

General Terms and Conditions of Sale and Delivery

§ 1 General, scope and form

- (1) The following General Terms and Conditions of Sale and Delivery (hereinafter **"Terms"**) shall apply to all business relations of Curetis GmbH and Ares Genetics GmbH (each hereinafter **"Curetis"**) with our contractual partner (hereinafter **"Purchaser"**). The Terms only apply if the Purchaser is a merchant, an entrepreneur, a legal entity under public law or a special fund under public law.
- (2) The Terms shall apply in particular to contracts for the sale and/or delivery of movable goods (**"Goods"**), irrespective of whether Curetis manufactures the Goods itself or purchases them from suppliers. Unless otherwise agreed, the Terms in the version valid at the time of the Purchaser's order or at any rate in the version last notified to him in text form or published on the homepage (<https://curetis.com/imprint-data-protection-declaration>) shall also apply as a framework agreement for similar future contracts without us having to refer to them again in each individual case.
- (3) Our Terms shall apply exclusively. Any deviating, conflicting or supplementary General Terms and Conditions of the Purchaser (hereinafter **"GTC"**) shall only become part of the contract if and to the extent that Curetis has expressly consented to their validity in writing. This requirement of consent shall apply in all cases, including, but not limited to, if Curetis unconditionally performs a delivery to Purchaser despite knowledge of such GTCs.
- (4) Individual agreements with the Purchaser, including but limited to collateral agreements, supplements and amendments, made in writing, shall always take precedence over these Terms. Subject to proof to the contrary, only the written contract or our written confirmation shall be authoritative for the content of such agreements.
- (5) Legally relevant declarations and notifications of the Purchaser with regard to the contract, e.g. setting of a deadline, notification of defects, withdrawal or reduction, must be made in writing, i.e. in written or text form, e.g. letter, e-mail, fax. Legal formal requirements and further evidence, in particular in the event of doubt as to the legitimacy of the declarant, shall remain unaffected.
- (6) Our references to legal regulations are for clarification purposes only. The same applies to headings used herein.
- (7) Curetis reserves the right to amend these Terms at any time.

§ 2 Conclusion of contract

- (1) All our offers are non-binding and subject to confirmation. This shall also apply if Curetis has provided Purchaser with catalogues, technical documentation, other production descriptions or documents, also in electronic form, to which Curetis reserves ownership rights and copyrights.
- (2) If the Purchaser orders Goods, this shall be qualified as a binding contractual offer. Unless stated otherwise in the order, Curetis may accept the contractual offer within two weeks after receipt of it.
- (3) Acceptance may be declared either in writing, e.g. by order confirmation or by Curetis delivering the Goods directly to Purchaser.
- (4) In case of doubt, the scope of our services shall be determined by our order confirmation in conjunction with these Terms.
- (5) If the buyer is located in a country which is supplied by a distributor of ours, orders are to be addressed directly to the respective distributor. Should orders nevertheless be placed with us, we will immediately forward such to our respective distributor. The contract is concluded by the respective distributor only.

§ 3 Delivery period and delay in delivery

- (1) The delivery period shall be agreed upon individually or specified by us in the order confirmation. Unless agreed otherwise, all periods stated by us are non-binding.
- (2) A prerequisite for compliance with an agreed delivery period is that any commercial and technical question between us and Purchaser was clarified and Purchaser fulfilled any of his obligations. If this should not be the case, delivery period shall be extended accordingly. Curetis reserves the right to any further claims and rights.
- (3) Should Curetis fall into arrears with delivery, Purchaser may demand lump sum compensation for the damage caused by such delay. The lump sum compensation shall amount to 0.5% of the net price (delivery value) for each completed calendar week of delay, but shall not exceed a total of 5% of the delivery value of the Goods delivered late. Curetis reserves itself the right to prove that Purchaser has suffered no damage at all or only a significantly lower damage than the aforementioned lump sum.
- (4) Should Curetis not be able to meet agreed delivery dates due to force majeure, including, but not limited to natural disaster, fire, lightning, war, riots, pandemic, i.e. through no fault of its own, Curetis shall inform the customer immediately and at the same time inform the customer of the expected new delivery date. If delivery should still not be available within the new delivery period, Buyer shall be entitled to withdraw from the contract in whole or in part; Curetis shall immediately refund Buyer any consideration already paid for now undelivered Goods. However, such withdrawal shall not entitle any party to any further compensation or damages.

- (5) Purchaser's rights pursuant to § 8 of these Terms, as well as our statutory rights, in particular in the event of exclusion of the obligation to perform, e.g. due to impossibility or unreasonableness of performance and/or subsequent performance, shall remain unaffected; however, the lump sum shall be offset against further monetary claims.

