

General Terms and Conditions of Sale and Delivery of Corza Medical GmbH

1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms and Conditions the following definitions apply:

"Conditions"	means Corza's terms and conditions of sale set out in this document;
"Confidential Information"	means any commercial, financial or technical information, information relating to the Goods, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;
"Contract"	means the agreement between Corza and the Customer for the sale and purchase of the Goods incorporating these Conditions and the Order, and including all its schedules, attachments, annexures and statements of work;
"Customer"	means the named party in the Contract which has agreed to purchase the Goods from Corza and whose details are set out in the Order;
"Documentation"	means any descriptions, instructions, manuals, literature, technical details or other related materials supplied in connection with the Goods;
"Force Majeure"	means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract;
"Goods"	means the goods and other physical material set out in the Order and to be supplied by Corza to the Customer in accordance with the Contract;
"Location"	means the address or addresses for delivery of the Goods as set out in the Order;
"Order"	means an order for the Goods placed by the Customer in substantially the same form set out in Corza's sales order form;
"Price"	has the meaning given in Clause 2.1;
"Specification"	means the description or Documentation provided for the Goods and their packaging set out or referred to in the Contract;
"Warranty Period"	has the meaning given in Clause A.8.2.

Application of these Conditions

- 1.1 These Conditions apply to all business relationships between Corza and its customers (whether companies, legal entities under public law or any other organization). Corza and the Customer are collectively referred to as the "**Parties**".
- 1.2 These Conditions apply to and form part of the Contract between Corza and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 1.3 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that Corza otherwise agrees in writing.
- 1.4 No variation of these Conditions or to an Order or to the Contract (whether written or oral) shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of Corza and the Customer respectively.

2. Price

- 2.1 The price for the Goods shall be as set out in the Order or, where no such provision is set out, shall be calculated in accordance with Corza's scale of charges in force from time to time (even if different prices are set out in catalogues or other information regarding the Goods provided to the Customer prior to making the Order). The listed prices valid on the day of delivery plus the applicable statutory value added tax shall apply. For the supply of Goods to wholesalers and public pharmacies, the package sizes and list prices of the wholesale price list or the pharmacy price list apply. For the supply of hospital pharmacies and supply pharmacies, the list prices for hospital supplies apply. Pack sizes that are not included in the price list for hospital supplies can be ordered from hospital pharmacies and supply pharmacies via wholesalers or from Corza at the pharmacy purchase price for individual packs.
- 2.2 The supply of full hospital pharmacies and supply pharmacies with Goods for hospital use in accordance with the price list provided for this purpose requires the conclusion of a separate written delivery contract between Corza and the Customer. The supply of supply pharmacies requires proof of official approval of the supply contract.

- 2.3 Corza may increase the Prices at any time by giving the Customer not less than 14 days' notice in writing. Corza may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to Corza of supplying the relevant Goods which is due to any factor beyond the control of Corza.
- 2.4 The Customer may not transfer its contractual rights to any third party without the express consent of Corza.
- 2.5 In placing an Order the Customer acknowledges and agrees that Corza may carry out a credit check on the Customer.

3. Payment

- 3.1 Corza shall invoice the Customer for the Goods, partially or in full, at any time following acceptance of the Order.
- 3.2 The Customer shall pay all invoices in full without deduction or set-off, in cleared funds within the time period specified in the invoice (or as otherwise made known to Customer by Corza); and to the bank account nominated by Corza.
- 3.3 The acceptance of bills of exchange requires a prior written agreement. Bill of exchange charges and other associated costs shall be borne by the Customer and shall be paid immediately in cash.
- 3.4 All payments are made exclusively to Corza and shall be deemed to have been received as soon as they are at Corza's free disposal. Cheques and bills of exchange shall only be deemed to have been paid after they have been cashed.
- 3.5 Where sums due under these Conditions are not paid in full by the due date, Corza may, without limiting its other rights, charge interest on such sums at the applicable statutory default interest rate and all invoices for Goods and services rendered by Corza as at that date shall become due immediately and Corza is entitled to demand advance payment or security for future services and reserves the right to claim further damages caused by such default.
- 3.6 Corza shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which Corza has with the Customer. The Customer shall pay all sums that it owes to Corza under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.
- 3.7 In the case of deliveries by instalment or partial deliveries, Corza is entitled to an payment in advance for each such instalment or partial delivery in proportion to the total order volume.
- 3.8 Where Goods are delivered by Corza from a location outside of the Customer's country, or where a Customer has not previously purchased products from Corza, then advance payment will be required, unless otherwise agreed and Corza reserves the right to check the creditworthiness of the Customer on an ongoing basis, e.g. by obtaining information from credit statements.
- 3.9 If, after conclusion of the Contract, there is any indication of the Customer being unable to pay the Price due or otherwise being financial unstable, Corza is entitled to refuse to supply the Goods if advance payment is not made and to withdraw from the Contract.

