

## General Business Terms and Conditions of GBA PHARMA GmbH

### 1. General

- (1) Contracts are concluded exclusively under these General Terms and Conditions of Business (in the following: GTC); we do not accept any terms and conditions of the customer which contradict or deviate from our GTC, unless we have explicitly agreed to their application in writing. Our GTC shall also apply if we fulfil our contractual duty without any reservation in the knowledge of terms and conditions of the customer contradicting or deviating from our GTC.
- (2) Our GTC apply solely to business people, to public law entities or to funds created pursuant to public law.
- (3) Any agreement concluded between us and the customer in order to amend the contract or in performance of this contract shall be recorded in writing. This also applies for any supplements. The written form requirement can only be cancelled in writing for individual cases.
- (4) Our GTC also apply for any future business relations with the customer.
- (5) Our registered office is the exclusive place of venue; however, we are entitled to bring an action against the buyer at the court responsible for his registered office.
- (6) Unless otherwise specified in the contract, our registered office shall be the place of performance for all goods supplied and all services performed under this contract.
- (7) The contract shall be governed by the substantive laws of the Federal Republic of Germany excluding the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).

### 2. Offer – Acceptance

- (1) Unless otherwise specified in the concrete offer, our offers always are non-binding.
- (2) Documents supplied prior to submission of the offer, e.g. advertising brochures and similar documents, are subordinated to the specifications of goods and services contained in our offer, unless and to the extent they are expressly defined as binding and prior-ranking. In case of contradictions between the specification of goods and services and the aforementioned documents the specification of goods and services in the offer shall be prior-ranking.
- (3) If the order of the customer is to be interpreted as an offer, we can accept it within two weeks, unless a shorter or a longer commitment period is agreed in writing.
- (4) An order is only deemed to have been accepted, when it has been confirmed as binding by us in writing or when we start with the performance.

### 3. Confidentiality

Unless otherwise agreed or being agreed in writing, both parties commit to mutually keep secret any information that they received in connection with the performance of the services agreed upon and that are not proven to have been otherwise known to the receiving party, if and to the extent that a disclosure is not required by statutory or judicial obligation. In particular, both parties commit to use such information, which is to remain secret and shall be designated as “confidential”, exclusively by authorized persons for the indicated purpose, and to destroy or return it - subject to the applicable laws and regulations - on demand of the other party. For evidence purposes one archival copy can be kept. Press releases and scientific publications which contain information which is to remain secret are subject to the prior written approval by the other party.

#### **4. Prices – Payment terms**

(1) The prices agreed upon in the orders apply for our services. Unless otherwise agreed in writing, all prices are quoted ex our registered office exclusive the costs of carriage; costs for rush jobs and express orders as well as for special packaging must be paid separately. Our prices do not include the statutory value added tax; the value added tax is stated in the invoice separately at the applicable statutory rate at the date of the invoice. The prices are duty unpaid.

(2) At the latest at the time of the order of the services, the customer shall draw our attention to the statutes, provisions, regulations and regulatory requirements in force at the place of destination that apply to the performance of the services, the use, the labelling, the packaging, the shipment and the health and safety provisions. If and to the extent additional costs are incurred beyond the customary provisions for services at our registered office, these shall be paid by the customer according to the corresponding disclosure in the invoice.

(3) Unless otherwise agreed, the payment shall be made within 10 days after receipt of the invoice without any deductions. In the event that the customer should be in default of payment, any money debt must bear interest during the time of default. The default rate of interest per year is eight percentage points above the basic rate of interest; we may demand higher interest on a different legal basis. The assertion of further damage is not excluded. We are entitled to the payment of a flat payment of EUR 40.00 in case of delay of payment of the customer. We reserve the right to assert further claims for damages.

(4) All our receivables shall be due with immediate effect if the customer does not adhere to the terms and conditions of payment or if circumstances become known to us, which are of a nature to reduce the credit worthiness of the customer. In this event, we are also entitled to provide still outstanding services only against payment in advance or to ask for reasonable securities and to withdraw from the contract following a reasonable period of grace and, if the customer is at fault, to demand damages in lieu of performance.

