

Art. 1 General

- 1.1 These terms of purchase govern the entering into, the content and the performance of contracts between suppliers or contractors (hereafter 'the Supplier') and Ypsomed AG (hereafter 'Ypsomed'), in particular of contracts for the sale of goods and contracts for work and labour whereby Ypsomed orders commodities, goods or products (hereafter 'Product') from Supplier.
- 1.2 By submitting an offer to Ypsomed or by accepting an order of Ypsomed, the Supplier agrees to be bound by these terms of purchase. These terms of purchase may be varied by different terms contained in the order or in other parts of the contract.
- 1.3 Any terms and conditions of Supplier (existing or future), shall not be applicable to the contractual relationship between Ypsomed and Supplier.

Art. 2 Requests for quotations, orders

- 2.1 Requests from Ypsomed regarding the Products and the terms of delivery of Supplier or simple requests for quotations shall not be binding upon Ypsomed.
- 2.2 Orders shall be binding only if issued by Ypsomed in writing (including by fax or by email) or if issued orally or by phone jointly with a purchase order number of Ypsomed.

Art. 3 Scope and modalities of delivery / changes to order

- 3.1 Partial delivery and delivery ahead of schedule is only permitted if agreed upon.
- 3.2 Products shall be delivered without any intermediate forwarding agency directly to the delivery address of Ypsomed, if not otherwise agreed upon.
- 3.3 Each shipment shall be accompanied by a delivery slip and the documents specified in Section 7.4. Delivery slips, invoices and other correspondence shall quote the particulars specified by Ypsomed including its purchase order number, reference and internal article number or drawing number. Delivery from abroad shall be accompanied by the corresponding customs documents and a copy of the invoice.
- 3.4 Ypsomed is allowed to require changes to deliveries and services ordered by Ypsomed, provided that the overall character of the order is unaffected and that the modifications required to be undertaken by the Supplier are not unreasonable. If Ypsomed should issue such a change to its order the following terms shall apply.
- 3.5 The changes to the order shall be agreed in writing before fulfilment of the modifications. Should the required changes result in an increase or reduction in costs or should it prove necessary to adjust the delivery schedule, then each of such matter shall be addressed immediately and the parties shall agree in writing on the adjustments, otherwise the originally agreed price and delivery schedule shall be deemed applicable.
- 3.6 The increase or reduction shall as far as possible be calculated on the basis of the original costs. Should the parties fail to reach an agreement Ypsomed may contract out to the Supplier the supply

of the Products and services in question or perform the order itself without indemnification to the Supplier, or have it performed by a third party.

- 3.7 Changes which prove to be necessary in order to satisfy contractually specified features or characteristics of Products shall in either case be carried out at the Supplier's expense, except for the case that Ypsomed has supplied inadequate or inaccurate particulars.

Art. 4 Materials

- 4.1 Materials (documents, drawings, photographs, data media, films, plans, tools, forms, models etc.) provided by or made for Ypsomed shall remain its property and shall be returned to Ypsomed on its demand not later than 10 days after the termination of the contract.
- 4.2 Without the prior written consent of Ypsomed, the Supplier shall not copy or otherwise reproduce such materials or supply such materials or give access thereto to third parties.

Art. 5 Confidentiality

- 5.1 Each party is obliged to keep strictly confidential any know-how disclosed by the other party and any other confidential information of which the party becomes aware of. The obligation of confidentiality persists, even after termination of the contractual relationship. The Supplier is obliged, without written approval of Ypsomed, not to disclose in any matter to third parties the fact of the delivery of Products ordered by Ypsomed.
- 5.2 After termination of the contractual relationship, neither party is entitled to use the know-how of the other party which was received in connection with the contract, without the other party's consent. The same shall apply to any use of know-how of the other party during contractual relationship which is not connected to the performance of the contract.

Art. 6 Obligation to inform

The Supplier shall notify Ypsomed immediately in writing any matter he becomes aware, or which is discoverable with due care and diligence, that puts at risk the proper and timely performance of its contractual obligations, as well as any concern of Supplier regarding the fulfilment of the specifications provided by Ypsomed. Should the Supplier fail to comply with any such notification duty, he shall be held solely responsible for any adverse consequences which may rise out of the non-fulfilment of such duty.

Art. 7 Prices / Invoicing

- 7.1 Unless otherwise agreed, the prices specified in the order are deemed to be fixed prices (including costs of storage and shipment, etc.), net of value added tax. Prices may only be changed if approved by Ypsomed in writing.
- 7.2 Unless otherwise agreed, invoices will be paid net at the end of the month following the delivery of the Products, hence at the earliest 30 days from date of invoice, provided Products are in conformity with the terms specified in the order.