4. Traceability

Wholesaler shall establish and maintain a system complying with, and shall comply with, the provisions regarding pharmacovigilance, safety, traceability, notifications, returns and other matters as required in accordance with the applicable regulation on pharmaceutical products in the Customer's territory. This shall include the Customer maintaining records of its customers and the location of the Goods, to impose the same obligations on its customers and to ensure that such customers can be contacted as soon as possible in the event of a product recall or other corrective action.

5. Delivery

- 5.1 Delivery shall be made in accordance with the Incoterm provisions in the Contract or as otherwise specified by Corza. The Customer shall inform, and keep informed, Corza of any requirements for the importation or exportation of the Goods in the Territory.
- 5.2 The Goods shall be deemed delivered and risk will pass in accordance with the Incoterm provisions in the Contract or as otherwise specified by Corza.
- 5.3 The Customer shall inspect and accept the Goods promptly, Goods may be rejected only within seven (7) days of delivery. The Customer may only refuse acceptance where the Goods are not of a saleable quality.
- 5.4 Corza shall use its reasonable endeavours to meet delivery dates but such dates are indicative only and non-binding, unless otherwise stated in the written Order confirmation. Corza will not be liable for any delay in delivery caused by the Customer failing to meet its obligations either as set out in the Contract or under applicable law.
- 5.5 Corza may deliver the Goods in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 5.6 Delivery of the Goods shall be accompanied by a delivery note stating:
- 5.6.1 the date of the Order;
- 5.6.2 the product numbers, type and quantity of the Goods in the consignment; and

5.6.3 any special handling instructions.

6. Acceptance and Late Delivery

- 6.1 Corza shall not be liable for any delay in or failure of delivery caused by the Customer's failure to make the Location available or the Customer's failure to provide Corza with adequate instructions for delivery and installation or otherwise relating to the Goods (or any event of Force Majeure).
- 6.2 In the case of deliveries which, at the request of the Customer, are to be made later than the agreed delivery dates after conclusion of the contract, payment must be made as if the delivery had been made on time.
- 6.3 If the Customer fails to accept the Goods or is in breach of other obligations under the Contract, Corza is entitled to withdraw from the Contract and / or to assert a lump-sum contractual penalty of 1% per completed week of delay due to non-performance, but no more than 5% of the order amount. Both contracting parties reserve the right to prove higher or lower damages
- 6.4 Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a continuous period of more than thirty (30) days, either Party may terminate the Contract by written notice to the other Party.
- 6.5 Title to the Goods will pass in accordance with the Incoterm provisions in the Contract or as otherwise specified by Corza..
- 6.6 The Customer shall carefully store the Goods in accordance with the Documentation and Specification, keep them in the condition in which they were delivered and insure them against all risks (and provide a copy of such insurance details on request by Corza. The Customer shall notify Corza immediately of any damage to the Goods.
- 6.7 In the event of seizures or other access by third parties to the Goods, the Customer shall notify Corza immediately in writing.
- 6.8 The Customer is entitled to sell the Goods in the usual course of business as long as it is not in default of payment. Pledging or assignment by way of security of the Goods is not permitted.
- 6.9 In the event of breach of Contract by the Customer, Corza shall be entitled to withdraw from the Contract and to demand the return of the Goods from the Customer at the Customer's expense. Corza shall be entitled to use the Goods after they have been handed over and reserves the right to claim for any damages.
- 6.10 If the law of the country in which the Goods are located does not allow for retention of title or only in a limited form, Corza may reserve other rights in respect of the Goods and the Customer shall cooperate with the retention of title or the other rights that take the place of the retention of title, and in the protection of these rights.

7. Limitation of Liability

- 7.1 The liability of the Parties for all rights and claims of a contractual and non-contractual nature arising from and in connection with deliveries and services as well as generally from the business relationship under the Contract shall be as set out in this Clause 7.
- 7.2 Neither Party shall limit its liability in respect of: (1) death or personal injury caused by negligence, (2) fraud or fraudulent misrepresentation, or (3) any other losses which cannot be excluded or limited by applicable law.
- 7.3 Insofar as a Party's liability is excluded or limited, this also applies to the personal liability of its legal representatives, employees and other vicarious agents.
- 7.4 Subject to Clause 7.1, Corza shall not be liable for consequential, indirect or special losses and its total liability shall not exceed the sums due and payable under any Contract in respect of which the liability arises.
- 7.5 The Customer shall indemnify Corza from and against any losses, damages, liability, costs (including legal fees) and expenses which it may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.
- 7.6 The Customer shall have in place contracts of insurance with reputable insurers to cover its obligations under the Contract. On request, the Customer shall supply (so far as is reasonable) evidence of the maintenance of the insurance and all of its terms from time to time applicable.

