



**SERVICES ADMINISTRATIFS  
ET COMMERCIAUX**

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**GENERAL CONDITIONS OF SALE**

**Article 1 – Conditions of access to the approved network**

Taking into account its expertise, its traditions, its image and the speciality of its products and of the products of its suppliers, the company LABORATOIRES GILBERT may fall back on, for the marketing and distribution of said products, a network of approved distributors who must constantly respond the qualitative criteria, commitments and conditions of partnership featuring in the approved distribution agreement as well as in its general conditions of sale.

The conditions of approval, detailed in the approved distribution agreement which is available on request, essentially concern the provision, presentation and autonomy of the point of sale, the professional qualifications, the holding and number of staff for the sale and the in advisory positions at the point of sale, the presentation and environment of products in the point of sale. Taking into consideration the rigorous code of ethics to which they are bound by virtue of the French Public Health Code, dispensary pharmacists are approved.

In order for an approval request to be taken into consideration, the point of sale for which the approval is requested must be in operation; if it concerns the creation of a point of sale, building work must be finished. Upon reception of the approval request, the company LABORATOIRES GILBERT proceeds as quickly as possible to assess the point of sale in order to determine whether it satisfies the qualitative criteria of the standard agreement.

The company LABORATOIRES GILBERT is constantly within the right to ensure that the approved distributor and the approved point of sale satisfy or continue to satisfy the criteria of the standard agreement. If this is not the case, it informs the approved distributor by specifying the elements which are unsatisfactory and the time period of 3 (three) months is set for the criteria to be satisfied again. In the event of a new dissatisfaction, the agreement may be terminated, without prior warning and without refund. This termination will come into effect as of the date of the reception or, failing reception, the date of the first presentation of the registered letter with acknowledgement of reception announcing the decision to terminate the agreement.

The approved distributor commits not to directly or indirectly market the products proposed by the company LABORATOIRES GILBERT on its website if such marketing does not satisfy the criteria of the standard agreement. In the event of marketing on its website, the approved distributor commits to:

- provide the company LABORATOIRES GILBERT with the means, if necessary via a username and password, to access the customer space on its website in the same way as customers would; and
- design, install and configure an access module with presentation sheets for the products proposed by the company LABORATOIRES GILBERT in order to allow the company LABORATOIRES GILBERT to make changes to graphic elements of said sheets itself, by including non-restrictively texts, images, drawings, icons, logos, marketing brands, marketing names, photographs and other elements concerning marketed products provided by the company LABORATOIRES GILBERT.

**Article 2 – Purpose and scope of application of the general conditions of sale**

Any product order implies the unreserved acceptance by the buyer and its full and whole adhesion to these general conditions of sale which take precedence over any other document of the buyer and in particular over all general purchase conditions, except in the event of the explicit overriding agreement priorly acquired

from the company LABORATOIRES GILBERT and this, at any given moment where the said document may have been brought to the attention of the latter.

These general conditions of sale are applicable to all sales of products made by the company LABORATOIRES GILBERT without the explicit agreement obtained prior to the order agreed upon in writing between the parties. Consequently, the order placement by a customer entails the unreserved adhesion of the latter to these general conditions of sale, except special conditions consented by writing by the company LABORATOIRES GILBERT to the purchaser (approved distributor agreement, order form or other).

Any document other than these general conditions of sale, namely catalogues, prospectuses, advertisements and notices, has a purely informative and indicative value and is not contractual.

### **Article 3 – Copyright and Internet**

The brands, studies, analyses, plans, illustrations, forms and other documents or information provided or sent by the company LABORATOIRES GILBERT to the customer remain the exclusive property, depending on the context, of the company LABORATOIRES GILBERT, the companies of the group to which the company LABORATOIRES GILBERT belongs or the suppliers of the company LABORATOIRES GILBERT, the sole copyright holders for these elements, and must be rendered to the company LABORATOIRES GILBERT upon its request. The customer commits not to use these elements in any way which may jeopardise the copyrights of the company LABORATOIRES GILBERT or of the companies of the group to which the company LABORATOIRES GILBERT belongs or the suppliers of the company LABORATOIRES GILBERT and commits not to divulge them to third parties.