- 7.3 An invoice shall be issued for each order and for each full or partial delivery.
- 7.4 Invoices issued in Switzerland must comply with the formal requirements of the value added tax rules. In case of a supply of Products, the country of origin and customs tariff number must be specified on the invoice. In case of direct delivery from abroad a movement certificate must be attached to the invoice.

Art. 8 Delivery

- 8.1 The agreed dates of delivery are binding upon the Supplier. If it becomes apparent to him that delivery in due time is not possible, he shall immediately notify Ypsomed in writing stating the reasons and the likely duration of the delay.
- 8.2 If Supplier fails to deliver on the date of delivery, he shall be deemed to be in default, without any further reminder. As from the date of default, the Supplier shall be liable for liquidated damages amounting to 0.3% of the total contract price for every day in delay (up to a maximum of 10% of the total contract price). Such liquidated damages shall be due even if the delayed delivery of Products or services is accepted by Ypsomed without any reservation. Payment of the liquidated damages shall not release the Supplier from his contractual obligations but shall be credited against any damages for which he may be liable.
- 8.3 Ypsomed may in case of default of timely delivery, without any further reminder, fully or partially waive the delivery and withdraw from the contract or claim damages. Such withdrawal shall in all cases be without prejudice to Ypsomed's right to claim further damages.

Art. 9 Benefit and risk

Benefit and risk shall pass to Ypsomed upon physical handing over of the Products at the appointed destination (at Ypsomed premises or another place specified by Ypsomed different from Supplier's facility).

Art. 10 Minimum warranty

- 10.1 The Supplier warrants that the Products are not defective in a way that would impair their value or fitness for use, that they comply with the contractually specified features and characteristics and the pertinent legal requirements (e.g. product approval conditions).
- 10.2 The Products shall be deemed to be accepted by Ypsomed after accomplishment of the incoming inspection. The incoming inspection shall be carried out within 30 days after delivery of the Products. Such acceptance does not constitute and shall not be construed as acceptance of the conformity of the deliverables regarding the warranty of Art. 10.1 above.
- 10.3 Unless otherwise agreed, the warranty period shall be 24 months. It shall begin upon the unconditional acceptance of the delivered Products by Ypsomed.
- 10.4 Within the warranty period, every notice of defect by Ypsomed shall be legally valid. Hidden defects may be validly notified within 14 days upon their discovery or taking notice of the essential parts

thereof by Ypsomed, even after the expiry of the warranty period.

- 10.5 If during the warranty period it transpires that the delivery or parts thereof does not comply with the warranties given under Art. 10.1 above, the Supplier shall be obliged to remedy such defects, or cause them to be remedied, on-site and at his expense, or Supplier shall deliver to Ypsomed a replacement delivery free from defects. If the Supplier fails to fulfil his obligations as set forth above Ypsomed shall have the right, after first having granted Supplier an appropriate extension of time - if such extension seems not being futile from the outset - to remedy the defects itself or to cause them to be remedied at Supplier's expense or alternatively to proceed according to Section 8.3. In any event Ypsomed shall be entitled to claim further damages.
- 10.6 Upon remedy of a defect according to Art. 10.5 above, a new warranty period of 24 months shall begin.
- 10.7 The Supplier shall be liable according to the applicable product liability legislation for any loss, damage or injury that accrues to Ypsomed or any third party as a result of the defective nature of the Products and shall hold harmless Ypsomed against any claim and damage related thereto.
- 10.8 The Supplier represents and warrants that no intellectual property rights of any third party are infringed by Ypsomed's use of the Products or services supplied by Supplier shall hold harmless Ypsomed against any claim and damage related thereto.
- 10.9 If the supplied Products or its components are subject to intellectual property rights of third parties, the Supplier guarantees that he has entered into a licence agreement with the holders of such rights which permits the said Products or its components to be used freely in Ypsomed's apparatus and equipment.

Art. 11 Spare parts / maintenance

Unless otherwise agreed, the Supplier shall provide maintenance of the Products and spare parts at a reasonable price for five years after the final delivery of the Products. Costs of delivery of spare parts and maintenance are to be borne by the Supplier until the handing over of the products at the appointed destination (at the premises of Ypsomed or another place specified by Ypsomed) and are thereafter to be borne by Ypsomed. Ypsomed reserves any warranty claims.

Art. 12 Jurisdiction and applicable law

- 12.1 **For the sole benefit of Ypsomed, the courts of 3400 Burgdorf, Switzerland shall be the exclusive venue for any dispute arising out of or relating to orders or deliveries of Products or these terms of purchase. Ypsomed shall be entitled to enforce its rights at the domicile of the Supplier or before any other competent court.**
- 12.2. The laws of Switzerland shall govern these terms of purchase. Unless otherwise stated, the Incoterms 2010 shall apply.