

# OSARTIS GmbH's General Terms and Conditions of Business

## 1. General

- 1.1 Unless anything to the contrary has been agreed in writing, these General Terms and Conditions of Business (hereinafter referred to as "GTC") apply to all offers, sales, deliveries and services provided by OSARTIS GmbH (hereinafter referred to as "OSARTIS") to contractual partners (hereinafter referred to as "buyer") who are not consumers as defined in Section 13 of the German Civil Code (Bürgerliches Gesetzbuch/BGB). They apply to all future business dealings and no further express agreement on their validity is required. The statutory provisions shall otherwise apply.
- 1.2 Written confirmation of an order by OSARTIS or a delivery or the provision of a service by OSARTIS together with the buyer's unconditionally receipt shall suffice to include these GTCs in the contractual relationship. Terms and conditions of the buyer that differ from or run counter to those of OSARTIS shall only apply if OSARTIS has expressly agreed in writing to them doing so.

## 2. Prices

- 2.1 All prices are quoted ex works and net, excluding tariffs and duties.
- 2.2 All prices are quoted without obligation until invoiced.
- 2.3 Invoices are denominated in Euros at the prices that applied on the day that the contract was concluded, plus value-added tax at the valid rate.
- 2.4 At the end of a financial year OSARTIS is entitled at any time to increase prices, subject to three (3) months' notice, to offset inflation, the higher cost of approvals or costs incurred due to force majeure.

## 3. Placing of Order

- 3.1 Offers quoted by OSARTIS are valid for six (6) weeks from their date of issue. Once this period has expired, OSARTIS is no longer bound by the offer.
- 3.2 Offers and orders only become legally binding once OSARTIS has confirmed them unconditionally in writing or when OSARTIS has dispatched goods to the buyer accompanied by the invoice.
- 3.3 Each order must specify in detail the number of products, the article number, the value of the goods and the delivery date desired.

## 4. Minimum Order Value

- 4.1 For buyer with its registered office in Germany, Austria or Switzerland (herein-after referred to as "national") the minimum order value is currently EUR 150.00, for all other buyers (hereinafter referred to as "international") EUR 500.00, each plus value-added tax at the valid rate.
- 4.2 For national orders of less than the minimum order value OSARTIS will charge a EUR 10.00 handling fee, for international orders less than the minimum order value a EUR 100.00 handling fee, each plus value-added tax at the valid rate.

## 5. Shipment

- 5.1 Goods are shipped ex works, excluding transportation packaging. The risk of accidental destruction shall pass to the buyer as soon as the goods leave the delivery point. Goods ordered are shipped using the most favorable method at the buyer's account and risk.
- 5.2 Goods are only delivered to a third party if agreed in writing by both parties of the contract and at the buyer's account and risk.

## 6. Shipping Time

- 6.1 Shipping times are stated by OSARTIS in principle without obligation. If, in individual instances, a binding shipping time has been agreed, it shall be calculated from the day on which the order was placed until the day on which it is dispatched.
- 6.2 Binding shipping times agreed shall count as having been fulfilled if the goods are reported as ready for shipment on time.
- 6.3 OSARTIS is entitled to make part-deliveries.
- 6.4 Unforeseen events such as force majeure, shipping delays, or operational disruptions at OSARTIS own works or at those of its suppliers shall discharge OSARTIS from the responsibility for meeting shipping times agreed until such time as the event ceases to apply. In the event of permanent cessation of production or if fulfillment is unreasonable after force majeure has ceased to apply, OSARTIS shall be entitled to cancel the contract as concluded. In these instances OSARTIS shall not be liable to pay damages.
- 6.5 OSARTIS is entitled to place goods ordered by the buyer in storage at the buyer's expense and risk if they cannot be shipped for a reason for which the buyer is responsible. The storage date shall correspond to the shipping date.
- 6.6 In the event of a delay in payment or any other culpable breach of duty by the buyer, OSARTIS shall be discharged from the duty to deliver until such time as the buyer fulfills his contractual obligation.

## 7. Data Protection

OSARTIS is entitled, subject to the provisions of the German Data Protection Act, to use and store for its own purposes all relevant data about the buyer.

## 8. Complaints and Warranties

- 8.1 The buyer must check within fourteen (14) working days of receipt of the goods whether their quality and quantity correspond to the contractual provisions. Defects that can be ascertained when the goods are duly checked and deliveries of goods or quantities other than those agreed must be reported to OSARTIS in writing within fourteen (14) working days of receipt thereof. Hidden defects must be reported to OSARTIS in writing within two (2) working days of their discovery and no later than twelve (12) months after receipt. If the buyer fails to notify OSARTIS in time, the goods shall be considered to have been accepted by the buyer and warranty claims will then be ruled out.
- 8.2 Rejected goods may only be returned to OSARTIS with its express consent in writing.
- 8.3 If the buyer notifies OSARTIS of defects or of receipt of goods other than those ordered and does so in time, OSARTIS will replace the goods at its expense within an appropriate period. If the replacement is also defective, OSARTIS will grant the buyer the right to rescind the contract or to a reduction in price. If the buyer notifies OSARTIS of missing parts in the shipment and does so in time, OSARTIS can choose between subsequent delivery and a credit note. This provision shall not apply in the case of defects arising from improper handling, incorrect use or insufficient care of the goods by the buyer.