The company LABORATOIRES GILBERT may distribute on its website information concerning its customers (name of point of sale, address and telephone number) as part of the marketing and distribution of products by the latter. In view of the characteristics of the Internet network which are the free capturing of distributed information and the difficulty, high on impossibility, of controlling the potential use by third parties, the company LABORATOIRES GILBERT informs its customers that they may dispute such distribution of information in compliance with Article 38 of Law No. 78-17 of 6 January 1978 concerning digital information, files and liberties modified by Law No. 2006-64 of 23 January 2006. So that the company LABORATOIRES GILBERT may take into account the refusals of its customers, it is necessary for the latter to contact the company. In the absence of opposition from customers at the moment of the order being placed, their agreement shall be deemed acquired. Customers may, nevertheless, inform the company LABORATOIRES GILBERT at any later date of their desire to cease the distribution of their information on the Internet. The company LABORATOIRES GILBERT reminds customers that they effectively have the right of access, modification, rectification and deletion of data which concerns them. To exercise this right, customers shall approach the data protection officer of the company LABORATOIRES GILBERT at the following address: Avenue du Général de Gaulle 14200 Hérouville Saint-Clair (France).

In compliance with the provisions of Law No. 2011-2012 of 29 December 2011 concerning the reinforcement of sanitary safety of medication and health products, which is intended to guarantee the independence and impartiality of the decisions made concerning health, the company LABORATOIRES GILBERT is obliged to communicate the existence of its links with all health professionals, students, learned institutions, charities, media, etc. be they in the form of conventions or benefits in kind or in cash, on the public database, Transparence-Santé (Health Transparency). As part of this, certain personal data may be published by the company LABORATOIRES GILBERT. The latter commits to only collect data which is strictly relevant and necessary to the aforementioned purposes. Data may also be sent by the company LABORATOIRES GILBERT to the professional association's tribunals and to any other tribunal authorised to receive them. All information made public by the company LABORATOIRES GILBERT is made so in compliance with the regulatory provisions in force. Any person whose personal data is published may not dispute such

distribution. However, and in compliance with Law No. 78-17 of 6 January 1978 concerning digital information, files and liberties modified by Law No. 2006-64 of 23 January 2006, they have a right to access and rectification of their information. They may exercise this right by addressing a letter to the data protection officer of the company LABORATOIRES GILBERT at the following address: Avenue du Général de Gaulle 14200 Hérouville Saint-Clair (France).

## **Article 4 – Orders**

### **4.1 Definition**

By order, it should be understood to refer to any order concerning products distributed and marketed by the company LABORATOIRES GILBERT featuring on the pricing of the latter then in force, and accepted by it, accompanied by the payment of the sum eventually anticipated on the order form.

All orders must respect the standards and multiples indicated in the pricing in force at the date of their placement.

The benefit of the order is personal to the buyer and may not be transferred without the agreement of the company LABORATOIRES GILBERT.

### **4.2 Modification**

Orders transmitted to the company LABORATOIRES GILBERT (whether this be by post, fax, e-mail or telephone in relation with personnel or directly with a representative) are irrevocable for the customer, except in the event of written acceptance by the company LABORATOIRES GILBERT.

All modification requests for the composition or volume of an order placed by a customer as well as all cancellation requests can only be examined by the company LABORATOIRES GILBERT if they have been submitted by writing (including fax) and have arrived in possession of the company LABORATOIRES GILBERT before the shipping of the ordered products.

If the company LABORATOIRES GILBERT does not accept the modification or cancellation of an order, to which it is never obliged, the deposits potentially paid may not be refunded to the customer and will be considered as a down payment.

In the case where the company LABORATOIRES GILBERT accepts a modification request submitted by a customer, the company LABORATOIRES GILBERT shall be relieved of the time constraints which were convened for its execution.

