are excluded.
- 5.9. The Ordering Party can withdraw from the contract without granting a period of grace if the entire performance becomes impossible for us before the transfer of risk. The Ordering Party may also withdraw from the contract if the performance of part of the delivery of an order becomes impossible and the Ordering Party has a legitimate interest in refusing the partial delivery. If the Ordering Party is able to use the partial delivery, it shall pay the prorated contractual price for it.
If the impossibility occurs during delayed acceptance on the part of the Ordering Party or if it is solely or largely responsible for the same, the Ordering Party shall remain liable for the consideration.
- 6. Transfer of risk**
- 6.1. Unless otherwise agreed, the goods shall be deemed sold "ex works". Risk shall be transferred to the Ordering Party when the delivery item has left our plant; this shall also apply if partial deliveries are made and we have accepted additional services, such as dispatch costs or delivery and installation.
If the delivery item is subject to acceptance, the time of acceptance shall be decisive for the transfer of risk. Acceptance shall be performed forthwith on the date of acceptance, or alternatively after our notification of readiness for acceptance.
The Ordering Party must not refuse acceptance in the event of a minor defect.
- 6.2. If dispatch is delayed or fails to be made and/or acceptance is delayed or fails to be made for reasons of conditions not attributable to us, the risk shall be transferred to the buyer as of the day readiness for dispatch and/or acceptance has been notified.
- 6.3. Advance and partial deliveries shall be permitted to the extent they are reasonable for the Ordering Party.
- 6.4. If it has been agreed that we shall organise transportation, the risk shall be transferred to the Ordering Party when the goods are handed over to the carrier. Any transport insurance shall be taken out by the Ordering Party.
- 6.5. In the event we organise transportation, the following shall be deemed as agreed/approved carriers in particular:
Schenker & Co AG
DACHSER-Austria Gesellschaft m.b.H.
DPD Direct Parcel Distribution Austria GmbH
UPS United Parcel Service of America, Inc.
PHOENIX Arzneiwarengroßhandlung GmbH
gm pharma gmbh
Kwizda Pharmahandel GmbH
DHL Express (Austria) GmbH

7. Reservation of title

- 7.1. The goods remain our property until payment of all claims has been made in full.
- 7.2. Acquisition of ownership of the reserved goods by the Ordering Party in the event they are processed to form a new good shall be excluded; any processing by the Ordering Party shall be to our benefit. The processed good serves only as our security to the value of the goods subject to reservation of title.
- 7.3. When the goods are processed together with other items that are not our property, we shall be entitled to prorate co-ownership in relation of the value of the reserved goods to the other processed goods at the time of processing. The new item resulting from processing shall be subject to the same provision as reserved goods: it shall be deemed reserved according to our conditions.
- 7.4. Resale, pledging or transfer by way of security of goods under reservation to third parties is not permitted. If they are still resold and if we incur damage through that, the Ordering Party shall be liable for the damage.
- 7.5. The claims of the buyer of the resold goods subject to reservation of title are assigned to us by conclusion of this contract, irrespective of whether the good subject to reservation of title is sold without or after processing to one or more buyer(s). The Ordering Party shall make a note of this assignment in its books and outgoing invoices and inform the recipient of the goods accordingly. The assigned claim serves only as our security to the value of the goods subject to reservation of title. We are entitled to assign claims from delivery and performance for financing purposes.
- 7.6. The Ordering Party shall be entitled to recover the claim from the resale despite assignment. Our recovery entitlement shall be unaffected by that. We will, however, not recover the claim as long as the Ordering Party properly meets its payment obligations. The buyer shall inform us of the debtors of the assigned claims, if we so request; he shall further provide any necessary information, submit the respective documents and notify the debtors of the assignment.
- 7.7. For the time of the reservation of title, pledging or transfer by way of security shall not be permitted.
- 7.8. In the event of action by creditors of the Ordering Party, in particular in the event of seizures, the buyer shall notify us immediately by means of registered letter and submit the seizure record to us, as well as an affidavit stating the identity of the object seized, and bear all costs of measures taken to remove the action, in particular of enforcement actions and proceedings, if they cannot be secured from the opposing party. The Ordering Party shall also bear all costs that become necessary to reacquire the object of the purchase.
- 7.9. The claim of reservation of title and seizure of the delivery item by us shall not be deemed as withdrawal from the contract.
- 7.10. The Ordering Party is obliged to keep the purchased object in proper condition during the term of reservation of title at its expense. The Ordering Party explicitly agrees that persons commissioned by us shall be allowed at any time to enter, either on foot or with a vehicle, the premises where the objects delivered by us are being stored without being hindered so that they can dismantle and remove these objects.
- 7.11. Failure to pay goods delivered by us entitles us to recover goods under reservation of title at the expense of the buyer.

