

Annex General delivery conditions

1. Scope of application

The following conditions apply to all contractual relationships of EUROIMMUN Medizinische Labordiagnostika AG (EUROIMMUN) if not agreed upon otherwise in writing. They also apply to all future business relations without renewed reference. EUROIMMUN does not accept the general terms and conditions of a contractual partner even if they have not expressly been contradicted.

2. Offers and conclusion of contracts

Offers by EUROIMMUN are binding for the respective stipulated time period. If no time limitation is given in the offer or the given time has expired, EUROIMMUN is not bound by the offer. A binding agreement shall be reached when EUROIMMUN explicitly confirms the order in writing or starts the delivery.

3. Product characteristics

The products and services comply with the specifications given on the products, in their data sheets or in the product catalogue. EUROIMMUN products shall only be used according to their intended use, the respective instructions of use and within the given expiry dates. Moreover, the stipulated transport and storage conditions are to be observed without interruption.

4. Terms of delivery

The packaging and the shipping method are chosen by EUROIMMUN, at its own discretion, depending on the respective requirements. EUROIMMUN reserves the right to deliver any goods in separate charges. The delivery or service takes place at the time stipulated in the offer. If not agreed upon otherwise, EUROIMMUN starts delivery or service within 7 working days within the EU, and within 20 working days outside of the EU. Unless otherwise agreed upon, delivery takes place EXW Dassow (Incoterms 2010).

5. Prices and payment conditions

5.1 Price information. The prices of the respective valid price list are applicable. All prices are net prices. VAT, costs for packaging, transport and insurance, and especially costs incurring for the cooling of the goods during transport have to be added.

5.2 Price changes. In case of an ongoing delivery, EUROIMMUN reserves the right to modify prices and costs appropriately.

5.3 Payment conditions. The payment must be made within 10 working days after invoicing. The significant dates are the invoice date and the date of receipt of the payment by EUROIMMUN.

5.4 Cash discount. No cash discount is granted

5.5 Delayed payment. In the case of delayed payment, EUROIMMUN reserves the right to charge default interest of annually 9 percentage points above the base interest rate from the European Central Bank, from the date the payment was due, without any further notice.

5.6 Contractual exclusion of set-off. Claims of EUROIMMUN may not be set off by the customer with counterclaims.

5.7 Reservation of proprietary rights. The delivered merchandise remains property of EUROIMMUN until the purchase price has been paid completely. The resale or processing of EUROIMMUN products during the term of the reservation of proprietary rights is only permitted after EUROIMMUN's written consent.

6. Defects, liability and statute of limitation

6.1 Requirement to give notice of defects. The customer must check the proper functioning and completeness of all delivered goods after receipt. Visible defects are to be communicated in writing to EUROIMMUN immediately, hidden defects immediately after discovery. If the notice of defects is not received within 5 working days after receipt or after discovery of the defect respectively, the goods are considered to be accepted.

6.2 Claims for faults. In the case of timely and justified complaints due to a product defect or in case a different product than ordered was delivered, EUROIMMUN commits to swap the products, to repair them, or to allow them to be returned for a refund at EUROIMMUN's discretion.

6.3 General limitation of liability. EUROIMMUN shall be liable for breach of contractual obligations of their legal representatives or vicarious agents, and for offences, principally only for wilfully or through gross negligence, otherwise only for breach of an essential contractual obligation, but limited to the amount of the foreseeable and contractually typical damages. This limitation of liability shall not apply to damages arising due to loss of life, body or health, and if a defect is fraudulently concealed, in the case of non-compliance with a guaranteed quality or liability according to the German Product Liability Act (“Produkthaftungsgesetz”).

6.4 Subsequent damage. EUROIMMUN shall not be liable for subsequent damage, loss of profit, or the loss of programs or electronic data.

6.5 Order value. EUROIMMUN's liability is limited to the value of the respective article.

6.6 Exclusions due to misconduct. Moreover, EUROIMMUN shall not be liable for damages due to

- non-observance of the instructions for use,
- non-intended use,
- usual wear and tear,
- service or use by unqualified and/or untrained personnel,
- use of information and data from the use of software or instruments without checks for plausibility or completeness,
- unauthorised actions performed by the user, such as conversions or technical modifications,
- unauthorised deactivation of safety fittings,
- use of reagents from other manufacturers on devices acquired from or made available by EUROIMMUN in another way,
- use of replacement parts or accessories from other manufacturers,
- use of hardware or software configurations of other manufacturers, i.e. missing compatibility of the EUROIMMUN software with third party configurations,
- delays in delivery or non-performance due to legal or institutional export restrictions or third party's actions in line with these.

6.7 Statute of limitation. Claims against EUROIMMUN resulting from or in relation to deliveries or services become invalid after one year, or, in the case of reagents, with their expiry date. In other cases, the legal statutes of limitation apply.

7. Intellectual property

EUROIMMUN reserves all rights on intellectual property, especially copyrights, patent rights, or trademark rights and know-how. Third parties shall not be entitled without an explicit licence agreement, to use the intellectual property of EUROIMMUN or EUROIMMUN's employees in any way. Software which has been developed by or acquired from EUROIMMUN may not be used or passed on to third parties without prior consent.

8. Place of jurisdiction

The law of the Federal Republic of Germany shall apply.

9. Jurisdiction and arbitration clause

In the case of disputes arising in connection with a contract on the performance of services or deliveries or its validity,
– an ordinary court proceeding with Luebeck as exclusive place of jurisdiction shall take place if all contractual partners have their registered office in Germany,
– arbitration proceedings in accordance with the arbitrating procedures of the Court of Arbitration of the Hamburg Chamber of Commerce shall be performed with exclusion of ordinary legal proceedings if a contractual partner has its registered office outside of Germany. Place of arbitration shall be Hamburg. Languages of arbitration shall be German and English.

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