

## I. General terms

1. These conditions of sale and delivery apply to all contracts of supply between us and our customers, even when in individual cases they are not referred to.
2. A customer's inconsistent conditions of purchase shall have no validity, even when we do not expressly reject such conditions.
3. The customer is deemed to agree to these conditions of sale and delivery upon unconditional acceptance of the goods supplied.
4. Rights of the customer arising during the course of business with us are not transferable.
5. Any agreement that differs from these conditions of sale and delivery, or any recognition of the customer's contradictory purchase conditions, requires our express confirmation in writing.

## II. Offers

1. In the absence of a declaration to the contrary, we are not bound by any offers we make.
2. Supply contracts only take effect when confirmed by us in writing.
3. Any inquiries or complaints concerning confirmation are to be made promptly in writing.
4. Assurances and assured properties only exist when they are expressly described as such. The descriptions and other statements in our catalogues and price lists are accurate to the best of our knowledge and belief. Under no circumstances may any assurances as to properties be derived from such descriptions and statements.

## III. Prices

1. Our prices quoted in the current price list are net prices, VAT (value added tax) not included.
2. VAT is charged according to the applicable laws in effect.
3. Charges for delivery, cooling and insurance are indicated in the valid price list.
4. PromoCell prices are subject to change without prior notice.

## IV. Shipping charges

- Germany, Denmark, Austria, France, Italy, Netherlands, Belgium, Monaco: EUR 53,-  
United Kingdom: GBP 46,-  
USA, Canada: USD 99,-  
Switzerland: CHF 94,-  
Rest of the world: Please inquire.

## V. Delivery

1. Delivery times will be specified after careful co-ordination. They are however not legally binding. Claims for compensation due to delayed or non-delivery are excluded.
2. If a delivery date specified by us is exceeded by more than two weeks, the customer is entitled to give us a further two week time limit for delivery. Should the delivery not be carried out by the end of the additional two week delivery period, the customer is entitled to rescind the contract. The rescission must be made promptly and in writing, at the latest within a week of the expiry of the additional two week delivery period.
3. All deliveries take place at the customer's risk. The passing of risk takes place on the handing over of the goods to the carrier or haulier. The careful choice of dispatch method and means of transport is at our discretion with exclusion of any and all liability.
4. Deliveries in part are permitted. They are to be regarded as separate deliveries.

## VI. Payment

1. Payment is to be made without any deductions within 14 days of delivery and remittance of the bill.
2. Default of payment will result in legal proceedings upon the expiry of the payment period without further warning. In this case, or in the case of a warning, we are entitled to interest for late payment at the current normal bank borrowing rate, or alternatively at a rate of 5% above the current discount rate of the Deutsche Bundesbank.
3. A cash discount is only permitted when expressly stated on the bill and when payment is made within the stated period.
4. An offset against or demand for payment is only permitted when the customer has an undisputed or legally established counterclaim.
5. If our conditions of payment are not complied with or if justifiable doubts exist regarding the customer's ability or willingness to pay, we are entitled to rescind the contract and to demand the return of the delivered goods, the costs of delivery to be borne by the customer. In addition, all time limited demands will become due. Justifiable doubts referred to above include, but are not restricted to: unfavourable information, deterioration of financial circumstances, initiation of insolvency or bankruptcy proceedings, execution measures against the customer, protest of bills, and default of payment for any other reason.

6. If the customer does not take delivery of properly delivered goods, we are entitled, after setting an additional time limit, to rescind the contract, or to damages for non-compliance with the contract. In the latter case we are entitled to demand either damages of 25% of the sales price without proof, or the actual amount of damages.

## **VII. Complaints**

1. Any complaint regarding the goods, such as defects, lack of assured properties, wrong delivery and over- or under-delivery are, after immediate discontinuation of use, to be reported in writing.
2. In the case of wrong delivery the goods will be taken back at our expense and replaced with the goods ordered. Excess deliveries may similarly be sent back to us at our expense. In the case of under delivery the customer may choose between a reduction in payment or complete performance.
3. In the case of delivery of faulty goods we are entitled to replace the faulty goods with goods free of faults. Should the replacement delivery also be faulty, the customer may choose between a reduction in payment or cancellation of the contract. Claims for compensation are excluded except in the case of lack of assured properties.
4. The right to complain expires in the case of obvious or apparent defects two weeks after receipt of the goods, and in the case of non-apparent defects six months after receipt of the goods.
5. Goods may only be returned by arrangement with us and with the issue of a return number. The goods must be properly packed. If returned goods are damaged due to the fault of the customer, the customer is obliged to pay compensation for such damage without delay upon receipt and to report any complaints to us immediately. If the customer fails to make such a report the goods will be deemed approved. In the case of a fault that is not apparent upon inspection, the complaint must be reported immediately upon discovery of the fault, otherwise the goods will be deemed approved as regards such fault.