§ 4 Delivery, passing of risk, acceptance and default of acceptance

- (1) Delivery shall be ex warehouse (EXW, Incoterms 2010), which shall also be the place of performance for delivery and any subsequent performance.
- (2) At the request and expense of the Purchaser, the Goods shall be shipped to another destination. In doing so and unless agreed otherwise, Curetis shall be entitled to determine the type of dispatch, in particular transport company, dispatch route and packaging, itself.
- (3) In both cases mentioned above under subs (1) and (2), the risk of accidental loss and accidental deterioration of the Goods or a delay shall pass to Purchaser upon making them available for collection at the place of performance. A shipment in the name and on behalf of Purchaser does not change this. If acceptance has been agreed, this shall be decisive for the transfer of risk. For the rest, the statutory provisions of the law governing contracts for work and services shall apply mutatis mutandis to an agreed acceptance. Delivery or acceptance shall be deemed to have taken place if the Purchaser should be in default of acceptance.
- (4) If the Purchaser is in default of acceptance, if he fails to cooperate or if our delivery is delayed due to other reasons Purchaser is responsible for, Curetis shall be entitled to demand from him compensation for the resulting damage including additional expenses, including but not limited to storage costs. For reasons of simplification, Curetis shall charge a lump sum compensation for each completed calendar week of 0.5% of the net price (delivery value), but no more than a total of 5% of the delivery value, beginning with the delivery period or in the absence of a delivery period, with the notification that the Goods are ready for dispatch. The Purchaser shall be entitled to prove that Curetis has incurred no damage at all or only considerably less damage than the above lump sum compensation.
- (5) Proof of higher damage and our statutory claims, in particular reimbursement of additional expenses, appropriate compensation, or termination shall remain unaffected by the lump sum according to above sub (4); however, the lump sum shall be set off against further monetary claims.
- (6) Partial deliveries by us are permissible, except in case of unacceptability to the Purchaser.

§ 5 Prices

- (1) Our quotation prices are EXW (Incoterms 2010) ex our distribution warehouses plus packaging costs and value added tax at the respective statutory rate. This will be shown separately in the invoice. The calculation shall be made in Euro.
- (2) We reserve the right to increase prices accordingly in the event of an increase in costs which we are not responsible for.
- (3) In case of shipment according to § 4 sub (2), the Purchaser shall not only bear the transport costs ex warehouse and the costs of any transport insurance requested by him, but also any customs duties, fees, taxes and other public charges.
- (4) Unless otherwise agreed, invoice is due and payable within 14 days of pick-up of the Goods by the forwarding agent/carrier.
- (5) The Purchaser shall be in default upon expiry of the payment period in accordance with sub (4) above. Interest shall be charged on the purchase price during the period of default at the applicable statutory default interest rate. Curetis reserves the right to assert further claims for damages caused by default. Our claim against merchants for commercial interest on arrears (Section 353 German Commercial Code) shall remain unaffected.
- (6) Curetis may, at any time, even within current business relations, decide to sell against advance payment only. If so, Curetis shall declare a corresponding reservation with the respective order confirmation.
- (7) The Purchaser shall only be entitled to set-off or retention rights to the extent that his claim is legally established, undisputed or acknowledged. In the event of defects in the delivery, the Purchaser's counter rights shall remain unaffected, in particular pursuant to § 7 sub (4) sentence 2 of these Terms.

§ 6 Retention of title

- (1) Curetis shall retain title to the sold Goods until all our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims) have been paid in full. Upon request, Curetis shall be obliged to release securities of its choice if the feasible value of all securities exceeds the total amount of all claims of Curetis by more than 10% not only temporarily. When selecting the to be released securities Curetis shall take into account the legitimate interests of the Purchaser.
- (2) The Goods subject to retention of title may neither be pledged to third parties nor transferred by way of security until the secured claims have been paid in full. The Purchaser shall notify us immediately in writing or by e-mail if

an application for the opening of insolvency proceedings is filed or shall be filed or if third parties seize the Goods belonging to us.

- (3) In the event of breach of contract by the Purchaser, in particular by non-payment of any amounts due, Curetis shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and demand the return of the Goods on the basis of retention of title. The demand for surrender of the Goods does not at the same time include the declaration of withdrawal; Curetis rather shall be entitled to demand surrender of the Goods and to only reserve the right of withdrawal. If the Purchaser does not pay the amounts due, Curetis may only assert these rights if Curetis has previously unsuccessfully set the Purchaser a reasonable deadline for payment or if providing such a deadline is unnecessary according to the statutory provisions.

