

# General Terms and Conditions of Sale

Effective: June 2006

## § 1 Scope of Application

These General Terms and Conditions of Business form part of all offers and contracts entered into with us. Deviating agreements or conflicting terms and conditions of contract of the buyer shall apply only with our written acknowledgement. These General Terms and Conditions shall apply even if we unconditionally make delivery to the buyer despite knowing of terms and conditions of the buyer which conflict with or deviate from these Terms and Conditions of Business.

## § 2 Placement of Orders

1. Orders may only be placed with us in writing (online order form, email, fax) and shall be deemed accepted by us upon our written acknowledgement of the order or upon dispatch of the goods. Changes to the scope of the order shall require our written approval and shall only be possible as long as the order is not yet in production.  
2. All products manufactured and distributed by us shall be intended for research purposes only. Orders by and deliveries to private persons are excluded.

## § 3 Prices and Payment Terms

1. Except where otherwise indicated in the acknowledgement of the order, our prices shall apply "ex works", excluding packaging and shipping costs. Packaging and shipping costs shall be invoiced separately. Our prices do not include statutory value-added tax. Statutory value-added tax shall be shown separately on the invoice at the statutory rate prevailing on the day of issuance of the invoice.  
2. We reserve the right to reasonably increase the prices, if unforeseen cost increases occur after the conclusion of the contract, particularly on account of collective agreements or increases in the price of materials. On request, we shall furnish the buyer with proof thereof.  
3. Invoices shall be due and payable net (without any deduction) within 20 days from the invoice date.  
4. If the buyer defaults on payment, we shall be entitled to demand default interest at the rate of 8 % p.a. above the base interest rate of Deutsche Bundesbank. If we are able to prove higher default damages, we shall be entitled to assert a claim for such higher damages, unless the buyer proves that we incurred no damages, or significantly lower damages, as a result of default in payment.  
5. The buyer may only set off with receivable which are undisputed or have been declared valid by a final and non-appealable court judgement. The buyer may exercise a right of retention only if and in so far as its counterclaim is based on the same contractual relationship.

## § 4 Delivery

1. Dates or periods for delivery which are not explicitly agreed upon as binding are exclusively non-binding indications. We shall be entitled to make delivery by instalments.  
2. Damage claims on the part of the buyer shall exist only in cases of intent or gross negligence on our part or on the part of our assistants. Damage claims based on any other measure or liability are excluded.  
3. Compliance with dates or periods for delivery shall be subject to unforeseen impediments which are beyond our control, such as for example cases of force majeure, operational disruptions etc.. If and in so far as such events have a material effect on the timely performance of the contract, the periods for delivery shall be reasonably extended. Additionally, we shall be entitled to cancel the contract, without this entitling the buyer to assert damage claims.

## § 5 Passage of Risk

1. Except where otherwise indicated in the acknowledgement of the order, the risk of accidental destruction and accidental deterioration of the purchase item shall pass to the buyer at the time the purchase item leaves our premises.  
2. We shall take out transport insurance cover for the delivery, if and in so far as the buyer so wishes. The costs arising in this respect shall be borne by the client.  
3. Delivered items shall be taken delivery of by the buyer even if they contain minor defects. The buyer's rights arising from sections 433 of the German Civil Code (BGB) remain unaffected.

## § 6 Reservation of Title

1. Up to the point of full settlement of the purchase price including all subsidiary claims and prior to settlement of all other claims arising from the business association

delivered shall remain our property. Up until that point the Purchaser is not entitled to pledge the goods to third parties or to assign them as security. The Purchaser shall store the reserved goods for us at no charge.

2. In the event of processing and combination of reserved title goods with other goods by the Purchaser we shall acquire joint title to the new item in the ratio of the invoiced value of the reserved title goods to the combined material entity. The joint title rights accordingly ensuing shall be considered as reserved title goods as defined in Clause 1.

3. The Purchaser is entitled to sell the reserved title goods in the due process of sale provided he is not in payment arrears in respect of our purchase price claims.

4. The Purchaser hereby assigns to us at this point in time all claims accruing to him as a result of resale of the reserved title goods vis-à-vis third parties. If the reserved title goods are sold following processing, combination or amalgamation assignment of the claim arising from resale shall apply only up to the extent of the value of the reserved title goods invoiced to the Purchaser by the Vendor. This shall also apply if the reserved title goods are resold together with other goods which similarly do not belong to the Vendor.

