

General terms and conditions of business of scil animal care company GmbH in relation to entrepreneurs (B2B)

§1 Area of applicability

(1) These general terms and conditions of business shall apply to all contracts between scil animal care company GmbH, Dina-Weissmann-Allee 6, 68519 Viernheim, Telephone +49 (0)6204 7890 - 0, Fax: +49 (0)6204 7890 - 200, E-Mail: info-de@scilvet.com, represented by Dr. med. vet. Hartmut Jaissle, register court: Darmstadt Local Court (Amtsgericht Darmstadt), register number: HRB 61670, value added tax number in accordance with § 27a of the German Value Added Tax Act (UStG): DE 811177196 (hereinafter referred to as "Seller") and its customers, even if this is not separately agreed.

(2) Unless otherwise expressly agreed, these general terms and conditions of business shall apply in the version valid at the time of conclusion of the contract. The respective most up to date version of the general terms and conditions of business shall be provided to the Buyer on request and can be viewed at www.scilvet.de/agb, downloaded and printed out regardless of such. By means of the ordering of the goods, the Customer hereby expressly agrees to the applicability of these general terms and conditions of business and hereby waives the assertion of its own deviating terms and conditions of business and/or terms and conditions of purchase and payment. Other terms and conditions of business shall also not apply even if the Seller does not expressly object to these in an individual case. Deviating terms and conditions of business of the Customer shall only apply if these were agreed separately, expressly and in writing. Should the Customer not be in agreement with such, it must inform us accordingly in writing immediately.

(3) Customers as defined in these general terms and conditions of business are exclusively entrepreneurs as defined in §§ 14, 310 Paragraph 1 of the German Civil Code (BGB), i.e. any natural or legal person or legally capable business partnership which is acting in the exercising of its commercial or self-employed professional activities at the time of conclusion of the contract. A sale to consumers shall be excluded.

(4) Any individual agreements with the Customer concluded in an individual case (including ancillary agreements, additions and amendments) shall always take priority over these general terms and conditions of business. In reservation of counter proof, the written contract and/or written confirmation by the Seller shall be decisive in respect of the content of such agreements.

§ 2 Conclusion of the contract

(1) The terms for our goods within the framework of the product presentation and promotion, in particular on the Internet at www.scilvet.de shall be subject to confirmation and non-binding. These shall not represent a binding offer to conclude a sales agreement, rather these shall serve the submission of a binding offer by the Customer.

(2) Statements of the Seller concerning the subject matter of the delivery or service (for example weight, dimensions, capacity, tolerances and technical data) as well as the representations of the same (for example drawings and images) shall only be decisive in an approximate manner, unless the usability for the contractually intended purpose requires a precise compliance. These are not guaranteed quality characteristics, rather descriptions or markers of the delivery or service. Deviations which are customary in the trade and deviations which take place due to legal regulations or represent technical improvements, as well as the replacement of components by equivalent parts

shall be permissible, provided that these do not impair the usability for the contractually intended purpose.

(3) With the order of the requested goods, the Customer is submitting a legally binding contractual offer.

The ordering of goods can, as a rule, take place:

- By means of filling in and faxing (fax: +49 (0)6204 7890 - 200) the corresponding fax order form (download under www.scilvet.de/service/downloads) or
- By phone via the order hotline (telephone: +49 (0)62 04 78 90 222)
- By means of filling in a corresponding order form within the framework of an appointment with one of our field sales employees by prior agreement.

(4) Unless otherwise stated in the order, the Seller shall be entitled to accept the said contractual offer within a deadline of 2 weeks of receipt. The Seller shall be entitled to reject the acceptance, for example following a check of the creditworthiness of the Customer.

(5) The mere receipt of an order shall not yet represent a binding acceptance on our part. A contract shall not come into existence until the Seller accepts the order by means of an express declaration. The issuing of the invoice and the carrying out of the delivery of the goods to the Customer shall be equivalent to an express declaration of acceptance.

(6) The performance of an order of used veterinary medical devices via the Internet page of the Seller under the "promotion" rubric (www.scilvet.de/promotion) shall take place as follows in deviation from Paragraph 3:

- a) Non-binding reservation of the device by the Customer by means of filling in the online enquiry form on the detailed page of the respective product.
- b) Following confirmation of receipt of the reservation by the Seller via email, the selected goods will be reserved for the Customer for 72 hours.
- c) Within 72 hours, a field sales employee of the Seller will contact the Customer and submit a binding offer for the purchase of the reserved device to the Customer.
- d) The Customer declares the binding acceptance of the offer.
- e) Invoicing and delivery of the goods to the Customer at the agreed time.
- f) Onsite instruction of the Customer concerning the handling of the device at the Customer's practice.

