

# Terms and conditions

Last modified: September 4, 2024

## 1. Definitions

1.1. Cobeco Pharma Wholesale with registered office at Hertzstraat 2, 2655XX, Berkel en Rodenrijs registered with the Chamber of Commerce under 24367268 (“Cobeco Pharma Wholesale”) is a manufacturer of intimate wellness products.

1.2. Cobeco Pharma Wholesale supplies goods to contracting partners (“Customer”). Either party under clause 1.1 or 1.2 hereinafter referred to individually as a ‘party’ and together as the ‘parties’.

## 2. Applicability

2.1. These general terms and conditions of sale (“General Conditions”) apply to all offers made by Cobeco Pharma Wholesale and all agreements between Cobeco Pharma Wholesale and the Customer for the delivery of goods (“Agreement”) as per 1 July 2024.

2.2. The applicability of any other terms and conditions of the Customer is hereby expressly excluded, unless otherwise agreed in writing.

2.3. Deviations from and/or supplements to these General Conditions shall only bind Cobeco Pharma Wholesale insofar as these have expressly been agreed in writing. Save for such deviations and/or supplements these General Conditions shall continue to be in full force and effect.

2.4. If one or more provisions from these General Conditions in full or in part appear to be invalid, the other provisions shall remain in full force and effect in their entirety. Any invalid provision shall be replaced by a suitable provision that approaches the intent of Cobeco Pharma Wholesale and the economic result pursued by it as closely as possible.

2.5. Any failure or delay by Cobeco Pharma Wholesale in exercising any right under these General Conditions or any Agreement, any single or partial exercise of any such right or any partial reaction or absence of reaction by Cobeco Pharma Wholesale in the event of a breach by the Customer of any of its obligations under these General Conditions or any Agreement, shall not operate or be interpreted as a waiver (either express or implied, in whole or in part) of Cobeco Pharma Wholesale’s rights under these General Conditions or any Agreement, nor shall it preclude any further exercise of any such rights.

## 3. Offer and acceptance

3.1. All quotations and offers shall be non-binding and valid for 14 days of the date stated on the offer or quotation.

3.2. Quotations older than 14 days can change in terms of price, availability of packaging, bulk and leadtimes.

3.3. An order placed by the Customer shall not be deemed to have been accepted by Cobeco Pharma Wholesale until after Cobeco Pharma Wholesale has sent a written confirmation, or after Cobeco Pharma Wholesale has begun implementing the order.

3.4. The Customer shall be deemed to have agreed with an order confirmation of Cobeco Pharma Wholesale if it, within 4 working days after the date of the order confirmation, has not protested against the content thereof in writing, or it has

performed one or more activities in accordance with the order confirmation (whichever is earlier).

3.5. The fact that Cobeco Pharma Wholesale supplies goods to the Customer on a regular basis and/or has previously supplied the Customer does not give the Customer any right to future deliveries by Cobeco Pharma Wholesale.

3.6. The design and choice of final artwork is at the sole discretion and responsibility of the customer. The customer approves this artwork by signing the “print” proof see 3.7

3.7. After signing the “print” proof this artwork is used for labels and boxes. Cobeco Pharma cannot be held responsible for any mistakes or claims.

#### **4. Prices**

4.1. The price stated in quotations, offers and invoices of Cobeco Pharma Wholesale shall consist of the purchase price of the goods, exclusive of VAT, duties, and other government levies.

4.2. The shipment costs shall be excluded in the price referred to in Clause 4.1.

4.3. The prices shall be based on cost factors, including but not limited to raw materials prices, salaries, social charges, transport costs, taxes, energy costs, etc., applicable at the time of the order confirmation of Cobeco Pharma Wholesale. If, after acceptance of the order and before the moment of actual delivery, the prices of raw materials, energy, wages, freight, (environmental) levies or other costs factors are/is increased leading to an overall increase of the purchase price of Cobeco Pharma Wholesale of at least 5%, Cobeco Pharma Wholesale is entitled to pass on said increases to the Customer. In determining the price increases, Cobeco Pharma Wholesale shall refer to generally accepted cost price indexes of the relevant cost factors. This will only be the case if customer postponed delivery time vs. our normal standard production lead times.

