

## **General Terms and Conditions**

### **1. General, Customers, Language**

- 1.1. All offers, sales contracts, deliveries and services offered by PAN-Biotech GmbH („Vendor“) shall be executed exclusively in accordance to these general terms and conditions of sale (the “General Terms and Conditions“). These shall be part of all contracts, which the Vendor agrees on with its partners (“Customers“) regarding deliveries and services offered by the Vendor. The General Terms and Conditions shall also apply on future deliveries, services or offers to the Customer, even if they are not the subject of a further separate agreement.
- 1.2. Standard terms and conditions of the Customer or of third parties shall not apply, regardless of whether or not the Vendor expressly objects to them in particular cases. Even if the Vendor refers to correspondence of the Customer or of a third party which contains standard terms and conditions of the Customer or of third parties or makes mention of such, this shall not suggest any agreement to the validity of such standard terms and conditions.

### **2. Offers and Conclusion of Contract**

- 2.1. All offers by the vendor are non-binding, unless they are not explicitly marked as binding.
- 2.2. By placing an order, the Customer makes a binding offer to purchase the relevant product. The Vendor can accept this offer within ten days after its receipt.
- 2.3. Without undue delay upon receipt of the order, we will send to the Customer by e-mail a confirmation of receipt, which shall not constitute an acceptance of the order. The order shall be deemed to be accepted by us either upon subsequent (e-mail) acceptance of the order or by dispatching the product. The sales contract with the Customer shall not become effective until our acceptance.
- 2.4. The sole authoritative document for the legal relations between the Vendor and the Customer is the purchase contract concluded in writing, including these General

Terms and Conditions. This fully reflects all agreements between the contracting parties on the object of the contract. Verbal promises of the Vendor before the conclusion of a purchase contract shall be legally non-binding. Verbal agreements of the contracting parties shall be replaced by the written contract, unless it is expressly stated therein that they will continue to be binding in each case.

- 2.5. Additions and modifications to the agreements reached, including these General Terms and Conditions, require the written form to be effective. In order to preserve the written form, transmission by fax is sufficient. Apart from that telecommunication transmission, particularly by e-mail, is not sufficient.
- 2.6. Information from the Vendor on the object of the supply or service (e.g. weight, dimensions, practical value, qualities and technical data) as well as our representations of the same (e.g. drawings and illustrations) are only approximately applicable, unless it's applicability for the purpose contractually envisaged requires precise conformity. These are not guaranteed characteristics but descriptions or identifications of the supply or service. Differences which are customary in the trade, which are the result of legal provisions or which represent technical improvements, are permissible in so far as they do not detract from the applicability for the purpose contractually envisaged.
- 2.7. The Vendor retains the ownership or copyright for all offers and cost estimates issued by him as well as drawings, illustrations, calculations, brochures, catalogues, and other documents and resources made available to the Customer. Without the express agreement of the Vendor, the Customer may not make these objects, or the content of them, accessible to third parties or make them known to third parties, or have them used or reproduced, either by himself or by third parties. On request by the Vendor he must return these objects to him in their entirety and, where applicable, destroy any copies made of them, if they are no longer needed by him in the proper course of business or if negotiations do not result in the conclusion of a contract.

### **3. Prices and Payment**

- 3.1. Our prices are valid for the scope of services or supplies listed in the order confirmations. Additional or special services will be calculated separately. Our prices

are given in Euro ex works plus packaging, statutory VAT, customs for export deliveries plus duties and other official charges.

- 3.2. In the event that we have agreed to payment after delivery, our invoices shall be due and payable by the Customer within 30 days upon receipt of the product and the invoice without any discount. A trade discount shall only be acceptable, if explicitly noted on the invoice and if the payment deadline has been met. If the Customer does not pay by the due date, then interest will be charged on the outstanding amounts at a rate of 5 % p.a. as from the due date; the application of a higher interest rate and additional damages in case of late payment remains unaffected.
- 3.3. The Customer shall have no right of set-off or retention, except to the extent that the counterclaim has not been disputed by us or are legally established.