## **Article 5 – Deliveries**

### **5.1 Content**

The company LABORATOIRES GILBERT reserves the right to make any change, at any moment, which it judges useful for the products which it markets and distributes without being obliged to change the products previously delivered or in ongoing orders. Notably, it reserves the right to change, without prior warning or compensation, the models defined in its prospectuses, advertisements or catalogues which are presented, as indicated in Article 2 above, as indicative to the buyer.

### **5.2 Modalities**

All deliveries are made by “FCA” Hérouville Saint-Clair (14200 – France) in accordance with the terms of the FCA clause of the Incoterms® 2010 of the International Chamber of Commerce.

The customer should immediately send the company LABORATOIRES GILBERT any document certifying the exit from the French metropolitan territory of each product delivery, in order for the said document to be able to be presented to the competent French authorities if required. Failing this, the customer alone shall

bear all financial and fiscal consequences (penalties, fines, etc.) that the competent French authorities may impose due to the non-presentation of the said document.

### **5.3 Time Frames**

The delivery time frames provided are purely indicative and informative; they notably depend on the order of arrival of orders, the reference logistics deadlines in the profession and the availability of the ordered products. The company LABORATOIRES GILBERT is authorised to proceed to deliveries in a global or partial manner.

The company LABORATOIRES GILBERT endeavours to respect the delivery time frames which it provides depending on its acquirement possibilities from its suppliers, the availability of carriers, the respect from the customer of the payment conditions and the payment of deposits and the absence of cases of force majeure. Delivery delays may not lead to any penalty or indemnity, nor may lead to the cancellation of an order. However, if, 1 (one) month after the indicated delivery date initially envisaged, the product has not been delivered for any reason other than a case of force majeure, the sale may thus be cancelled in full rights at the request of one of the parties, without a formal notice being priorly sent and without compensation. The anticipated cancellation shall take effect on the date of the reception or, failing reception, the date of the first presentation of the registered letter with acknowledgement of reception notifying the decision to cancel the order, without either party being able to claim any compensation for this act, the penal clauses featuring on the commercial papers of the customer being unenforceable for the company LABORATOIRES GILBERT.

### **5.4 Risks**

The transfer to the buyer of risks of product loss or deterioration, as well as risks of damage to which the products may be subject, is carried out once the products are loaded onto the carrier's lorry and exit the warehouses of the company LABORATOIRES GILBERT.

### **5.5 Transport**

The products travel at the risks and peril of the buyer, who should check their condition upon reception and, in case of any damaged or missing merchandise, should carry out all controls necessary with the carrier, by extrajudicial document or by registered letter with acknowledgement of reception, within the delay of 3 (three) days at most.

All products which do not undergo the controls by extrajudicial document or by registered letter with acknowledgement of reception within the 3 (three) days following their reception with the carrier, in compliance with Article L.133-3 of the French Commercial Code, and of which a copy should be addressed simultaneously to the company LABORATOIRES GILBERT, shall be considered as accepted by the customer.

### **5.6 Reception**

Without harm to the dispositions to be taken by the customer with the carrier such as are described in Article 5.5 above, in the event of apparent defects or missing products, all claims, controls or disputes of any nature concerning delivered products will only be accepted by the company LABORATOIRES GILBERT if they are made in writing by registered letter with acknowledgement of reception within the deadline of 3 (three) days which is envisaged in the above Article 5.5.

It is at the liability of the buyer to provide all proof concerning the existence of apparent defects or missing components observed, the company LABORATOIRES GILBERT reserving the right to proceed, directly or indirectly to any opposition and verification on-site.

No return of merchandise may be made by the customer without the prior, explicit and written agreement of the company LABORATOIRES GILBERT, notably obtained by fax or e-mail. Any product returned without this

agreement will be made available to the buyer and storage fees shall be invoiced to it until the complete recovery by its care. The fees and risks of returns will only be at the expense of the company LABORATOIRES GILBERT if an obvious defect is effectively observed by the latter or its mandatory agent.

Only the carrier chosen by the company LABORATOIRES GILBERT is cleared to carry out the return of the concerned products. The buyer should therefore keep the products available for the carrier. The returned merchandise must be accompanied by a return form to be attached to the package and must be in the state in which they were delivered.