§ 7 Warranty claims of the Purchaser

- (1) We accept no liability for public statements made by our suppliers, distributors or other third parties, e.g. advertising statements or similar, which were not approved by us upfront.
- (2) Condition precedent to Purchaser's claims for defects is that he not only did store the Goods in accordance with the regulations, but has also fulfilled his statutory duties to examine the Goods and to give notice of defects (Sections 377, 381 German Commercial Code). If a defect becomes apparent upon delivery, inspection or at any later point in time, we must be notified thereof in writing without undue delay. In any case, obvious defects must be reported in writing within 5 working days of delivery. Defects not recognisable during a normal entry inspection within the same period of time starting from discovery of the same, but no later than two years after the beginning of the statutory limitation period. A maximum period of one year from the beginning of the statutory limitation period shall apply to the purchase of used Goods. If the Purchaser fails to properly inspect the Goods and/or to notify us of any defects at all, in a timely manner or in the proper way, our liability shall be excluded.
- (3) If the delivered item is defective, Curetis may choose whether to cure by remedying the defect (subsequent improvement) or by supplying a defect-free item (replacement delivery). Our right to refuse cure under the statutory conditions shall remain unaffected.
- (4) Curetis may make the cure dependent on the Purchaser paying any amounts due and outstanding. However, the Purchaser shall be entitled to retain a reasonable portion of the purchase price in proportion to the defect.
- (5) The Purchaser shall give us the time and opportunity required for the cure and in particular hand over the defective Goods for inspection purposes. In the event of a replacement delivery, the Purchaser must return the defective item to us.
- (6) Curetis shall bear or reimburse the expenses necessary for the purpose of inspection and cure, in particular transport, travel, labour and material costs, in accordance with the statutory provisions, if a defect actually exists. Otherwise, Curetis may demand compensation from the Purchaser for the costs incurred as a result of the unjustified request to remedy the defect, unless the lack of defectiveness was not recognisable to the Purchaser.
- (7) If cure should have failed or a reasonable period to be set by the Purchaser for cure should have passed unsuccessfully or such a period should be dispensable according to law, the Purchaser may withdraw from the purchase or reduce the price. In case of an insignificant defect, however, there is no right of withdrawal.
- (8) Claims of the Purchaser for damages or reimbursement of futile expenses exist only in accordance with § 9 hereof and are otherwise excluded.

§ 8 Warranty

- (1) For newly manufactured Unyvero products, in particular the Unyvero L4 Lysator, Unyvero C8 Cockpit and Unyvero A50 Analyzer, the warranty period ends two years after the transfer of risk. If acceptance has been agreed, the period begins with acceptance.
- (2) Warranty for the purchase of used Unyvero products shall be one year, only. Commencing as in sub (1) above.
- (3) In the case of consumables stored in accordance with regulations, the warranty shall apply for the duration of the respective shelf life of the consumables.

§ 9 Other liability / Statute of Limitations

- (1) Curetis shall have unlimited liability for damages resulting from injury to life, limb or health, for claims under the Product Liability Act and for warranties assumed, as well as for other damages resulting from malicious, intentional or grossly negligent actions attributable to it.
- (2) Curetis shall only be liable for damage to property and financial loss caused by negligence in the event of a breach of an obligation the fulfilment of which is essential for the proper performance of the contract and the observance of which the contractual partner regularly relies on and may rely on; in this case, however, our liability shall be limited to compensation for damage foreseeable at the time of conclusion of the contract and typically occurring.

- (3) Insofar as claims for damages against Curetis are excluded or limited, this shall also apply with regard to the personal liability of Curetis' employees.
- (4) Claims for damages pursuant to § 9 sub (1) shall become time-barred in accordance with the statutory provisions. Claims for damages pursuant to § 9 subs (2) and (3) shall become time-barred one year after the statutory commencement of the limitation period.
- (5) In the event of a breach of duty that does not consist of a defect, the purchaser may only rescind or terminate the contract if Curetis is responsible for the breach of duty. A free right of termination on the part of the purchaser is excluded

§ 10 Permitted use

- (1) Our products may only be used as described in our respective product documentation. Any other type of use is not permitted. Reverse Engineering is explicitly prohibited!
- (2) The purchaser of our products shall be responsible for any violation of the above-mentioned permitted use. This applies in particular to the acquisition of any possibly necessary licences, to compliance with any regulatory requirements and to the performance of any possibly necessary validations or evaluations.

§ 11 Data protection

- (1) Any Purchaser data provided to us will be treated carefully in accordance with our data protection guidelines (<https://curetis.com/imprint-data-protection-declaration>).
- (2) Our consent must be obtained prior to the publication of data which is based on data supplied by us or samples or data which have arisen in the context of a cooperation with us.

§ 12 Place of performance, choice of law and venue

- (1) These Terms and the contractual relationship between us and the Purchaser is governed by, interpreted and construed in accordance with the laws of the Federal Republic of Germany without giving effect to principles of conflict of laws. The UN Convention on Contracts for the International Sale of Goods shall be excluded.
- (2) If the Purchaser is a merchant, a legal entity under public law or a special fund under public law, the exclusive - including international - venue for any claim, dispute or difference arising out of or in connection with the parties' relationship shall be Stuttgart, Germany. Same applies if Purchaser is entrepreneur within the meaning of Section 14 BGB. Notwithstanding the aforementioned, Curetis shall also be entitled to choose the place of jurisdiction of a prior individual agreement or to choose the Purchaser's general place of jurisdiction. Superior statutory provisions, in particular regarding exclusive jurisdictions, shall remain unaffected.

§ 13 Severability clause

If, and to the extent that, a provision of this Terms or part thereof should be or become invalid, illegal or unenforceable it shall be ineffective only to the extent of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or the remaining provisions of the Terms, unless this would constitute a disproportionate hardship for either party. To the extent any provision or part thereof should be invalid or unenforceable the parties shall use their best efforts to negotiate, in good faith, a substitute, valid and enforceable provision which most nearly reflects the intent of the invalid or unenforceable provision. Same applies mutatis mutandis to unintentional gaps herein.