

General terms of business

§ 1 Scope

1.1 Our Terms of business, delivery and payment (Geschäfts-, Lieferungs- und Zahlungsbedingungen) apply exclusively. Any deviating terms must be in written form to be valid. They are only valid if they are made with a person authorized for this purpose. Only the general manager, manager and the department managers of PHAST are considered authorized. Agreements made with other employees, particularly by phone, are only valid if they were confirmed in writing by one of the persons indicated above.

1.2 Any conflicting terms by our party ordering do not apply.

§ 2 Placing orders

2.1 The scope of lab work and other services is specified in writing before orders are placed. Changes in the agreed-upon scope of services must be in written form. They can be made by an authorized representative of PHAST.

2.2 The ordering of substances and pharmaceutical data is a binding offer. This offer can be accepted by PHAST within two weeks from the order date by sending an order confirmation or the ordered products or data. Order placement must basically be done in writing [also by fax or e-mail]. Only transmission errors and any misunderstandings are at the expense of the ordering party when an order is only made verbally. If a written order confirmation has been made [also by fax or e-mail], the scope and content of the order are determined from this.

§ 3 Delivery

3.1 Deadlines to fill the order for lab work and deliveries or the delivery of substances or pharmaceutical data are not binding if they are not explicitly agreed upon in writing or are explicitly agreed upon as binding. PHAST is liable according to the statutory provisions, if the delay in providing services is based on a malicious or negligent contractual violation that is the fault of PHAST; culpability of PHAST representatives or vicarious agents is to be ascribed to PHAST.

If the delay in delivery is not due to a malicious contractual obligation which is the responsibility of PHAST, the limit of PHAST's liability is limited to the foreseeable, typically occurring damages. In each case, the delivery period is extended by time periods in which the delay can be verifiably delayed due to non-culpable occupational shut-downs, unexpectedly long official processing times, the delay of suppliers or force majeure if a non-commercial fixed transaction was agreed upon. The Customer is entitled to cancellation if, upon expiry of the agreed upon delivery period, a grace period is given and PHAST does not perform its service within the set grace period. The duration of the grace period to be set by the Customer is to be set at two weeks, which begins upon the receipt of the grace period notice by PHAST.

3.2 Domestic deliveries of lab results are packaging, freight and freight free. Subject to partial deliveries. Deliveries abroad and deliveries of substances are always at the expense of the ordering party. PHAST explicitly reserves the right to accept an order. The delivery of pharmaceutical data is via data exchange.

3.3 Shipments and services (the fulfilment of contract) shall be on condition that fulfilment is not restricted by any national or international regulations, particularly export control regulations and embargoes, or any other restrictions. PHAST and the Customer are obliged to provide all information and documentation needed for export / intra-EU trade / import. Delays caused by export checks or licensing procedures shall override any stipulated lead times or deadlines. If and to the extent that any required licenses for certain items cannot be obtained, the contract shall be considered to be not concluded with respect to the items in question; any rights to claim damages on these grounds and/or relating to the above-mentioned lead time and deadline delays are excluded.

§ 4 Prices, Due date, Arrears

4.1 In the event of lab work and services, the compensation is agreed upon separately when the order is placed; the same applies to the prices of substances. The payment of the invoice amount shall occur without discount with exclusion of the right of retention and retention, unless the counter-claim for offset is undisputed or legally valid. The amount becomes due upon receipt of the final invoice. It is payable strictly net, without discount. The established prices are plus statutory VAT.

4.2 PHAST reserves the right to handle order with cash on delivery; partial advanced payment or full advanced payment. If necessary, the appropriate information is sent back to the Customer in advance. Upon delay by the Customer, PHAST is entitled to pay interest in the statutory amount. If PHAST can prove higher damages due to failure to pay a due date, it is entitled to assert this.

4.3 If the Customer is delayed in full or in part with an agreed upon discount payment longer than 14 days, PHAST is entitled to either demand immediate payment for the total remaining debt or to cancel after a grace period has been set without result. In this case, the Customer must reimburse PHAST for the damage incurred.

§ 5 Return

Substances are excluded from the right of return. Pharmaceutical products are also excluded from the right of return.

§ 6 Data storage

In accordance with § 33 Federal data protection act (Bundesdatenschutzgesetz): Customer data are saved. The collection, processing or use of personal Customer data is for the purpose of filling the placed order. The data are not passed on to third parties. The exception is order handling with the participation of qualified companies.

§ 7 Warranty claims

PHAST is liable for the error-prone nature of the supplied substances, lab work or other services (advise, information) with a repetition of the delivery or service that was defective, at no charge. The warranty claims require that the Customer has properly met its examination and complaint obligations in accordance with § 377 German Commercial Code (HGB). If the remedy of the defects fails or PHAST is not willing to remedy the defect or supply spare parts or is delayed beyond these reasonable periods for reasons which are the fault of PHAST, the Customer is entitled to cancel the agreement or to demand a reduction in the purchase price. § 8 Liability applies to claims to damage claims and the reimbursement useless expenses due to a defect. Damage claims by the Customer expire one year after the delivery of goods. Instead of this single-year period, the legal expiration periods apply in the following cases:

- a) in the case of liability due to malicious intent,
- b) in the event of willful silence on a defect,
- c) for claims based on damages resulting from injury to life, the body or health which are based on a negligent violation of obligations by the Customer or a negligent violation of a statutory representative or a vicarious agent of the Customer,
- d) for claims based on others which are based on a grossly negligent violation of the obligations of the Customer or a malicious or grossly negligent violation of obligations of a legal representative or the vicarious agent of the Customer and
- e) in the event of regress of the buyer due to the regulations on the sale of consumer goods.