When, after control, an obvious defect or missing component is effectively observed by the company LABORATOIRES GILBERT or its mandatory agent, the customer may only request of the company LABORATOIRES GILBERT that the establishment of a credit note or replacement of the non-compliant articles and/or the complement to be added to compensate for missing components, at the expense of the company LABORATOIRES GILBERT, without the customer being able to claim any compensation or the cancellation of the order.

Reception without controls having been carried out in the conditions of paragraph 1 above on products ordered by the customer covers all obvious defects and/or missing component; the customer therefore may not dispute any obvious defect or missing components in a counterclaim to defend itself in the event of a debt recovery process initiated by the company LABORATOIRES GILBERT.

The dispute submitted by the buyer in the conditions and following the modalities described in this article does not suspend the payment by the customer for the concerned merchandise.

In no case may the company LABORATOIRES GILBERT be held responsible for events of destruction, shrinkage, loss or theft during transportation, even if it has chosen the carrier.

#### **5.7 Product withdrawal/recall**

Any product for which the company LABORATOIRES GILBERT is seen to implement a product/batch withdrawal/recall or decides, of its own initiative, to carry out a product/batch withdrawal/recall, shall be recovered by the company LABORATOIRES GILBERT at its own expenses from the customer's warehouses and shall be refunded at its invoicing price - discounts, rebates and kickbacks deduced from this sum.

#### **5.8 Product recovery/exchange**

Personalised products are neither recovered nor exchanged. The same applies to expired products, faded products or products in a poor preservation condition which, furthermore, must be withdrawn from sale.

#### **5.9 Suspension of deliveries**

In the event of a partial or entire non-payment of an invoice which has reached its term, the company LABORATOIRES GILBERT reserves the ability to suspend any delivery in progress and/or any delivery which is scheduled.

#### **5.10 Cash payment**

All orders which the company LABORATOIRES GILBERT accepts to execute are accepted upon presentation by the customer of sufficient financial guarantees and guarantee that it will effectively settle the owed sums within the time limit, in compliance with legislation. Also, if the company LABORATOIRES GILBERT has serious or specific reasons to believe that difficulties to respect the payment may arise with the customer on the date of the order or posteriorly to this date, or if the customer does not present the same guarantees as those presented on the date of the order being accepted, the company LABORATOIRES GILBERT may subordinate the acceptance of the order or the course of its execution until the customer provides the company LABORATOIRES GILBERT with the correct guarantees or cash payment.

The company LABORATOIRES GILBERT will also have the ability, prior to the acceptance of any order, even those in progress, to request that the customer communicates its accounting documents and in particular its profit and loss accounts, even if only projected, which would permit its solvency to be proven.

In the event of the customer refusing cash payment, without any sufficient guarantee being offered by the latter, the company LABORATOIRES GILBERT may refuse to honour the order(s) placed and to deliver the concerned merchandise without the customer being able to argue an unjustified sales refusal or to claim any form of compensation.

#### **5:11 Order Refusal**

The company LABORATOIRES GILBERT reserves the ability to refuse to honour any order and to deliver the concerned merchandise, without the customer being able to claim any compensation, in the case where the customer:

- places an order to the company LABORATOIRES GILBERT without having proceeded to the payment of any previous order(s); or
- uses any product of the company LABORATOIRES GILBERT as a loss leader; or
- undersells any product of the company LABORATOIRES GILBERT at a loss.

### **Article 6 – Pricing - Prices**

#### **6.1 Pricing**

The pricing set by the company LABORATOIRES GILBERT applies to all customers of the latter within the same category, on the same date. Pricing may be revised over the course of the year. Any changes to pricing will be automatically applicable as of the date indicated on the new pricing.

#### **6.2 Prices**

The prices to be paid by the buyer are those agreed upon the day of the placement of the order. Prices are always to be understood as excluding taxes, products delivered “FCA” Hérouville Saint-Clair (14200 – France) in accordance with the terms of the FCA clause of the Incoterms® 2010 of the International Chamber of Commerce.

