



General Terms & Conditions of Sale

Capricorn Scientific GmbH

Auf der Lette 13A

35085 Ebsdorfergrund

Germany

Valid from 01.01.2014/version 1.0

1. Applicability

- 1.1 All our legal transactions, deliveries, other services and offers shall exclusively be made on the basis of these General Terms and Conditions. The customer explicitly acknowledges that we already at this point object to any and all deviating provisions in an order or other business papers of the customer. Deviating conditions of the customer shall not be accepted by us and shall only apply if confirmed by us in writing, even if we do not expressly object thereto again in a specific case. These General Terms and Conditions shall also apply to all other legal transactions with the customer as a framework agreement.
- 1.2 Contracts shall only be concluded by our written acknowledgement of order or act of performance taken by us (e.g., delivery/dispatch of the goods). All other agreements or side agreements, even if concluded at a later point in time, shall become effective only upon our written confirmation. Our staff are not authorised to make legally binding statements on our behalf unless we have granted special powers of attorney disclosed to the customer.
- 1.3 In particular, our staff shall not be authorised to make guarantee and warranty promises or provide information regarding storage, application or use of our goods. We shall only be obliged to do so if we have confirmed such information in writing.
- 1.4 Shipments for inspection and selection in connection with purchase orders shall be deemed approved by the customer if they are not returned within 14 days (receipt by us).
- 1.5 Technical information included in our documents shall only be approximate values unless they are expressly promised to be binding. Construction-related and production-related changes and deviations shall in any case be reserved. Mere typing and computing errors in offers, acknowledgments of orders or in invoices may be corrected by us at any time.
- 1.6 All documents made available to the customer; in particular cost estimates, drafts, models, technical calculations and the like shall remain our property. The customer shall not be entitled to make such documents available to third parties. Such documents shall be returned to us immediately upon request.

2. Prices

- 2.1 All prices stated by us shall be in euros (€), ex works and exclusive of value-added tax unless expressly stated otherwise. Unless otherwise agreed in writing cost estimates shall be prepared without their correctness being warranted.
- 2.2 The prices stated in the offer or in the price lists published by us shall become invalid upon acceptance by the customer and not later than 30 days after receipt. We shall not be obliged to publish price lists.
- 2.3 Vis-à-vis entrepreneurs we shall be entitled to increase the prices accordingly at any time if labour costs change due to collective bargaining agreements or statutory provisions or due to plant agreements or if other cost centres relevant to calculation or costs necessary for the rendering of services change, such as cost of materials, energy, transports, third-party work, financing, exchange rates, etc. Entrepreneurs shall neither be entitled to rescind the contract nor to claim frustration of the contract on that ground. Unless otherwise agreed in writing all prices shall be deemed exclusive of ancillary expenses.
- 2.4 Costs of dispatch, customs and other services (assembly, installation, etc.) shall be invoiced to the customer separately. Shipping shall be at the account and risk of the customer. We shall not be obliged to take out transport insurance for the goods.

3. Delivery

- 3.1 Agreed delivery periods shall commence upon dispatch of our acknowledgement of order. However, the relevant period shall not commence until receipt of all technical or other information, documents, down payments or other services of the customer necessary for fulfilment of our obligations has been confirmed by us. In case of a delay of agreed payments the delivery period shall be extended accordingly. The delivery period shall be deemed observed if the delivery item leaves our warehouse prior to expiration of the period or if we have given notice of readiness for delivery to the customer by then.
- 3.2 Promised delivery dates shall be observed to the best possible extent but shall not be binding. Delays in delivery shall not entitle the customer to rescind the contract or to assert claims under warranty, avoidance on account of mistake or damages. We shall be entitled to effect and invoice partial or advance deliveries.

