

General Terms and Conditions

1. The General Terms and Conditions defined herein shall be the basis of all our offers, performance and services – including future offers, performance and services within the framework of an ongoing business relationship – unless otherwise agreed under special conditions. General Terms and Conditions of customers shall not apply, even if we do not expressly contradict them.

Collateral agreements and amendments of the contract must be made in writing.

"Merchant" in the sense of our Terms and Conditions shall be any person defined as merchant in accordance with the Austrian Commercial Code, legal entity (body corporate), or separate estate under public law.

2. Our offers are made without obligation. Our order confirmation is relevant with regard to the contents of the contract and the scope of supplies and services. If we do not make out an order confirmation, our invoice shall be considered as order confirmation. Reservations shall be considered as make-and-hold orders and are binding upon the customer with the order confirmation.

3. Our delivery periods begin with the date of our order confirmation; for merchants, they are only approximate. Transactions for delivery by a fixed date shall be precluded.

If an impediment to performance occurs, we shall be exempted from the duty to perform, provided the impediment to performance is an unforeseeable, not merely transitory impediment not due to our fault or caused by our negligence, and which we cannot overcome with reasonable expenses. If a transitory impediment to performance occurs, this exemption shall apply only for the period the impediment has effect. Impediments to performance are in particular force majeure, acts of sovereign power, transport disturbances, cancelled or incorrect or not timely supplies to us (failure to deliver) regarding goods or supplies ordered by the customer, interruption of operations (e.g. on account of industrial action or raw material shortages) and similar occurrences. The exemption from the duty to perform shall only take effect with regard to non-commercial customers if we demonstrate the failure of delivery to us as well as set forth that we have concluded a covering transaction tantamount to this contract for the services/supplies to be performed to the customer, with regard to which the contract partner abandoned us, or that such covering transaction was impossible.

We shall be entitled to part-performances. They shall be considered as independent performances.

4. Claims against us must only be assigned by the customer upon our explicit consent.

5. Our devices and equipment (with the exception of expendable items and spare parts) shall be installed, connected and put into operation by us. Preparatory measures necessary for the installation to be made at the customer shall not be part of the performance rendered by us. For all operations, our General Terms of Installation and Commissioning shall apply.

6. We warrant that our products will, at the moment of transfer of risk, be in a condition according to contract for a period of 12 (twelve) months. We shall be entitled to inspect the goods at the customer at any time. Obvious defects are to be notified within 10 (ten) days following taking delivery of the goods; merchants, however, shall be requested to give notification of defects immediately. Concealed defects are to be specified and notified in writing within 10 (ten) days upon detection; merchants shall be requested to notify concealed defects immediately upon detection. The objection of an incorrect notification of defects can only be effectively waived by us in writing.

In the interest of uninterrupted quality control, the customer shall be requested to make out a detailed notification of defects, giving at least: article number, batch code (for devices: serial code), day of occurrence of the defect, and operating conditions of the product reported to be defective.

In case of defects, we shall have the choice of providing replacement or, as the producer, reperformance at the contractually defined performance destination. Repeated reperformance shall be admitted, except when unconscionable in an individual case. In case of failure or refusal of reperformance and/or replacement, the customer shall be entitled to demand a reduction of the compensation or, upon his or her choice, demand that the contract be rendered null and void.

Any further claims of the ordering person shall be precluded, with the exception of claims for damages within the framework of the legal provisions, which presuppose, however, that we or our vicarious agents have acted intentionally or been grossly negligent. This shall also apply with regard to tortious acts and violations of obligations under preliminary or collateral contracts as well as if no conclusion of a contract has been brought about.

Characteristics shall only be warranted if explicitly so designated. We give information as to processing and application options, technical advice, as well as any other information to the best of our knowledge on the basis of our experience, albeit without obligation.

In case of normal wear, as well as, in particular, in case of defects or damage caused after the transfer of risk on account of wrong or negligent treatment on the part of the customer (cf. below), if maintenance instructions, application and storage provisions or legal provisions were not observed or material not corresponding to the original specifications were used, we shall not be liable. Please note that changes made in our products or the use of external accessory parts or expendable items may potentially cause damage.

We shall furthermore not be liable if persons not authorised by us have interfered with or made changes in products or replaced parts, or if parts have been spent. This shall not apply with regard to operations necessary to ascertain a potential defect.

The present warranty shall apply to work performances mutatis mutandis.

7. Vis-à-vis merchants, we shall be liable for damages only with regard to damage that typically occurs in a business transaction of the kind concluded in this contract. Claims for damages shall in this case be limited to 30% of the damage, but to a maximum of 30% of the performance value.

In other respects concerning damage claims, we refer to Fig. 6 of the present Terms and Conditions. Our right to indicate exculpatory evidence shall remain unaffected.

8. We shall be entitled to call back goods or cancel deliveries if necessary for an investigation as to presumed manufacturing defects etc., in case of defects to prevent damage, and similar events. Upon our choice, we shall provide replacement or reperformance in accordance with our Conditions (Fig. 6, paragraph 2); any other claims shall be precluded.