### **Article 7 – Payment Methods**

#### **7.1 Invoicing**

An invoice is established for each delivery and is delivered along with the delivery unless a delivery form was sent in which case, if the company LABORATOIRES GILBERT sees fit, a summary invoice, referencing all order forms communicated, shall be established within 8 (eight) days and addressed to the product delivery address unless the customer explicitly requests it to be sent to another address.

#### **7.2 Payment**

Invoices are payable within 30 (thirty) days precisely following their date, to Hérouville Saint-Clair, Avenue du Général de Gaulle (14200 – France).

The company LABORATOIRES GILBERT does not practise discounting.

Only the effective banking of bills or recovered bills of exchange shall be considered as completely validating the payment in the sense of these general conditions of sale.

#### **7.3 Non-payment by the deadline**

Any sum which remains unpaid by the deadline will lead to:

- payment by the customer of lateness penalties with an interest rate set at the highest of the 2 (two) following rates: 5% (five percent) or 3 (three) times the legal interest rate; in application of Article L. 441-6 of the French Commercial Code, these penalties may be applied without prior notice; and
- payment of the lump-sum compensation for the recovery fees set out by Decree No. 2012-1115 of 2 October 2012 at 40 (forty) euros; and
- payment of additional compensation if the recovery fees presented are superior to the total of the aforementioned lump-sum compensation; and
- the increase of the sum owed for all other fees caused by the delay without prejudice to all damages and interests that the company LABORATOIRES GILBERT reserves the right to claim; and
- if the company LABORATOIRES GILBERT so wishes, the immediate payment by the client of all of its outstanding invoices.

Furthermore, the company LABORATOIRES GILBERT reserves the ability to summon the competent court in order for this non-execution to be ceased, with penalty payments per day of delay.

#### **Article 8 – Reservation of ownership**

The transfer of ownership of the products delivered is suspended until payment in full of the entire purchase price, both principle and accessory charges, even in the case of additional payment time being granted. Any contrary clause, notably inserted into the general conditions of purchase, is deemed unwritten.

By express agreement, the company LABORATOIRES GILBERT may use the rights which it holds as part of this clause of reservation of ownership in its name and on its behalf and/or on behalf of its suppliers, for any one of its outstanding debts which have remained totally or partially unpaid, on the totality of its products and/or the products of its suppliers which are in the customer's possession, these latter products being conventionally presumed to be those which are unpaid, and the company LABORATOIRES GILBERT may, in full right and without formalities, recover or reclaim in compensation for all unpaid invoices, at the cost, risks and peril of the buyer and without prejudice to its right to rescind sales in progress.

Throughout the duration of the reservation of ownership, the buyer must protect the unpaid merchandise from all damages suffered or caused to it, the insurance policies must reference the quality of the company LABORATOIRES GILBERT or of its suppliers as owner.

The buyer may only resell unpaid products in the context of the normal operation of its business. In no case may it pledge, offer as collateral or transfer the ownership of its unpaid stock as collateral.

The buyer must immediately inform the company LABORATOIRES GILBERT in the event of seizure or any other intervention of a third party or cession or pledging of its business capital.

If the buyer resells the merchandise before payment in full, it should have sold it for the account of the company LABORATOIRES GILBERT; deposits already paid by it will therefore automatically compensate with the sums owed to the company LABORATOIRES GILBERT as a sale made for its account.

The company LABORATOIRES GILBERT may also request in the event of total or partial non-payment of a due invoice the cancellation of the sale and the claim of the delivered merchandise after sending a formal notice, return costs being at the expense of the buyer and the payments made remaining rightfully belonging to the company LABORATOIRES GILBERT as part of a penalty clause. In this same way, the company LABORATOIRES GILBERT may unilaterally, after sending a formal notice, prepare or have prepared an inventory of the products which it invoiced which are still in the possession of the customer, who is already committed to allow free access to its warehouses, stores or other locations for this purpose, ensuring that the identification of the said products is always possible.

In the event of the opening of a collective procedure, to the extent permitted by law, the orders in progress shall automatically be cancelled and the company LABORATOIRES GILBERT reserves the right to recover the merchandise in stock.