## **VIII. Intended use of goods and right of use**

1. Goods delivered by us are intended exclusively for the purposes of research and may not be used on human beings, animals, in the household or for any private use. We emphasise that the use of our products for diagnostic or therapeutic purposes is subject to the current legal regulations.
2. We do not accept any liability for the improper use of our products. We deliver only to commercial enterprises, resellers and public research, development and teaching establishments. Legal regulations require us to carefully check orders and to refuse delivery when there are signs of improper use of our products. Orders from students or other private individuals must be given from an official office of their institute or firm.
3. We expressly oppose research or any uses which run counter to ethical, legal or political standards or principles within Germany and/or the import country, or whose ethical justification is the subject of public debate and dispute in the respective country (i.e. cloning experiments). We do not accept any liability for such research or use by our customers or by third parties who have received our products from our customers.

## **IX. Additional rights of use**

1. Without altering the intended use of goods (see above VIII.) the Customer may inquire and at our full discretion – subject to a specific offer by us – purchase additional limited rights of use for our products.
2. These additional limited rights of use as detailed in the respective offer – unless stated otherwise in that specific offer – are non-transferable, non-sublicensable, non-exclusive and allow commercial use as detailed in the respective offer.
3. "Commercial use" means: Any activity conducted in exchange for consideration including, but not limited to, (a) use in or for manufacturing, (b) use to provide a service, and/or (c) resale, except pure and unaltered resale.
4. These additional rights of use linked via the offer ID to a product also prevail over potentially conflicting product labelling.

## **X. Liability**

1. All products delivered by us are only to be handled by trained personnel who are well aware of the potential dangers. Should any liability for compensation arise as a result of damage caused by breach of this condition, the customer shall be liable to pay any such compensation. In all cases the current safety regulations are to be observed, especially in the case of cells of human or animal origin, which always represent a potential risk of infection. The lack of a danger symbol does not mean that the substances concerned are harmless.
2. We accept no responsibility for damage, loss or injury caused by incorrect handling or use in the household, on humans or on animals. In as far as we have, for certain products, made confirmation of delivery dependent upon a specified use of the products, the customer accepts full liability for any damage suffered by us as a result of the customer's incorrect use of the product. In the case of products which may only be used in accordance with legal or official regulations, the customer's order simultaneously counts as a declaration that the products will be used for a specific purpose in the above sense.
3. Our customers are required without exception to apply the laboratory guidelines of the professional association of the chemical industry when dealing with our products.
4. Passing on of our products to private individuals is not permitted. If as a result of a breach of this condition for whatever reason we should receive a claim for compensation from a private individual, we shall have a right of redress against the customer.
5. PromoCell provides no warranties as to the accuracy of the information contained in printed materials like product informations, catalogs, instruction manuals, etc. and shall bear no responsibility or liability whatsoever for any errors, faults or omissions in the information.

## XI. Indemnification

1. In addition to section 'complaint', claims by the customer are excluded, in so far as they are not based upon intention or gross negligence.
2. In the case of delivery to a trader this exclusion also applies to any damage caused by the intention or gross negligence of our business associates, carriers or employees. We accept no liability for damage caused by the behaviour of companies or individuals which sell our products.
3. The sale of our products under their trade names for further commercial use does not mean that these products and their trade names may be freely used in general circulation. Some products, their production and use or their trade names are patented or protected trade names. The further commercial use of such products and their trade names occurs as regards a third party under the exclusive responsibility and liability of the customer.

## XII. Miscellaneous

1. German law shall apply to all contracts entered into by us, including those for deliveries abroad. We expressly reject the application of the Vienna UN-agreement relating to international sales contracts of 11.04.80.
2. In the case of contracts with traders who do not belong to the traders specified in §4 of the code of commercial law, the place for fulfilment of contracts and the court of jurisdiction shall be Heidelberg.
3. If any of the above conditions is held to be invalid, the validity of any of the other conditions shall not be affected.
4. Only the German version of this Terms of Delivery and Payment is valid. This Translation shall only serve as assistance for our customers. You can get a German version on request.

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