

# GENERAL TERMS AND CONDITIONS of GERBU Biotechnik GmbH, Rischerstraße 12, 69123 Heidelberg (Mannheim District Court HRB 333256)

- 1. Scope**
  - 1.1. These general terms and conditions ("terms and conditions") are valid only for contracts of GERBU Biotechnik GmbH ("GERBU") with contractors pursuant to §14 BGB, on legal entities under public law and special assets governed by public law ("client").
  - 1.2. Subject to the acceptance of revised terms and conditions of GERBU, these terms and conditions are to be taken as a basis also for future contracts between GERBU and the client for the supply of goods, without their renewed acceptance being required.
- 2. Exclusivity**

The contractual relationship between GERBU and the client is based exclusively on these terms and conditions. Deviating terms and conditions of the client are expressly rejected. GERBU is unwilling to execute orders on the basis of differing general terms and conditions of the client; this applies even if GERBU provides services without additional reference to this proviso.
- 3. Contractual declarations**

Unless circumstances indicate otherwise, quotations made by GERBU represent only requests to the client, to submit binding offers to GERBU ("invitatio ad offerendum"). GERBU is entitled to accept contractual offers from the client within two weeks. During this period, the client is bound to its tentative offer.
- 4. Performance**
  - 4.1. If GERBU has made a congruent covering transaction for goods sold and GERBU has not received or has not received pursuant to the contract goods from the preliminary suppliers, GERBU has a right to withdraw from the contract within four weeks after knowledge of the insufficient supplies. GERBU is obliged to inform the client immediately about the non-availability of the goods and in the case of withdrawal immediately to reimburse the client for any considerations already received.
  - 4.2. GERBU shall be entitled in the absence of contradictory agreements to make partial deliveries. For contracts whose execution extends over a longer period of time, each delivery shall be deemed a completed deal. A flawed or untimely partial delivery has no influence on the rest of the contract.
- 5. Deadlines**
  - 5.1. Specified delivery dates are, except in expressly binding agreements, to be understood to be approximate. The delivery deadline is met if the delivery item has left the factory before its expiry.

The execution periods can be reasonably extended without further agreement in cases of force majeure or in the event of any other circumstances for which GERBU cannot be held responsible, such as, for example, labour disputes, sabotage, demonstration and interventions of third parties as well as through delay caused by the public sector. A liability on behalf of GERBU under the above rule is for this reason alone not accepted because it is in default upon occurrence of the respective events. Without prejudice to any other rights of cancellation, both the buyer and the seller have the right to withdraw from the contract if the duration of the impediment of performance exceeds a period of a month or the service is indefinitely rendered impossible.
  - 5.2. If the client or GERBU becomes aware of events referred to in paragraph 1, it will immediately inform the contractual partner thereof.
- 6. Risk assumption**

The goods will be shipped at the client's risk. The risk of accidental loss and accidental deterioration of the goods is transferred at the handover, in the case of sale by delivery to a place other than the place of performance it is transferred with delivery of the goods to the forwarding agent, the carrier or the person or institution appointed to carry out said delivery.
- 7. Intended quality of goods**
  - 7.1. The nominal nature of goods is based on limits set in the specification part of the analysis certificate. The analysis is based on the respective delivered batch. All information on labels, product certificates and inspection certificates refer exclusively to the contractual nature of our products. They do not include any warranted characteristics and therefore provide no protection against possible damages. In the case of sale via specimen or sample, the specimen and sample are only valid as a demonstration piece to represent the general character or type of the goods. The properties of the specimen or the sample are not guaranteed unless expressly agreed. Information on origin, characteristics, manufacturing process or durability of products and merchandise used by us as well as information, instructions and recommendations on technical issues are provided to the best of our knowledge and belief without any obligation and does not free the client from its responsibility to test the products from GERBU themselves for their application for their own use. This applies also with regard to ensuring intellectual property rights of third parties as well as for applications and procedures.
- 8. Hazardous materials**

All goods delivered by GERBU are intended exclusively for research and laboratory purposes and may be used neither privately as animal feed nor for human application. They must be handled under the strict supervision of competent persons. GERBU is entitled to require a written confirmation from the client, that the product in question is to be neither involved in nor resold for non-permitted applications. Hazardous substances and mixtures are identified as such in accordance with the harmonised requirements. However, missing hazard information on labels of our products does not mean that a product is harmless. In the sale of substances that are subject to the Medicines Act (AMG), the appointment of a responsible person must be hand signed and this person's full name made visible. Shipping is exclusively for the attention of this person authorised for its handling.

