



General Terms and Conditions of Supply and Payment Diapharm

of the Diapharm Analytics GmbH

- valid from 01 July 2010 -

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A. Scope

- (1) These Terms and Conditions shall apply to all present and future business relations with enterprises.
- (2) Any other general terms and conditions, which differ or are contrary to these Terms and Conditions shall not be part of the Agreement unless their applicability is expressly recognized in writing.

B. Offer and conclusion of agreements

- (1) Our offers are subject to change without notice and non-binding. Declarations of acceptance and all orders require written confirmation or confirmation by fax to attain legal validity. The same applies to amendments, changes and subsidiary agreements.
- (2) Drawings, illustrations, dimensions, weights or other performance data shall only be tentative and only binding if such are expressly agreed upon in writing.

C. Prices

- (1) Prices are ex Oldenburg and do not include statutory value-added tax, packaging, shipment and insurance.
- (2) We have the right to raise or lower prices on goods and services which are supplied or rendered more than four months after the conclusion of the Agreement if costs have changed as a result of collective agreements, changes in freight, shipping, incidental shipping and material prices.

D. Delivery and transfer of risk

- (1) Delivery deadlines and dates are non-binding. These shall be deemed to have been met if the object of delivery has left our premises or we have provided notification of readiness to ship by the expiration of such deadlines or dates.
- (2) Our obligation to effect supply shall lapse as long as the customer is in arrears on payment.
- (3) We shall be entitled to render partial services, which we shall be able to invoice separately.
- (4) Shipment shall be at the risk and expense of the customer. We shall select the type of shipping and the shipping route, however, in consultation with the customer.
- (5) The risk of accidental loss and deterioration of the goods shall be transferred to the customer upon the transfer to the person or agent designated to execute the shipment. This shall also apply to partial shipments.
- (6) The seller shall not be responsible for delays in delivery and rendering of service as a result of force majeure and events which significantly impede the seller in effective delivery or render such impossible, which also include strikes, lock-outs, government decrees, etc., even if such occur in the domain of suppliers of the seller or their sub-suppliers, even in the case of bindingly agreed-upon dates and deadlines. Such delays shall entitle the seller to postpone the delivery of the products or rendering of service by the amount of time of such hindrance plus a reasonable run-up time or to withdraw from the Agreement in whole or in part as a result of the part which has not been fulfilled.
- (7) If shipment is delayed as a result of circumstances which we are not responsible for, risk shall be transferred to the customer on the day we become ready to ship.
- (8) Transfer of the good shall be deemed to have been effected if the customer is late in acceptance.

E. Payment

- (1) If nothing to the contrary has been agreed upon, our invoices shall be due for payment within 14 days after the invoice date. As a precondition for this, all other obligations of the customer emanating from the business relationship which are more than 14 days old must be settled.
- (2) Payment may only be effected by bill of exchange with our express written consent. Checks and bills of exchange shall only be accepted on account of performance. Incidental expenses and costs as well as the risk associated with presentation and filing of protests in due time shall be borne by the customer. There shall be no discount in the case of payment by bill of exchange.
- (3) In the event that the payment deadline is not met, the customer shall be deemed to be in arrears on payment without admonishment. The amount in arrears shall be assessed interest 8% greater than the base interest rate. The right is reserved to claim additional damages for delay.
- (4) If we become aware of circumstances which cast doubt on the creditworthiness of the customer, and in particular the customer fails to honor a check or discontinues payment, or if the seller becomes aware of any other circumstances casting doubt on the creditworthiness of the customer, we shall in such case be entitled to demand payment of the entire remaining amount owed. In such case we shall also be entitled to demand advance payment or security deposits.
- (5) The customer shall only be entitled to set off or retain amounts if counter-claims have been legally recognized by a court of law or are undisputed.

F. Warranty

- (1) The warranty rights of the customer require that it duly comply with its obligations to examine and file complaints about products or services and provide the seller written notification of any defects without undue delay, but no later than within one week after receiving the object of delivery. The customer shall be notified as to defects which could not be discovered upon direct inspection within this period without undue delay after discovery of such.
- (2) We shall honor warranty on defects by subsequent improvement or supply of replacement as we see fit.
- (3) If the subsequent performance fails, the customer may generally demand either a reduction in the remuneration or cancellation of the agreement (withdraw) as it sees fit. The customer shall not be entitled to withdraw from the agreement in the case of only minor contractual violations, in particular in the case of negligible defects.
- (4) If the customer opts for withdrawal from the Agreement as a result of a legal or tangible defect after an attempt at subsequent performance has failed, the customer shall not be entitled to any damage claims due to such defect.
- (5) If the customer demands damages be paid after an attempt at subsequent performance fails, the goods shall remain at the premises of the customer if this is reasonable. Damages shall be limited to the difference between the agreed-upon price and the value of defective delivery or performance. This shall not apply if the violation of the agreement was the result of fraudulent behavior.
- (6) The warranty period shall be one year.
- (7) Aside from § 2, section 2, the product specification shall generally be deemed to have been agreed regarding the quality of the product or service. Public sales, claims or advertising shall not be deemed to constitute statements regarding quality in accordance with the Agreement.
- (8) The customer is to receive no legal guarantees from us whatsoever. This shall not affect any manufacturers' guarantees.

