

TERMS OF PURCHASE FOR GOODS
Version as of: May 2018

1. GENERAL PROVISIONS

- 1.1. These Terms of Purchase for Goods form the legal basis of any transaction concerning the purchase of goods with Sandoz GmbH / Novartis Pharma GmbH / EBEWE Pharma Ges.m.b.H NfG KG / Alcon Ophthalmika GmbH (SANDOZ / NOVARTIS / EBEWE / ALCON) as purchaser. Any alterations or amendments to these Terms of Purchase apply only if they have been explicitly accepted by SANDOZ / NOVARTIS / EBEWE / ALCON in writing and for such specific business case, only. In particular, contractual performance actions by SANDOZ / NOVARTIS / EBEWE / ALCON shall not be qualified as consent to any conditions deviating from these Terms of Purchase.
- 1.2. General Terms of Sale of the Seller (SELLER) attached to its offer or its offer confirmation or to which otherwise reference is made are in no event accepted by SANDOZ / NOVARTIS / EBEWE / ALCON and are therefore not valid.
- 1.3. In case of several, temporally disparate contract conclusions, the version of these Terms of Purchase at the time of contract conclusion and published on <https://www.sandoz.at/allgemeine-geschaeftsbedingungen> and www.novartis.at/geschaeftsbereiche/novartis_pharma/lieferanten will apply. Several conclusions of contracts with a specific SELLER shall not constitute a continuing obligation or any other claim to renewed conclusion of an agreement.
- 1.4. In case any of the following provisions are in conflict with any agreed Incoterms, the relevant respective agreed provision of the Incoterms shall prevail.
- 1.5. Should individual provisions of these Terms of Purchase be ineffective in full or in part, this shall not affect the validity of the remaining provisions and the order concluded on the basis thereof. The fully or partially ineffective provision shall be replaced by a provision which reflects as closely as possible to the intended economic meaning and purpose of the ineffective provision.

2. OFFERS AND CONCLUSION OF CONTRACT (ORDER)

- 2.1. The SELLER may not claim compensation for any costs incurring from making offers, concepts, fee estimates or plans.
- 2.2. SANDOZ / NOVARTIS / EBEWE / ALCON shall only be bound by written orders, offers and acceptances (including orders transmitted via email or telefax). This also applies to additional and subsequent orders as well as to the modification of orders. Oral agreements (including agreements made in the course of telephone calls) require a written confirmation (including such written confirmations transmitted via email or telefax).
- 2.3. SANDOZ / NOVARTIS / EBEWE / ALCON shall only be bound by written orders and offers (including orders transmitted via email or telefax) if SELLER confirms/accepts such order in writing (including such written confirmations transmitted via email or telefax) within 10 working days.

3. GENERAL OBLIGATIONS OF THE SELLER

3.1. SELLER will:

- (a) not promise, offer, pay, cause to pay, accept payment or induce payment or take any action that could be considered a bribe;
- (b) comply with all applicable laws and regulations, including those related to bribery and corruption (such as, but not limited to, the US Foreign Corrupt Practices Act, UK Bribery Act);
- (c) comply with industry standards; and
- (d) Perform its obligations under this Agreement with high ethical and moral business and personal integrity standards.

- 3.2. SANDOZ / NOVARTIS / EBEWE / ALCON promotes the societal and environmental values of the United Nations Global Compact to its external suppliers and uses its influence where possible to encourage their adoption. SELLER shall:

- (a) comply with the Novartis Supplier Code (and any published updates) which can be viewed and downloaded from <https://www.novartis.com/about-us/corporate-responsibility/resources-news/codes-policies-guidelines> (you may request a copy free of charge from SANDOZ / NOVARTIS / EBEWE / ALCON);
- (b) having regard to Section 9.6 of the Novartis Supplier Code, provide information/documentation on reasonable request to SANDOZ / NOVARTIS / EBEWE / ALCON and its affiliated companies to allow us to verify compliance with the Novartis Supplier Code in the form requested;
- (c) to rectify identified non-compliances with the Novartis Supplier Code (where capable of remedy) and report remediation progress to SANDOZ / NOVARTIS / EBEWE / ALCON on request;
- (d) ensure that where the SELLER and/or subcontractors/agents of the SELLER have been pre-approved by SANDOZ / NOVARTIS / EBEWE / ALCON (in accordance with these Terms of Purchase for Goods) to provide the goods, that such third parties also comply with the above requirements relating to the Novartis Supplier Code.

