

GENERAL PURCHASING TERMS

DCS PHARMA AG

valid from January 1, 2016



1. GENERAL

The SUPPLIER acknowledges our General Purchasing Terms as amended from time to time as the basis for all present and future contracts for the purchase of goods and/or services between the SUPPLIER and DCS PHARMA AG (PURCHASER). Deviations from these General Purchasing Terms - in particular the applicability of the General Sales Terms of the SUPPLIER - require our explicit written confirmation.

2. ORDERS

Only written orders are valid. As written in this §2 telex, fax and E-mail are also meant. Oral agreements, additions and changes as well as those made by telephone must be confirmed in writing by us in order to be valid. Deviations from our order terms, including price and currency reservations, are only valid after our written confirmation. Interpretation of delivery clauses is in accordance with the INCOTERMS of the International Chamber of Commerce Paris in their currently valid version provided nothing to the contrary has been agreed to in writing. Confirmation of our order must be submitted in writing within 10 days. The absence of the same is deemed as acceptance of our order at the conditions contained therein. Copyrights to all documentation such as plans, sketches, calculations that are given to the SUPPLIER before or after execution of the contract remain with us. The SUPPLIER shall use such documentation exclusively for the purpose of carrying out our order. Without our prior written consent, it is not entitled to manufacture products for third persons based on such documentation nor to copy, duplicate or in any other manner inform third persons about such documentation who are not directly authorized by the SUPPLIER with the carrying out of the order or a part of it. Publications for advertising purposes in which DCS PHARMA is mentioned may only be used with our written agreement. Transferring a part or the whole of our order to third persons is only allowed with our written agreement. All additional expenses that arise due to the non-observance of our instructions or by deficient deliveries are at the cost of the SUPPLIER.

3. SHIPMENT/DELIVERY

The goods are to be examined before shipment for their qualitative and quantitative conformity with our order. Upon request of the Purchaser, the examination is to be confirmed by a product certificate. For shipments to various delivery locations, we require separate shipping notices, shipping documents, delivery receipts, certificates of origin, product certificates and invoices. Shipping notices, shipping documents product certificates and invoices are to be forwarded to us in copy per fax at the latest 2 workdays after shipment. The originals are to be sent to us by express mail or messenger at the latest within 2 workdays. In the event the required documents are not available for a shipment, the goods are stored until their receipt for the account and at the risk of the SUPPLIER. Partial deliveries and advance deliveries are not possible without our express consent. If delivery is not made by the agreed-upon delivery dates, we are entitled to cancel the order. The delivery dates agreed upon in the order are binding. The SUPPLIER is fully liable for damages, which result due to delays in delivery.

4. TRANSPORT

The transfer of benefit and risk occurs, provided nothing otherwise has been explicitly agreed upon in writing, after arrival of the delivery at the agreed upon place of destination/place of performance or when acceptance is required there, after its completion. Provided nothing otherwise has been explicitly agreed upon, all transport costs, taxes, fees and customs duties in the delivery and transit countries will be borne by the SUPPLIER. Dangerous goods transports must be packaged, labeled and declared in accordance with the applicable statutory provisions for the respective transport carrier. The SUPPLIER must strictly follow our special instructions for packing and transport in accordance with the order (e.g. for cold and frozen transports). In the event these obligations are not fulfilled, the SUPPLIER is fully liable for the costs and damages resulting therefrom and must release us in the case of litigation.

5. PACKING

The SUPPLIER is liable for damages during the transport due to insufficient shipping or transport measures. We reserve the right to return packing material and/or to dispose of it competently and to request a credit for it from the SUPPLIER.

6. COMPLAINTS

The deliveries will be examined by us or our representative or customer within a feasible period and if possible before processing although complaints may be made during the entire guarantee period irrespective of the examination period. The providing of payments and any acceptances are not deemed a waiver of the right to complain.

7. WARRANTY

The goods/services to be delivered by the SUPPLIER must correspond in their composition/specifications, form and contents to the order as well as to the provisions and trade customs valid in the marketing countries specified in the order. Upon request, we will furnish all requested and necessary information in this regard to the SUPPLIER. The SUPPLIER fully guarantees for quality and fitness for the intended use of all deliveries during two years after delivery to the place of destination (most often place of receipt of our customer) or if later, after delivery to us or our customer, subject to an earlier lapsing of the expiration date of a product. The SUPPLIER may not make any changes in the composition/specifications or manufacturing process of the products ordered from the time of the definitive order until delivery. In addition, the SUPPLIER shall give notice in writing of any such changes at the latest before confirmation of the next order. We are in particular entitled during the entire guarantee period to request replacement or improvement. In urgent cases the right exists to take measures to remove the defect without an additional time period at the cost of the SUPPLIER. Irrespective of fault, the SUPPLIER is fully liable for damages (including consequential damages). The same guarantee begins to run again for all guarantee deliveries. If an aggrieved party claims against us for damages based on product liability law, and it cannot be proved that we were the cause of the defect, the SUPPLIER shall hold us fully harmless for any liability vis-à-vis the aggrieved party. The SUPPLIER is obligated to take out adequate product liability insurance and to provide us at any time proof thereof upon request.

8. INVOICES AND PAYMENT

We require separate invoices for orders from different purchasing locations. Provided nothing to the contrary has been agreed upon, our payment shall be made in the currency agreed upon within 30 days from invoicing, at the earliest however after arrival and acceptance at the place of destination. In the event of delayed delivery of requested material certificates or Q-documents, we reserve the right to correspondingly extend the agreed upon payment period.

9. TRADEMARKS/ADVERTISING, ETC.

We are authorized to use trademarks/logos/marks and other data that are affixed to the delivered products themselves or on their original packaging as well as on the advertising material submitted by the SUPPLIER or contained therein for additional advertising purposes. The SUPPLIER shall make available to us at no charge information, samples and advertising material for the delivered products if requested.

10. APPLICABLE LAW, JURISDICTION, COLLECTION PROCEEDINGS

Swiss law is applicable including the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980 ("Vienna Sales Law"). Place of performance for all obligations is our principle place of business in Basel unless explicitly otherwise agreed upon in writing. For a SUPPLIER domiciled abroad, our principle place of business in Basel shall be the recognized place for collection proceedings. Provided the parties have not agreed expressly in writing to arbitration, the ordinary courts having jurisdiction at our principal place of business in Basel always have, however not exclusive, jurisdiction over all disputes arising out of this agreement. We are also entitled to initiate collection proceedings or other proceedings against the SUPPLIER in any other place provided for by law.