

BMODESTO B.V.
GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY
(February 2019)

1 DEFINITIONS

- 1.1 **"Agreement"**: each agreement between Parties on the sale and provision of Goods by BModesto to Buyer, either for a one-off transaction or for regular transactions;
- 1.2 **"BModesto"**: BModesto B.V., a private company with limited liability, established and existing under the laws of The Netherlands, having its offices at Minervaweg 2, 8239 DL Lelystad, The Netherlands, registered at the Trade Register of the Chambre of Commerce in the Netherlands under registration number 59787546;
- 1.3 **"Buyer"**: each natural or legal person acting in the performance of a profession or business requesting from BModesto an offer, or to which BModesto has made an offer or concluded an Agreement with, for the provision of Goods by BModesto to such person;
- 1.4 **"Goods"**: the products that may be delivered by BModesto to Buyer;
- 1.5 **"GTC"**: these General Terms and Conditions of Sales and Delivery including its provisions;
- 1.6 **"Parties"**: Buyer and BModesto;
- 1.7 **"Party"**: Buyer or BModesto, as the context requires.

2 APPLICABILITY

- 2.1 These GTC apply to all offers, orders, legal relations and Agreements under which BModesto supplies or may supply Goods to Buyer.
- 2.2 The applicability to offers, orders, legal relations and Agreements of deviations from these GTC shall require explicit prior written consent from BModesto.
- 2.3 These GTC remain in force for as long as the relation between the Parties lasts, including in the situation that no reference would be made to these GTC in future correspondence, for example in the context of new orders.
- 2.4 The applicability of any purchase or other terms and conditions of Buyer is expressly rejected and these other terms and conditions do not bind BModesto, unless and in so far as they have been explicitly and specifically accepted in writing by BModesto.

3 OFFERS, ORDERS, AGREEMENT

- 3.1 Offers are not binding and are valid for the period indicated by BModesto in the offer, or in case no period is given, for a period of 3 days after date of the offer; thereafter the offer shall be deemed automatically cancelled, unless Parties agree to an extension of the offer.
- 3.2 Orders made by Buyer are subject to BModesto's written acceptance. BModesto reserves the right to not accept an order for any or no reason. Until BModesto has accepted Buyer's order, BModesto shall not be obligated to deliver under such order. Upon acceptance by BModesto of the order, an Agreement between the Parties to buy and acquire respectively sell and deliver the Goods shall be deemed in place.
- 3.3 Notwithstanding the provisions of art. 6:225 sub 2 of the Dutch Civil Code, BModesto shall not be bound by any deviations in the acceptance by Buyer of the offer from BModesto.
- 3.4 Agreements entered into by the Parties for regular transactions are entered into for an indefinite period of time.
- 3.5 BModesto may require Buyer to order reasonable minimum quantities.

4 DELIVERY

- 4.1 Deliveries by BModesto outside The Netherlands are made Ex Works (EXW, Incoterms). Buyer must transport or procure to transport the Goods in conformity with the storage conditions (temperature etc.) as prescribed by BModesto. In case BModesto is statutory obliged to obtain a license for sale or export of certain products, e.g. for opiates, BModesto shall then obtain such license. Buyer is solely responsible for obtaining any permits and licenses for export of the Goods from The Netherlands to his desired country of destination. Notwithstanding the foregoing, BModesto shall use reasonable endeavours to support the obtaining of such licenses and permits.

- 4.2 Deliveries by or on behalf of BModesto in The Netherlands are made Delivery Duty Paid (DDP, Incoterms). For such deliveries, BModesto shall deem to have fulfilled its duty to deliver by offering the Goods once. The receipt signed by Buyer or by a person reasonably understood to be representing Buyer will be the proof of delivery.

In case of refusal to accept the delivered Goods instantly, the costs of transport, storage and other expenses will be entirely at the expense of Buyer. In the event the Goods are not accepted instantly, BModesto is entitled to store the Goods at the expense and risk of Buyer, respectively keep the Goods stored and invoice the Goods without it being possible to refuse payment due to the fact de Goods have not been accepted.

- 4.3 Delivery times indicated or agreed are deemed to be approximate delivery times and will not bind BModesto. Any delay in delivery times will not entitle Buyer to claim any compensation, to refuse the delivery or to entirely or partly cancel the Agreement or entirely or partly suspend the fulfilment of any obligation of Buyer under the Agreement.
- 4.4 BModesto is entitled to deliver the Goods ordered in multiple partial deliveries. BModesto is entitled to invoice upon each separate partial delivery.