The SELLER acknowledges and agrees that the Novartis Supplier Code forms an integral part of these Terms of Purchase for Goods.

SANDOZ / NOVARTIS / EBEWE / ALCON may terminate the contract/ purchase order of which these Terms of Purchase for Goods form an integral part at any time, with immediate effect, by written notice to the SELLER, in the event that the SELLER breaches Sections 7.1, 7.2 and 7.3 of these Terms of Purchase for Goods, or the SELLER makes any material omission or misrepresentation of information in responding to the "Questionnaire for Third Parties".

3.3. If SELLER has received such questionnaire:

The SELLER warrants and represents that the information provided in the "Questionnaire for Third Parties" completed before entering this agreement is accurate and complete (and such information shall be treated as being part of these Terms of Purchase for Goods). The SELLER will inform SANDOZ / NOVARTIS / EBEWE / ALCON in writing of: (i) any material change to the information provided with the Questionnaire for Third Parties; and (ii) of any Material Change in the Structure of the SELLER, in both cases as soon as reasonably practicable after the relevant change occurs. For the purpose of this Section 7.4, a Material Change to the Structure of the SELLER means:

- (a) Change in ownership/control: the SELLER or any person who Controls the SELLER has a change of Control. "Control" in this context means the direct or indirect ownership of more than 50% of the equity interest or voting rights in a corporation or business entity, or the ability in fact to control the management decisions of such corporation or business entity (e.g., by the appointment of a majority of the directors or management or otherwise); or
- (b) Change to membership of the executive body of the SELLER: there is a change to the membership of the executive body of the SELLER. For example, a change to the executive management of the SELLER (e.g., CEO, N-1 to CEO)

- 3.4. All documents and information submitted by SANDOZ / NOVARTIS / EBEWE / ALCON to the SELLER shall be used exclusively for the purpose of the respective transaction and by the personnel of the SELLER necessary therefore on a need-to-know basis, shall in any event be treated by SELLER as confidential information and shall be returned upon completion of the transaction as well as immediately upon demand of SANDOZ / NOVARTIS / EBEWE / ALCON. Copies, if any, shall be deleted immediately and irretrievably. In the event that the SELLER engages a third party for the performance of its contractual obligations, it shall make sure that such third party contractually commits itself to at least the same degree of confidentiality.
- 3.5. The SELLER undertakes with respect to its recruiting activities in connection with its delivery obligation which make reference to SANDOZ / NOVARTIS / EBEWE / ALCON to publish job advertisements only after prior consent of SANDOZ / NOVARTIS and to process the applications itself in its own name and on its own account. SELLER further undertakes to make clear statements about the actual employer. It is agreed that the company name / logo / trademarks of SANDOZ / NOVARTIS shall be used only in such way that misleading statements about the employment relationship are excluded. It is further agreed that any use of the company name / logo / trademarks of SANDOZ / NOVARTIS / EBEWE / ALCON shall require the prior written approval of SANDOZ / NOVARTIS / EBEWE / ALCON. The SELLER may not state that the place of work or employer is SANDOZ / NOVARTIS / EBEWE / ALCON with respect to its recruiting activities.
- 3.6. In case of a significant breach of the contractual obligations by the SELLER, which entail disadvantages for SANDOZ / NOVARTIS / EBEWE / ALCON, SANDOZ / NOVARTIS / EBEWE / ALCON shall be entitled to cancel the order without setting any deadline or grace period and demand damages.
- 3.7. In the event third parties raise claims against SANDOZ / NOVARTIS / EBEWE / ALCON that are based on the SELLER'S breach of its statutory or contractual obligations, the SELLER shall fully indemnify and hold SANDOZ / NOVARTIS / EBEWE / ALCON harmless.

