

General Terms of Business of Croma-Pharma Gesellschaft m.b.H. and Croma GmbH, hereafter together and singly „CROMA“.

Introduction - Scope of Application

- The following General Terms of Business apply to all sales and delivery contracts between CROMA and the Buyer. By his irrevocable acceptance of the General Terms of Business, the Buyer specifically accepts the present terms and conditions, and at latest upon receipt of the goods agrees that the present terms and conditions shall also apply to all future transactions.
- Should the Buyer refer to his own purchase or order or other general terms of business, they shall not apply even if CROMA does not (again) specifically oppose them. This shall apply whichever contracting party has made the last proposal.

Placing of orders

- CROMA proposals are without obligation. Contracts do not exist until written acknowledgement of an order has been sent or until an order has been executed (invoicing or delivery of the goods ordered) by CROMA. Previous communications from the Buyer, particularly letters of confirmation, are valid for contract proposal purposes only.
- Side agreements must be made in writing and become effective when signed by a CROMA authorised signatory.

Prices

- CROMA prices are packed exworks only and do not include transport.
- Prices are in euro net, excluding VAT.
- Delivery is ex-CROMA works.

Delivery and partial deliveries

- Delivery dates and deadlines are binding only if stated in writing by CROMA.
- Delivery dates are calculated from the date the order confirmation is sent to the Buyer and under no circumstances before agreement on all order processing details.
- Deliveries within Austria: Goods are usually shipped exworks within five working days of CROMA's dispatch of order confirmation. Exceptions are individual imports, medicines for clinical studies, medicaments and medical devices that must be imported from abroad. In these cases the delivery dates set out in the contract will apply. In the case of customer collection within Austria, goods will be ready for collection within five working days of dispatch by CROMA of order confirmation.
- Exports will be shipped when available. The delivery dates set out in the contract will apply.
- CROMA may refuse to make delivery or may extend delivery deadlines or dates, or may terminate the contract without fixing a final deadline and assert the loss it has suffered including additional expense if and so long as the Buyer delays in the fulfilment of his obligations.
- In the event of late delivery, the Buyer must set an appropriate final deadline. The Buyer may not terminate the contract for late delivery until the final deadline has passed. In the event delivery is late or impossible because of circumstances unforeseen by CROMA or in the event of default for simple negligence on its part, in addition to the right of termination the Buyer shall have no other rights and in particular no right to compensation.
- Partial deliveries are allowed and may be invoiced immediately. In the event the Buyer is late in payment on a partial delivery, Croma-Pharma may terminate the contract without setting a final delivery date.
- In the event of force majeure, blockades, shortages of raw materials etc. CROMA may, despite general delay, defer delivery for the period of the problem or terminate the contract in full or in part as regards the portion of goods still to be delivered without such action giving any entitlement to bring any claim whatsoever against CROMA.

Transfer of risk, shipment and refusal to give acceptance

- Upon handover of goods to the freighter, shipper or other person responsible for shipment and at latest when the goods leave the CROMA works, risk shall transfer to the Buyer. This shall also apply if Croma-Pharma is paying shipment costs.
- Should shipment be delayed for reasons imputable to the Buyer, risk shall be transferred to him when the goods are ready for shipment.
- In the event of doubt, deliveries shall be deemed undamaged at handover.
- At the Buyer's written request shipments may be insured under normal terms and conditions. Unless otherwise agreed, the packing, route and nature of shipments shall be decided by CROMA and approved by the Buyer.
- Complaints about shipment delays, errors or damage in transport should be made by the Buyer within the stated deadline to the shipping company directly and to Croma-Pharma within 2 working days of receipt of the goods.
- If the Buyer does not accept the delivered goods, Croma-Pharma may demand 25 % of the order price as flat compensation. CROMA shall be further compensated for any damage exceeding the flat compensation amount.