G. Limits on liability

- (1) In the event of slight negligence our liability shall be limited to foreseeable, direct damage on an average scale and typical of such agreements and for such types of products or services. In the event of slight negligence this shall also apply to violations of obligations by our legal representatives or parties hired by us to execute the agreement. We shall bear no liability for violation of unimportant contractual obligations in the event of slight negligence.
- (2) The aforementioned limitation on liability does not relate to claims emanating from product liability. Limitations on liability shall not apply in the case of unforeseeable personal injury or loss of life.
- (3) Claims to damages on the part of the customer due to defect shall be subject to a one-year statute of limitations commencing with the delivery of the product or rendering of service. This shall not apply in the event of gross culpability or willful intent or in the event of foreseeable personal injury or loss of life of the customer.

H. Retention of title to ownership

- (1) We shall retain title to the goods delivered until all claims emanating from business relations between us and the customer have been completely paid. The placement of individual claims on a current transaction statement and a balance of current transactions and its recognition shall not affect the retention of title to ownership. Only receipt of the equivalent amount shall be deemed to constitute payment.
- (2) The customer shall be entitled to process the conditional commodities in normal business transactions; the customer shall not be allowed, however, to undertake any pledges, transfers of collateral or ceding of security deposits. The customer shall be obligated to secure our rights upon the resale of the conditional commodities on a credit basis.
- (3) The customer assigns all claims of the customer emanating from resale of the conditional commodities to us here and now; we accept this assignment. Notwithstanding this assignment and the collection rights of the customer, the customer shall be entitled to collect as long as it meets its obligations to us and does fall into forfeiture



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of assets. Upon request the customer shall provide us information pursuant to claims which have been assigned required for the purpose of collection and notify debtors as to such assignment.

(4) Any processing of conditional commodities shall be undertaken by the customer on behalf of the supplier without the supplier assuming any obligations hereto as a result thereof. In the case of the conditional commodities being processed, linked, mixed or incorporated in goods which do not belong to the supplier, we shall have co-title to the new goods emanating here from in the proportion of the invoice value of the conditional commodities to the other goods involved in the processing at the point in time of such processing, linkage, mixing or incorporation. If the customer acquires sole title to the new object, the parties to the Agreement agree that the customer shall concede co-title to the new object in the proportion of the invoice value of the processed or linked, mixed or incorporated conditional commodities and keep such in safekeeping for us free of charge.

(5) If the conditional commodities are resold together with other goods regardless of whether this is without or without processing, linkage, mixture or incorporation, the advance cession agreed upon in the foregoing shall only apply to the amount of the invoice value of the conditional quantities which are resold with the other goods.

(6) The customer shall inform the supplier without undue delay as to any mandatory enforcement measures by third parties involving the conditional commodities or claims ceded in advance. The customer shall provide the documents needed by the customer to intervene in the matter.

(7) We shall be obligated to release the collateral the customer is entitled to under the foregoing stipulations as it sees fit upon its request to the extent that its value does not exceed the claims to be secured by 20% or more. We shall be able to select the collateral to be released.

I. Customer data

We shall be entitled to process and store data of the customer at our company within the framework of statutory obligations, in particular the Federal German Data-Protection Act.

J. Indemnification

The customer shall be responsible for having acquired all the rights to documents and products transferred to us and for such rights not violating the rights of third parties, in particular copyright, trademark and patent rights or not being impeded in exploiting the said documents and products by other obligations. The customer shall hold us harmless and deprive us of cause of action if third parties file any claims in connection with the contractual exploitation of the aforementioned objects.

K. Usage purpose of products and goods

(1) Our products are for laboratory and testing purposes and use in the manufacturing, development and testing of industrial pharmaceutical products. They must be checked by the customer for their suitability prior to their use for another purpose, in particular in the fields of medicine or food and beverage processing. We cannot assume any liability for such use.

(2) If we have made a pledge to effect delivery contingent upon the usage purpose in the case of certain products, the customer shall be liable for any and all disadvantages which we suffer as a result of incorrect statements. In the case of poisons and other substances which may only be used within the framework of statutory or government regulations, the order by the customer shall at the same time be deemed to constitute a declaration that such substance is to be used for an allowed purpose in the aforementioned sense. The users or consumers of our goods shall be required to apply the laboratory guidelines of the social insurance against occupational accidents (Berufsgenossenschaft) of the chemical industry to these products. Such users and consumers shall continue to comply with all statutory regulations when handling the substances.

L. Place of performance, legal venue and applicable law

(1) The place of performance for all obligations emanating from the contractual relationship is the company headquarters in Oldenburg.

(2) The place of performance for all legal disputes emanating from the contractual relationship, its entry into force and its validity is Oldenburg and also the court having jurisdiction over the headquarters of the customer if we see fit.

(3) German law shall apply. The United Nations Convention on Contracts for the International Sale of Goods is excluded.

(4) If any particular stipulations in the agreement including these General Terms and Conditions are or become invalid in whole or in part, this shall not affect the validity of the other stipulations. The stipulation which is invalid in whole or in part shall be replaced by an arrangement which comes as closely as possible to the invalid stipulation in terms of its economic effect.