

GENERAL SALES & DELIVERY TERMS

DCS PHARMA AG

valid from January 1, 2016



1. GENERAL

The BUYER acknowledges that our General Sales and Delivery Terms in their version as valid from time to time shall be the basis for all present and future contracts of the BUYER with DCS PHARMA AG (SELLER). Deviations from these General Sales and Delivery Terms - in particular application of the purchasing terms of the BUYER - require our explicit written confirmation.

2. CONTRACT

Offers made by us are not binding. The price information and technical specifications in our price lists and brochures are not binding provided nothing to the contrary has been agreed upon in writing. An order is deemed accepted only when confirmed by us in writing. If the BUYER requests short-term delivery without our written confirmation and we agree therewith, the BUYER agrees that the invoice, including the present General Sales and Delivery Terms, shall form the basis of the contract.

3. PRICES

All transactions shall be based on the freight, insurance, customs and tax rates valid at the time of the respective orders. Changes in these rates shall be charged / credited to the BUYER's account.

4. TERMS OF PAYMENT

Payment shall be made within 30 days from the date of the invoice provided nothing to the contrary has been agreed upon. After expiration of the payment period, the BUYER is in default without additional reminder and interest is due (3% over the 3-month LIBOR rate corresponding to the respective payment currency). The BUYER is not entitled to offset such claims against alleged or proven counterclaims.

5. DELIVERY / DELIVERY PERIOD

Provided there are no explicit agreements to the contrary, partial shipments or partial deliveries are permitted. Each partial delivery or partial shipment shall be deemed to be a separate contract. Discrepancies in quantities of up to 10%, calculated on the basis of the entire quantity and not the individual partial quantities to be delivered, shall be permissible. For as long as the BUYER is in arrears with a payment or its solvency is at risk, we are entitled to hold back further deliveries. Our additional claims shall remain unaffected thereby. Delivery terms or other information given on price lists, in brochures or orally shall not be binding. The sales confirmation alone shall be applicable. We agree to notify the BUYER immediately in the case of a delay in contractually determined delivery terms (which are not to be deemed fixed deadlines unless so agreed upon in writing). In such a case, the BUYER shall fix a reasonable extension of the time for delivery. The purchaser has no claim to compensation for damages or termination of the contract due to delayed delivery. In the case of a delay due to the fault of the SELLER, claims for damages shall be limited to 10% of the invoice value. Art. 11, below, remains reserved.

6. RESERVATION OF OWNERSHIP

Until receipt of the entire payment, the goods shall remain our property. The BUYER authorizes us herewith to record the property rights when necessary to protect ownership.

7. PACKING MATERIAL

We do not take back packing and transport material unless a legal duty to do so exists. The BUYER agrees to dispose of the packing material at its own expense.

8. WARRANTY

All information concerning suitability, processing and utilization of the products sold, technical consultation and other information is provided to the best of our knowledge and does not however release the BUYER from the responsibility to make its own examinations and tests. Only that information expressly designated and confirmed as such in our sales confirmation shall be deemed guaranteed.

The warranty period is 6 months from delivery. The BUYER shall examine the delivered goods for defects in quality or functionality as soon as feasible in the usual course of business, at the latest however before processing; otherwise, the product is regarded as approved.

In any case, claims are only allowed if they are made in writing and supported by proof within eight days following receipt of the goods – in the case of hidden defects, immediately after their discovery, at the latest however six months following receipt of the goods. After notification of the defects, we are entitled to examine the goods ourselves. Up to that time, the BUYER shall provide access and proper storage.

Our warranty is limited at our discretion to replacement, repair, or reduction of the price. Rejected goods may only be returned with our explicit consent. Additional guarantees and liabilities are excluded to the extent permissible by law, in particular for indirect and consequential losses such as lost profits, unrealized savings or third-party claims and, in particular, also for losses caused by our officers, employees or auxiliary persons utilized.

9. FORCE MAJEURE / CONTRACT INTERRUPTIONS

Interruptions of operations of the parties or of third parties, delays in delivery, failures of suppliers to deliver, lack of raw material or energy, interruptions in traffic, to the extent that such events were not foreseeable, as well as war, riots, strikes, lockouts, official orders and other cases of force majeure shall release the affected party from its obligations, in particular, the obligation to deliver or accept, as long as the interruption lasts and to the extent that it affects the party. If the delivery or its acceptance is thereby delayed by more than one month, BUYER and SELLER shall agree on how to proceed. If no agreement is reached, then at the earliest after another month, appeal may be made to the competent court pursuant to Art. 11, below, which shall then decide.

10. IMPORT RESTRICTIONS, ETC.

The BUYER shall obtain import or operating permits at its own expense and risk, provided nothing to the contrary has been explicitly agreed upon in writing. The BUYER shall be liable for import restrictions and official regulations of a similar nature becoming effective after execution of the contract.

11. APPLICABLE LAW, JURISDICTION, COLLECTION PROCEEDINGS

Swiss law shall be applicable, to the exclusion of the Convention of the United Nations on Contracts regarding International Sales of Goods dated April 11th, 1980 ("Vienna Sales Law"). The place of performance for all obligations shall be our principal place of business in Basel, provided that nothing to the contrary has been agreed upon expressly in writing. For BUYERS domiciled abroad, our principal place of business in Basel shall be the recognized place for debt collection proceedings. The courts at our principal place of business in Basel shall always have jurisdiction over disputes arising out of and in connection with this contract, provided that the parties have not expressly and in writing agreed to arbitration. We reserve the right to initiate debt collection or other proceedings against the BUYER in any other place provided by law.