

General terms and conditions

of BHI Biohealth International GmbH

§ 1 Scope of validity

BHI Biohealth International GmbH (Seller) is only prepared to conclude the contract on the basis of these General Terms and Conditions of Business, which are published in German. We reject the applicability of other Terms and Conditions of Business, in particular insofar as these are opposed to or derogate from the Terms and Conditions of Business of BHI Biohealth International GmbH; BHI Biohealth International GmbH is not bound by such General Terms and Conditions of Business. Only the Terms and Conditions of BHI Biohealth International GmbH shall be decisive for all deliveries, including those resulting from future business transactions.

§ 2 Offer and conclusion of contract

Offers made by BHI Biohealth International GmbH remain subject to alteration at all times, unless they are made on a fixed-term basis. Orders shall only be deemed to have been accepted after they have been confirmed by the Seller in writing. Only the written confirmation provided by BHI Biohealth International GmbH shall be decisive as far as the subject matter of the contractual relationship. Templates shall be considered as representative samples, template features are not guaranteed. Sales employees, in particular employees of the sales force of BHI Biohealth International GmbH, are not authorised to conclude verbal side agreements, nor give verbal assurances that go beyond the subject matter of the contract concluded in writing.

§ 3 Delivery

Unless agreements have been made to the contrary in writing, delivery shall take place within the agreed delivery times and shall be made from our respective distribution warehouse (place of performance). Circumstances rendering it impossible, or excessively difficult, to manufacture or deliver the product being sold, as well as any event of force majeure, regulatory action, business interruption or traffic disruption, or similar, including insofar as these affect the suppliers of BHI Biohealth International GmbH, release BHI Biohealth International GmbH from its delivery obligations for the duration of the obstruction and its repercussions. The Seller is under no obligation to perform subsequent delivery of the quantities which failed to be delivered as a result of the above. Any claims for compensation on the part of the contractual partner (Buyer) are excluded. An exception is made for damage that arises as a result of injury to life, limb or health, provided that BHI Biohealth International GmbH is responsible for the breach of duty, and other damage caused by a breach of duty as a result of wilful intent or gross negligence. A breach of duty on the part of a legal representative or agent of BHI Biohealth International GmbH is equivalent to that on the part of the company itself. In the event of an order being cancelled, the Buyer reserves the right to further claims and undertakes to provide compensation for the damage to applications incurred by BHI Biohealth International GmbH, as well as for profit potentially lost. In the event of a non-delivery, the Buyer is only entitled to withdraw from the contract, however no earlier than three months after the agreed delivery date. Further claims shall be waived.

§ 4 Packaging

Should the article be packaged in a container supplied by the Buyer, no liability shall be assumed for the packaging being suitable. BHI Biohealth International GmbH is entitled to reprimand for unsuitable packaging material. Should a subsequent delivery of the packaging material being objected to not take place within a period of two weeks, BHI Biohealth International GmbH is entitled to employ suitable material at the customer's expense. In this respect, BHI Biohealth International GmbH endeavours to employ suitable material that conforms to the customer's wishes. All risks are transferred to the Buyer as soon as the ordered article leaves the distribution warehouse or has been made available to the Buyer. Shipping damage is to be reported to BHI Biohealth International GmbH without delay. Should a freight forwarder have been commissioned to execute the delivery, any damage that has occurred shall be recorded in the consignment note. In the event of railway shipments, a certificate issued by the rail authorities shall be requested and submitted without delay. In each case, the terms and conditions of the freight forwarder in question shall be taken into consideration in the event of shipping damage, and claims for damages shall also be asserted against the former. BHI Biohealth International GmbH is entitled to perform part deliveries or carry out partial performance at all times. Over-deliveries or short deliveries of 10% of the contractually agreed quantities are permissible.

