

General Terms and Conditions ("GTC") of Sale and Supply of Cytosurge AG

Effective Date: 01.09.2014.

1. Scope

- 1.1 These General Terms and Conditions of Sale and Supply ("GTC") shall apply to all supplies, services and any other business activity of Cytosurge (collectively the "Products and Services") to its customers.
- 1.2 Other conditions, especially the customer's terms and conditions of purchase, shall only be valid if they are specifically acknowledged in advance and in writing by Cytosurge.
- 1.3 Cytosurge's offers (in price lists, in brochures, on the Internet, etc.) are without obligation and are subject to change without notice. The price listings at the time of Cytosurge's formal acceptance of a purchase order from a customer shall control unless otherwise approved in writing by Cytosurge.
- 1.4 Should individual provisions of these GTC be invalid, void or unenforceable, the validity of the remaining provisions hereof shall in no way be affected. Invalid, void or unenforceable provisions shall be replaced by provisions coming as close as possible to the intended purpose of these GTC.

2. Acceptance

- 2.1 Unless otherwise stated, Cytosurge's written offers shall be valid for 30 days from date of issue. In case of sharp currency fluctuations (appreciation or depreciation of more than 2% from date of issue of offer), the offer shall not be valid.
- 2.2 All orders for Products and Services shall be initiated as Purchase orders and include a request for a delivery date. No order shall be binding upon Cytosurge until accepted by in writing (order confirmation or invoicing respectively) and Cytosurge shall have no liability to customer with respect to purchase orders that are not accepted. Any changes or amendments to pending purchase orders shall only be binding if accepted in writing by Cytosurge.
- 2.3 Unless agreed otherwise, the sending of faxes and e-mails shall meet this written-form requirement.

3. Prices and Payment

- 3.1 If nothing to the contrary is agreed, prices are quoted net ex works (EXW in accordance with Incoterms 2010) in Swiss francs (CHF), exclusive of VAT, insurance, customs duties and other applicable taxes and charges. With the exception of the packaging, all forwarding, transport and delivery charges, custom duties and any other charge shall be borne by the customer.

- 3.2 Unless stated otherwise in the offer, Cytosurge shall invoice the customer at the time of delivery. The invoice shall be due for payment within **30 days of the invoice date** without deduction at the registered office of Cytosurge. Deviations from this payment deadline shall require a written agreement between the parties.

- 3.3 The customer shall fall into arrears upon expiry of the payment deadline. If the customer is in default of payment, he shall pay default interest of 1% (one per cent) per month (or the maximum lesser amount permitted by law) to Cytosurge, as well as compensation of CHF 100 to cover administrative costs.

- 3.4 If the customer is in default of payment, Cytosurge reserves the right to suspend any further deliveries to the customer immediately upon failure to pay by the due date, including future partial deliveries, and may demand payment in advance.

4. Terms of Delivery

- 4.1 The delivery date specified in the order confirmation or invoice respectively shall apply. Cytosurge shall make commercially reasonable efforts to abide by the specified delivery dates, but Cytosurge does not provide any binding assurance that delivery will be made at the estimated delivery date. In the event of late delivery, the customer shall not have the right to withdraw from the purchase order concerned and/or this contract. Nor shall it have, in such case, the right to claim damages.
- 4.2 Benefit and risk shall pass to the customer as soon as the ordered products are ready for collection at the place of delivery.
- 4.3 Cytosurge reserves the right to transfer the ordered products with retention of title until customer's invoice has been settled, and may register this right in the title register at the location where the customer has its principal place of business or where the customer is lawfully incorporated or registered to do business.

5. Warranty and Liability

- 5.1 Cytosurge warrants that the products it delivers are free from manufacturing and material defects. Cytosurge does not warrant that the products satisfy the requirements and objectives of the customer and its end-purchasers. Responsibility for the correct selection and use of the products, as well as the intended or achieved outcomes, shall lie with the customer or its end-purchasers respectively. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED.

- 5.2 Should the products delivered to the customer be defective, the customer must notify Cytosurge in writing within five (5) days of receipt of the Products. Should any defects be discovered later that would not be ascertained upon a normal inspection of the Products, the customer must notify Cytosurge in writing within five (5) days of their discovery.
- 5.3 The customer may only request that the defect be remedied by Cytosurge or, if not possible a replacement. The customer shall destroy defective products at its own cost or – if requested by Cytosurge – send them back at Cytosurge's expense. A defective product does not release the customer from his duty to pay the purchase price.
- 5.4 TO THE EXTENT PERMITTED BY LAW CYTOSURGE SHALL BEAR NO LIABILITY UNDER, OR FOR BREACH OF, THIS AGREEMENT. IN NO EVENT WILL CYTOSURGE BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS BY CUSTOMER EVEN IF CYTOSURGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL CYTOSURGE BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE.
- 5.5 Subject to appropriate notice under section 5.2 above, warranty claims for defects of the products shall lapse upon expiry of **12 months** after the customer has taken delivery. Warranty claims for defects of products which were sold to customer by Cytosurge for over CHF 100'000 per unit shall lapse upon expiry of **24 months** after the customer has taken delivery.

6. Confidentiality

The customer undertakes to treat as strictly confidential all non-public information, know-how, data, materials and knowledge concerning Cytosurge, the products, customers or other business and trade secrets of Cytosurge made accessible or disclosed to it or otherwise brought to its attention, and not to use it or cause it to be used for purposes other than fulfillment of its contractual obligations.

7. Intellectual Property Rights

Cytosurge retains in full all its intellectual property rights, in particular all patent and design rights, copyrights, trademarks, and trade secrets, all rights to its name and the company name, as well as any and all rights to the Products, Cytosurge know-how, and all technical and commercial documents made available to the customer such as drawings, diagrams, and promotional material. Unless specifically authorised in this contract, Cytosurge does not grant the customer the any license or other right to exercise its intellectual property rights without Cytosurge's express prior written consent.

8. Force Majeure

- 8.1 In the event of *force majeure*, i.e. events outside the control of the affected party, which significantly impair or render impossible the proper provision of its services under this supply contract, such as administrative orders and measures, business interruption, industrial disputes, transport problems, etc., the party affected shall as quickly as possible notify in writing the other party of the nature of the event and its likely duration.
- 8.2 With the exception of payment obligations, the affected party shall be released from the proper provision of its services for the duration of the event affecting it. However, once the event comes to an end, the affected party shall resume the provision of its services without delay.
- 8.3 The parties shall make commercially reasonable efforts in good faith to reduce the effects of a *force majeure* event as far as possible.

9. Termination

Cytosurge is entitled to terminate the contract for good cause at any time in writing without notice. Any circumstance that makes it unreasonable, in good faith, for Cytosurge to abide by the contract, in particular if customer files a petition in bankruptcy, or enters into an agreement with its creditors, or applies for or consents to the appointment of a receiver or trustee, or makes an assignment for the benefit of creditors, or becomes subject to involuntary proceedings under any bankruptcy or insolvency law (which proceedings remain undismissed for sixty (60) days).

10. Choice of law and jurisdiction

- 10.1 These GTC shall be governed exclusively by the laws of the **Country of Switzerland**, excluding that body of laws dealing with conflicts of laws. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (the Vienna Convention) shall be excluded and does not apply to these GTC. The Incoterms rules 2010 shall apply.
- 10.2 The customer agrees to submit to the jurisdiction of the courts in **Zurich, Switzerland**. Cytosurge reserves the right to assert claims at the Customer's place of business.