8. Warranty

- 8.1. We undertake to correct any defects adversely affecting the serviceability of the goods that are due to errors in design, material or workmanship in accordance with the provisions set out below. We shall also be responsible for any defects concerning expressly requested properties. Within the first six months from delivery, the burden of proof regarding the existence of a defect at the time of delivery shall also be on the Ordering Party.
- 8.2. Our liability for warranty shall be limited to defects occurring during a period of six months from the time of transfer of risk and/or in the event of delivery including installation to defects occurring after the assembly has been completed.
- 8.3. The Ordering Party can only claim warranty rights if it notifies us of the defects in writing within three days of the first possible moment of detection of the defects.
- 8.4. In the event of failure to comply with this obligation of notification, all warranty and damage claims of the buyer shall be forfeited. If we are notified, as described above, we may in our discretion:
- repair the defective good.
 - have the defective good or defective parts returned to us for repair.
 - replace the defective parts.
 - replace the defective good.
 - reimburse the appropriate reduced value.
- 8.5. If we have the defective goods or defective parts returned to us for repair or replacement, the Ordering Party shall bear the costs and risks of transport unless otherwise agreed. The return of the repaired or replaced goods or parts to the buyer shall be at our cost and risk if the complaint is justified and unless otherwise agreed.
- 8.6. The replaced defective goods or parts will be at our disposal.
- 8.7. We shall only be liable to pay the costs of repair performed by the Ordering Party itself if we have approved such a repair in writing in advance.
- 8.8. Our duty of warranty is limited to defects occurring under the operating conditions specified and in normal use. It does not apply to defects caused by standard wear and tear, improper use, improper storage, weather conditions, non-observance of our technical instructions for handling and processing, treatment or modification.
- 8.9. As far as those parts of the goods are concerned that we procured from sub-suppliers specified by the buyer, we shall only be liable to the extent of the warranty claims we ourselves have against the sub-supplier. If we produce a good on the basis of design details, drawings or models of the Ordering Party, our liability shall not extend to the correctness of the design but only to compliance of workmanship with the Ordering Party's instruction. If, in these cases, any protective rights are violated, the Ordering Party shall defend us and hold us harmless.
- 8.10. As from the beginning of the warranty period, we shall not assume any liability beyond that defined in this item.



9. Liability

- 9.1. It is explicitly agreed that we shall pay damages to the Ordering Party only in the event of gross negligence. Reversal of the burden of proof as defined in Sec. 1298 Austrian Civil Code (ABGB) is excluded.
- 9.2. The purchased object provides only that level of safety that may be expected on the basis of the registration provisions, the operating instructions, our rules and instructions concerning the handling of the purchased object – in particular with regard to any possible inspections and other instructions given.
- 9.3. Our liability shall therefore be excluded, in any case, in the event of slight negligence. In the case of physical injury due to slight negligence on our part, our liability shall be limited to the sum covered by our third party liability insurance.
- 9.4. All damage claims against us resulting from defective deliveries and/or services lapse within six months from taking notice of the damage and the damager. The absolute limitation period for filing damage claims against us is 10 years.
- 9.5. Subject to other provisions in these General Terms and Conditions, our liability vis-à-vis the buyer for standstill in production, lost profit, loss of use, contractual losses or any other economic or indirect consequential damage and damage of goods that are not subject to the contract shall be excluded.

10. Reasons for exemption

- 10.1. The parties shall be exempt, in whole or in part, from due performance of the contract if their performance is hindered by events of force majeure. Force majeure events are only those events that cannot be predicted or prevented by the parties and do not fall in their respective spheres of responsibility. Strikes and industrial action are considered force majeure events. The Ordering Party impeded by the force majeure event can only invoke force majeure by submitting to us a registered mail statement about the start and expected end of the event, the cause, the effect to be expected and the term of the delay; this statement must be confirmed by the respective governing authority and/or economic chamber of the country of delivery and shall be submitted to us forthwith after the beginning of such an event and, in any case, within five calendar days from its beginning at the latest. In the event of force majeure, the parties shall take every effort to remove and/or reduce the problems and expected damage and keep the other party updated on these efforts at all times. Otherwise, it shall become liable for damages vis-à-vis the other party. Dates or deadlines that cannot be met due to force majeure shall be extended by the term of the consequences of force majeure or – if applicable – by a period of time to be mutually agreed. In a case when force majeure persists for more than four weeks, the Ordering Party shall work together with us and try to negotiate a means of handling this. Should no mutually acceptable solution be found, we can withdraw from the contract in whole or in part.

11. Data protection

- 11.1. We are entitled to save, transmit, edit and delete private data of the Ordering Party in the course of business.
- 11.2. The parties agree to keep any knowledge acquired during the business relationship strictly confidential and not to disclose it to third parties.

12. Place of jurisdiction, applicable law, place of performance, severability

- 12.1. Place of jurisdiction for all disputes resulting directly or indirectly from the contract shall be the Austrian court having jurisdiction over the place of our headquarters in 5350 Strobl, Austria.
- 12.2. Our headquarters shall be the place of performance for delivery and payment even in cases when another place is agreed for delivery.
- 12.3. If individual provisions of these Terms and Conditions become ineffective, the remaining general conditions of delivery and payment and the contract shall remain binding. The ineffective provisions shall be replaced by the appropriate legal provision.