- 3.3 We reserve the right to select the mode and route of shipment, with any liability being excluded. We shall, in particular, not be obliged to select the cheapest mode of transport.
- 3.4 Packaging - also of partial and/or advance deliveries - shall be in a way customary in trade. Costs of additional packaging shall be borne by the customer.
- 3.5 Surcharges for express delivery or air freight shall be invoiced separately. Transport insurance shall only be taken out upon request and on the account of the customer.
- 3.6 Business interruptions and events of force majeure, such as, in particular, war, sabotage, acts of God, statutory restrictions (in particular, export and import restrictions), strike and failure of machinery as well as other events beyond our control, including but not limited to delays in delivery and the like, on the part of our upstream suppliers shall entitle us to extend the periods accordingly or to rescind the contract with respect to the part not yet fulfilled, with any legal claims, in particular under warranty, avoidance on account of mistake or damages being excluded. This shall also apply if the events occur at a point of time at which we are in default.
- 3.7 Upon our notification of readiness for delivery to the customer, however not later than upon departure of the shipment from our warehouse, in the case of direct shipment ex our supplier's warehouse, the risk of price and performance shall pass to the customer irrespective of any separate agreement on price or delivery for the shipment concerned. In the case of default of acceptance by the customer or if dispatch of goods which are ready for shipment is not possible with no fault on our part, we shall be entitled to store the goods at the cost and risk of the customer at our own discretion, and the delivery shall be deemed rendered thereby; in this context we shall, in particular, be entitled to store the goods at a price of 15% p.a. of the invoice price ourselves or to store the goods that are ready for delivery with third parties in the name and on the account of the customer. Irrespective of any agreement on the place of delivery and bearing of transportation costs, the place of our company's registered office shall be the place of performance.
- 3.8 If partial deliveries have been agreed, in particular in connection with a call purchase as defined in clause 4, any partial delivery shall constitute a separate contract. The customer shall, therefore, not be entitled to rescind the contract with respect to the other partial deliveries or the whole contract or assert any other rights in the case of non-delivery or a delay in delivery concerning one or several partial deliveries.

4. Call purchase

- 4.1 Call purchases can only be concluded by written agreement between us and the customer. If that has been done, the customer shall be entitled to call off the agreed quantity within the agreed call-off period.
- 4.2 If the customer fails to observe the agreed call-off period, we shall be obliged to keep the goods beyond the agreed call-off period at the customer's cost by concurrently giving notice of a reasonable grace period unless important reasons to the contrary exist.
- 4.3 If the customer fails to call off and take delivery of the goods within the call-off period, we shall be entitled to invoice the total selling price plus a storage fee of 10% p.a. of the total selling price to the customer until full payment of the invoice. When calculating the fee a month commenced shall be calculated as a full month.

5. Right to return goods

- 5.1 Unless expressly agreed in writing the customer shall not be entitled to return goods.
- 5.2 If a right to return goods has been agreed, the customer shall return the goods at its own risk and costs.
- 5.3 If goods are returned to us without our prior consent, we shall be free to decide at our sole discretion whether to return the goods to the customer at the customer's costs or whether to store the goods in our warehouse against reimbursement of storage costs of 10% of the invoice price or whether to store the goods with third parties for the account of the customer. We reserve the right to claim additional rights.

6. Terms of payment; Default; No set-off, shipments abroad

- 6.1 Our invoices - also partial invoices - shall be due for payment within 30 days of their date of issue without any deductions (in

particular no cash discounts) subject to different individual agreements. Bills of exchange or cheques shall only be accepted upon separate agreement. We reserve the right, at our discretion, to use incoming payments for different accounts receivable.

