

DFE PHARMA

GENERAL TERMS AND CONDITIONS OF SALE

1. Scope

- 1.1 The present general terms and conditions of sale (the "**Conditions**") apply to all supplies of products (the "**Goods**") by DFE PHARMA GmbH & Co. KG ("**DFE PHARMA**") to its customers (the "**CUSTOMER**" or "**CUSTOMERS**").
- 1.2 Any general terms and conditions that deviate from the present Conditions shall not become binding on DFE PHARMA except when expressly accepted by DFE PHARMA in writing. Any general terms and conditions of the CUSTOMER are expressly excluded as part of the contract between DFE PHARMA and the CUSTOMER.

2. Conclusion of Contract, Offers and Orders

- 2.1 Contracts between DFE PHARMA and the CUSTOMER relating to the supply of Goods (a "**Supply Contract**") shall be concluded in writing or by email on the basis of quotations and/or offers issued by DFE PHARMA or – in the absence of a quotation or offer of DFE PHARMA – on the basis of orders issued by the CUSTOMER accepted by DFE PHARMA in writing or by email.
- 2.2 Quotations and offers for the supply of Goods issued by DFE PHARMA shall be binding on DFE PHARMA only for the validity period stated in such quotation or offer, and shall only lead to a binding Supply Contract after DFE PHARMA's receipt of a proper declaration of acceptance submitted by the CUSTOMER to DFE PHARMA within the validity period stated in DFE PHARMA's offer or quotation. If the validity period of DFE PHARMA's offer or quotation has expired at the moment of DFE PHARMA's receipt of a declaration of acceptance submitted by the CUSTOMER, a Supply Contract shall only be concluded if DFE PHARMA has confirmed such declaration to the CUSTOMER in writing.
- 2.3 If no validity period is stated in DFE PHARMA's quotation or offer, such quotation or offer shall be non-binding for DFE PHARMA and subject to confirmation in writing by DFE PHARMA after DFE PHARMA's receipt of a corresponding declaration of acceptance issued by the CUSTOMER. Confirmation of CUSTOMER's declarations of acceptance with respect to non-binding quotations or offers issued by DFE PHARMA shall be at the discretion of DFE PHARMA.
- 2.4 CUSTOMER orders for the supply of Goods issued by the CUSTOMER without prior quotation or offer of DFE PHARMA shall be non-binding for DFE PHARMA and subject to confirmation in

writing or by email by DFE PHARMA. Confirmation of CUSTOMER's orders shall be at the discretion of DFE PHARMA.

3. Scope of Supplies, Changes and Product Information

- 3.1 The items of Goods supplied are described in DFE PHARMA's offers or quotations that form the basis of the Supply Contract.
- 3.2 Changes to the scope of supplies of GOODS or of supply terms agreed under a Supply Contract, including, without limitation, variations of the type and quantity of GOODS ordered and/or of scheduled delivery dates, shall be subject to confirmation in writing or by email by DFE PHARMA. Acceptance of change requests of the CUSTOMER shall be at the discretion of DFE PHARMA. Acceptance of change requests of the CUSTOMER submitted to DFE PHARMA after an agreed delivery date will in no event be accepted.
- 3.3 All information and data contained in DFE PHARMA's general product documentation and price lists, whether in electronic or any other form, are binding only to the extent that they are expressly included in the Supply Contract by reference.

4. Terms of Delivery

- 4.1 Unless expressly provided otherwise in the Supply Contract, all Goods will be delivered to the CUSTOMER "Ex Works" Incoterms 2020 DFE PHARMA's plant. The risk of loss or of damage to the Goods shall pass to the CUSTOMER in accordance with the agreed Incoterms trade term.
- 4.2 The Goods shall be packaged as set forth in the Supply Contract or, if not stipulated therein, at the discretion of DFE PHARMA consistent with industry practice.
- 4.3 Delivery dates and/or delivery periods for Goods shall not be binding upon DFE PHARMA, unless expressly accepted by DFE PHARMA as binding in writing.
- 4.4 DFE PHARMA is not responsible for delayed delivery of the Goods to the extent that such delay has been caused by failure of the CUSTOMER to fulfil any of its obligations under the Supply Contract (including, without

limitation, cooperation duties and/or duties to provide feedback on technical issues required to be provided under the Supply Contract), or by a Force Majeure event set forth in Section 11 below, and any and all agreed delivery dates shall be prolonged in proportion to the duration of the impediment or Force Majeure event.