The provisions above do not interfere, as of the shipping of merchandise, with the transfer to the buyer of risks of loss or deterioration of goods under reservation of ownership as well as damages which they may cause.

The benefit of this clause of reservation of ownership shall automatically be transferred to all third parties acting as substitute in rights, shares and privileges of the company LABORATOIRES GILBERT for its debt.

#### **Article 9 – Hidden defects guarantee**

Faults and deteriorations of delivered products pursuant to abnormal storage and/or conservation conditions on the premises of the customer, notably in the event of an accident of any nature, may not open the right to the hidden defects guarantee owed by the company LABORATOIRES GILBERT.

Given the hidden defects guarantee, the company LABORATOIRES GILBERT will only be obliged to replace the defected merchandise free of charge or provide a credit note for the establishment, without the customer being able to claim any compensation or order cancellation.

The company LABORATOIRES GILBERT guarantees only its own products against hidden defects, in compliance with the law, uses, jurisprudence and under the following conditions: the guarantee is not applicable to products which have regularly come into the possession of the buyer. It is excluded when products have been used in usage conditions or for performances other than those intended.

#### **Article 10 – Force majeure**

Events independent of the control of the parties, which they could not have reasonably been expected to foresee and which they could not have reasonably avoided or overcome, inasmuch as their occurrence makes the execution of obligations entirely impossible, are considered as cases of force majeure or fortuitous events.

The following are also considered to be cases of force majeure or fortuitous events which relieve the company LABORATOIRES GILBERT of its obligations: strikes by all or part of its personnel or usual carriers, lock-outs, fire, flooding, storms, war, riots, halts to production caused by fortuitous breakdowns, epidemics, administrative decisions, road hazards, weight limits due to thawing conditions, strikes or stockouts by one of any of its suppliers for a cause which is not imputable to the company LABORATOIRES GILBERT.

In such circumstances, the company LABORATOIRES GILBERT shall inform the customer in writing, notably by fax or by e-mail, the contract binding the company LABORATOIRES GILBERT and the customer therefore being suspending in full right without compensation, counting for the date of the occurrence of the event.

If the incident should come to last more than 30 (thirty) days counting from the date of its occurrence, the sales contract concluded by the company LABORATOIRES GILBERT and its customer may be terminated in full right by the most diligent party, without a prior letter of formal notice and without refund.

This termination will come into effect as of the date of the reception or, failing reception, the date of the first presentation of the registered letter with acknowledgement of reception denouncing the said sales contract, without either party being able to claim the right to interest damages.

#### **Article 11 – Election of residence**

The election of residence is made by the company LABORATOIRES GILBERT at its corporate headquarters.

#### **Article 12 – Attribution of jurisdiction**

Any dispute concerning the application of these general conditions of sale, their interpretation, their execution, sales contracts concluded by the company LABORATOIRES GILBERT or the payment of the price shall be brought before the Commercial Court of Caen (14000 - France), whatever the location of the order,



delivery and payment, the payment method and even in the event of recourse in warranty or the plurality of defendants.

Bills of exchange constitute neither novation nor waiver to this clause of attribution of jurisdiction.

The attribution of competence is general and is applied to act as a principle request, incidental request, substantive proceedings or a reference.

Furthermore, in the event of judicial action or any other action of debt recovery by the company LABORATOIRES GILBERT, the legal summons fees as well as the lawyer and bailiff fees and all peripheral fees shall be at the expense of the customer at fault, as well as fees linked with or resulting from the non-respect by the customer of the conditions of payment or the delivery of the considered order.

#### **Article 13 – Renunciation**

If the company LABORATOIRES GILBERT does not at any given moment rely on any one of these general conditions of sale, this cannot be interpreted as validating a renunciation to later relying on the said condition.

#### **Article 14 – Applicable law**

Any question concerning these general conditions of sale as well as the sales which they apply to, which may not be dealt with using these contractual stipulations shall be handled by French law, excluding conflict-of-law rules which may lead to the designation of another applicable law and tangible application regulations issued by international conventions.