(7) The conclusion of the contract shall take place subject to the reservation that no delivery will be made or only a partial delivery will be made in case of incorrect or improper self-supply. This shall only apply in case that the non-delivery or partial delivery is not due to fault on the part of the Seller.

§ 3 Special terms of delivery in case of electro and electronic devices

(1) Should the subject matter of the contract be the delivery of devices which come under the German Electro and Electronic Devices Act (ElektroG) which are however not intended for use in private households in accordance with their type and purpose of use, the Customer shall be obliged to properly dispose of the delivered goods after use at its own expense in accordance with the statutory regulations.

(2) The Customer shall release the Seller from the obligations in accordance with § 19 Paragraph 2 ElektroG (obligation of the manufacturer to take return) and any associated third party claims.

(3) The Customer must contractually oblige commercial third parties to which it forwards on the delivered goods to dispose of these properly in accordance with the statutory regulations at its own expense after use and, in case of further forwarding on, to impose a corresponding further obligation.

(4) Should the Customer fail to contractually oblige the third party to whom it forwards on the delivered goods to assume the disposal obligation and impose the further obligation, the Customer shall be obliged to take back receipt of the delivered goods at its own expense following use and to properly dispose of these in accordance with the statutory regulations.

(5) The claim of the manufacturer to assumption/release by the Customer shall not expire prior to two years following the final completion of use of the device. The two-year period of the expiry suspension shall commence at the earliest at the time of receipt by the manufacturer of a written notification of the Customer concerning the completion of use.

§ 4 Delivery modalities, place of performance, transfer of risk, acceptance default, force majeure

(1) The Seller will carry out the full order of the Customer as quickly as possible. The goods shall be delivered to the address of the Customer stated within the framework of the ordering process. The performance of partial deliveries by the Seller shall be permitted.

(2) Unless otherwise agreed, the Seller shall be entitled to determine the type of dispatch (in particular shipping company, delivery route, packaging) itself. The goods shall be made available for delivery by the Seller in readiness for dispatch. The packaging material shall become the property of the Customer; it shall be obliged to properly dispose of the packaging material.

(3) Orders may be subject to shipping and processing fees. In case of deliveries abroad, the actual shipping costs incurred will be charged for. In respect of partial and subsequent deliveries, the shipping costs will only be charged once. All shipments of goods within Germany will be insured by the Seller against damage during transportation and loss.

(4) The place of performance for all obligations under the contractual relationship shall be the place of business of the Seller, unless otherwise agreed.

(5) The risk of possible loss and possible deterioration of the goods, as well as the risk of delay shall be transferred to the Customer at the time of handover of the goods to the shipping company, the delivery company or other third parties involved in the performance of the delivery. This shall also apply if partial deliveries take place.

(6) Should the Customer enter acceptance default, should it fail to comply with a co-operation action or should the delivery be delayed for other reasons for which the Customer is responsible, the Seller shall be entitled to store the goods at the expense of the Customer and, after four weeks, to sell these elsewhere and demand reimbursement of the losses incurred as a result, including additional expenses (for example storage costs). Selling of the goods elsewhere shall also be permitted prior to expiry of the above deadline if the Customer seriously or clearly refuses acceptance or should the incapability of payment on the part of the Customer become apparent during this time. The right to rescind the contract or to demand damages due to non-fulfilment shall remain unaffected thereby.

(7) The Seller shall not incur liability for impossibility of delivery or for delivery delays, should these have been caused by force majeure or other events which were not foreseeable at the time of conclusion of the contract (for example all types of operational disruptions, difficulties concerning the procurement of materials or energy, transport delays, strikes, lawful blockades, shortage of manpower, energy or raw materials, difficulties in obtaining the necessary official permits, official measures or lack of delivery by suppliers or incorrect or late deliveries by suppliers) for which the Seller is not responsible. Should such events make the delivery or service significantly more difficult or impossible for the Seller and should the hindrance be not only temporary, the Seller shall be entitled to rescind the contract. In case of temporary hindrances, the delivery or service deadlines shall be extended or postponed by the time of the hindrance, plus a reasonable start up period. Should the acceptance of the delivery or service not be reasonable for the Customer due to the delay, it shall be entitled to rescind the contract by means of an immediate written declaration in relation to the Seller.