Payment

- Payments shall be made net by the deadline stated on the invoice without deduction of any kind. If no deadline is stated, they shall be made within 10 days of the invoice date.
- Costs and expenses may not be deducted from payments.
- In the event of late or deferred payment, CROMA shall apply 12% p.a. interest on arrears.
- All CROMA invoices issued to the Buyer shall fall due immediately if the payment terms on an invoice have not been observed or if CROMA becomes aware of circumstances that in its proper, professional opinion might make the Buyer less reliable (liquidation procedure etc.).
- Only payments made directly to CROMA will give rise to release. In the event several invoices are outstanding, CROMA may set payments made by the Buyer off against the oldest current invoice including interest and expenses, even if the Buyer has made clear that the payment is in respect of a particular invoice. Setoffs of any kind against CROMA claims are prohibited. Legitimate complaints do not give any entitlement to return of the full invoice amount but only to an appropriate portion thereof.
- CROMA agents and medical representatives have no authority to accept payment on its behalf.

Title

- Until full payment of the agreed price is made, title to all delivered goods lies with CROMA.
- Goods may not be pledged or given as security to any third party. Croma-Pharma must be informed immediately in writing of any pledge of, or other interference by third parties in, reserved goods. Such third parties must be informed of CROMA's title to the goods. The Buyer shall bear the cost of protecting CROMA's rights.

Liability

- CROMA accepts no liability whatsoever unless in the event of deliberate intent or gross negligence. Compensation claims in general may not be brought against CROMA to the extent that slight fault on CROMA's part alone is involved. If the damage was caused by gross liability, any legal liability Croma-Pharma GmbH may have incurred shall be limited to typical damages. Where allowed by the law, CROMA accepts no liability for any general loss of profit by the Buyer.
- Third party claims (indirect claimants) against CROMA are prohibited. In the event third party claims are brought against the Buyer on the ground of services provided by CROMA under a contract, the Buyer shall inform CROMA immediately. CROMA shall be provided with full details of all claims and may at its own expense join any such court or administrative proceedings. The Buyer may not without CROMA's agreement acknowledge any claim or make and/or agree any settlement payment.
- Compensation claims must be made within the statutory limitation period.

Guarantee and returns

- The Buyer must check goods for defects immediately they are delivered.
- Incorrect deliveries (type of goods and quantities) and goods received in defective condition must be found immediately upon receipt of a shipment and reported in writing within 2 working days, giving the delivery voucher number.
- Such goods must be returned to CROMA immediately at the Buyer's expense.
- In the event of a justified complaint, CROMA may remedy the matter by returning the goods once repaired, providing a replacement delivery free of charge or issuing a credit note. No further claims may be made.
- The Buyer may not return sold goods for replacement unless agreed by CROMA in writing. Returns shall be shipped at the Buyer's risk and expense. Psychotropic substances, narcotics, individual imports, hospital requisition orders (Klinikanforderungen) and chilled goods may not be returned.

Resales, legal requirements

- CROMA goods may be resold only in their original format and intact original packaging. Medicaments may be resold only to licensed buyers.
- The Imported Medicaments Act (Arzneiwareneinfuhrgesetz) applies to imported medicaments. When using and/or reselling our goods, the Buyer shall be bound by all applicable laws and regulations.
- Contract partners and third parties may not bring general compensation claims against CROMA for product liability within the meaning of the Product Liability Act (PHG) unless they are alleging that CROMA caused the damage and was at least seriously negligent.

Place of fulfilment and jurisdiction

- The place of fulfilment is Korneuburg (Austria).
- Any dispute arising from or connected with delivery or payment for delivery shall be put before the competent first Gemeindebezirk (district court) of Vienna alone.
- The agreement between the Buyer and CROMA is regulated by Austrian law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

Data processing

The Buyer hereby agrees that CROMA may electronically process and use his personal data and all other data relating to the business relationship to process orders, manage contracts, process warranty claims, provide comprehensive care and advice and produce advertising material and proposals and also for statistical purposes and to meet statutory requirements. The Buyer further agrees that CROMA may provide such data to the manufacturer of the medical devices.

Final provisions

- Should any of the provisions of the General Terms of Business change or prove ineffective, this shall not affect the validity of the remaining CROMA terms and conditions. Should any provision prove ineffective, the Buyer shall agree an effective provision with CROMA that translates that ineffective provision as closely as possible into a lawful, effective form.
- The present General Terms of Business replace and invalidate all previous terms and conditions.

Valid as of 1 January 2005