8. Warranty

- 8.1 Any warranty claim shall be conditional upon the Customer having complied with its obligations under the Contract (including inspection, notification and storage obligations). The Goods shall be deemed to have been approved unless Corza receives a written notification of defects within five (5) calendar days after delivery. If defects were not capable of recognition despite a careful examination, this period applies from the date the Customer became aware (or should reasonably have become aware) of the defect. If the Customer fails to properly inspect and/or report defects, the Goods shall be deemed to have been approved.
- 8.2 Corza warrants that the Goods shall, for a period of ninety (90) days from delivery (the "**Warranty Period**"):
 - 8.2.1 conform in all material respects to the Order and the Specification; and
 - 8.2.2 be free from material defects in design, material and quality.

- 8.3 As the Customer's sole and exclusive remedy, Corza shall, at its option, replace or refund the Price of any of the Goods that are defective, provided that the Customer has complied with the requirements of Clause 8.1 and (a) provides Corza with sufficient information as to the nature and extent of the defects and the uses to which the Goods had been put prior to the defect arising; (b) gives Corza a reasonable opportunity to examine the defective Goods; and (c) returns the defective Goods to Corza.
- 8.4 If the defect is based on a defective third-party product, Corza is entitled to assign its warranty claims against its upstream suppliers to the Customer. In this case, warranty claims may only be made against Corza if the judicial enforcement of the claims against the supplier or manufacturer of the defective third-party product was unsuccessful or, for example due to insolvency, has no reasonable chance of success.
- 8.5 Corza shall not be liable for any failure of the Goods to comply with Clause 8.2:
- 8.5.1 where such failure arises by reason of wilful damage, negligence, or could be expected to arise in the normal course of use of the Goods;
- 8.5.2 to the extent caused by the Customer's failure to comply with Corza's instructions in relation to the Goods, including any instructions on transport, storage or use;
- 8.5.3 to the extent caused by Corza following any specification, instruction or requirement of or given by the Customer in relation to the Goods;
- 8.5.4 where the Customer modifies any Goods (or packaging) without Corza's prior written consent or, having received such consent, not in accordance with the Corza's instructions; or
- 8.5.5 where the Customer uses any of the Goods after notifying Corza that they do not comply with Clause 8.2.

9. Resale

- 9.1 Medicinal products purchased at hospital prices may only be used for the Customer's own use or made available to other hospitals solely for their own use.
- 9.2 The Customer must inform Corza immediately of the termination of any of the Customer's supply contracts.
- 9.3 The Goods are branded goods that the Customer may only resell in unchanged and undamaged original packaging. The individual sale of parts of a hospital package is not permitted by the customer.

10. Returns

- 10.1 Other than as provided for at Clause 8.3, the Customer is not entitled to the return or exchange of any Goods, unless expressly agreed. In the interests of drug safety, Corza reserves the right to destroy Goods returned or returned by the customer on its own authority, to the exclusion of the Customer's claims for compensation at the Customer's expense.

11. Confidentiality

- 11.1 The Customer shall keep confidential all Confidential Information of Corza[and of and shall only use the same as required to perform the Contract.
- 11.2 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

12. Termination

- 12.1 Corza may terminate the Contract at any time by giving notice in writing to the Customer if:
- 12.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;
- 12.1.2 the Customer commits a material breach of the Contract which is not remedied within fourteen (14) days of receiving written notice of such breach;
- 12.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid thirty (30) days after the date that Corza has given notification to the Customer that the payment is overdue;
- 12.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract; or
- 12.1.5 the Customer is subject to any insolvency or bankruptcy or winding up or any similar event in any jurisdiction.
- 12.2 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Parties at any time up to the date of termination.

13. Choice of law and place of jurisdiction

- 13.1 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of Switzerland (to the exclusion of the UN Conventions on Contracts for the International Sale of Goods).
- 13.2 The Parties irrevocably agree that the courts of Switzerland shall have non-exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).

- 13.3 Should individual provisions of the Contract be or become invalid or unenforceable in whole or in part, this shall not affect the validity of the remainder of the Contract. The invalid or unenforceable provision shall be replaced by a provision that comes closest to the economic purpose of this provision.