- 6.2 In the case of default of payment by the customer we shall be released from all other obligations to perform or deliver and we shall be entitled to retain outstanding deliveries or services and to claim advance payments and/or security. In addition, the customer shall be obliged, irrespective of fault, to pay default interest of 1% per month and we shall be entitled to claim additional interest in the customary amount. Moreover, the customer shall have to reimburse us for the dunning charges and collecting charges incurred by us, and the customer particularly undertakes to reimburse at most the fees for the instructed collection agent which can be seen from the regulation of the Federal Ministry for Economics and Labour on the maximum rates which collection agencies are entitled to charge. If we issue a reminder, the customer undertakes to pay an amount of EUR 15 per additional reminder sent.
- 6.3 If after conclusion of the contract a material deterioration of the financial situation of the customer occurs or if circumstances become known which, in our opinion, are suited to reduce the customer's creditworthiness, all accounts receivable shall immediately become due for payment. In that case additional deliveries shall only be effected against advance payment.
- 6.4 The customer shall not be entitled to withhold payments. The customer shall only be entitled to offset its own claims against our claims if its counterclaims were ascertained by a court in a non-appealable manner or acknowledged by us.
- 6.5 In the case of export transactions the customer shall exclusively be obliged to obtain and maintain the necessary import permits, customs permits and other permits and the like at its own costs. We assume no warranty or guarantee whatsoever whether the purchased goods may be imported. In addition, the customer shall return the originals of all export and customs documents, etc. to us; otherwise the customer shall be obliged to pay the payable value-added tax. In addition, in the case of shipments abroad we may make opening of an irrevocable documentary letter of credit with a bank to be advised by us, which may be drawn against presentation of the shipping documents or forwarding certificate of receipt a prerequisite for our shipment.

7. Retention of title

- 7.1 We shall retain title to all goods delivered by us until full payment of the purchase price or compensation for the work including interest and ancillary charges, irrespective of the legal ground on which they are based, also from earlier transactions. In case of a current account the retained title shall also serve as security for our balance claim. Provided that we do not rescind the contract - to which we are unilaterally entitled - claiming retention of title shall, as a matter of principle, not be considered rescission of the contract and shall not release the customer from its obligations, in particular the obligation to pay the price.
- 7.2 Until full payment the customer shall store goods which have not been consumed yet in a clean, protected and separate place, take out adequate insurance for the same and clearly mark the goods as our property.
- 7.3 As long as the retention of title is effective, the purchased item must not be sold, pledged, transferred by way of security or otherwise disposed of to a third party.
- 7.4 Retention of title shall also extend to products originating from processing. Through processing, combination or commingling of our goods with other materials we shall acquire co-ownership of the resulting products in accordance with the shares of the added value.
- 7.5 If the customer sells the delivery item nevertheless, the customer shall already at this point assign its accounts receivable from its purchasers to us up to the amount of our accounts receivable vis-à-vis the customer in advance. We accept such assignment. The customer shall be obliged to advise us without delay the names and addresses of its purchasers, its stock and the amount of the accounts receivable resulting from reselling and to inform its relevant purchaser of the assignment of (an) account(s) receivable. Furthermore, the customer shall be obliged to disclose such assignment of accounts receivable to us in its books in an appropriate form. We shall at any time be entitled to inform the customer's client about such assignment.
- 7.6 The customer shall immediately inform us of an attachment or other impairment (of whatsoever type) of ownership by third parties. The customer shall be obliged to bear the costs of the measures of eliminating the infringement, in particular the costs of intervention proceedings and the like.

7.7 If the customer fails to fulfil its obligations or if it discontinues its payments, the total residual debt shall become due for immediate payment, even if there are bills of exchange with a later due date. In that case we shall be entitled to immediately demand surrender of the purchase item and any right of retention shall be excluded or we shall be entitled to enter the customer's premises and collect the goods ourselves. After we have taken back the purchase item we shall be free to either sell the object of the purchase and to credit the proceeds from such sale less 20% reselling expenses to the accounts still payable by the customer or to take back the object of the purchase at the invoice price less depreciation that has occurred and to invoice a fee in the customary amount for use of the delivered products for the period during which they were in the customer's possession.

8. The customer's rights to use the goods

8.1 By purchasing our goods the customer shall acquire a non-exclusive, non-transferable right to use the goods in accordance with the agreed type of use; in particular, the restrictions on use stated in our catalogues, product lists, on labels, signs or other information carriers shall be observed by the customer.