Clear mistakes in the result of the work such as type-o's, accounting errors or formal defects can be performed by PHAST at all times, even in relation to third parties.

§ 8 Liability

8.1 Liability by PHAST - for any legal reason whatsoever - only applies if the damages

- a) due to the culpable violation of a major contractual violation in a manner which jeopardizes achievement of the contractual goal or
- b) can be attributed to rough negligence or malicious intent by PHAST.

8.2 If PHAST is liable in accordance with 8.1 a for the violation of a major contractual obligation, the liability for the respective scope of damage is limited to that which PHAST would expect upon conclusion of the agreement due to the circumstances known to it upon conclusion of an agreement which were known to it at the time.

8.3 Limitation of liability in accordance with 8.2 applies in the same manner to damages which result due to the gross negligence or malicious intent of employees or representatives of PHAST which do not belong to the company management, management or manager.

8.4 In the event of 8.2 and 8.3, PHAST is liable for indirect damages, defects due to defective products or lost profits.

§ 9 Transport damages

If the Customer recognizes damages on the packaging (transport damages), upon acceptance of the shipment from the transport company, it must have the damage certified. Transport damages which are determined after unpacking the goods are to be reported to and received by PHAST within three business days in writing.

§ 10 Protection of the results of work

The Customer guarantees that the certificates, expert's certificates, advice and information, the content of the files on standard substances and the substances themselves prepared within the scope of PHAST tests can only be used for its own purposes. The reproduction of extracts of these certificates, expert's reports, advice, information, files and data and similar items explicitly require written permission. The Customer is obliged not to be pass the documentation, files or data, parts thereof or the results contained therein to third parties, also not in a modified form. This excludes passing information on to authorities if the Customer is part of a subordinate or co-ordinate group, they are also considered third parties in terms of these contractual terms (prohibition or sub-licensing). Subject to copyright.

§ 11 Confidentiality

PHAST is obliged to provide the party ordering with all products which are elaborated in conjunction with lab work and services and not to publish them without its permission nor disclose them to third parties. PHAST is also obliged to maintain confidentiality on all information received in conjunction with the order.

§ 12 Sample storage

If nothing to the contrary has been agreed upon, the samples left for study, if the structure allows this, are stored at PHAST's location for a maximum of three months. After this period of time, the samples can be destroyed. Because a product return is desired, this is at the expense and at the risk of the Customer.

§ 13 Retention of ownership

PHAST retains ownership including all copyrights to the supplied items (substances, documents, data and data transmissions) until full payment is made. The Customer is obliged to notify PHAST of every change in its headquarters immediately if claims are unresolved due to delivered substances or data have not yet been provided. The items are always processed or reconstituted for PHAST. If the items are processed/mixed with other items which do not belong to PHAST, PHAST acquires the co-ownership to the new items with the ratio of the value of the delivered items to the other processed/mixed items at the time of processing/mixing. If the Customer's item is considered the main item, the Customer must transfer co-ownership to the mixed product to PHAST on a proportional basis. The Customer is entitled to further sell the new items in normal business transactions. The Customer shall now assign its claims from the further sale of the items in the amount of the final invoice amount agreed upon with PHAST (including the statutory VAT) to PHAST. This assignment applies regardless of whether the items are further sold with or after processing. The Customer remains authorized until collection of the claim, i.e. after the pledge. The authorization of PHAST to recover the claim itself remains unaffected. However, PHAST will not collect the claim if the Customer meets its payment obligations from the collected revenues, is not payment arrears and in particular there is no petition to initiate insolvency proceedings or payment has not been suspended. PHAST reserves the right to release the collateral to which it is entitled upon request of the Customer if the value of the claims to be collateralized exceeds more than 20%.

§ 14 Termination

The termination of lab works and other services is possible by both contractual parties at any time. If the Customer terminates, it must reimburse PHAST for the material, travel costs and expenses incurred until this time. Moreover, PHAST obtains a percentage of the agreed-upon fee due to termination by the Customer. This percentage is calculating by making a ratio of the expired development time with the time taken to fill the order. In this case, the Customer is not entitled to a transfer and handover of the documentation beyond the completed partial segments or partial results of process development. PHAST terminates the agreement, the Customer is entitled to the documentation of the partial results achieved until then, it must reimburse the company for the work hours incurred pro rata temporis as well as the material and travel costs and expenses.

§ 15 Termination for serious reasons

If it is determined when handling a procedure that the achievement of a set goal (development of a certain procedure) is not possible for actual, legal or financial reasons, PHAST is entitled to cancellation for good reason. Here, in addition to a claim for compensation for the material and travel costs and expenses incurred, it is also entitled to a percentage of the agreed upon fee. This percentage is calculated according to § 14. In this case, the Customer is entitled to a transfer of the documentation of the previous sub-segments and partial results.

§ 16 Applicable law, place of performance, jurisdiction

German law applies. The place of performance is the headquarters of PHAST. If the Customer is a merchant, the jurisdiction can be Homburg/Saar.