#### **4. Dispatch of the Product**

- 4.1. Supplies are provided ex works.
- 4.2. Terms and deadlines announced by the Vendor in advance are always only approximate unless a fixed term or a fixed deadline is expressly promised or agreed.
- 4.3. All terms and deadlines for delivery promised by us shall begin
  - if delivery against prepayment has been agreed upon on the day the complete purchase price including VAT and shipping costs is received or
  - if cash on delivery or purchase on account is agreed upon on the day of the conclusion of the purchase contract.
- 4.4. Delivery terms and delivery deadlines relate to the point of handover to the shipping company or other third parties commissioned for the transport.
- 4.5. If no deadline is stated or agreed upon, a delivery three weeks from the day stipulated in Section 4.3. shall be considered as agreed upon.

- 4.6. If we are prevented from the fulfillment of our obligations by the occurrence of unforeseen events (e.g. operating disruptions of all kinds, difficulties in procuring materials or power, transport delays, strikes, lawful lockouts, workforce, energy or raw materials shortages, difficulties in procuring necessary official approvals, official measures etc.) that affect us or our suppliers or subcontractors for e.g. shipping and for which we are not responsible, the delivery period shall be appropriately extended. If such events make it impossible for us to provide our supplies or services, we become free from our delivery obligations. If the delivery period has been extended or we have become free from our delivery obligations, the Customer's statutory claims and rights shall remain unaffected; claims for damages because of a default in delivery is limited to compensation in accordance with Section 9 of these General Terms and Conditions.
- 4.7. Part deliveries of products included in the same order shall be permitted, provided that the products can be used separately and provided further that we shall bear any additional shipping costs caused thereby.

## **5. Place of Completion, Dispatch, Insurance and Transfer of Risks**

- 5.1. The place of completion for all obligations arising out of the contractual relations is Aidenbach, unless determined otherwise.
- 5.2. Unless expressly otherwise agreed upon, we shall be free to determine the appropriate mode of shipment and to select the carrier at our reasonable discretion.
- 5.3. We shall only be obliged to properly and timely handover the product to the shipping company and shall not be responsible for any delays which are caused by the shipping company. Any dispatch period mentioned by us shall only be non-binding estimates. This also applies to part deliveries. If dispatch or handover is delayed due to circumstances whose cause lies with the Customer, the transfer of risks to the Customer takes place on the day when the Vendor is ready for dispatch and has notified this to the Customer.

- 5.4. The consignment will only be insured by the Vendor against the usual transport risks within the desired level of insurance on the express wish of the Customer and at his costs.

## **6. Retention of Title and Resale**

- 6.1. We retain legal title to any product supplied by us until the purchase price (including VAT and shipping costs) for such product has been fully paid.
- 6.2. The Customer shall not be entitled to resell or to process the products delivered by us which are under retention of title, except with our prior written consent.

## **7. Warranty**

- 7.1. Immediately after delivery, the Customer must check whether the condition and quantities comply with the contractual agreements and are suitable for the intended purpose. Defects discovered on routine inspection of the delivered goods, and deliveries of other goods than those ordered, have to be complained about within seven days after receipt of the goods. Objections and defects that become evident only at a later time, in spite of immediate checking, must be notified immediately upon their detection, or two months after receipt of the goods at the latest. If the Customer does not object in due time, the goods are considered to be accepted with regard to condition and quantity.
- 7.2. Minor differences between the goods or executions and the information and specifications in our catalogue can occur and are not considered a defect.
- 7.3. In the event of a defect of the delivered product, we shall have the right to choose between us to repair the defect or to supply another product (as ordered) at our discretion. Such choice shall be made by us by written notice (i.e. „text form“, including by telefax or by e-mail) within a period of three business days following receipt of the Customer’s notice of the defect. We may refuse to remedy a defective product if such remedy would result in unreasonable costs.