8.2 The goods produced by us are exclusively designed for in vitro laboratory tests. Unless expressly stated in our catalogues, on the label or in the product information enclosed with the goods, the goods are not suitable to be used for other purposes, such as, e.g., for in vitro diagnosis methods, ex vivo and in vivo treatment methods, for use in foodstuffs, drugs or cosmetics of any kind, for consumption by, use in or administration to human beings or animals.

8.3 Notwithstanding Clause 8.2. the customer warrants that it will carry out all necessary tests and comply with the relevant statutory regulations, in particular with duties to warn and provide information if the customer uses our goods for a purpose other than the purpose stated in Clause 8.2. The customer shall fully indemnify and hold us harmless from and against claims of third parties in this respect.

9. Warranty; Damages, Delivery of wrong goods; Product liability

9.1 The quality of our goods shall be determined in our offer and if there is no offer in the product specifications in our price lists.

9.2 The customer shall be liable vis-à-vis us for correctness of the contents of the order, in particular with respect to accuracy of instructions concerning the goods or production processes and the customer shall be obliged to provide us with all relevant information concerning the goods within a reasonable period. The customer shall fully indemnify and hold us harmless from and against all damage caused by incorrectness of the contents of the order.

9.3 We shall be entitled to modify the product specifications to the extent required to comply with provisions of EU law or other relevant statutory provisions. If the goods are produced according to the customer's specifications, we shall be entitled to change the same if the quality of the goods or service is not materially impaired thereby.

9.4 The customer shall notify defects in writing immediately upon receipt of the shipment, but not later than seven days after delivery and still prior to any processing; otherwise any claims under warranty and/or claims for damages and/or avoidance on account of mistake shall be excluded; notices of defects shall, however, not entitle the customer to retain payments of invoice amounts or parts thereof.

9.5 For defects which were not identifiable during inspection at the time of delivery the warranty period shall be six months as of delivery and shall neither be extended nor interrupted by improvement attempts; the warranty period shall also apply to partial deliveries. Such defects shall be notified in writing within seven days of identification of the defect; otherwise warranty claims and/or claims for damages and/or avoidance on account of mistake shall be excluded; notices of defects shall, however, not entitle to retain payment of invoice amounts or parts thereof.

9.6 Deviations of the goods delivered from the goods ordered, such as, e.g., wrong measurements or wrong goods shall be asserted within seven days of delivery and still prior to any processing, also if the goods are not delivered directly to the customer. Otherwise the goods shall be deemed accepted and cannot be taken back or exchanged by us.

9.7 Our advice, be it oral or written, shall be non-binding and shall not release our customers from its own inspection of our products as to their suitability and as to the designated purpose. In the case of follow-up deliveries we shall not warrant exact conformity with the initial delivery.