(5) The customer shall only be entitled to off-set any counterclaims, if his counterclaims have been established in court with final force and effect, are uncontested or have been approved by us. This applies with the exception of damage claims arising from this contract. Besides, the customer shall be entitled to exercise a right of retention in accordance with the aforementioned conditions in so far as his counterclaim is based on the same contractual relationship.

#### **5. Deadlines and dates**

(1) Dates and deadlines are only binding if this has been explicitly agreed for the individual case. The deadline for the performance of the service begins with the day of our acceptance of the order, however, not before all details of the performance have been clarified in full (test methods, specifications, reference substances, provided materials, etc.).

(2) Deadlines and dates shall be deemed to have been observed with the readiness to ship the goods and its timely notice when through no fault of our own the shipment is impossible.

(3) The agreed deadline for the performance of our service is extended - regardless of our rights resulting from the customer's default of fulfilment and our right to withdrawal according to the statutory provisions - by the time that the customer is in default of fulfilment of his obligations arising from this or from another contract. This shall apply mutatis mutandis when a date for the performance of the service is agreed.

(4) If we are in default with the performance of a service, the customer shall set us a reasonable grace period and shall be entitled to withdraw from the contract by the end of the period; no grace period shall be required if we have refused the performance of the service definitively and seriously or if serious circumstances make the grace period appear unreasonable for the customer.

(5) Claims to damages on the basis of a failure to observe binding deadlines and dates or on the basis of other delays are excluded, unless the damage was caused by us through willful intent or gross negligence; if we have caused the default of performance with slight negligence, we shall only assume liability for the foreseeable damages typical to the contract.

## **6. Force majeure**

Incidents of force majeure shall entitle us to postpone the performance of the service for the duration of the hindrance plus a reasonable run-up time or to withdraw from that part of the contract not fulfilled. Strikes, lock-outs any other circumstances which, not due to our fault, either make it substantially more difficult or otherwise impossible for us to perform the service, e.g. as a fire, a machine breakdown, the lack of raw materials, an obstruction of the traffic routes, no difference whether such circumstances affect us or our supplier or our sub-contractors, shall be equivalent to force majeure. We will inform the customer as soon as reasonably possible after gaining knowledge of such circumstances. The customer can require us to state whether we will withdraw or perform within a reasonable deadline. The customer may withdraw from the contract if we fail to make such a declaration.

## **7. Damage claims due to unjustified non-acceptance**

If Customer withdraws from the contract without reason or if he does not accept the performance within the deadline agreed or otherwise within the reasonable deadline set in the notice on the readiness to ship the goods, we can withdraw from the contract on our part and demand the payment of damages.

## **8. Rights and duties of the customer**

- (1) The customer shall specify the concrete provisions for the packaging and the labelling of the samples.
- (2) The customer is responsible for the retention and archiving of findings and/or reports after the completion of the services rendered. Our duties concerning the retention and archiving conform to the respectively applicable statutory provisions.
- (3) Upon his reasonable prior written registration, we grant access to the customer to the laboratories, in which the contract currently is performed; we will cooperate with the customer on quality assurance and on the preparation and implementation of inspections by competent authorities. If the cooperation with the customer is regulated in an agreement on quality assurance, this shall prevail.
- (4) Unless and to the extent otherwise agreed in writing, we reserve the right to delegate the performance of services to third parties or to engage sub-contractors which are correspondingly designated in our offer.
- (5) We are committed towards the customer to perform the services carefully and professionally, consistent with industrial standards, the applicable professional standards and our quality management system. Upon demand of the customer, we inform about the respective official permits at the time of the conclusion of the contract; furthermore, we refer to the information provided on our website regarding the corresponding current permits.
- (6) The customer may terminate the service contract at any time. If the customer gives notice of termination, we are entitled to the remuneration for the services performed pro rata up to the date of receipt of the notification of termination. This also applies if the service contract is terminated either by us or by the customer for good reason without observing a notice period. Notifications of termination must be in writing to be valid.

