



General Terms & Conditions of German Capital Pharma GmbH

§1 Application

1. Our General Terms & Conditions (henceforth called „T&C“) are valid exclusively in business dealings with companies according to §14 BGB (German law), body corporate organised under public law or special assets of the German Federal Government, henceforth called „buyer“.
2. All deliveries, services and offers are carried out exclusively under these T&C. They are part of all contracts in place with buyers for our offered goods and services. They are valid for all future deliveries, goods, services and offers to the buyer even if not again agreed upon separately again.
3. General Terms & Conditions of the buyer or third parties are not applicable even if we do not specifically contradict them separately. Even if we refer to a document that contains Terms & Conditions of the buyer or a third party, this constitutes no agreement to the validity of those Terms & Conditions.

§2 Offers and Conclusion of Contract

1. All our offers are nonbinding and subject to change without notice in regard to pricing, amounts, schedule of delivery and ability to supply unless expressly stated otherwise or contain a clearly defined term of acceptance.
2. Order of goods through the buyer constitutes a binding tentative offer. Acceptance of that tentative offer can either occur by delivery of goods or in writing (e.g. order confirmation).
3. We reserve all property and/or copyright to all our offers and all materials whatsoever supplied to the buyer.
4. Placing of orders is possible exclusively in writing (letter, fax) or text (email). All orders will be handled on the first business day following the day of the order during the times of 09.00 a.m. and 05.00 p.m.

§3 Pricing, Payments and Service Fees

1. The current list prices are agreed upon as binding at the conclusion of contract unless otherwise agreed upon. The prices are valid for the defined scope of goods and services in our confirmation of order. All other goods and services will be charged separately. All prices are in Euro, strictly net and in addition of all applicable taxes and fees.
2. All bills are due upfront in the complete amount as advance payment via bank transfer or cash in advance. In individual cases, a different agreement can be entered into in writing. Other terms of payment than in advance are possible only after the third order and a successful credit check.
3. If the buyer does not pay in full when payment is due, interest in the amount of 9 % p.a. will be added to the missing amounts; we reserve the right to claim higher interest rates or additional damages in case of late payment.
4. Offsetting of counterclaims of the buyer or the withholding of payments because of such claims is only permissible if the counterclaim is uncontested, accepted by German Capital Pharma GmbH in writing or is ascertained as legally binding.



§4 Delivery time, deliveries and acts of God

1. All our delivery times and deadlines are estimates only and are valid approximately unless a specific deadline has been agreed upon in writing. If shipment has been agreed upon all delivery times and deadlines refer to the transfer of goods to the shipping company or a third party that has been commissioned to transport the goods.
2. We reserve the right, notwithstanding our rights in case of overdue payments or other facts by the buyer, to request an extension of delivery times and deadlines or a deferral for such an amount of time as the buyer is overdue in his contractual obligations towards us.
3. We are not liable for impossibility of delivery or for delays in delivery as far as those are a result of acts of God or other unforeseeable occurrences at the time of conclusion of contract (e.g. all types of disruption of work, difficulties in procuring of goods, delays in transport, strikes, shortage of workforce, legal lockouts, shortage of energy or raw materials, difficulties in obtaining the necessary permits from competent authorities, sanctions by competent authorities, delay of delivery or non-delivery by our suppliers) and for which we are not responsible. If such occurrences impede us in such a way that a delivery is delayed or impossible we are within our rights to withdraw from a contract. Temporary delays result in extended delivery and lead times or delivery times are extended to the amount of the delay plus a certain lead time. If the extension of delivery time is an imposition to the buyer he can withdraw by immediate declaration in writing.
4. We are within our rights to partial deliveries if:
 1. the partial delivery is suitable within the context of contract
 2. the delivery of the remaining goods is assured and
 3. no excessive fees for the buyer result unless we agree to cover those costs.
5. If the buyer requests partial deliveries, we will only comply if we agree to them before in writing and if costs occur these costs are covered by the buyer. If the buyer changes his order, he is responsible for all occurring costs resulting from the change of order.
6. If we are responsible for a delay in delivery and services or a delivery is impossible to fulfil for whatever reasons we are liable only according to §7 of these T&C.
7. Deliveries outside the Federal Republic of Germany have to be picked up by the buyer through a transportation company of his choosing. The buyer is liable for risks resulting from pickup and all necessary customs clearances.
8. German Capital Pharma is not liable for any damage resulting from handling by the buyer or a transportation company, e.g. violation of storage or transport conditions.



§5 Place of execution, shipment, packaging, transfer or perils and acceptance

Shipment will be executed within in Germany through transport companies contacted by us at the expense of the buyer. The type of shipment and packaging is subject to our dutiful discretion.

