

## **Diazyme Europe GmbH General Terms and Conditions**

### **Section 1 General provisions**

- (1) These General Terms and Conditions (hereinafter T&Cs) apply to all goods and services provided to Customers by Diazyme Europe GmbH (hereinafter DEG). They furthermore apply to all future business transactions between the Contracting Parties without the need to be re-mentioned.
- (2) Contracts concluded with DEG shall be exclusively subject to these T&Cs. Any contradictory and/or additional general terms and conditions from the Customer are void; they shall not apply unless DEG has expressly agreed to them in writing.
- (3) These T&Cs shall also apply if DEG provides goods or services without limitation while being aware of Customer conditions that contradict or deviate from these T&Cs.

### **Section 2 Offer and contract conclusion**

The offer is the Customer's order, which DEG accepts by dispatching the goods or issuing an invoice.

### **Section 3 Deliveries**

- (1) The packaging, shipping route, and shipping method are at DEG's discretion. Should DEG be unable to make a full delivery, it reserves the right to make partial deliveries where feasible providing this does not unacceptably affect the Customer.
- (2) Unless otherwise agreed, DEG shall charge a delivery-dependent flat shipping rate.
- (3) Force majeure incidents, actions within the framework of labor disputes, and other unforeseeable circumstances, including non-deliveries by upstream suppliers for which DEG is not responsible, shall entitle DEG to reasonably extend the delivery periods by the duration of the hindrance, but in all events by no more than two weeks from the order date. Default shall only occur following a suitable grace period. Should a longer delay occur, the Customer shall be entitled to withdraw from the contract. If six weeks have passed since the order, DEG shall also be entitled to withdraw from the contract. A claim for damages is excluded unless DEG is responsible for the delay.
- (4) In the case of slight negligence, DEG's liability for loss due to delay shall be restricted to a maximum of 5% of the invoice total. This shall not apply to damages resulting from injury to life, body or health attributable to a negligent breach of obligations by a legal representative or vicarious agent of DEG.

### **Section 4 Prices, deadlines, and retention of title**

- (1) Prices are quoted in euros and do not include the statutory VAT. DEG supplies goods and services at the prices valid upon receipt of the order.
- (2) The invoice is provided with the delivery and is due and payable immediately. The Customer defaults without reminder, should payment not be made within 14 calendar days of receiving the goods. DEG is entitled to charge default interest at a rate of 5% above the interest base rate. This shall not affect its right to file for additional damages.
- (3) DEG reserves the right to only deliver on a cash on delivery basis unless the Customer is entitled to offset payments. The Customer shall only be entitled to offset payments against counterclaims if these are legally established or undisputed. A right of retention can only be exercised if based on the same contractual relationship.
- (4) DEG shall retain ownership of the delivered goods until all accounts receivables have been paid in full.

### **Section 5 Liability for defects and limitation of liability**

- (1) Should the Customer report a defect, the affected goods must be returned for inspection without delay. In the event of justified and timely defect reports, DEG shall eliminate the defect at the Customer's discretion through rectification or replacement. DEG is entitled to refuse supplementary performance under legal premises. If supplementary performance fails following a reasonable grace period from the Customer, the Customer shall be entitled to a reduction in the purchase price or to optionally rescind from the contract. No grace period is required if circumstances exist that justify immediate rescission under due consideration of both parties' interests. The right to file for damages shall not be excluded by the rescission.
- (2) In the event of a breach of a pre-contractual, contractual, and/or non-contractual obligation, including defective delivery, unauthorized handling, and/or producer liability, in the case of negligence (with the

exception of gross negligence), DEG shall solely be liable for breaches of a major safety obligation that could prevent the contractual purpose from being fulfilled. The liability (with the exception of cases of gross negligence) is restricted to the typical contractual damages foreseeable at the time of contract conclusion.

- (3) With the exception of the breach of a major obligation, the liability for slight negligence is excluded or in all events restricted to the amount of the payment due.
- (4) The above liability exclusions and limitations shall not apply to a liability arising from a guarantee (e.g. of the quality of a product as defined in Sections 443 and 444 of the German Civil Code (BGB)), a willful breach of obligations, or the fraudulent concealment of defects. Neither shall they apply in cases of gross negligence or a negligent breach of obligations by a DEG legal representative or vicarious agent, nor to damages resulting from injury to life, body or health, nor in the event of a legally binding liability, especially pursuant to the German Product Liability Act (*Produkthaftungsgesetz*).

## **Section 6 Data protection**

Data shall solely be saved and used in accordance with the German Data Protection Act (*Datenschutzgesetz*). DEG reserves the right, within the scope of order processing, to disclose data to affiliated companies as well as to SCHUFA or other financial information services for the purpose of credit rating checks and solvency monitoring. Customers shall be entitled to withdraw their consent for the aforementioned data use and processing at any time by notifying Diazyme Europe GmbH, Zum Windkanal 21, 01109 Dresden, Germany. DEG does not sell addresses to third parties.

## **Section 7 Final provisions**

- (1) These T&Cs are subject to the laws of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- (2) Providing the Customer is a merchant as defined in the German Commercial Code (HGB), a specially-funded body under public law, or a legal person under public law, the ordinary courts responsible for DEG's registered office shall be exclusively responsible for all disputes arising from legal relations based on these T&Cs.
- (3) Should translations of the T&Cs contain any contradictory or unclear wording, the German version shall exclusively apply.
- (4) Should individual provisions be legally invalid, the remaining parts of the contract shall remain binding unless complying with the contract would represent an unreasonable hardship for either of the Contracting Parties.

## **Section 8 Right of rescission**

If the Customer is a consumer as defined by Section 13 of the German Civil Code (BGB), he shall have a right of rescission except in the case of products that have been made according to the Customer's specifications or clearly tailored to the Customer's personal requirements, products that are not suitable for return due to their character, or products that can quickly perish or have an expiry date that has already passed.

Customers are entitled to withdraw their contractual declaration within two weeks without explanation in writing (letter, fax, e-mail) or by returning the goods. If notice of rescission is only provided after contract conclusion, a notice period of one month applies. This period begins on the day on which the notice is received at the earliest. To comply with the deadline for rescission, it is sufficient that the notice of rescission be sent in good time to:

Diazyme Europe GmbH, Zum Windkanal 21, 01109 Dresden, Germany; Telephone: 0351/886-3300; Fax: 0351/886-3366; E-mail: [info@diazyme.de](mailto:info@diazyme.de)

## **Section 9 Consequences of rescission**

Where the contract is duly rescinded, any benefits received by either party must be returned. If the Customer is unable to return the benefit received in full or in part or only in a deteriorated condition, he may be required to pay compensation to the value of the loss. When returning goods with a total order value of up to 40 euros, the Customer must bear the costs of the return if the goods are as ordered. In all other cases, the Customer shall not be liable for the cost of returning goods.