5 PACKAGING AND PACKAGING MATERIALS

- 5.1 BModesto will comply with the applicable statutory standards, including the current GDP Guidelines when packaging and labelling the Goods that will be delivered as they exist at the time and place of delivery. If Buyer requires special demands to the packaging and/or labelling of the Goods, Buyer must notify BModesto upon placing the order. The additional costs resulting from the special demands will be entirely for the account of Buyer.
- 5.2 The Buyer will be responsible for the storage and processing of empty/used packaging materials in conformity with the applicable legal provisions.
- 5.3 The pallets, crates etc. supplied by BModesto for packaging and transport, either against a deposit or not, will remain the inalienable property of BModesto.

6 OWNERSHIP AND TRANSFER OF RISK

- 6.1 Ownership and title in the Goods pass to Buyer upon Buyer having fulfilled all his obligations (including full payment of all outstanding amounts including any collection costs and interest accrued) with respect to the Goods. Until such full moment, ownership and title shall remain with BModesto.
- 6.2 As long as the delivered Goods are subject to retention of title, Buyer shall not be entitled to sell, dispose of or encumber the Goods. Buyer will take adequate insurance to cover the financial risks of any loss of the Goods and Buyer will appoint BModesto as beneficiary of any amounts to be paid out by the insurance company in relation to any loss.
- 6.3 The risk in the Goods transfers to Buyer at the moment of delivery by or on behalf of BModesto to Buyer at a location in The Netherlands, or if applicable, at the moment Buyer collects or procures to collect the Goods from the inventory of BModesto.
- 6.4 In the event that Buyer is in default regarding payment of the Goods, BModesto will be entitled to take the Goods back without any summons, declaring in default or judicial intervention, without prejudice to BModesto's other rights in connection with late payment. Buyer will immediately put the Goods at the disposal of BModesto and will grant BModesto access to all areas and places where Goods of BModesto are present, if necessary.

7 PRICES AND PAYMENT

- 7.1 All prices for Goods referred to in offers, orders and Agreements, are in Euro's unless specified otherwise, and are exclusive of VAT, transport and packaging expenses and exclusive of custom duties and other charges otherwise imposed on imports or exports, unless expressly agreed otherwise in writing.
- 7.2 BModesto shall be entitled at all times in its sole reasonable discretion to request advance payment, security, a guarantee or any other security to the amount which must be paid to BModesto by Buyer, in order to secure an adequate payment. Pending such security, BModesto will further be entitled to wholly or partially suspend the execution of the Agreement. In the event the advance payment is not

made, or if the guarantee or security is not provided in response to BModesto's reasonable demand, BModesto is entitled to terminate the Agreement by a mere written statement and without judicial intervention and expressly without prejudice to its right to claim damages, including but not limited to the situation that the Goods ordered can not be stored as required or sold to another buyer.

- 7.3 All payments shall be made in the currency stated on the invoice not later than 10 days after the invoice date, without any deduction, withholding, settlement of debts or discount otherwise. Buyer does not have a right to suspend or set-off his obligations.
- 7.4 Buyer shall, without further notice of default, be obliged to pay the interest equal to the statutory interest rate applicable in The Netherlands for commercial transactions following article 6:119a of the Dutch Civil Code, with a minimum of 1% per month, with time being counted in days, on all the amounts that have not been paid by Buyer on the last day of the payment term. This interest is due from the date on which the payment period had elapsed until the date of full compliance, without further notice being required and without prejudice to BModesto's other rights.
- 7.5 In the event Buyer, after a written summon to pay, remains in default with respect to full payment of the amount due, Buyer shall pay BModesto all (collection) expenses to be reasonably incurred by BModesto, both judicial and extrajudicial, including at least 15% collecting costs calculated on the outstanding amount of the invoice (with a minimum of € 250,-).

8 WARRANTY AND RETURNS

- 8.1 Separate from the packaging, leaflet and stickers, the Goods originate from the original pharmaceutical manufacturers and comply with the quality and warranty standards communicated by these original manufacturers.
- 8.2 Buyer must check within 3 working days after delivery (Ex Works respectively DDP) of the Goods whether the Goods show any deviations from the specifications of the relevant Agreement, and Buyer shall immediately inform BModesto in writing of any defects. After expiry of this period, the delivered Goods shall be deemed to be irrevocably accepted by Buyer. If, at the time of delivery there is no opportunity to detect any deviations, Buyer must notify this in writing or electronically at the time of delivery. In order to restrict damages, Buyer will follow any instructions of BModesto with regard to Goods and packaging.
- 8.3 Return shipments can only be returned, following the prior written consent of BModesto, in which event a return shipment number is supplied to Buyer. The Goods shall be delivered properly at the return address as indicated by BModesto. BModesto explicitly reserves the right to check the Goods or have the Goods checked at the place where they are located.
- 8.4 Return shipments will not be accepted in the event the storage conditions as prescribed by BModesto or as could reasonably have been understood to be taken, have not been observed.
- 8.5 If return shipments take place without prior written consent of BModesto, the costs thereof will be fully at the expense of Buyer. Furthermore BModesto will be entitled to charge administration costs and BModesto is free to store the Goods for the account and risk of Buyer (if necessary in the care of third parties) and to keep them at the disposal of Buyer.
- 8.6 Return shipments without the consent of BModesto will not discharge Buyer in any respect from his obligations (including payment).
- 8.7 Return shipments and the risks during the transportation of the return shipment, are for the risk and account of Buyer.
- 8.8 Buyer's sole remedy for any defect Goods, shall be, at BModesto's sole discretion, either the replacement of the defect Goods, or a proportional discount or refund on the invoice for the Goods.