§ 5 Payment terms, default interest

Invoice amounts shall be paid by the Customer within thirty days of the date of the invoice or within ten days minus a 1.5% discount. Should the Customer issue a direct debit mandate, the invoice amount will be deducted 10 days after the date of the invoice from the bank account of the Customer with a 2% discount. The costs of a returned direct debit shall be borne by the Customer. Default interest shall be charged by the Seller to the amount of 8% above the respective base rate of interest.

§ 6 Reservation of ownership

(1) Until payment of all current and future claims under the sales agreement and an ongoing business relationship (secured claims) to which the Seller is entitled, the Seller shall reserve the ownership in respect of the sold and delivered goods.

(2) The goods which are subject to reservation of ownership may not be pledged to third parties or provided as security before full payment. The Customer shall immediately inform the Seller in writing if an application for the opening of insolvency proceedings is filed or should third party attacks take place against the goods which belong to us (for example seizures).

(3) In case of behaviour on the part of the Customer which is in breach of contract, in particular in case of non-payment of the purchase price due, the Seller shall be entitled, in accordance with the statutory regulations to rescind the contract and to demand return of the goods due to the reservation of ownership and the rescission. Should the Customer not pay the purchase price due, the Seller shall only be able to assert the said rights if it has set the Customer a reasonable deadline

in advance which has expired fruitlessly or should such a setting of a deadline not be required in accordance with the law.

(4) Until the revocation in accordance with (c) below, the Customer shall be entitled to sell on and/or process the goods which are subject to reservation of ownership in the course of normal business dealings. In such a case, the following provisions shall apply additionally.

(a) The reservation of ownership shall extend to the product created by means of the processing, mixing or connection of the goods to the full value, whereby the Seller shall be deemed to be the manufacturer. Should the right of ownership of third parties remain in case of processing, mixing or connection with their goods, the Seller shall acquire co-ownership to the relationship of the invoice values of the processed, mixed or connected goods. Otherwise the same shall apply to the created product as applies to the goods delivered under reservation of ownership.

(b) The Customer hereby assigns to the Seller as security all claims to the amount of the purchase price (including value added tax) agreed between the Seller and the Customer which arise from the resale and the amount of any co-ownership share of the Seller in accordance with the paragraph above. The Seller hereby accepts the assignment. The obligations of the Customer named in Paragraph 2 shall also apply in respect of the assigned claims.

(c) The Customer shall remain entitled to collect the claim alongside the Seller, provided that the Customer properly complies with its payment obligations and is not in payment default. The Seller shall be obliged not to collect the claim, provided that the Customer complies with its payment obligations in relation to the Seller, no difficulties concerning its payment capability are present and the Seller does not assert the reservation of ownership by means of the exercising of a right in accordance with Paragraph 3. Should this however be the case, the Seller shall be able to request that the Customer notifies the seller of the assigned claims and their debtors, provides all necessary information for the collection, hands over the associated documents and informs the debtors (third parties) of the assignment. In addition, the Seller shall be entitled in such a case to revoke the authority of the Customer to sell on and process the goods which are subject to reservation of ownership.

(d) Should the realisable value of the securities exceed the claims of the Seller by more than 20%, the Seller shall release securities according to its choice following a request by the Customer.

§ 7 Assignment, retention, setting off

The assignment to third parties of claims of the Customer against the Seller shall be excluded, unless this concerns claims which have been recognised by a court. The Customer shall only be entitled to a right of retention or set off if the counterclaims are acknowledged by the Seller or have been recognised by a court.

§ 8 Warranty

(1) The prerequisite for any warranty rights shall be that the Customer fulfils all inspection and complaint obligations owed under § 377 of the German Civil Code (BGB). The delivered goods must be carefully inspected immediately after delivery to the Customer or a third party nominated by it. In case of obvious defects (including incorrect and reduced delivery) which would have been recognisable in the case of an immediate and careful inspection, the goods shall be deemed to have been accepted by the Customer if the Seller does not receive a written defect complaint within one

week of delivery. In respect of hidden defects, the delivered goods shall be deemed to have been accepted by the Customer if the written defect complaint is not received by the Seller immediately following the discovery of the hidden defects. Should the Customer fail to carry out the proper inspection and/or defect notification, the liability of the Seller for the defect which has not been notified shall be excluded.

(2) Should the delivered goods be defective and should the Customer have provided timely notification of the defect, the Customer shall be entitled to demand supplementary performance in the form of defect correction or the delivery of a defect-free item.