- 4.5 If delivery of the Goods is delayed for reasons attributable to the CUSTOMER, DFE PHARMA shall be entitled to store the Goods at the CUSTOMER's cost and risk at a warehouse of DFE PHARMA's reasonable choice. Any additional rights of DFE PHARMA shall remain unaffected.

5. Prices and Payment Terms

- 5.1 Except if agreed otherwise in the Supply Contract, all prices for Goods shall be "Ex Works" Incoterms 2020 DFE PHARMA's plant and shall be quoted, invoiced and paid in Euros.
- 5.2 All prices for Goods stated in DFE PHARMA's quotations and offers and in the Supply Contracts are exclusive of VAT, exclusive of import and export duties, excise duties and other taxes or levies imposed or charged in relation to the Goods and their transportation. CUSTOMER shall pay any such VAT, import and export duties, excise duties and other taxes or levies in addition to the prices of the Goods.
- 5.3 Except if agreed otherwise in the Supply Contract, payments by the CUSTOMER must be effected within 14 days from the date of CUSTOMER's receipt of DFE PHARMA's respective invoice without deduction.
- 5.4 If and insofar as the prices of the Goods are based on price lists of DFE PHARMA, the current price list at the time of delivery shall apply. DFE PHARMA reserves the right to adjust the prices of the Goods, or change the price list. In case of an adjustment to the price or change to the price list, DFE PHARMA shall notify CUSTOMER in writing as soon as possible but ultimately before the effective date of such adjustment or change. In the event CUSTOMER does not agree to the proposed price adjustment or change to the price list, CUSTOMER shall have the right to terminate the Supply Contract with immediate effect.
- 5.5 The CUSTOMER is not entitled to offset any sum which he owes to DFE PHARMA from any sum which DFE PHARMA owes to the CUSTOMER, or to withhold payment in view of claims of the CUSTOMER, unless the respective counterclaim of the CUSTOMER has been accepted by DFE PHARMA or is evidenced by a final court decision.

6. Retention of Title

- 6.1 Title to the property in the Goods delivered by DFE PHARMA shall only be transferred to the CUSTOMER after DFE PHARMA has received full payment of all amounts owed by the CUSTOMER under the Supply Contract.
- 6.2 After delivery to the CUSTOMER and prior to the transfer of title pursuant to the foregoing clause 6.1, the CUSTOMER shall (i) keep the Goods subject to retention of title identified as DFE PHARMA's property and separate from goods owned by CUSTOMER or third parties, (ii) not dispose of them other than in the ordinary course of business, and (iii) shall assist DFE PHARMA in taking any measures reasonably requested by DFE PHARMA in order to protect DFE PHARMA's title to the Goods.