§ 5 Notice of defects

Compliance with the delivery and performance obligations of BHI Biohealth International GmbH requires the contractual partner (Buyer) to comply with its contractual obligations in proper form and a timely manner. The Buyer is obliged to inspect the article within eight days of receipt. BHI Biohealth International GmbH shall be notified of any possible defects in writing within this period of time. Notice of defects submitted at a later date will no longer be acknowledged. The Buyer shall retain the article being objected to until a final decision is made by BHI Biohealth International GmbH regarding the rejection or recognition of warranty obligations and may only return said article with the consent of BHI Biohealth International GmbH. The Buyer shall make it possible for BHI Biohealth International GmbH to inspect said article in each and every case. At the option of BHI Biohealth International GmbH, the warranty obligations may extend to credit notes, replacement delivery, conversion, reduction or subsequent improvement. BHI Biohealth International GmbH will not assume the costs of any analyses commissioned by the Buyer. Regardless of the product name used by BHI Biohealth International GmbH, correct labelling pursuant to foodstuff legislation at the time of the article being purchased is the responsibility of the Buyer. In the event of a substantiated notice of defects, BHI Biohealth International GmbH is solely obliged to take back the delivered article and, at the option of BHI Biohealth International GmbH, to either reduce the purchase price by an amount proportionate to the defective article or article being objected to, or to deliver a replacement item free of defects. If replacement delivery takes place but comes to nothing, the Buyer is entitled to either withdraw from the contract or to reduce the purchase price. Any claims of the Buyer extending beyond this scope are excluded.

§ 6 Statute of limitations

Buyer's claims on the grounds of material defects shall lapse within six months of the article being received, unless reported in writing within this period of time. If third parties interfere, or if the article is not used, stored or handled, etc., as intended, any liability on the part of BHI Biohealth International GmbH shall lapse.

§ 7 Price, payment terms, cooperation obligations of the Buyer

- 7.1 Suppliers of BHI Biohealth International GmbH reserve the right to make changes to prices under any circumstances. Said changes may be passed on to the Buyer. Only the quantities, masses and weights ascertained by the factories or distribution warehouses of the Seller upon dispatch are decisive as far as invoicing is concerned. Invoices issued by BHI Biohealth International GmbH are payable immediately upon receipt, strictly net, unless agreements to the contrary have been made in writing. In the event of the payment deadline being missed, from said deadline onwards, BHI Biohealth International GmbH is entitled to add interest to the purchase price, amounting to 8% above the basic interest rate of the European Central Bank applicable at the time. Further damage caused by the delay remains expressly reserved. Furthermore, BHI Biohealth International GmbH is entitled to suspend further deliveries until the Buyer has settled the outstanding receivables in full. BHI Biohealth International GmbH reserves the right to assign receivables to third parties.
- 7.2 The Buyer shall support BHI Biohealth International GmbH in rendering the services owed under the contract. The Buyer is obliged to provide the services to be rendered by it (e.g. notification of the delivery address, supplying labels, supplying suitable packaging, supplying raw materials provided) in good time. In the event of a delay on the part of the Buyer, BHI Biohealth International GmbH is entitled to invoice the manufacturing costs incurred by it up to that point in time. If this is the case, the Buyer's delay shall be deemed to occur no later than 24 days following the receipt of a written notice from BHI Biohealth International GmbH.

§ 8 Retention of title/ Default in Acceptance

- 8.1 An obligation to take delivery shall apply in case of purchase agreements as well as in case of agreements involving custom-made products or productions in accordance with the customer's specifications.
- 8.2 The claim to specific performance on the part of BHI – Biohealth International GmbH shall remain in force and effect if a reasonable extension set in writing, under threat of cancellation of the Agreement should the extension expire without payment or seeking damages in lieu of performance has lapsed without any response of the Purchaser or if the Purchaser fails to make payment and/ or expressly refuses acceptance. However, BHI – Biohealth International GmbH may instead also cancel the Agreement and/ or claim damages in lieu of performance.

