

## GENERAL TERMS AND CONDITIONS OF BUSINESS

The following terms and conditions apply to the sale of finished products of Engelhard Arzneimittel GmbH & Co. KG, Herzbergstraße 3, 61138 Niederdorfelden within Germany. For foreign business and for contract manufacturing, please request our special terms and conditions.

### 1. Delivery

If a binding delivery period has been agreed, it shall be extended appropriately in the event of force majeure, e.g. traffic congestion and obstructions, shortage of materials, late delivery to Engelhard, shortage of means of transport, strikes, etc. The buyer and/or Engelhard may, however, withdraw from the contract before the expiry of the extended reasonable period by written notice to the other contracting party. However, the customer and/or Engelhard may withdraw from the purchase contract concerned before the expiry of the extended reasonable period by written declaration to the other contracting party. If the customer's permission to purchase the goods has been withdrawn or is no longer valid, the customer shall notify Engelhard thereof in writing without delay.

### 2. Prices

Unless otherwise agreed in writing, Engelhard's price list valid at the time of the order shall apply. Prices are ex Engelhard's warehouse. The pharmacy, purchasing and wholesale prices listed in Engelhard's price list are net prices; packaging and shipping costs and the statutory value-added tax at the time of the order shall be added. The pharmacy purchase and pharmacy sales prices with VAT listed in the price list of Engelhard are calculated in accordance with the "Arzneimittelpreisverordnung" (German Drug Price Ordinance). Our products are not price-linked.

### 3. Dispatch and transfer of risk

The choice of the shipping route and the mode of shipment shall be made by Engelhard at its best discretion. The customer's wishes shall be given due consideration. All shipments shall be made at the risk of the buyer, even in the case of carriage paid delivery. Transport insurance will only be taken out at the request and expense of the buyer.

### 4. Payment

Payments shall be due immediately upon receipt of the invoice within 14 days without deduction. An extension of the payment period shall require a separate written agreement. If the customer is in default of payment, he shall pay Engelhard interest on arrears at a rate of 8.0% above the respective base interest rate pursuant to § 247 of the German Civil Code (BGB). Engelhard reserves the right to claim further interest on arrears. Engelhard shall not be obliged to accept bills of exchange or cheques in payment. In any case, they will only be accepted on account of payment. Collection and discount charges as well as the tax on bills of exchange shall be borne by the buyer. He shall pay them together with the invoice amount. Engelhard shall not be liable for timely presentation, posting, notification and return of the bill of exchange in the event of dishonour. The customer may only set off claims of Engelhard against counterclaims of the customer if Engelhard has acknowledged the counterclaim of the customer or if the counterclaim has been established by a court of law. At the request of the customer, Engelhard shall be prepared to collect invoice amounts to be paid by direct debit. This agreement may be revoked by either party at any time.

### 5. Defects

The warranty period is 12 months from delivery. The provisions of §§ 377 HGB et seq. shall apply. Defects which the buyer asserts within the 12-month warranty period shall, at Engelhard's discretion, be repaired or replaced within a reasonable period of time. The buyer shall have the right to demand, at his discretion, rescission of the contract or

reduction of the purchase price if the rectification or delivery of replacement goods fails.

A failure of the rectification shall only be assumed if the rectification has not been carried out successfully after two (2) attempts.

### 6. Limitation of liability

Engelhard's statutory liability for damages and/or reimbursement of expenses shall be limited as follows:

- (a) In the event of a slightly negligent breach of material contractual obligations, Engelhard's liability shall be limited to typically foreseeable damages.
- (b) The slightly negligent breach of non-essential obligations shall be excluded.

The above limitation of liability shall not apply to Engelhard's statutory liability, e.g. under the German Medicines Act (Arzneimittelgesetz), the German Product Liability Act (Produkthaftungsgesetz), acceptance of a guarantee, etc.

### 7. Reservation of title

Title to the goods delivered by Engelhard shall not pass to the customer until payment has been made in full. The buyer shall be entitled to resell the goods subject to retention of title in the ordinary course of business, but not to pledge them or assign them as security. In the event of resale, the customer hereby assigns to Engelhard the claim arising from a resale of the goods subject to retention of title; Engelhard hereby accepts the assignment. The customer shall inform Engelhard without delay of any compulsory enforcement measures taken by third parties in respect of the goods subject to retention of title, handing over the documents necessary to prevent such compulsory enforcement.

### 8. Special provisions

The buyer shall ensure that Engelhard is permitted to store and process data in its data processing systems which serve the purpose of normal business relations. Medicinal specialities protected by trademark law are marked with ® in our price list.

In individual cases our corresponding trademarks are also protected outside the Federal Republic of Germany. Engelhard preparations may only be offered, sold or dispensed in unaltered original packaging, not in partial quantities. This also applies to hospital packs. The sale of the products outside the European Economic Area is excluded.

### 9. Final provisions

Amendments and supplements to the purchase contract must be made in writing in order to be valid. Should any provisions of this purchase contract prove to be invalid, this shall not affect the validity of the remaining provisions. The buyer and Engelhard shall replace the invalid provisions by new provisions which come as close as possible to the legal and economic purpose pursued. The general terms and conditions of the customer shall not apply, even if Engelhard does not expressly object to their application.

The exclusive place of jurisdiction is Frankfurt/Main.

Status: 01.01.2018



# ENGELHARD