9. The transfer of risk to the customer shall in any case take place ex works or distributor.

Place of performance, including for payments, shall be Sierndorf, Lower Austria.

10. We effect insurance policies only upon request against a charge of 1% of the value of goods.

11. Our prices are quoted ex site Sierndorf or distributor. The price on the day the performance is rendered shall be relevant; with regard to non-merchants, the price on the day of conclusion of the contract.

If performance periods of over 4 (four) months have been agreed and costs or purchase prices rise, we shall be entitled to increasing agreed prices accordingly. If the increase exceeds 6%, the customer shall be entitled to withdraw from the contract in writing within 8 (eight) days upon having been informed of the increase.

If the price at the moment of performance exceeds the list price at the moment of the conclusion of the contract by more than 6%, commercial customers shall be entitled to withdraw from the contract in writing within 8 (eight) days upon communication of the new price.

12. Our invoices shall be due in cash according the written payment terms from date of invoice or upon renewed payment request. We shall be entitled to demand interests of 2% as of due date from merchants; from other customers at of the moment the payment is overdue; in any case, however, in the amount of 8% per annum. Any further claims to damages shall remain unaffected.

13. A set-off on the part of the customer shall only be admissible provided the counterclaim is undisputed or has been declared finally and conclusively. Merchants shall waive any rights of retention as well as the defence of non-performance of the contract.

14. The use or putting into operation shall be considered as acceptance unless the customer denies acceptance within 10 (ten) days upon receipt of the "Order confirmation/Invoice" in writing. The customer's attention shall be specifically drawn to the consequences of acceptance without contradiction through respective information printed on the "Order confirmation/Invoice." Our products are to be accepted no later than 12 months upon receipt of the "Order confirmation/Invoice."

15. The customer shall commit him- or herself to observing any and all relevant provisions regarding treatment and storage of the goods as well as any and all security and other legal provisions (e.g. Austrian Law on Pharmaceutical Products). The goods must be passed on originally packaged, bearing the original imprint and including the original package insert.

16. Our products shall remain our property until payment of all existing payment claims against the customer (with regard to merchants including current account balances). The respective latest delivery shall be discharged from the reservation of title if the value of the remaining security exceeds our claim by more than 20%.

In case of delay of payment, we shall be entitled to demand that the goods subject to retention of title be temporarily restored for reasons of safeguarding; in case of hire-purchase transactions, we exercise the right of withdrawal through this demand.

We shall be informed immediately about attachment or seizure of property and other jeopardy of our rights in writing stating all details that we need to institute third party proceedings according to § 37 of the Austrian Enforcement Regulations. If we suffer losses due to the fact that a third party is unable to pay the legal and extra-judicial costs of proceedings instituted under § 37 of the Austrian Enforcement Regulations, the buyer shall be liable.

If our products are combined with other goods not pertaining to us, we shall be entitled to the ownership, or, if appropriate, co-ownership of the new chattel at a ratio of the invoice value of our goods subject to retention of title to the purchase price of the other processed goods (at the time of processing). With regard to the new chattel, the regulations on goods subject to retention of title shall apply correspondingly.

The customer shall be entitled to continue to use our goods subject to retention of title in the proper course of business. The customer shall herewith transfer to us in advance any and all claims against third parties resulting from the further processing or sale of our products, in the amount of the respective invoice value (including VAT); if at the same time materials of other suppliers were used, to the amount proportionate to the value of the materials used. Notwithstanding this transfer, the customer shall remain entitled to collect the outstanding debts. Upon request, the customer shall be obliged to make known to us the debts transferred, along with their debtors, and to make available to us any and all information and documents necessary for a collection of debts. In any case, the customer shall account for the legal fee in the amount of 0.8 % of the payment of the transferred debts. Upon our special request, the purchaser shall inform the third party debtor concerned of the transfer to us. This transfer regulation shall also apply to processed or mixed goods subject to retention of title.

In case of restoration of the goods subject to retention of title, the customer shall, for the period of use, owe at least the rental for products common with Stradis. The claim to performance of the contract or further damages shall remain unaffected.

17. In case of agreements on a temporary use of our products (e.g. in case of lease-purchase agreements or other use agreements), our products shall be returned at the end of the period of use without solicitation to the place determined by us, as a rule Sierndorf. The return of the let products is an obligation to be performed by the customer at the creditor's place of business.

If the customer fails to return the equipment after his or her obligation to return them to us, the customer shall be obliged to pay, for the period of time until the equipment is returned, the agreed rental or, if no rental has been agreed, the rate common with Stradis for such equipment, in any case the remuneration adequate for the use of the respective equipment, regardless of whether or not it has actually been used. We herewith state by common consent that Stradis does not hereby consent to a prolongation of the use or the rental on the part of the customer.

18. With regard to all legal relations arising from or in connection with this contract, the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11.04.1980 shall be explicitly excluded.

19. Seat of the company and place of jurisdiction is BH Korneuburg (Korneuburg District Commission). The contract shall be governed exclusively by Austrian law.

The text of the present General Terms and Conditions is a translation. In case of dispute, the German original shall prevail.