- 8.3 Upon default, the risk of loss of or damage to the purchased item shall pass to the Purchaser, unless BHI – Biohealth International GmbH has acted with intent or gross negligence.
- 8.4 In case the Purchaser refuses to pay or take delivery, BHI – Biohealth International GmbH shall be entitled to demand 25% of the purchase price – without deductions – as liquidated damages. The Purchaser shall retain the right to demonstrate that no damage has occurred at all or not in the amount of the liquidated damages.
- 8.5 In the event of higher damages, BHI Biohealth International GmbH reserves the right to assert a claim for higher damages in lieu of the liquidated damages pursuant to section 8.4.
- 8.6 Costs for a re-delivery after default in acceptance shall be borne by the Purchaser.
- 8.7 This means that the retention of title is contingent and shall lapse automatically upon all receivables arising from the business relationship being settled in full. If this is the case, ownership of the good subject to the retention of title shall be transferred to the Buyer, with the Buyer also becoming entitled to the assigned receivables.
- 8.8 If the value of the securities exceeds the value of the receivables of BHI Biohealth International GmbH by more than 20%, BHI Biohealth International GmbH shall, upon being requested to do so by the Buyer, release securities to this extent at its option.
- 8.9 An obligation to take delivery shall apply in case of purchase agreements as well as in case of agreements involving custom-made products or productions in accordance with the customer's specifications.
- 8.10 The claim to specific performance on the part of BHI Biohealth International GmbH shall remain in force and effect if a reasonable extension set in writing, under threat of cancellation of the Agreement should the extension expire without payment or seeking damages in lieu of performance has lapsed without any response of the Purchaser or if the Purchaser fails to make payment and/or expressly refuses acceptance. However, BHI Biohealth International GmbH may instead also cancel the Agreement and/or claim damages in lieu of performance.
- 8.11 Upon default, the risk of loss of or damage to the purchased item shall pass to the Purchaser, unless BHI Biohealth International GmbH has acted with intent or gross negligence.
- 8.12 In case the Purchaser refuses to pay or take delivery, BHI Biohealth International GmbH shall be entitled to demand 25% of the purchase price – without deductions – as liquidated damages. The Purchaser shall retain the right to demonstrate that no damage has occurred at all or not in the amount of the liquidated damages.
- 8.13 In the event of higher damages, BHI Biohealth International GmbH reserves the right to assert a claim for higher damages in lieu of the liquidated damages pursuant to section 8.4.
- 8.14 If the shipment or delivery of the goods is delayed at the request or caused by the customer, storage charges of € 50.00 per Euro pallet of storage space may be charged for each month or part thereof, beginning one month after the customer was notified that the shipment is ready. The purchaser may provide evidence that storage costs were not incurred at all or are significantly lower than the flat rate.
- 8.15 Costs for a re-delivery after default in acceptance shall be borne by the Purchaser.

§ 9 Payment terms

- 9.1 The invoiced amounts shall fall due within the term of payment specified on the invoice, in the invoice currency or its equivalent in euros, pursuant to the official exchange rate and without deduction. Any objections to the invoice shall be disclosed in writing without delay. The invoice is deemed to have been acknowledged 14 days after the invoice date at the latest.
- 9.2 The Buyer's right to withhold performance is excluded during business transactions with traders. An offsetting on the part of the Buyer is not permitted if the latter's counterclaim is acknowledged by BHI Biohealth International GmbH in writing, or has been established as having the force of law.
- 9.3 If the invoice is not settled, BHI Biohealth International GmbH is entitled to demand the payment of the interest rate agreed under Sub-section 7.2. of these Terms and Conditions.
- 9.4 In spite of possible provisions to the contrary on the part of the Buyer, BHI Biohealth International GmbH is entitled to charge payments to the Buyer's older debts in the first instance. If this is the case, BHI Biohealth International GmbH shall notify the Buyer of the type and amount of the sum being charged without delay.
- 9.5 A payment is only deemed to have been made once the amount is available to BHI Biohealth International GmbH. Cheques and bills shall only be accepted on account of performance.
- 9.6 Should the Buyer be in arrears with its payment obligations vis-à-vis BHI Biohealth International GmbH by more than 14 days, all existing receivables shall become due immediately.
- 9.7 Any receivables in place vis-à-vis BHI Biohealth International GmbH may only be assigned subject to the latter's written consent.