- 9.8 The customer shall always have to prove defectiveness of the delivered goods at the time of delivery. Warranty shall expire if the customer itself or third parties change(s) or repair(s) the delivered goods without our written consent. In the case of a complaint the customer shall be obliged to first accept the goods and to properly unload and store them.
- 9.9 For those goods which we purchased from our upstream suppliers we shall only assume warranty within the scope of our warranty claims vis-à-vis the supplier. With regard to the products delivered by us we merely warrant that they possess the properties usually expected of such products in commerce. In particular, the customer shall satisfy itself that the goods are suitable for the specific purpose desired by it and we shall not be subjected to any duty to examine or warn in connection therewith. We shall only warrant additional properties beyond the above, especially properties stated in public statements, such as advertising and information enclosed with the products, provided that these properties were promised by us in writing at the time the order was placed.
- 9.10 We shall be free to choose whether to fulfil the warranty claims by replacement, improvement, price reduction or cancellation of the contract.
- 9.11 Assignment of warranty claims and claims for damages or the like shall not be permissible, except for pure pecuniary claims. If the delivered goods are resold by the customer, any claims vis-à-vis us on grounds of warranty shall cease to exist; any other rights statuated by legal provisions shall be excluded.
- 9.12 We shall be liable for damage caused to our customers in connection with the transaction up to the total contract value ordered from us and only in the case of our own gross negligence or gross negligence of the agents [as defined by section 278 of the German General Civil Code (BGB)] working for us, except for bodily injury, for which we shall be liable even in the case of only ordinary negligence. Compensation for consequential damage, pure pecuniary loss, lost profit or loss resulting from claims of third parties shall be excluded. The harmed party shall have to prove gross negligence. Claims for damages shall become time-barred after six (6) months.
- 9.13 Instructions provided in brochures, instructions for use or other product information shall be strictly complied with by the customer in order to prevent damage. The customer shall fully indemnify and hold us harmless from and against claims of third parties in this respect. We expressly warn against any use beyond the defined areas of application. We shall not be subject to any duty to inspect and/or warn with regard to material, data and printing equipment provided by the customer. In particular, we shall not check correctness of the data stored on provided data carriers. We shall not assume any liability whatsoever for direct or indirect damage caused by errors of such data or materials.
- 9.14 If our customer itself is held liable on the basis of the German Product Liability Act [Produkthaftungsgesetz] or similar foreign provisions, the customer shall explicitly waive any recourse vis-à-vis us.
- 9.15 If our customer puts the goods delivered by us onto the market outside the European Economic Area, the customer undertakes to exclude liability to pay damages under the Product Liability Act vis-à-vis its purchaser to the extent this is possible under the law applicable or agreed between the customer and its purchaser. In that case or in the case of non-compliance with this duty to exclude liability, the customer shall be obliged to indemnify and hold us harmless from and against claims of third parties on grounds of product liability.

10. Rescission of contract; Contract adaptation

- 10.1 In the case of default of acceptance or for other important reasons, such as, in particular, imminent or actual bankruptcy of the customer or dismissal of a petition for opening of bankruptcy proceedings for lack of assets, discontinuation of the customer's business or in the case of default of payment by the customer we shall be entitled to immediately rescind the contract in whole or in part without having to grant a grace period notwithstanding any other claims whatsoever. Rescission shall become legally effective upon our unilateral declaration.
- 10.2 In the case of unforeseeable events, provided that they substantially change the economic importance or the content of the service or have a substantial impact on our operation, and if it turns out later that performance is impossible, the contract shall be reasonably adapted. To the extent that such adaptation is unreasonable from an economic point of view, we shall be entitled to rescind the contract in whole or in part. If we intend to exercise such right of rescission, we shall notify the customer thereof immediately upon realising the importance of the event, also if, at first, an extension of the delivery period was agreed with the customer.

11. Data protection; Change of address; Copyright

- 11.1 The customer agrees that also the personal data contained in the contract will be stored and processed by us by means of electronic data processing in performance of the contract.
- 11.2 The customer shall be obliged to provably notify us of changes of its home address or business address without request and without delay as long as the legal transaction being the subject-matter of the contract has not been completely fulfilled by both parties. If no such notification is made, declarations made to the customer shall also be deemed received if they have been sent to the address most recently advised to us. It shall be the responsibility of the customer to prove receipt of its notice of change of address on a case-by-case basis.
- 11.3 Plans, sketches or other technical documents shall always remain our intellectual property, just like samples, catalogues, brochures, illustrations and the like; the customer shall not be granted and shall not acquire any rights of whatsoever kind thereto, in particular no rights to use or exploit the work.

12. Copyright; Right of reproduction

- 12.1 To the extent that we ourselves are the proprietors of the rights to use the delivered printed works or parts thereof that are subject to protection by copyrights or industrial property rights, by accepting delivery the customer shall only acquire a non-exclusive right to distribute the products delivered (§ 17 UrhG); for the rest, the rights to use the works held by us, in particular our right of reproduction shall remain unaffected. We shall have the exclusive right to use the means of reproduction and printed works produced by us to produce copies. We shall not be obliged to surrender such means of reproduction. We shall not be obliged to check whether our customer has the right to reproduce or otherwise use the printing templates in the designated manner; we shall rather be entitled to assume that our customer has all rights that are required for execution of the order vis-à-vis third parties.