The latest safety data sheets for dangerous substances are available for download from [www.gerbu.de](http://www.gerbu.de), will however be made available no later than on client request.  
GERBU shall not be liable for improper use and or disposal.
- 9. Complaint obligation**
  - 9.1. Deliveries must be examined without delay upon receipt by the client, or to be examined by the recipient specified by the customer. After unconditional acceptance of the goods by the client or a person authorised by it, each subsequent complaint due to the external nature of the delivery is excluded. The same applies to weight deviations. Defects recognisable on the goods can be reported only within 3 working days after receipt, other deficiencies within 3 working days after discovery. Complaints must be made in writing.
  - 9.2. If the client processes the delivered goods or sells them on, this is deemed to be approval in every case.
- 10. Warranty**
  - 10.1. For faults reported in good time, which significantly restrict the value or suitability for use, GERBU warrants first of all free choice of replacement or repair. In the case of a replacement delivery, the client is entitled to withdraw from the contract or to receive a reduction after the second failure.
  - 10.2. The period of limitation for all warranty claims shall be twelve months, as far as there is no intention on the part of GERBU and starts with the delivery of the goods.
- 11. Liability**
  - 11.1. The liability of GERBU is fundamentally limited to damages, which GERBU or its vicarious agents have caused intentionally or through gross negligence. GERBU shall be liable for slight negligence only in the case of violation of life, body or health as well as violation of the purpose of the contract for the fulfillment of essential obligations.
  - 11.2. If GERBU is liable as a result of slightly negligent breaches of duty, the liability of GERBU is limited to the amount of damages typical for the contracts in question, which were foreseeable on conclusion of the contract or at the latest when committing the breach of the duty. This does not apply in the case of a violation of life, body or health.
  - 11.3. Claims for damages, which according to law require no compensation, remain unaffected by the provisions in paragraphs 1 and 2.
  - 11.4. Claims for damages of the purchaser due to default by GERBU are limited to the amount of 0.5 % of the agreed net remuneration per commenced week of delay, up to a maximum total of 5 % of the agreed net remuneration, as far as GERBU is not guilty of willful misconduct or gross negligence.
- 12. Prices, payments, price adjustment**

The agreed prices apply ex works in Heidelberg. The costs for packaging, shipping, and insurance are not included in the prices

and are composed as follows, if no deviating agreements have been made:

Shipping zone	Shipping costs (kg gross)		
	< 3	3-30	> 30
1 Germany, Austria, BeNeLux	8 €	15 €	On Request
2 Rest of EU + EFTA	15 €	25 €	
3 Rest of world			

Within Germany shipping is provided free of charge over a net value of EUR 350,-. Refrigerated shipping, if appropriate delivery temperature is specified, is included in the price. A supplement of EUR 20 is applied for and dangerous goods, dry ice and express shipping. VAT in the respective statutory amount is added to the prices. Any bank charges shall be borne by the customer.

- 12.2. GERBU is entitled to pass on to the client the burden of all increases in freight costs, shipping costs, insurance premiums and the like, which occur after conclusion of the contract. The same applies with regard to customs duties, charges, taxes and the like, which directly or indirectly raise the price.
- 12.4. If the GERBU applicable wage rates or raw material prices change before execution of the delivery contract, then GERBU reserves the right to correct the prices appropriately if the delivery will be later than 2 months after conclusion of the contract.

### 13. Payment methods

- 13.1. The client must fulfill payment claims made by GERBU immediately and without deduction in the currency of the invoice.
- 13.2. The client has a right to withhold performance or a set-off right with regard to compensation owed to it, only in cases of undisputed or legally determined counterclaims.
- 13.3. The deduction of cash discount is permitted only on the basis of special agreements. Bills of Exchange and cheques are accepted by the contractor only on the basis of separate agreements and only on account of performance. The customer shall bear all charges related to this.

### 14. Default of payment

- 14.1. The buyer is in default - subject to a previous reminder - no later than 14 days after the due date and receipt of an invoice or an equivalent request for payment.
- 14.2. In case of delayed payment by the client, GERBU has, in addition to its statutory rights, the authority at its own discretion either to withhold further deliveries from other contracts or to make them subject to a security deposit. The same applies, if after conclusion of the contract, circumstances become known, which make the client's ability to pay or performance readiness appear doubtful.