4.4. Adjustment of prices in accordance with Clause 4.3 do not entitle the Customer to cancel, terminate or dissolve the Agreement.

4.5. Any change in the product or artwork after the first production batch will lead to new development / startup costs.

#### **5. Payment**

5.1. Payment of the invoice shall take place within the agreement made in the signed order confirmation.

5.2. Payment shall be made without any reduction or set-off.

5.3. Cobeco Pharma Wholesale reserves the right to demand advance payment or security for payment at all times, even if deliveries were previously made with a payment credit.

5.4. Cobeco Pharma Wholesale may, insofar as it is held to perform an obligation under an Agreement, suspend the performance thereof until full payment of the amount that is due has been received, or dissolve the Agreement at its choice in full or in part by means of a written notification, this without prejudice to its right to claim damages.

5.5. If the amount due according to the invoice is not paid on time, the Customer shall be in default, without any demand or prior notice of default being required, and shall owe Cobeco Pharma Wholesale the statutory commercial interest pursuant to Art. 6:119a of the Dutch Civil Code from the date the invoice becomes payable. It shall as then also be due an immediately due and payable agreed late-payment fine of 5% of the invoice amount.

5.6. All payments shall first be used for payment of fines, interests and costs, and subsequently each time for payment of the oldest outstanding invoice.

## **6. Delivery**

6.1. As from the moment of the delivery the goods are for the risk and account of the Customer.

6.2. Delivery times shall always be estimates and shall not be of the essence. Any excess of the delivery time, provided within reasonable limits, shall not entitle the Customer to cancel any order(s) or to compensate costs or losses created by the excess especially not when the delay was caused by the shipping agents.

6.3. The Customer shall provide its full collaboration to the delivery of the goods that are to be delivered by Cobeco Pharma Wholesale pursuant to the Agreement. The Customer shall without having been demanded to do so be in default if it, after the first request of Cobeco Pharma Wholesale to that effect, fails to pick up the goods that are to be delivered or, if delivery at its address was agreed, if it refuses to accept delivery of the goods that are to be delivered.

6.4. If the Customer refuses delivery of the goods or in an exceptional case agrees to postpone shipment after production confirmation, Cobeco Pharma Wholesale shall be entitled to store the goods at the expense and the risk of the Customer.

6.5. If products have to be stored at Cobeco Pharma Wholesale an additional charge of 100 euro per pallet per week will be charged, with a maximum of 3 months.

## **7. Finished goods**

7.1. Recycled packaging, although we aim for the highest quality and printing standard, it can occur that there will be small colour deviations between different production batches.

7.2. Matching of colours of different packaging materials is done as detailed as possible, however Cobeco Pharma cannot guarantee small deviations.

## **8. Quantity and capacity**

8.1. Cobeco Pharma Wholesale has the right to deliver up to 10% more or less than the agreed quantity. The Customer shall accept the excess up to that maximum, or accept the shortage.

8.2. Cobeco Pharma Wholesale has the right to supply orders in parts, which may be invoiced separately.

## **9. Stock keeping**

9.1. Cobeco Pharma Wholesale can and will in certain cases keep components in stock for specific custom made products. If after 12 months of the first order (signed order confirmation date) the stock of this component has not been bought by the customer, Cobeco Pharma is entitled to send an invoice for the commercial value of this product.

9.2. In case a customer wants to change their current product or artwork they will always first use existing packaging which is still in stock.

9.3. In case it is not possible or the clients does not want to use the components which are in stock, Cobeco Pharma Wholesale will send an invoice with the commercial value of the stock.

## **10. Documentation & reports**

10.1. Cobeco Pharma can provide quality and safety documents. It depends per product type which documents are available.

10.2. Beyond the availability of our “standard” reports we can support our clients by providing additional tailor made reports based on local regulations in your home market or market were the customer wants to sell their products. We can give a cost estimation if possible, but it will always be calculated based on real hours spent on this specific report. Your account manager can share our hourly rate.