13. Storage of printed works, data, etc.

- 13.1 We shall not be obliged to store printed works, printing forms, montages, data carriers including data stored thereon, films, papers, etc. after execution of the order, unless a special agreement has been concluded with the customer to this end; in that case the customer shall bear costs and risk of storage. An agreed obligation to keep such items shall also expire if the customer does not pay the costs charged therefor within four weeks.
- 13.2 If temporary storage on our premises has been explicitly agreed, we shall not be liable for damage that has occurred to the goods and/or data although due care of a prudent businessman was taken during storage. We shall not be obliged to take out insurance to cover risks to goods or data stored.

14. Proprietary rights of third parties

- 14.1 With respect to manuscripts, drafts, printing blocks, slides, subjects and other documents, etc. we shall not assume any liability whatsoever for any type of infringement of intellectual property rights. Our customer shall be obliged to indemnify and hold us harmless from and against all claims asserted by third parties on grounds of infringements of copyrights, proprietary rights, other industrial property rights or personal rights. We undertake to immediately notify our customer of such claims and in the case of a legal action to give notice to intervene. If upon third party notice our customer does not join the proceedings as our joint litigant, we shall be entitled to recognise the claim of the plaintiff and to recover our loss from our customer irrespective of lawfulness of the claim recognised.
- 14.2 In the case of items made to order the customer shall guarantee that no third-party proprietary rights (patents, trademarks, designs, copyrights, equipment, product names, know-how, territorial protection and rights of a similar nature, even if such rights have only been applied for) are infringed by manufacturing the delivery items or other services as per the contract. We shall not be obliged to examine whether intellectual rights of third parties to the goods to be produced exist or whether such rights are infringed. The customer shall fully indemnify and hold us harmless from and against claims of third parties in this respect.

15. Place of performance; Choice of law; Place of jurisdiction; Severability clause

- 15.1 The place of performance for all contractual obligations of the contracting parties shall be the place of our firm in 35085 Ebsdorfergrund, Germany, irrespective of any agreement on the place of delivery or bearing of transportation costs or on the place of payment.
- 15.2 This agreement shall exclusively be governed by German substantive law. The rules of conflict of private international law and UN Sales Law (CISG) are hereby expressly excluded.
- 15.3 For our customer the exclusive place of jurisdiction for all legal disputes arising out of or in connection with the present contractual relationship shall be the court having jurisdiction over the subject-matter in Marburg/Germany. We shall, however, be entitled, at our option, to sue the customer before any other court which may have jurisdiction under national or international law.

16. Miscellaneous

- 16.1 The contracting parties undertake not to pass on any information relating to the contents of the contract or confidential technical or commercial information to third parties without the prior written consent of the other contracting party.
- 16.2 We shall be entitled to use agents (Erfüllungsgehilfen as defined by section § 278 BGB) to fulfil our contractual obligations.
- 16.3 Headings of clauses in these General Terms and Conditions of Sale are for convenience only and shall not be used for interpreting the same.
- 16.4 No development of business between us and the contracting party and no delay or omission with respect to exercising of a right, legal remedy or appeal granted to us on the basis of these General Terms and Conditions of Sale shall be deemed a waiver of such rights. Any right or right of appeal or legal remedy granted to us by this document shall be cumulative and rank pari passu with, exist alongside and in addition to other statutory rights, remedies and rights of appeal.
- 16.5 Ineffectiveness of individual provisions of our General Terms and Conditions shall not affect the effectiveness of the remaining provisions hereof. The contracting parties shall be obliged to agree on a new provision which comes as close as possible to the purpose of the ineffective provision.