7. Warranty for Defects

- 7.1 Subject to the CUSTOMER's compliance with the terms of clause 7.3 below, DFE PHARMA warrants to the CUSTOMER that, for a period of twelve (12) months from delivery to the CUSTOMER, the Goods supplied to the CUSTOMER will be free from defects in material, workmanship and design, and conform to specifications agreed under the Supply Contract, if any.
- 7.2 In no event shall DFE PHARMA be under any warranty liability hereunder to the extent that a defect of the Goods has been caused by the CUSTOMER's misuse, neglect, improper handling, accident or unusual deterioration or degradation of the Goods or parts thereof due to physical environment beyond agreed specifications.
- 7.3 The CUSTOMER shall inspect and check all delivered Goods immediately upon receipt as to whether or not they exhibit any apparent defects. The CUSTOMER shall promptly notify DFE PHARMA of any defects detected upon such delivery inspection. In the event that the CUSTOMER becomes aware of a hidden defect of the Goods (i.e. a defect that is not apparent upon delivery inspection), the CUSTOMER shall promptly notify DFE PHARMA thereof upon becoming aware of such hidden defect. DFE PHARMA does not accept any defects liability for Goods (and the Goods shall be deemed accepted as free from defects), if the CUSTOMER fails to provide prompt notice of a defect in accordance with the foregoing.
- 7.4 If a Product has a defect attributable to DFE PHARMA pursuant to clauses 7.1 and 7.3 above, DFE PHARMA – at its sole discretion – shall remedy such defect by either

- (i) replacing the defective Goods; or
- (ii) reducing the purchase price of the Goods commensurate to the reduction in purchase value related to the defect of the Goods, or
- (iii) issuing to the CUSTOMER a credit for the purchase price of the defective Product.

If DFE PHARMA fails to remedy a defect of the Goods in accordance with the foregoing, or refuses to remedy such a defect within a reasonable time after having received written notice by the CUSTOMER requesting the curing of the defect within a reasonable period of time, the CUSTOMER shall be entitled to rescind the Supply Contract, or to demand a reduction of the purchase price for the Goods commensurate to the reduction in purchase value related to the defect of the Goods.

7.5 The warranties covered in this Section 7 are exclusive and in lieu of any additional warranties, express or implied, provided by the laws governing the Supply Contract, if any. Claims for damages relating to defects of the Goods may only be asserted in accordance with the limitations agreed under the Supply Contract (including, without limitation, the provisions set forth in Section 8 below).

8. Limitation of Liability for Damages

- 8.1 Unless expressly provided otherwise in the Supply Contract, DFE PHARMA's liability for damages, regardless of its legal basis (whether arising from breach contract or in tort, or under any other theory) shall be excluded except for the cases set forth in clauses 8.2 and 8.3 below.
- 8.2 DFE PHARMA accepts liability in accordance with applicable laws and regulations in any of the following events:
 - (i) in the event of intentional and/or gross negligent behavior on the part of DFE PHARMA and/or its employees or agents;
 - (ii) in the event of death, injury and/or damage to the health of a natural person caused by negligence of DFE PHARMA and/or its employees or agents;
 - (iii) to the extent that DFE PHARMA shall have assumed an unconditional guarantee for a specific characteristic of Goods, it being understood that specifications agreed under the Supply Contract are only warranted pursuant to Section 7 above, and do not constitute guaranteed characteristics,

unless provided otherwise under such Supply Contract; and/or

- (iv) to the extent that DFE PHARMA is liable for personal injury and/or damage to private property in accordance with the mandatory provisions of the applicable product liability law.

8.3 Furthermore, DFE PHARMA accepts liability in accordance with applicable laws and regulations in the event of a breach of essential contract obligations by DFE PHARMA and/or its employees or agents under the Supply Contract. For purposes of these Conditions, the term "essential contract obligations" means any obligations of DFE PHARMA under the Supply Contract which are fundamental to the proper execution of such contract and which the CUSTOMER may reasonably rely on in connection with the performance of the Supply Contract. In the event of any such breach, however, DFE PHARMA's liability is limited to the amount of damage foreseeable and typical to the contract. DFE PHARMA's liability pursuant to clause 8.2 above shall remain unaffected.