§ 10 Termination

- 10.1 Where a right of rescission was neither agreed nor has already elapsed, where there is no legal right of rescission and BHI Biohealth International GmbH does not agree to the cancellation of an agreement, BHI Biohealth International GmbH shall retain its right to the agreed remuneration despite the non-utilisation of services according to the following sliding scale:
- Upon receipt of a rescission notice within 2 weeks after the customer receives the order confirmation, 25% of the agreed order volume
 - upon receipt of a rescission notice within 4 weeks after the customer receives the order confirmation, 50% of the agreed order volume and
 - upon receipt of a rescission notice within 10 days before delivery to the customer, 90% of the agreed order volume.
- 10.2 The level of compensation is determined by the agreed remuneration minus the value of the expenses saved by BHI Biohealth International GmbH as well as minus the amount that BHI Biohealth International GmbH earns through a sale of the goods to another party. The level of compensation must be justified by BHI Biohealth International GmbH at the customer's request.
- 10.3 The customer is at liberty to prove that the reasonable compensation due to BHI Biohealth International GmbH is significantly lower than the lump sum requested.
- 10.4 BHI Biohealth International GmbH reserves the right to claim a higher, individually calculated, compensation payment instead of the aforementioned lump sum, insofar as BHI Biohealth International GmbH can prove that significantly higher expenses than the respective applicable lump sum have arisen. In such a case, BHI Biohealth International GmbH is obliged to cite and substantiate concrete figures for the compensation demanded, taking into account the saved expenses as well as minus the amount that BHI Biohealth International GmbH earns through a sale of the goods to another party.

§ 11 Liability

The Buyer alone is responsible for the products' marketability in the country in question. The same applies to all statements on the packaging, either in textual or promotional form, as well within the environment of placing the product onto the market. Provided that the legal framework does, nevertheless, give rise to liability on the part of BHI Biohealth International GmbH, the Buyer shall indemnify BHI Biohealth International GmbH against all claims as part of their internal relationship and provide corresponding compensation for damages, including total costs incurred warding off said claims. In particular, this also applies to lawyer's fees and court fees incurred. This provision also applies insofar as third-party rights are infringed upon as a result of the product in question being placed onto the market (e.g. industrial property rights or similar). In particular, this applies in the event of the Buyer exporting the goods of BHI Biohealth International GmbH to territories outside of the Federal Republic of Germany, especially should third-party intellectual property rights be infringed upon by the products of BHI Biohealth International GmbH. The same applies should bodily injury, damage to health or material damage arise as a result of products being used incorrectly.

§ 12 Place of performance

Unless information to the contrary is outlined in the order confirmation, the place of performance is the registered office of BHI Biohealth International GmbH.

§ 13 Place of jurisdiction/ final provision

- 13.1 The place of jurisdiction is the court responsible for the registered office of BHI Biohealth International GmbH.
- 13.2 The performance of the contract, as well as its legal assessment, are governed by German law, regardless of whether the contract is concluded in Germany or abroad. Whatever the case may be, only German law to the exclusion of foreign law, in particular to the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods and the law of the European Union, shall apply.

§ 14 Severability clause

Should individual provisions of this contract, including this provision, be ineffective, either in part or in full, this shall not affect the effectiveness of the remaining provisions or parts of said provisions.

The provisions shall be replaced by the applicable legislative regulations. A product can only achieve its full use potential and take full effect if a sensible combination and quantity of raw materials is employed. This means that BHI International GmbH attaches utmost importance to working together with modern laboratories and their up-to-date expertise. Our collective knowledge guarantees a high-quality product. Take advantage of our exponentiated knowledge!