9 LIABILITY

- 9.1 To the extent permitted by applicable law, BModesto's liability for direct damages incurred by Buyer whether in tort or in contract, shall not exceed, in the aggregate, the consideration paid and payable by Buyer to BModesto for the Goods in the prior 6 months, subject to a maximum of € 25.000.
- 9.2 Notwithstanding the foregoing, to the extent permitted by applicable law, in no event shall BModesto be liable to Buyer for any indirect, incidental, consequential, special or punitive damages, whether in tort or in contract, including lost profits, lost savings, reduced goodwill, damage caused by interruption of business operations, lost or damaged data, or other incidental or consequential damages, even if BModesto has been notified of the possibility of such damage.

- 9.3 BModesto's liability on account of attributable breach in performance of an Agreement arises only if BModesto is given immediate and proper written notice of default by Buyer, with a reasonable term to remedy the breach and BModesto is still in breach of its obligations after that term. The notice of default should contain an as detailed as possible description of the breach so that BModesto could respond adequately. Any claim for compensation against BModesto will become void after 6 months after the cause for a claim has arisen.

10 CONFIDENTIALITY

- 10.1 Each Party warrants and represents that information received from the other Party which the receiving Party understands or reasonably could understand to be of confidential nature, will be kept in strict confidence, unless disclosure of confidential information data is required by law and/or court order, in which case the information to be disclosed will be limited as much as possible. The Party receiving the confidential information shall use this only for the intended purpose.

11 FORCE MAJEURE

- 11.1 Neither Party shall be liable for non-performance or delay caused by wars, riots, strikes, fires, floods, earthquakes, government restrictions or causes beyond its reasonable control, together: "Force Majeure". Force Majeure also includes force majeure on the part of BModesto's suppliers.

12 TERMINATION AND CANCELLATION

- 12.1 BModesto reserves the right to terminate or cancel an Agreement wholly or partially immediately and without judicial intervention, by means of written notice to Buyer, without prejudice to Buyer's obligation to pay for any delivered Goods, in the event: a) Buyer is declared in state of bankruptcy, has been granted suspension of payment or applies for suspension of payment or bankruptcy, or is put under legal restraint, or b) Buyer discontinues its operations or decreases its operations substantially, or a resolution has been passed to wind up or liquidate Buyer, or c) Buyer wishes to enter into a composition with its creditors or execution is levied on all its assets or otherwise loses control of its assets, or d) is in material default with respect to the performance of an Agreement and after having been given a written and detailed notice of default, still does not comply with its obligations within 4 weeks of the date of said notice of default;
- 12.2 Buyer is liable for damages and costs of BModesto incurred or will incur as result of termination as referred to above, including loss of profit. The loss of profit will be deemed to amount to at least 8% of the price of any unpaid or undelivered delivery.
- 12.3 Due to the special characteristics of the trade and business of Parties, Buyer is not entitled to cancel any Agreement. If however a court of law would deem the non-cancellation unreasonable, Buyer will compensate BModesto for all damages, including but not limited to lost profits, lost goodwill and cost of attorneys.

13 FINAL PROVISIONS

- 13.1 BModesto has the right to modify these GTC at any time. Buyer shall be informed of any such modification, which shall then apply 14 days after notice to Buyer by BModesto.
- 13.2 If any of the provisions of these GTC is deemed void, the other provisions of these GTC shall remain in full force.
- 13.3 Agreements and the relationship between BModesto and Buyer will be governed entirely and exclusively by the laws of The Netherlands. Parties will try to deal amicably with any disagreement they may have in relation to any Agreement. In case the Parties can not solve the disagreement amicably, they will exclusively submit the case to the court in the district of Zwolle, The Netherlands.
- 13.4 The application of the United Nations Convention on the International Sale of Goods to any Agreement and legal relationship between the Parties is explicitly excluded.