## **9. Intellectual property**

Unless otherwise agreed in writing, any results and measured values, analyses, data, laboratory and process documents and similar information representing the results that are in relation with the service performed specifically for the customer shall become the exclusive property of the customer without additional costs and after the payment in full of the agreed price. Notwithstanding the sentence above, the customer acknowledges that we possess certain intellectual property, including inventions, processes, know-how, trade secrets, improvements, technology, copyright, trademarks or other intellectual properties and other assets, including analytical methods, procedures and techniques, procedure manuals, personnel data, computer technical expertise, computer programs or codes and software, which have been independently developed by us and which relate to our business or operation. The customer agrees that any of our intellectual property and improvements thereof which are used, improved, modified or developed by us during the performance of the services are our sole and exclusive property.

## **10. Warranties and liability**

(1) If the service is not provided by us in accordance with the contract and if we are responsible for this, we shall be obliged to perform the service in accordance with the contract in full or in part without additional costs for the customer within a reasonable deadline, unless this is only possible with a disproportional amount of effort. Unless and to the extent otherwise agreed in writing, this obligation shall only apply if the customer reports the default in writing without delay, but at the latest within two weeks after acknowledgment of the service not provided in accordance with the contract.

(2) If we are responsible for not providing the service in accordance with the contract and if we also fail to perform the service in accordance with the contract within the grace period set by the customer according to paragraph (1) for reasons for which we bear responsibility, the customer is entitled to terminate the contract with immediate effect or to demand a corresponding reduction of the purchase price (reduction). In this event we are entitled to claim the remuneration corresponding to the services rendered up to the effective date of termination. The claim shall not apply for such services for which the customer sets out that they are unusable and of no interest for him.

(3) If we are not responsible for not providing the service in accordance with the contract, we will offer to the customer, within the scope of our possibilities, the performance in accordance with the contract. If the customer accepts this offer, we are entitled to claim the reimbursement of necessary expenses associated therewith and of proven costs.

(4) Unless and to the extent otherwise provided under paragraph (5), further claims of the customer - irrespective of the legal grounds - are excluded. Therefore, we are not liable for damages that do not relate to the results of our services; in particular, we are not liable for loss of profit or other pecuniary losses of the customer.

(5) If the cause of damage is based on willful misconduct or gross negligence or if and to the extent the damage affects life, the body or health, we are liable in accordance with the statutory provisions. If we breach, through slight negligence, a significant contractual obligation (so-called cardinal duty), the fulfillment of which enables the proper implementation of the contract in the first place and/or whose breach will put the achievement of the contractual purpose at risk and on the fulfillment of which the customer regularly may rely, the liability is limited to the damage typical of the contract; otherwise, the liability is excluded according to paragraph (4).

(6) The limitation period for claims of the customer for defaults of performance is of one year from handover of the results of the service to the customer. The limitation period for claims of the customer for damages and compensation of expenses in the meaning of this section also is of one year; in the event of a breach of duty caused by willful misconduct or gross negligence, of malice or in cases of injury to life, body or health, the statutory periods of limitations shall remain in effect.

## **11. Data Privacy**

In the context of processing orders, GBA PHARMA GmbH handles personal data insofar as it is necessary to fulfill the service. In particular, this includes the names and professional contact information of the appropriate contact people employed by the customer. This data is processed exclusively for the appropriate purposes, such as order fulfillment, billing, and transmitting analytical results. Further information on this topic can be found on our information sheet on customer data collection as well as the data privacy statement on our website.

## **12. Severability**

Should any provision of this contract be or become invalid, the validity of the other provisions shall not be affected thereby. If and to the extent a provision in the individual contractual part is invalid, the parties to the contract commit to replace the invalid provision by a valid provision which purpose comes as close as possible to the purpose of the invalid provision. The same shall apply if the parties have, unintentionally, failed to address a certain matter in the contract.

## **13. Language**

Our GTC are executed in the German and English languages. In the event of any inconsistencies, the German version shall prevail.