## 9. Liability

- 9.1 OSARTIS is liable pursuant to statutory provisions in instances of intent, gross negligence and injury to life, limb, and health. In cases of ordinary negligence or other damage OSARTIS only accepts liability - assuming that mandatory liability does not apply - for breach of material contractual obligations, i.e. obligations the fulfillment of which is essential for contractual performance and which the buyer can regularly expect to be fulfilled. In this case OSARTIS liability shall, however, be limited to compensation of damage that was foreseeable and is typical.
- 9.2 Otherwise, that is insofar as liability is not accepted as per 9.1, OSARTIS cannot be held liable, especially for
  - Consequential damages or loss of profit, irrespective of the legal basis
  - Damage arising from any misbehavior by the buyer
  - Damage as a result of or attributable to erroneous information from the buyer, and
  - Damage due to inappropriate handling of the products by the buyer.
- 9.3 The burden of proof of damage that has been caused rests with the buyer.

## 10. Payment

- 10.1 Unless agreed otherwise, payment of national buyers is due within fourteen (14) days of the date on which the invoice was issued with two (2) percent discount or within thirty (30) days thereof in full. For international buyers payment is due in advance, unless otherwise agreed.
- 10.2 If payment deadlines are exceeded, default interest will be charged at the rate customary in banking but at least 8 percentage points higher than the bank's basic interest rate. OSARTIS is entitled to demand cash in advance.
- 10.3 OSARTIS will only accept discountable bills of exchange if agreed beforehand in writing and if the buyer pays the discount and bill charges. Payments by check or bill will only count as paid in full on the day they are redeemed in cash.
- 10.4 The buyer may only set off claims if his counter-claims have been established by a court of law or are undisputed or acknowledged by OSARTIS. The buyer is not entitled to a right of retention in respect of claims arising from another contractual relationship.

## 11. Title Retention and Confidentiality

- 11.1 Until payment in full, OSARTIS reserves its right to ownership of all goods supplied. These goods must be stored separately and clearly marked as OSARTIS property until paid in full. The buyer must pay damages for shortfall quantities or damaged goods. In this connection all shipments made on the basis of orders accepted shall be considered to be an interrelated delivery. In the case of a current account the reservation of title shall count as a security for the claim.
- 11.2 Prior to payment in full, the goods may neither be pledged nor assigned without OSARTIS consent.
- 11.3 Drawings, drafts, samples, manufacturer's instructions, and other documents that OSARTIS places at the buyer's disposal to implement the order or commission remain the property of OSARTIS. These drawings, drafts, samples, manufacturer's instructions, and other documents may only be used for purposes other than those contractually agreed or copied or made available to third parties as approved expressly in writing by OSARTIS. The buyer must return drawings, drafts, samples, manufacturer's instructions, and other documents to OSARTIS within four-teen (14) working days at his expense after completing evaluation and placing an order. The buyer will otherwise be charged for the samples at the market price. The buyer's right of retention is thereby ruled out.

## 12. Return of Goods

- 12.1 Goods that are free of defects may only be returned to OSARTIS as agreed with and after approval in writing from OSARTIS at the buyer's expense. In this case the buyer will receive a credit note to the value of the goods less a handling fee of 15 percent of the net price and depreciation in accordance with the age, condition and saleability of the goods. Sterile packed goods are only credited to the buyer if they are returned unopened in the original shipping carton and have the following remaining shelf lives:
  - Goods with a durability up to two (2) years at least one (1) year remaining shelf life
  - Goods with a durability more than two (2) years at least two (2) years remaining shelf life
- 12.2 As a matter of principle, goods changed or specially manufactured may not be returned for exchange. Goods that have been used or may be contaminated may only be returned decontaminated with proof of decontamination.

## 13. Place of Performance

The place of performance for delivery and payment is Darmstadt.

## 14. Concluding Provisions

- 14.1 German law shall apply, expressly ruling out UN law on contracts for the international sale of goods (CISG).
- 14.2 The sole place of jurisdiction is Frankfurt/Main, Germany.
- 14.3 Amendments and additions to these GTCs must be made in writing. This shall also apply to any agreement to dispense with this requirement.
- 14.4 Should any individual provisions of these GTCs be or become invalid or ineffective, the effectiveness of the remaining provisions shall not be affected. In this case the contracting parties are required to collaborate in drawing up provisions that come as close as possible to the sense of the invalid provision and are legally effective.

OSARTIS GmbH  
Darmstadt Register of Companies, HRB 32569  
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