§6 Express warranty, material defects

1. There is no deadline of warranty.
2. All delivered goods must be inspected immediately upon delivery to the buyer or a third party of his choosing. Defects or damages visible upon reception of goods must be record upon the freight papers in presence of the transportation company and the buyer or a chosen third party. All deliveries are deemed accepted and free of any or all visible damages and defects or those damages and defects that were detectable by proper inspection if we are not notified within five days of reception of goods of any defect or damage in a written letter or complaint. As for all other damages and defects the goods are deemed approved if we do not receive a letter of complaint in writing five business days after the defect or damage became obvious; if the defect or damage was obvious any time prior to that moment, that moment is significant for the deadline to send a letter of complaint.
3. In case of material defects we have the right to choose within a reasonable timeframe between rework or replacement. In case of failure to do so, i.e. impossibility, unacceptability, denial or unreasonable delay in rework or replacement, the buyer can withdraw from contract or decrease the price in a reasonable amount.
4. If we are responsible for a defect, the buyer is entitled to compensation according to §7 of these Terms & Conditions.

§7 Liability for compensation in case of blame

1. Our liability for compensation, no matter for which reason, particularly resulting from impossibility, delay, inadequate or faulty delivery, breach of contract, failure to recognize obligations during contract negotiations or unauthorized acts, is in so far as it has to include contributory negligence limited according to the regulations of this §7.
2. We are not liable in case of negligence of our agents, legal representatives, employees or assistants, in so far as it is not in regards to a breach of essential contractual obligations.
3. In so far as we are liable according to § 7.2, the amount of compensation is limited to the amount of damages that were foreseeable at the time of closing of contract or that would have been foreseeable through due diligence. Direct damages and consequential damages, results of defects of delivered goods are only reimbursable if such damages are to be expected at use of goods according to regulations.
4. All presiding limitations of liability and exclusions of liability are equally valid for any of our agents, legal representatives, employees and assistants.
5. If we provide information or act in a consulting capacity and this information or consultation is given outside the contractually agreed upon scope of service, this information or consultation is given free and without any liability neither expressed nor implied.
6. The limitations of this §7 are not valid for deliberate intention, guaranteed specifications or materials, injury of life, body or health or products liability law.
7. We are not liable for damages resulting from a recall of goods by order of any competent authority.



§8 Returns

1. Any return has to be made in accordance with our separately available return policy, available from office@gc-pharma.de.
2. Returns are possible only from the territories of the European Economic Area. Returned goods will only be accepted if they are announced in advance and returned observing the relevant transport conditions (see our return policy).

§9 Reservation of title

1. All goods delivered (reserved property) by us will stay our sole property up until such times as the buyer has satisfied all current and future claims by us resulting from an order or any contract entered into with the buyer.
2. The buyer will store all reserved goods free of charge for us. All reserved property must not be bonded or transferred to any third party before all contractual obligations have been met by the buyer. If a third party tries to take hold of the reserved property, especially by means of seizure, the buyer will immediately point out our reserved property and notify us immediately to preserve our rights to ownership. If the third party is not able to cover all resulting judicial and non-judicial costs of securing our ownership of the reserved property the buyer is liable for those costs.
3. In case of breach of contract, especially delay in payment we reserve the right to withdraw from contract and to request the turnover of the reserved property (case of recovery). The request to return reserved property does not include the declaration of resignation; we are entitled to request turnover of reserved property and reserve our right to resignation.
4. The buyer is entitled to sell the reserved property during normal course of business until the case of recovery.
5. In case of sale of reserved property, the buyer transfers all resulting claims to his buyer for purpose of securing our property to us. The same is valid for all other claims, that are put into place for reserved property or result otherwise from reserved property, i.e. insurance claims or claims resulting from illegal action at loss or destruction. The buyer revocably empowered by us to collect all claims transferred to us in his own name, as long as the buyer fulfils all his contractual obligations, especially his obligation to pay, towards us, does not come into default of payment, has not filed for bankruptcy and no other fact comes to light, that shows that the buyer is not able to fulfil his contractual obligations. In that case we are within our rights to request that the buyer informs us about transfers of claim and debtors, provides all necessary information for collection, provides the related documentation and informs the debtor about the transfer of claims.
6. We will choose to release the reserved property or things coming into its place or claims on request of the buyer if the liquidable value exceeds the reserved property by 10% or the nominal sum by 50%.

§ 10 Export

Goods delivered by us are destined to remain in the country of delivery. A permit can be necessary to re-export the goods. It is the obligation of the buyer to procure such a permit and make sure that all applicable laws and export trade regulations are observed. All transfer of goods from the buyer to third parties, with or without knowledge from us requires the transfer of applicable export permits. The buyer is liable to us for observing the transfer or any and or all such permits.



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§11 Place of execution, place of venue, applicable law, efficacy, data

1. Place of execution for all liabilities of contract is our place of business in Berlin, Germany.
2. For all disputes resulting directly or indirectly from this contract our place of business in Berlin is the sole place of venue. We are within our right to sue the buyer at all other permissible places of venue.
3. All contracts are solely subject to the laws of the Federal Republic of Germany, with the exclusion of all provision governed by the UN Purchase Law Convention.
4. We hereby inform that we will safe and use data from all contractual relationships in accordance with §28 BDSG for use and reserve the right to transfer this information to third parties if necessary for the fulfillment of this contract.
5. The invalidity of one or more clauses of these Terms & Conditions does not invalidate all others terms.

Geschäftsführer
Dr. Jens-Uwe Junghanns

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