## **11. Performance**

11.1. Cobeco Pharma Wholesale may, at its option, fully or partly suspend the performance of the Agreement or dissolve the Agreement in full or in part by written notice without recourse to the courts with immediate effect and without Cobeco Pharma Wholesale being liable for payment of any compensation, in the event that:

11.1.1. the Customer fails to perform its obligations under an Agreement or these General Conditions properly, in a timely manner or at all;

11.1.2. the Customer applies for or is granted a suspension of payments, or applies for or is declared bankrupt;

11.1.3. the Customer is placed under legal guardianship or administration;

11.1.4. the Customer’s enterprise is sold or discontinued;

11.1.5. an attachment is levied on a significant part of the Customer’s operating assets.

11.2. In case of the situation of Clause 11.1, the Customer shall be liable for all damage suffered by Cobeco Pharma Wholesale, inter alia consisting of loss of profits, suffered losses, product damage, costs and interests, transport charges, commission fees,

judicial and extra-judicial costs, as well as all further direct and indirect costs connected with a breach of the Agreement.

## **12. Return shipments**

12.1. The products that have been ordered by the Customer but of which delivery has not been accepted or that have been returned shall be charged to the Customer. All damage arising for Cobeco Pharma Wholesale from the nonacceptance or the return shipments shall be paid by the Customer, unless the Customer demonstrates that the delivered goods are not in accordance with the Agreement. Proof will be shared by sending pictures of the damage or the complaints.

12.2. Cobeco Pharma Wholesale shall without its prior written permission not be held to accept goods that have been returned to Cobeco Pharma Wholesale by the Customer, except as otherwise agreed in the order confirmation. The acceptance of the goods returned by the Customer shall not imply an acceptance by Cobeco Pharma Wholesale of the reason of the return.

## **13. Complaints**

13.1. The Customer is obliged to inspect the quantity and quality of the delivered goods immediately after they have been delivered. Any visible defects relating to the quality or quantity have to be notified directly with the shipment agent / driver. This and complaints that occurred after opening need to be shared in writing within two (2) working days after delivery, specifying the nature and scope of the complaint, the batch number, pictures and how many products / boxes have been checked. Other complaints have to be submitted to Cobeco Pharma Wholesale in writing within fourteen (14) days after delivery.

13.2. After expiry of the periods stated in Clause 10.1, the goods shall be considered to have been delivered according to the agreed on quantity and the agreed on specifications and/or (legally) required quality. Any complaints that are submitted after the stated periods or not in writing shall not be handled.

13.3. If the delivered goods have been processed or used, the Customer shall be deemed to have accepted the goods without reservation, and submitting any complaints therefore shall no longer be possible.

13.4. The Customer is required upon first request of Cobeco Pharma Wholesale to return a sample of the allegedly defective items in order to conduct an investigation into the root cause of the complaint.

13.5. The terms of payment shall not be suspended by submitting a complaint.

13.6. If and to the extent Cobeco Pharma Wholesale considers the Customer's complaint to be justified, it will, at its option:

13.6.1. repair or replace the delivered goods; or

13.6.2. credit (part of) the purchase price paid by the Customer in connection with the delivered goods; or

13.6.3. take back the delivered goods without any further performance of the Agreement.

## **14. Retention of title**

14.1. Cobeco Pharma Wholesale reserves the ownership of the goods delivered by it until the time of full and final payment by the Customer for those goods. The retention of title extends to anything Cobeco Pharma Wholesale has to claim from the Customer, including compensation and fines.

14.2. Customer has the obligation to label the goods delivered by Cobeco Pharma Wholesale as such to be able to identify which goods belong to Cobeco Pharma Wholesale and to treat goods that have been supplied subject to retention of title with care until ownership has been transferred to the Customer.

14.3. Customer shall insure the goods at its own expense for the duration of the retention of title against damage by fire, explosion, water, theft and destruction.

14.4. If the same goods have been delivered on one or more unpaid invoices, the goods that are present at the Customer shall be considered to have been delivered on the unpaid invoices. As long as goods have not been paid in full and/or the Customer also otherwise fails to perform any of its obligations towards Cobeco Pharma Wholesale, Cobeco Pharma Wholesale shall irrevocably continue to have the right and shall irrevocably continue to be authorized to take back any goods delivered by it that are still present at the Customer, without interference of the courts, irrespective of its further actions towards the Customer. The Customer is obliged to grant Cobeco Pharma Wholesale access to the area(s) in which the goods delivered are located, failing which the Customer shall forfeit a due and immediately payable fine amounting to EUR 50,000 for every refusal to grant access and EUR 2,500 for every day the refusal continues.

