

Zellwag Pharmtech AG, General Terms and Conditions of Purchase

General Terms

1. The following terms apply to all Zellwag Pharmtech AG (hereinafter "ZPAG") purchase commitments to its suppliers (hereinafter Supplier) in the absence of written agreements to the contrary.
2. Supplier terms shall only apply to ZPAG if and insofar as they have been expressly accepted in writing.
3. In the event that any term in these General Terms and Conditions of Purchase be or become invalid, this shall not affect the validity of the remaining terms.

Offer, order and confirmation of order

4. Offers, documents relating to offers and the supply of samples shall be free of charge for ZPAG.
5. Orders by ZPAG shall only be binding if placed by signed letter, signed fax or signed e-mail. Agreements made orally or by telephone shall only be binding if confirmed in writing by ZPAG. This also applies to any and all amendments, supplements, specifications, etc. ZPAG shall have the right to unilaterally correct mistakes and obvious typing, spelling and calculation errors in the order.
6. The Supplier shall confirm each order in writing within five working days at the latest unless the material is delivered to ZPAG immediately. The order confirmation shall state the exact day of delivery on which the goods ordered will arrive at the place of delivery specified by ZPAG.
7. In the event that no order confirmation is provided by the above deadline, the order shall be deemed to have been accepted at the terms it states.

Documents, resources and aids

8. Documents (drawings; manufacturing, testing and delivery specifications, etc.) and any other resources and aids provided by ZPAG shall remain the property of ZPAG and are to be marked as such.
9. Unless ZPAG has given its express written consent, the aforementioned documents may not be copied or duplicated or disclosed or provided to third parties, and may be used solely for the fulfilment of the order and not for any other purposes.
10. The Supplier shall retain the documents, resources and aids until these are cancelled or returned. The Supplier undertakes to store and handle the above in a due and proper manner.
11. The Supplier shall be liable for any and all damage to documents, resources or aids which is caused as a result of incorrect storage or use, and for the loss of said documents, resources or aids.

Contract work

12. Goods delivered for processing shall remain the property of ZPAG. Processing and finishing contracts are to be fulfilled in complete compliance with our drawings and standards.
13. Material received from ZPAG may not be appropriated or used by the Supplier to cover counterclaims.
14. The Supplier shall be liable for any and all damage which is caused as a result of incorrect storage or use of the goods delivered, and for their loss.

Prices and invoicing

15. Unless otherwise agreed, the prices stated are fixed prices free place of delivery, and include all transport, insurance and packaging costs, indirect taxes (VAT) and customs duties.
16. ZPAG shall be sent a separate invoice for each order. Unless otherwise agreed, the invoice is to be sent without delay after dispatch of the goods.
17. Indirect taxes are to be listed separately.
18. The agreed payment period shall commence on the date of receipt of the invoice or the date of delivery, whichever is later. Unless otherwise agreed, payment shall be made within 60 days of acceptance of the goods.
19. Payment of the costs of moulds, models and tools shall only become due once ZPAG has confirmed the due and proper condition of the parts or delivery for which samples were provided.

Delivery

20. Benefits and risk shall be transferred to ZPAG upon delivery to the place of delivery specified by ZPAG.
21. The delivery shall be made with due and proper care and the most appropriate packaging materials shall be used. Any and all specific requirements in the order shall be observed and met.
22. A delivery note is to be included with each consignment. The delivery note and the invoice must include the following information:
 - a. the full ZPAG order number and name
 - b. the ZPAG material number
 - c. the name of the person ordering from ZPAG
 - d. the exact delivery quantity and name of the goods
 - e. information on partial and outstanding deliveries
 - f. the country of origin and customs tariff number.
23. Each item must have a clearly visible label or other marking.
24. The delivery quantity must exactly correspond to the quantity ordered. The express agreement of ZPAG must be obtained for partial and advance deliveries. Any and all goods delivered which were not ordered shall be returned or stored at the Supplier's expense.
25. The packaging shall only be returned if this has been agreed.
26. Our shipping instructions must be obtained well in advance for consignments which, it has been agreed, are to be sent at ZPAG's risk from a foreign site for the customs declaration.