4. PRICES, RETENTION RIGHTS

- 4.1. The price specified in the order is binding and includes, unless agreed otherwise, all agreed and usually expected services and ancillary services of the SELLER (such as assembly, installation and maintenance) as well as all ancillary costs such as, in particular the due packaging and the transport to the place of delivery as specified in the order.
- 4.2. Unless agreed otherwise, the purchase price for the ordered goods shall be due and payable within 60 days from receipt of the goods. If and insofar justified (i.e., in case of notified defects) SANDOZ / NOVARTIS / EBEWE / ALCON may hold back a respective portion of payments or withdraw from the transaction upon the lapse of a 10-working-day remedy period following notification thereof.
- 4.3. Any assignment or set-off with respect to the purchase price claimed by the SELLER requires SANDOZ / NOVARTIS' prior written approval.
- 4.4. Any prepayment made by SANDOZ / NOVARTIS / EBEWE / ALCON shall be kept separately from the SELLER'S other assets and may not be mixed with SELLER'S assets. SANDOZ / NOVARTIS / EBEWE / ALCON retains the ownership over any such prepayment (or shall receive, in case that applicable law should prohibit this, a lien (*Pfandrecht*) on such payments) until SANDOZ / NOVARTIS / EBEWE / ALCON has received the full and complete delivery of non-deficient goods.
- 4.5. SANDOZ / NOVARTIS / EBEWE / ALCON may balance without any further agreement or unilaterally set off any claims of SELLER with claims of SANDOZ / NOVARTIS / EBEWE / ALCON or of its affiliates against the SELLER.

5. CONDITIONS OF DELIVERY

- 5.1. Unless expressly agreed otherwise, SANDOZ / NOVARTIS / EBEWE / ALCON may determine the mode of transportation as well as the carrier for all shipments and will inform the SELLER accordingly in writing. All delivery times and periods are binding and are calculated from the date of the order.
- 5.2. Delivery is at the expenses and risk of the SELLER. SELLER shall be responsible for sufficient transport insurance at his own expenses and pay any customs duties. In addition, the SELLER shall pack the goods at its own expense as customary in business and adequately and protect them against transport damage.
- 5.3. Deliveries are deemed fulfilled if the respective goods lawfully transfers into SANDOZ / NOVARTIS / EBEWE / ALCON'S possession at the agreed place and time of delivery together with any and all agreed and usually expected documentation (including invoices, certificates of origin, shipment documents, certificates of analysis and any other documents which must be supplied under applicable rules regarding Good Manufacturing Practice (GMP) and Good Distribution Practice (GDP). At this point, the risk is transferred to SANDOZ / NOVARTIS / EBEWE / ALCON. Any partial delivery requires SANDOZ / NOVARTIS / EBEWE / ALCON'S prior written consent.
- 5.4. The delivery times and dates specified in the order are fixed dates and are calculated from the day the order is concluded. If the SELLER cannot deliver the ordered goods within the agreed periods or on the agreed dates or expects that this is not possible, the SELLER shall notify SANDOZ / NOVARTIS / EBEWE / ALCON in writing of the reasons and the expected duration of the delay. In case of a (total or partial) delay in delivery, SANDOZ / NOVARTIS / EBEWE / ALCON is entitled to
 - (a) withdraw from the delayed order in full or in part without setting a grace period and refuse acceptance of the goods;