5. The Purchaser is also authorised to collect the claim even following assignment. We may restrict the said collection authorisation on the basis of justifiable interest or revoke the same on due cause found, in particular in the event of payment arrears. We may require that the Purchaser shall notify us of the claims assigned to him and of related debtors plus all information necessary for collection and surrender to us all associated documentation and disclose the said assignment to his debtors.

6. We undertake to release the securities due to us on the basis of the above provisions at our discretion upon the Purchaser's request to the extent that their realisable value exceeds the claim secured by 20% or more.

7. The Purchaser hereby declares his consent that the persons authorised by us in connection with assignment of the reserved title goods may enter the property or building on or in which the items are situated in order to take possession of the reserved title goods.

8. The Purchaser shall immediately inform us in respect of any confiscation, compulsory enforcement or other third party intervention adversely affecting our rights of ownership. The Purchaser shall bear the costs of measures to remedy third party interference in particular of any possible intervention procedures.

## § 7 Warranty

1. The buyer's warranty rights shall be conditional upon the buyer's proper compliance with its obligations to examine and give notice of defects, owed under section 377 of the German Commercial Code (HGB). The buyer shall, without undue delay, examine whether the delivered item ordered is in the condition contractually agreed upon. If such examination is omitted or not carried out to the required extent, or if apparent defects are not notified to us without undue delay, the item ordered shall be deemed approved in respect of such defects. Complaints shall be lodged in writing, stating the order data and the invoice number and dispatch number of the ordered item complained about. We, or an appraiser appointed by us, shall be given the opportunity to examine the ordered item complained about. We shall not be obliged to send back or hold in safekeeping an ordered item returned to us without our prior consent.

2. If and in so far as an ordered item is defective and we are responsible for the defect, we shall be entitled to, at our option, either rectify the defect or deliver a replacement.

3. If we are not prepared or able to rectify a defect/ deliver a replacement, particularly if we delay doing so beyond a reasonable period due to reasons for which we are responsible, or if we otherwise fail to rectify a defect/ deliver a replacement, the buyer shall be entitled to, at its option, cancel the contract or demand a corresponding reduction in the purchase price.

4. Except where otherwise indicated below, claims on the part of the buyer over and above the foregoing, on any legal basis whatsoever, are excluded. Therefore, we shall not be liable for damages which have not occurred on the delivery item itself. In particular, we shall not be liable for lost profit or other pecuniary losses on the part of the buyer.

5. Claims to supplementary performance, compensatory damages and reimbursement of outlay shall become time-barred one year after dispatch of the purchase item.

6. If our handling instructions are not followed, the terms and conditions of warehousing and/ or transportation stated by us are not complied with, alterations are made to the products, the products are mixed and/ or the products are compounded with chemicals, every warranty shall be forfeited, unless the buyer disproves beyond doubt that the defect was first brought about by one of

the said circumstances.

## § 8 Liability

1. We shall be liable for damages only if and in so far as the cause of the damages is based on intent or gross negligence. If and in so far as we breach a material duty, we shall be liable for compensation for foreseeable damages at the time of the conclusion of the contract.

2. We and the buyer agree that foreseeable damages at the time of the conclusion of the contract shall in no event be higher than the value of the order.

3. If and in so far as liability on our part is excluded or limited, this shall also apply to the personal liability of white-collar workers, blue-collar workers, employees, agents and performance assistants.

## § 9 Third-Party Licence Rights

If the buyer breaches third-party licence rights by further processing our products, and if claims are made against us in connection therewith, the buyer shall hold us harmless against such claims. The risks associated with the further processing of our products shall be borne exclusively by the buyer.

## § 10 Written Form

Deviating agreements, amendments and additions to these General Terms and Conditions of Business must be laid down in writing and be confirmed in writing. The written form may not be invalidated by verbal agreement.

## § 11 Data Storage, Confidentiality

1. The buyer agrees that the data arising from the order relationship and the services carried out by us may be stored.

2. We undertake to maintain strict secrecy in respect of orders places.

## § 12 Place of Performance and Jurisdiction

1. The place of performance of the mutual obligations arising from the contractual relationship is Ulm/ Donau. If the buyer has full merchant status or is a legal entity under public law or a special fund under public law, the agreed mutual place of jurisdiction is Ulm/ Donau, also for legal disputes relating to deed, cheque and/ or bill of exchange receivables. However, we shall be entitled to choose the buyer's principal place of business as the place of jurisdiction.

2. In respect of the legal relationship between the purchaser and us the laws of the Federal Republic of Germany apply. UN Sale for Goods legislation (CISG) is expressly excluded.