14.5. The Customer is obliged to immediately report situations in which any third parties enforce rights, including seizures, in relation to goods delivered by Cobeco Pharma Wholesale that are still delivered under retention of title. If the Customer does not fulfil this obligation, the Customer shall forfeit an immediately due and payable fine amounting to 20% of the principle amount due to Cobeco Pharma Wholesale, exclusive of VAT, with a minimum of EUR 500,-.

14.6. As long as Cobeco Pharma Wholesale has any outstanding claim on the Customer on any account whatsoever, the Customer may not dispose of, deliver or pledge the goods delivered by it or perform legal acts with regard to these goods, except within the framework of its regular corporate activities, until after Cobeco Pharma Wholesale has granted its prior written approval to do so as well as to the conditions subject to which all this takes place.

14.7. The Customer is obliged at Cobeco Pharma Wholesale's first request:

14.7.1. to pledge to Cobeco Pharma Wholesale in the manner prescribed in Article 3:239 of the Dutch Civil Code all the Customer's claims against insurers in relation to the goods delivered under retention of title;

14.7.2. to pledge to Cobeco Pharma Wholesale in the manner prescribed in Article 3:239 of the Dutch Civil Code the claims which the Customer acquires against its customers upon the resale of goods supplied by Cobeco Pharma Wholesale under retention of title.

## **15. Warranty**

15.1. Unless otherwise agreed in writing, Cobeco Pharma Wholesale does not make any warranties in relation to goods delivered to the Customer other than that the goods delivered meet the specifications as included in the order confirmation and as long as the goods are used under normal and expected circumstances and in accordance with Cobeco Pharma Wholesale's instructions.

15.2. Cobeco Pharma Wholesale expressly excludes all other warranties, including warranties of merchantability and fitness for a particular purpose.

15.3. Samples are provided to the Customer as an example of the good that can be delivered. The Customer is not entitled to claim any rights in relation to the characteristics, looks, properties and use of the good based on the samples provided.

## **16. Liability**

16.1. Nothing in these General Conditions shall limit or exclude Cobeco Pharma Wholesale's liability for:

16.1.1. death or personal injury caused by its intent or negligence;

16.1.2. fraud or fraudulent misrepresentation; or

16.1.3. any matter in respect of which it would be unlawful for Cobeco Pharma Wholesale to exclude or restrict liability.

16.2. Subject to Clause 12.1:

16.2.1. Any liability of Cobeco Pharma Wholesale shall be limited to the amount (excluding VAT) charged by Cobeco Pharma Wholesale to the Customer for the supply of the relevant goods that caused the damage or loss, subject to a maximum of EUR 25,000 (twenty-five thousand euros) per event or series of related events; and

16.2.2. Cobeco Pharma Wholesale shall under no circumstances whatsoever be liable to the Customer for loss of profit, claims by third parties or other indirect or consequential damages.

16.2.3. Cobeco Pharma Wholesale shall not be liable for any damages as a result of Customer's use of the goods contrary to their labelling or intended use.

16.2.4. Customer is responsible for following local regulations and guidelines. The correct registration of customer's products is the responsibility of the customer. Our products comply with EU regulation, we do not have FDA registration.

16.3. Customer shall without delay take all necessary efforts to limit any damages and its effects to a minimum.

16.4. The exclusions and limitations of liability in this Clause 15 also apply in favor of Cobeco Pharma Wholesale's affiliates, subsidiaries, agents, legal representatives, employees, subcontractors and any persons or entities mandated by Cobeco Pharma Wholesale to fulfil its obligations.

16.5. The exclusions and limitations in this Clause 15 apply to any contractual and non-contractual liability of Cobeco Pharma Wholesale and will survive termination of the Agreement.