- (b) adhere to the delayed order while setting an appropriate grace period and demand or withhold a contractual penalty in the amount of 1% of the agreed price per day of the delay;
- (c) cover any urgent need for goods by entering into a respective contract with third parties (covering purchase), while the SELLER shall bear the additional costs incurred; and
- 5.5. During any assembly works on the premises of SANDOZ / NOVARTIS / EBEWE / ALCON SELLER shall at all times comply with SANDOZ' / NOVARTIS' / EBEWE's / ALCON's safety rules and all applicable legal provisions.
- 5.6. If a certain part of the order or the order in its entirety is performed by a third party, SELLER shall be liable for defects or default on the part of its suppliers or other vicarious agents as it would for its own defects or default. SANDOZ / NOVARTIS / EBEWE / ALCON must grant its written consent prior to the appointment of such third party.
- 5.7. Ownership of the goods shall be transferred to SANDOZ / NOVARTIS / EBEWE / ALCON unconditionally and regardless of the payment of the price. In particular, this excludes all forms of simple, extended or prolonged retention of title. Any title which may be lawfully retained by SELLER expires upon payment for the goods delivered to SANDOZ / NOVARTIS / EBEWE / ALCON and applies only to such goods.
- 5.8. Each individual shipment and each individual package shall be labelled in accordance with applicable law and shall especially contain:
1. SANDOZ / NOVARTIS / EBEWE / ALCON order number (the order number shall also appear on all invoices and delivery notes)
 2. Detailed description of the contents
 3. Quality specifics
 4. Batch number and manufacturing details
 5. Net weight
 6. Name of the manufacturer / SELLER

6. REPRESENTATIONS AND LIABILITY

- 6.1. SELLER represents and warrants (by way of an abstract guarantee pursuant to Section § 880a half sentence 2 of the Austrian Civil Code (ABGB)) that all delivered goods
- (a) have been manufactured in accordance with all applicable provisions (including GMP and/or GDP, if applicable), statutory regulations and requirements outlined by authorities and professional associations as well as SANDOZ' / NOVARTIS' / EBEWE's / ALCON's standards;
 - (b) are state of the art;
 - (c) are free from defects; and
 - (d) comply with all specifications and all standards, that have been explicitly laid down in offers, invoices or individual agreements with SANDOZ / NOVARTIS / EBEWE / ALCON or that – if not agreed – conform with the typical market standards.
- 6.2. In case the delivered goods are defective, SELLER shall, at the sole option of SANDOZ / NOVARTIS / EBEWE / ALCON, replace the defective goods, repair them as soon as technically possible and, at the latest within 10 working days from the defect notice, restore the agreed state free from defects or refund all payments made with respect to the delivery of such goods immediately and without deduction. SANDOZ / NOVARTIS / EBEWE / ALCON may also annul the agreement immediately (redhibition). In cases of urgency SANDOZ / NOVARTIS / EBEWE / ALCON retains the right to have such goods revised by itself or by third parties or to have replacements shipped by third parties at the expense of SELLER (substitute performance, Ersatzvornahme).
- 6.3. Visual defects of the delivered goods shall be notified by SANDOZ / NOVARTIS / EBEWE / ALCON within 60 calendar days of receipt of the goods, all other defects within 60 calendar days of their discovery. The payment by SANDOZ / NOVARTIS / EBEWE / ALCON shall not be qualified as unconditional acceptance of the goods.
- 6.4. SELLER shall indemnify and hold SANDOZ / NOVARTIS / EBEWE / ALCON fully harmless for all damages (including all consequential damages as well as lost profits) which are connected to defect goods, defect labelling or late delivery (including the accompanying documentation and costs for return delivery of the goods) and shall be fully liable in this respect.
- 6.5. SELLER represents and warrants (by way of an abstract guarantee pursuant to Section § 880a half sentence 2 of the Austrian Civil Code (ABGB)) that the production, import, storage, sale or use of the delivered goods does not infringe any third-party rights, particularly industrial property rights such as trademark, design and patent rights and other intellectual property rights. The SELLER shall indemnify and hold SANDOZ / NOVARTIS / EBEWE / ALCON fully harmless in case third parties raise claims based on the alleged infringement of their rights in connection with the goods delivered by the SELLER.
- 6.6. SANDOZ' / NOVARTIS' / EBEWE's / ALCON's liability vis-à-vis SELLER shall, as far as legally permissible, be excluded.
- ## 7. DATA PROTECTION
- 7.1. SELLER shall ensure that all employees and contractors engaged for the performance of the contract shall comply with the statutory data protection provisions.
- 7.2. SELLER shall deploy, for the performance of its services, only such personnel who have been committed in writing to maintain confidentiality of any personal data. SELLER shall provide evidence of this upon SANDOZ' / NOVARTIS' / EBEWE's / ALCON's request.
- 7.3. SELLER shall ensure that SANDOZ / NOVARTIS / EBEWE / ALCON is informed about all circumstances which SANDOZ / NOVARTIS / EBEWE / ALCON must be aware of for data protection or confidentiality reasons. In particular SELLER shall inform SANDOZ / NOVARTIS / EBEWE / ALCON immediately of any data security and data privacy breach in writing. Further SELLER shall inform SANDOZ / NOVARTIS / EBEWE / ALCON immediately of any request of a data subject to access, rectify or erase its personal data. In case SELLER is obliged to disclose the personal data by virtue of an order of a competent authority or a court, it shall, where permissible, inform SANDOZ / NOVARTIS / EBEWE / ALCON in writing as soon as possible about such order to disclose.
- 7.4. SANDOZ / NOVARTIS / EBEWE / ALCON shall be entitled to terminate the Agreement for good