### 15. Reservation of proprietary rights

- 15.1. All deliveries are subject to reservation of proprietary rights. The delivered goods remain the property of GERBU until payment of the purchase price has been made in full. In addition GERBU reserves its right of ownership of the delivered goods up to complete fulfilment of all claims against the client existing from the business relationship at the time of conclusion of the contract ("current demands"), as well as all further claims of GERBU against the client existing prior to the fulfilment of existing claims from the business relationship ("total debt"). The client is obliged to store the reserved goods separately and to insure adequately against all usual risks, particularly theft and fire. The seller already now assigns the buyer all claims against insurances.
- 15.2. The customer is revocably allowed to process or to resell the delivered goods in accordance with the following provisions in the context of proper business transactions:
- 15.2.1. If the reserved goods are combined or mixed, with items not belonging to GERBU, then GERBU becomes co-owner in accordance with the statutory provisions. If the combination or mixing takes place in such a way that the items not belonging to GERBU appear as the main item, then it shall be agreed that the client transfers co-ownership proportionately to GERBU. For the new chattel that has arisen from the processing, the same also applies as for goods delivered under retention of title.
- 15.2.2. In the case of the resale of the goods, the client already now assigns its claims arising from the resale, to the amount of the final invoice including VAT, regardless of whether the delivered goods have been resold without or after processing. GERBU accepts the assignment herewith. If the resold goods are in the co-ownership of GERBU, then the assignment of the claim is limited to the amount that corresponds to the proportion of co-ownership of GERBU.

If it is impossible for the client to fulfill one of the preceding provisions regarding assignment, in particular as a result of priority assignment to third parties, the resale does not take place in the context of proper business transactions pursuant to that provision.

The client is entitled, until revocation by the seller, to collect the assigned claims. GERBU's authority to collect the claims itself remains unaffected. GERBU is however obliged, not to disclose the assignment of the claim to the garnishee and not to collect the claims, as long as the client meets its payment obligations from the proceeds, is not in default of payment and in particular there is no application to open insolvency proceedings or bankruptcy. GERBU may already at any time demand that the client disclose the assigned claims and their principals, and surrender all the necessary information and documents.

- 15.2.3. The client must immediately report enforcement measures or other interventions of third parties regarding the reserved goods or the assigned claims to GERBU, while surrendering the documents necessary for a lawsuit. If the third party is not able to reimburse the judicial and extrajudicial costs to GERBU, then the customer shall be liable for the loss incurred to GERBU.
- 15.2.4. With suspension of payments, applying for and opening of insolvency proceedings or out-of-court composition proceedings, the right to resell and use the goods and the authorisation to collect the assigned claims expires.
- 15.2.5. GERBU is obliged to disclose its existing securities, at its own discretion, as far as their estimated value is over 150 percent of the amount of the outstanding claims. As an estimated value, the nominal value is decisive for claims, the purchase price of the client for items, or, in the case of co-ownership of the seller, the the pro-rata production costs if any of security collateral for the processing of goods by the customer.
- 15.3. Where the goods delivered are under reservation of proprietary rights, GERBU is entitled to withdraw from the contract, on whose basis the reserved goods have been delivered, if the buyer has not paid the purchase price for the reserved goods in accordance with the contract and a reasonable grace period for payment has been provided, or if the client violates one of its duties in relation to the goods. The same applies if the buyer does not fulfill another total claim (No. 15.1.) in accordance with the contract and as far as a reasonable grace period has been provided in vain, if this claim amounts to more than € 500.00.
- 15.4. If the law relating to the goods sold does not allow the retention of title, the seller reserves the right to retain other similar rights to the delivery item, the buyer is thus obliged to provide GERBU with other adequate collateral. The buyer is obligated upon fulfilment to contribute formal conditions required for this.

### 16. Place of fulfilment

Place of fulfilment for all mutual obligations is Heidelberg.

### 17. Applicable law

For all legal relations between GERBU and the client or in connection with this agreement, the law of the Federal Republic of Germany under exclusion of the UN purchase right applies.

### 18. Court of jurisdiction

Court of jurisdiction for all legal disputes arising between GERBU and the buyer in connection with this contract is the court responsible for Heidelberg or at the discretion of GERBU a general or particular place of jurisdiction of the purchaser, if this is a merchant, legal entity under public law or institution and a case of § 40 ZPO does not exist.