## **17. Indemnity**

17.1. Without prejudice to the provisions set forth in Clause 15, the Customer shall indemnify and hold harmless Cobeco Pharma Wholesale against any and all claims of third parties and consequential damages resulting from the delivery of goods by the Customer to third parties, including goods that have been delivered by Cobeco Pharma Wholesale to the Customer.

## **18. Loss of rights**

18.1. All Customer's rights of action against Cobeco Pharma Wholesale, whether in breach of contract, in tort or on any other ground, shall lapse as soon as a period of one (1) year has elapsed from the day on which the Customer became aware or could reasonably have become aware of the existence of those rights of action and the Customer has not commenced legal proceedings in respect of those rights of action within that one-year period.

## **19. Force majeure**

19.1. In addition to the provisions of Article 6:75 of the Dutch Civil Code, a default by Cobeco Pharma Wholesale in the performance of any obligation to the Customer cannot be attributed to Cobeco Pharma Wholesale in the event of a circumstance beyond Cobeco Pharma Wholesale's control, as a result of which the performance of its obligations to the Customer is prevented in whole or in part or as a result of which the performance of its obligations cannot reasonably be required of Cobeco Pharma Wholesale. Such circumstances include but are not limited to: war or similar situations, riots, sabotage, boycotts, strikes, occupations, blockages, shortages of raw materials, failures in the operation of factories, transportation problems of whatever nature (among which traffic-jams), machine damage, thefts, such sickness absence of staff of Cobeco Pharma Wholesale that the implementation of the Agreement is seriously obstructed, failures in the performance by subcontractors, transporters and/or other third parties who have been called upon by Cobeco Pharma Wholesale to assist in the implementation of the Agreement, obstructed shipping traffic, measures of the government that lead to any obstructions in either the Netherlands and/or abroad, natural disasters, epidemics, pandemics and quarantines.

19.2. In case of force majeure on the side of Cobeco Pharma Wholesale, Cobeco Pharma Wholesale shall have the right at its own discretion to suspend the implementation of the Agreement for the duration of the force majeure situation.

19.3. If a situation as described in Clause 18.1 lasts longer than 60 days, both Parties have the right to dissolve the Agreement in full or in part by submitting a written statement to that effect. The parties shall make a reasonable arrangement regarding the consequences of that dissolution.

## **20. Confidentiality**

20.1. Neither party may disclose the existence of an Agreement or any non-public information it receives from the other party (collectively, "Confidential Information") to any third party, nor use the Confidential Information for any purpose other than performance of any Agreement, without the prior consent of the other party. Notwithstanding the foregoing, Confidential Information may be

disclosed if the receiving party becomes legally compelled to do so, provided that before disclosure the receiving party must notify the disclosing party and cooperate at the expense of the disclosing party to contest, limit or protect such required disclosure.

20.2. If either party breaches the obligation stated in Clause 19.1, the other party shall forfeit an immediately due and payable fine amounting to EUR 50.000,-, exclusive of VAT.

## **21. Intellectual property rights**

21.1. The Customer warrants that any orders placed with Cobeco Pharma Wholesale do not infringe copyrights, model or drawing rights or any other intellectual or industrial property rights of third parties. The Customer shall indemnify Cobeco Pharma Wholesale against any and all claims of third parties for infringements of intellectual or industrial property rights in connection with the order placed by the Customer.

21.2. Unless expressly agreed otherwise in writing, Cobeco Pharma Wholesale shall at all times be the exclusive owner of any intellectual or industrial property rights that may arise in respect of the works created by Cobeco Pharma Wholesale in the performance of the Agreement, including but not limited to design drawings, models, artwork, inventions, computer software, databases and photographic recordings. Insofar as necessary, the Customer shall use its best efforts to cooperate to transfer any of these rights to Cobeco Pharma Wholesale or any third party designated by Cobeco Pharma Wholesale.

## **22. Governing law and competent court**

22.1. All offers and Agreements shall be governed by the laws of the Netherlands with the exclusion of the Vienna Sales Convention.

22.2. All disputes that arise from or in the context of any Agreement shall exclusively be submitted to the District Court of Rotterdam, the Netherlands, this with exception of disputes that pursuant to the law have to be submitted to the Subdistrict Division of any District Court in the Netherlands (“Kantongerecht”).