9. Intellectual Property Rights

- 9.1 CUSTOMER acknowledges that the Goods as well as all software, drawings, documents, data, information and/or documentation furnished by DFE PHARMA to the CUSTOMER in connection with the performance of the Supply Contract (jointly: "**DFE PHARMA Materials**") incorporate valuable technical know-how and are at least in part protected by copyright, patent and/or other industrial or intellectual property rights.
- 9.2 All title to the intellectual or industrial property in work results created by DFE PHARMA and/or its sub-suppliers in relation to the Goods and the DFE PHARMA Materials remains vested in DFE PHARMA and its sub-suppliers. Unless provided otherwise in the Supply Contract, CUSTOMER is granted a non-exclusive right to use the DFE PHARMA Materials (only) for the limited purpose of using the Product as in the Supply Contract. Any other forms of use shall require DFE PHARMA's prior written consent. In particular, any use of DFE PHARMA Materials for the purpose of re-engineering and/or manufacture of Goods with identical or similar characteristics is strictly prohibited.

10. Confidentiality

- 10.1 CUSTOMER shall ensure that its officials, employees and any third parties engaged by it, shall protect the confidentiality of all information that comes to its notice about DFE PHARMA,

even if that information is not designated as being confidential, and shall refrain without the prior written permission of DFE PHARMA from making direct or indirect use of its relationship with DFE PHARMA for promotional activities or other purposes.

10.2 In the event CUSTOMER is obliged to disclose confidential information on the basis of a court, or regulatory order, CUSTOMER shall only be allowed to disclose such information after having obtained written approval from DFE PHARMA which shall not unreasonably withhold.

11. Force Majeure

11.1 Any delay in or failure by DFE PHARMA to perform any obligation under the Supply Contract shall be excused and shall not give rise to any claims for damages, if and to the extent such delay or failure of performance is caused by an event of Force Majeure.

11.2 For purposes of these Conditions, the term "Force Majeure" shall mean any event not reasonably foreseeable and/or beyond any reasonable control of DFE PHARMA, including, without limitation, any of the following events:

- (i) the fact that DFE PHARMA has not received supplies of products, materials and/or services required to manufacture the Goods from a sub-supplier, unless the lack of supply was caused by failure by DFE PHARMA to perform its contractual obligations, or to purchase the respective products, materials and/or services from the sub-supplier in a timely manner;
- (ii) hindrances to perform the Supply Contract arising from applicable trade sanctions, including, without limitation, embargos issued by any governmental or legislative body of the United States of America, the European Union, Germany, and/or other relevant countries;
- (iii) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
- (iv) rebellion, terrorism, sabotage by persons other than DFE PHARMA's personnel, revolution, insurrection, military or usurped power, or civil war;
- (v) riot, commotion, disorder, strike, lockout or other labour disputes;
- (vi) munitions of war, explosive materials, ionising radiation or contamination by radio-activity;
- (vii) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity; and

(viii) epidemic, including, without limitation, any delays or impediments caused by measures taken by business, logistics or travel partners or by governmental authorities, or deemed necessary by either party to prevent or contain the coronavirus disease (COVID-19) outbreak, and affecting the manufacture and/or delivery of Goods.

11.3 DFE PHARMA shall as soon as reasonably practical notify the CUSTOMER of the existence of any Force Majeure event and the probable duration thereof, and shall provide the CUSTOMER with updates concerning the same from time to time. The times and deadlines for performance of the Supply Contract shall be extended equivalent to the time of non-performance resulting from such Force Majeure event.

11.4 If the force majeure situation is reasonably expected to continue for more than two months or has already lasted for two months, the other party may terminate the contract with immediate effect and without recourse to the courts, without thereby creating any rights to compensation.

12. Applicable Law and Jurisdiction

12.1 The present Conditions and the Supply Contract shall be construed in accordance with and governed by the laws of Germany, excluding the application of the UN-Convention on Contracts for the International Sale of Goods.

12.2 The place of jurisdiction for any disputes related to, or in connection with the Supply Contract shall be the courts in Düsseldorf, Germany. In addition, each party is entitled to initiate legal proceedings against the other party at the principal place of business of the defendant party. Except for preliminary injunctions, the choices of forum set forth in this clause 12.2 shall be exclusive.