Delays in delivery

27. The delivery date is the date on which the goods arrive at the place of delivery specified by ZPAG. Any delays in delivery are to be reported immediately and the reasons for the delay given.
28. In the event that the Supplier fails to inform ZPAG of delays in delivery, the latter shall be entitled to refuse the delivery.
29. A penalty of 1% per week of the value of the order affected, up to a maximum of 5% of the value of the order, shall be due for delays for which the Supplier is responsible. This penalty does not release the Supplier from its contractual obligations and may be deducted from the invoice sum without ZPAG providing evidence of the damage incurred. ZPAG retains the right to bring claims for damages in excess of this penalty.
30. In the event that the Supplier fails to deliver or to deliver in compliance with the contract, and also fails to deliver or deliver in compliance with the contract within a reasonable grace period set by ZPAG, ZPAG shall be entitled to rescind the contract and, if the Supplier is responsible for the delay, to claim damages. Such damages include the additional costs of replacement delivery by a third party.
31. In the event that a penalty for delivery delays is agreed in individual contracts or the master order, this shall not affect the right to fulfilment, rescission, compensation for damages caused by the delay and/or additional damages.
32. Any additional costs incurred as a result of the failure to follow instructions, of incomplete or late delivery of shipping documents requested or of faulty deliveries shall be borne by the Supplier.

Quality of the goods delivered

33. The Supplier warrants that the goods have the qualities specified, are free from any defects which could affect their value or suitability for the intended purpose, and that they comply with the required performance characteristics and specifications. The Supplier shall be fully liable for the work of subcontractors.
34. Consignments of goods shall be inspected following receipt by ZPAG at ZPAG's discretion. Defects resulting from the use of poor-quality materials, unprofessional workmanship or errors in design are to be remedied by the Supplier immediately and free of charge. The defective goods are to be replaced if necessary.
35. ZPAG shall undertake the inspection of the goods delivered and give notice of any defects as soon as possible; however no specific deadline for inspection or complaints shall apply.
36. Neither acceptance of nor payment for goods shall affect ZPAG's right to bring warranty claims for hidden defects at a later date.
37. The warranty shall run for at least 24 months from the date of commissioning, however for no longer than 36 months following delivery; this also applies in shift operation.

38. ZPAG shall be entitled to conduct quality and schedule compliance audits at the premises of the Supplier and the Supplier's subcontractors provided reasonable notice is given. Such monitoring measures do not release the Supplier from its contractual obligations, namely its duty of contractual delivery and its warranty obligations.
39. The Supplier shall be liable should the use of the items delivered breach industrial property rights or third party trade or industrial secrets. The Supplier has a duty to indemnify ZPAG against any claims by third parties and any expenses such claims may involve (including legal and court costs).
40. The Supplier shall guarantee ZPAG a supply of spare parts for a period of at least ten years.

CE conformity

41. The order is subject to the goods to be delivered conforming to recognized safety standards. The Supplier undertakes to submit, if requested, the documents required for an assessment of conformity. This obligation is an integral part of the contract. The order shall be deemed not to have been correctly fulfilled should this provision not be observed. ZPAG reserves the right to bring claims for damages for the consequences of failure to correctly fulfil the contract.

Product liability

42. The Supplier shall indemnify ZPAG against product liability claims brought against the latter if and to the extent that the damage in question has been caused by a defect in the contractual product supplied by the Supplier.
43. In cases where the Supplier has an obligation to indemnify ZPAG, the Supplier shall cover all costs and expenses, including the costs of any defense proceedings or product recalls.

Confidentiality

44. The parties to the contract and their employees shall treat as confidential all matters which relate to this contract and which are neither common knowledge nor in the public domain. Confidentiality is to be maintained even before the contract is concluded and after the contract ends. In the event that the Supplier wishes to use this contract for publicity or customer acquisition purposes or refer to it in any publication, it must seek the written consent of ZPAG.

Place of fulfilment

45. The place of fulfilment for delivery and payment shall be the headquarters of ZPAG.

Competent court

46. The courts of Frauenfeld, Switzerland shall have sole jurisdiction. The contract is governed by Swiss law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

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