According to its choice, the Seller must carry out the replacement delivery or improvement within a deadline of 4 weeks.

(3) The Seller shall not be obliged to carry out supplementary performance whilst the Customer is in default in respect of the fulfilment of significant contractual obligations for its part. This shall not apply if the Customer is entitled to a right to refuse performance or a right of retention. The Customer may only withhold payment or assert other rights to refuse performance due to defects if the amount of the retained remuneration stands in a reasonable relationship to the extent of the defect.

(4) Following a request by the Seller, an object of delivery which has been objected to shall be returned to the Seller carriage paid. In case of a justified defect complaint, the Seller shall pay the costs of the most cost-effective shipping route. This shall not apply should the costs increase due to the object of delivery being located at a place other than the location for proper use.

(5) Should the improvement or replacement delivery fail, i.e. due to impossibility, unreasonableness, refusal or unreasonable delay, the Customer shall be able to rescind the contract or reasonably reduce the purchase price. However no right of rescission shall exist in case of minor defects.

(6) The sale and delivery of used goods shall take place to the exclusion of any warranty for material defects. Paragraph 7 shall remain unaffected thereby.

(7) Damages claims of the Customer shall only exist in accordance with § 9, also in case of defects.

§ 9 Limitation of liability

(1) The liability of the Seller to pay damages shall be limited in accordance with this § 9, regardless of legal reason, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations and unlawful acts, should fault be present herein.

(2) Regardless of legal reason, the Seller shall incur liability to pay damages within the framework of liability for fault in case of intent and gross negligence (gross fault).

In case of simple negligence, the Seller shall only incur liability in accordance with the statutory regulations (for example for care in its own matters) in reservation of a reduced liability provision

a) For losses connected to injury to life, body or health

b) For losses connected to a significant breach of an essential contractual obligation (obligation whose fulfilment is essential for the proper fulfilment of the contract and on whose compliance the

Contracting Partner regularly relies and may rely); in such a case, the liability of the Seller shall however be limited to losses which are foreseeable and occur typically.

(3) The limitations of liability under Paragraph 2 shall also apply in case of breaches of obligation by means or in favour of persons whose culpability is the responsibility of the Seller in accordance with the statutory regulations.

(4) The limitations of liability under Paragraph 2 shall not apply should the Seller have fraudulently concealed a defect or provided a guarantee for the quality of the goods, as well as to claims of the Customer under the German Product Liability Act (Produkthaftungsgesetz).

(5) Should the Seller provide technical information or act in an advisory capacity and should the information or advice not belong to the scope of service owed by it and agreed under the contract, this shall take place free-of-charge to the exclusion of any liability.

§ 10 Limitation period

In deviation from § 438 Paragraph 1 Number 3 of the German Civil Code (BGB), the general limitation period for claims connected to material defects and defects of title in case of the purchase of new goods shall be one year following delivery of the goods to the Customer. The reduction of the warranty period to one year shall not apply if the obligation to provide damages is related to personal injury or damage to health due to a defect for which the Seller is responsible or due to intentional behaviour or gross negligence on the part of the Seller or its vicarious agents (§ 9 Paragraph 2 general terms and conditions of business).

§ 11 Services

(1) These general terms and conditions of business shall also apply without restriction to all services of the technical department of the Seller. All offers of the technical department shall be non-binding and subject to confirmation. Actual actions, such as the creation of a cost quotation on the part of the technical department shall not represent the acceptance of the contractual offer under any circumstances; an express declaration of acceptance of the Seller shall be necessary in all cases.

(2) The Seller shall reserve the right to have services carried out by a third party.

(3) Unless otherwise agreed with the Customer, exchanged defective parts shall be transferred to the possession and ownership of the Seller and shall be treated accordingly under the German Law Governing the Disposal of Electrical and Electronic Equipment (ElektroG).

§ 12 Closing provisions

(1) The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the United Nations Convention Governing the International Sale of Goods.

(2) Should the Customer be a businessman, a legal person under public law or a public law special fund or should the Customer not have a general place of jurisdiction in Germany, the exclusive place of jurisdiction for any disputes under the business relationship between the Seller and the Customer shall be the place of business of the Seller or Customer, depending on the choice of the Seller. However, in case of claims against the Seller, the place of business of the Seller shall be the exclusive place of jurisdiction. Mandatory statutory provisions concerning exclusive places of jurisdiction shall



remain unaffected by this provision.

As of February 2016
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