cause and with immediate effect partially or in its entirety in the event that SELLER shall negligently not fulfill its data protection obligations within a reasonable period of time set by SANDOZ / NOVARTIS / EBEWE / ALCON or in the event of SELLER's grossly negligent or wilful breach of its data protection obligations.

- 7.5. SELLER undertakes to keep all information and documents provided to him by SANDOZ / NOVARTIS / EBEWE / ALCON confidential. Excluded from this are only information and documents that are publicly known or made public without SELLER's assistance.

8. PLACE OF PERFORMANCE, CHOICE OF LAW AND VENUE

- 8.1. Place of performance for all services provided on the basis of these Terms of Purchase is the place of the registered office of the respective entity, which is Kundl for SANDOZ, Vienna for NOVARTIS and Unterach for EBEWE.
- 8.2. The substantive laws of the Republic of Austria apply exclusively, except for principles on conflicts of laws and the United Nations Convention on Contracts for the International Sale of Goods.
- 8.3. If the SELLER has its headquarter within the European Economic Area at the time of the dispatch of the writ initiating formal proceedings, the place of jurisdiction for the whole business transaction and all disputes arising based on these Terms of Purchase shall be the competent court at the registered office of the respective entity, which is Kundl for SANDOZ, Vienna for NOVARTIS, Unterach for EBEWE and Vienna for ALCON. If the SELLER has its headquarter outside the European Economic Area at the time of the dispatch of the writ initiating formal proceedings, all disputes or claims arising out of or in connection with these Terms of Purchase and the whole business transaction including disputes concerning the validity, violation, dissolution or nullity of these Terms of Purchase, shall be finally settled according to the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one or three arbitrators appointed in accordance with said Rules. The place of arbitration is Vienna (Austria). The language of arbitration is English.

Novartis Pharma GmbH

Stella-Klein-Löw-Weg 17
1020 Wien
Austria

Tel. +43 1 8665 7-0
Fax +43 1 8665-16019
novartis.austria@novartis.com
www.novartis.at

Registered Office: Wien
Commercial Court (Handelsgericht) Wien, FN 416221
VAT reg. No.: ATU14204500

Sandoz GmbH

Biochemiestrasse 10
6250 Kundl
Austria

Tel. +43 5338 200-0
Fax +43 5338 200-460
kundl.austria@sandoz.com
www.sandoz.com

Registered Office: Kundl
District Court (Landesgericht) Innsbruck, FN 50587v
VAT reg. No.: ATU32425809

EBEWE Pharma Ges.m.b.H. Nfg KG

Mondseestraße 11
4866 Unterach am Attersee
Österreich

Tel. + 43 7665 8123-0
Fax +43 7665 8123 - 11
kundl.austria@sandoz.com
www.sandoz.com

Registered Office: Unterach am Attersee
District Court (Landesgericht) Wels, FN 216233 s
VAT reg. No.: ATU52861808

Alcon Ophthalmika GmbH

Stella-Klein-Loew-Weg 17
1020 Wien

Tel. +43 1 5966970-0
Fax +43 1 596 69 70 11
austria.office@alcon.com

Registered Office: Wien
Commercial Court (Handelsgericht) Wien, FN 62217x
VAT reg. No.: ATU36778901

Version as of: May 2018