- 7.4. If the supplementary performance pursuant to Section 7.3. fails, the Customer shall be entitled to terminate the sales contract, reduce the purchase price or claim damages or frustrated expenses, in each case in accordance with applicable law; provided, however, that damage claims of the Customer shall be subject to the provisions contained in Section 9 of these General Terms and Conditions.
- 7.5. The warranty period shall be one year upon delivery of the product.
- 7.6. The item of supply to which the complaint relates is to be sent back to us on our request, carriage paid. If the notice of defects is justified, we will reimburse the costs of the cheapest method of dispatch; this does not apply in so far as the costs rise because the item of supply is located somewhere other than the place of use as determined.
- 7.7. The warranty becomes invalid if the Customer modifies the item supplied without our approval or allows this to be done by third parties and the remedying of the defect is made impossible or unreasonably harder because of this. In each case the Customer must bear the additional costs of remedying defects caused by the modification.
- 7.8. A supply of used items agreed in individual cases with the Customer is done under exclusion of any warranty for material defects.

## **8. Intellectual Property Rights**

- 8.1. We shall be liable for the absence of third party rights based on industrial or other intellectual property rights, in accordance with applicable law. Each contracting partner will immediately inform the other contracting partner in writing in the event that claims are made against him due to the infringement of such rights.
- 8.2. In the event that the item supplied infringes a third party industrial property right or copyright then, according to his choice and at his own costs, the Vendor will either alter or exchange the item supplied in such a way that it no longer infringes any third party rights, but so that the item supplied continues to fulfil its contractually agreed functions, or procure the right of use for the Customer by concluding a license contract. If we do not manage to do this within an appropriate period, the Customer

is entitled to withdraw from the contract or reduce the purchase price appropriately. Any claims for damages by the Customer are subject to the limitations in Section 9 of these General Terms and Conditions.

## **9. Liability**

- 9.1. Our liability for damages, regardless of the legal grounds but in particular due to impossibility, delay, defective or incorrect delivery, contractual infringement, infringement of duties during contract negotiation and action in tort is, in so far as there is a question of blame in each case, limited to an amount equal to 50 % of the aggregate purchase price (including VAT).
- 9.2. We shall not be liable (on whatever legal grounds) for damages which may not reasonably be foreseen, considering the type of the relevant order and product and assuming a normal use of the product. Furthermore, our liability shall be excluded for indirect and consequential damages, unless these damages occur typically when the product is used normally.
- 9.3. The above liability exclusions and limitations apply to the same extent in favour of our agents, legal representatives, employees and other servants.
- 9.4. In so far as we provide technical information or act as an adviser and this information or advice is not part of the contractually agreed scope of services owed by us, this is done free of charge and with the exclusion of any liability.
- 9.5. The provisions of Section 9 stated above shall not apply with respect to our liability in cases of willful misconduct, for guaranteed product specifications, personal injury or under the German Product Liability Act.

## **10. Data Protection**

- 10.1. We may save and process any data relating to the Customer, to the extent necessary for the purpose of the execution and implementation of the sales contract and as long as we are required to keep such data in accordance with applicable law.

- 10.2. We shall have the right to submit personal data relating to the Customer to credit agencies, to the extent necessary for a credit check subject, however, to the Customer's consent in each individual case. We shall neither make available any personal data of the Customer to other third parties without the express consent of the Customer, except to the extent that we are required to disclose any data pursuant applicable law.
- 10.3. We shall not be permitted to collect, submit to any other third party or otherwise process personal data of the Customer for any purpose other than those set forth in this Section 10.

## **11. Applicable Law, Legal Venue and Final Provisions**

- 11.1. The legal venue for all and any disputes arising out of the business relations between us and the Customer is the head office of us. For claims against us, Munich (München) is the exclusive legal venue. Compelling legal provisions on exclusive legal venues remain unaffected by this ruling.
- 11.2. Any contracts entered into between us and the Customer shall be governed by the laws of the Federal Republic of Germany under exclusion of the UN Convention on the International Sale of Goods (CISG).
- 11.3. In the event that one or more provisions of the contract or this General Terms and Conditions should be or become invalid or unenforceable, it shall be deemed to be replaced with such legally permissible provision which comes as close as possible to the economic purpose of the invalid or unenforceable provision.
- 11.4. In so far as the contract or these General Terms and Conditions contain any regulatory gaps, those legally effective provisions which the contracting partners would have agreed according to the commercial aims of the contract and the purpose of these General Terms and Conditions if they had been aware of the regulatory gaps are considered to be agreed for filling these regulatory gaps.