

## GENERAL TERMS OF TRADE

Of the ONLINE SHOPS of the EVERCYTE GMBH

### **1. PREFACE**

These general terms of trade apply to all legal transactions completed within the framework of this online shop between the Evercyte GmbH and its customer(s) (contracting partners) in terms of products / licences and/or services offered in the above mentioned online shop.

The general terms of trade in the current version are decisive for the time of the completion of the contract. Divergent regulations of these general terms of trade are only relevant if they have been arranged between the Evercyte GmbH and the customer (contracting partner) in writing.

### **2. Conclusion of the Contract**

To conclude a contract in the online shop with the Evercyte GmbH the person has to be completed the 18th year, not limited in legal capacity at the time of conclusion the contract and authorized to conclude legal transactions on behalf of the enterprise / the organization.

The offers in the online shop represent an offer without commitment to the customer to order products / licences and/or services in the online shop. By the order of a product / licence and/or services stated in the online shop the customer makes implied a binding offer on conclusion of a contract.

The Evercyte GmbH is entitled to accept the customers' binding offer within 5 calendar days by sending of a confirmation of order. The confirmation of order takes place by E-mail, not later than, however, with delivery of the product or performance of the service. After unanswered expiration of the named term of 5 calendar days the offer is considered as refused. A refusal by the Evercyte GmbH by E-mail or in any other form is not required.

### **3. Delivery date**

All products and/or services will be delivered or performed at the earliest opportunity provided that from stock available or available and while stocks last.

The products are dispatched within Austria:  
Monday through Wednesday (noon).

Dispatch all over Europe:  
Monday and Tuesday (noon).

Dispatch overseas to the USA / Canada:  
Monday and Tuesday (noon).

Dispatch overseas to Asia:  
Monday (noon) and / or Friday (noon).

Dispatch overseas to Australia:  
Monday (noon) and / or Friday (noon)

Deliveries of products or the performance of services (ordered from the online shop) take place world-wide after conclusion of the contract, unless import or export regulations, sanctions or something like that conflict with it. A certain delivery time cannot be promised obligingly. The transfer of risk takes place with delivery of the product to the supplier.

If a product and/or a service is not available after conclusion of the contract, the customer/contracting partner is informed about that by email.

Delivery delays, caused by e.g., by force majeure, traffic holdups or official authority acts as well as other events not culpable negligence from the Evercyte GmbH, create no basis for a claim for compensation against the Evercyte GmbH.

If the delivery of products is delayed and/or impossible because of the fault of pre-suppliers, the Evercyte GmbH is not liable for any inconveniences caused.

#### **4. Packaging and forwarding**

Cost of shipping and packing charges are announced with the confirmation of order.

A transport insurance at the expense of the customer is optional. Any damages due to transport have to be announced to the supplier / transport company immediately.

## **5. Prices and payment**

5.1 All indicated prices do not contain the Austrian value-added tax (VAT) of 20% at present, if this is required.

5.2 The prices do not include costs for shipping or packaging as well as optional insurances if requested.

5.3 In case of actualization of prices in the online shop any information with regard to price and state of goods given at an earlier date expires. Errors and misprints are reserved.

5.4 The price stated by Evercyte GmbH at the time of submitting a quote by the customer is relevant for the bill position.

5.5 The payment of the goods takes place either in advance or on bill. The purchase price as well as given shipping and packing charges is due upon receipt.

5.6 The customer is obliged to pay the amount due within the period prescribed at the invoice. If the customer does not fulfil its payment obligations within the expelled term, the Evercyte GmbH is entitled to charge additional processing and dunning fees from the customer.

5.7 If the customer defaults with payment, the Evercyte GmbH is entitled to assert legal interests on arrears. Any further claims for damages of the Evercyte GmbH remains reserved.

## **6. Reservation of proprietary rights**

Until complete payment the ordered products remain a property of the Evercyte GmbH (reservation of proprietary rights). In case of default in payment of the customer the Evercyte GmbH is entitled to reclaim the product. In this case the customer has to bear the costs for delivery. The reclaim of the product does not stand for a resignation of the contract, unless this is expressly stated.

## **7. License**

Hereby is expressly stated that the licences offered to purchase within the framework of the online shop represent products of this terms and conditions of the Evercyte GmbH.

Subject to the compliance of this terms and conditions and the payment of costs, as well as additional costs Evercyte GmbH grants after conclusion of the contract to the customer a limited, non-exclusive, non-transferable and not further licensable right to use of the acquired licence. This limited, non-exclusive, non-transferable and not further licensable right is valid in case of purchase in the online shop for exclusively six months (= initially license period).

It is strictly pointed out that there is a distinction between academic / non-profit organizations and profit organizations regarding the rights of use (scope of use of the products). The licences contain no right of resale or a commercial use by the customer. All rights that are not transferred based on these terms and conditions and / or on a contractual basis with the Evercyte GmbH remain reserved to the Evercyte GmbH.

A licence acquired in the online shop expires after the end of six months. The customer has to confirm to the Evercyte GmbH the destruction of the product on demand in writing. In case of infringement the Evercyte GmbH reserves all rights.

The Evercyte GmbH strictly points out that acquired licences are not transferable within a company structure (subsidiaries, branches, os) and also transmission within a university (to department(s) and/or institute(s) and/or other working groups or within cross-/interdisciplinary working groups) is strictly prohibited.

## **8. Warranty**

The Austrian jurisdiction shall govern in case of claims of the customer caused by faulty products and/or services against the Evercyte GmbH.

The customer is obliged to examine products and services at the time of acceptance. In case of any lack the customer has to inform the Evercyte GmbH immediately in writing. At a later date the customer is also obliged to inform the Evercyte GmbH immediately in writing. If the customer fails to inform the Evercyte GmbH about a lack/defect in writing, this is considered as approved.

Damages caused by the customer due to inappropriate treatment or a treatment contrary to contract represent no lack.

Decisive for an appropriate treatment and a treatment in accordance with the contract is the information of the Evercyte GmbH provided to the supplied product (e.g: product data sheet, material safety data sheet).

## **9. Restriction of liability**

General limit of liability: unless specified otherwise below, other claims and claims of wider scope against Evercyte GmbH on the part of the customer are excluded. This shall apply to any kind of liability caused by any legal claim. Therefore, Evercyte GmbH is not in charge for damages which have not appeared in the product itself; particularly this includes an exclusion of liability for lost profit and/or losses occurring and/or other damages arising out of or in connection with the purchased product(s) or service(s).

The above mentioned warranty disclaimers do not apply if the cause of damage is based on intent as an act of gross negligence or if there is evidence of personal injury.

These provisions shall not affect the provisions of the Product Liability Act (PLA). In case Evercyte GmbH negligently infringes a fundamental contractual obligation, the liability to pay damages for damages to property is restricted to the damage typically caused.

Did the supplementary performance take place through a replacement delivery the customer is obligated to send the delivered product to the vendor within 30 days to the Evercyte GmbH at the cost of the vendor.

## **10. Data security**

The customer hereby agrees that his personal data are collected, processed and used insofar as they are essential for the purpose of the business case. For the avoidance of doubt it is pointed out that personal data collected are processed only insofar as the purpose and content of the data application are covered by the statutory competencies and the data subjects' interest in secrecy deserving protection is not infringed.

The Evercyte GmbH does not transmit personal customer's data to third parties.

Furthermore the customer agrees, that he/she receives recurring newsletters of the Evercyte GmbH which can be revoked at any time. The newsletter is sent by using the software of mailchimp. [www.mailchimp.com](http://www.mailchimp.com). [http: // mailchimp.com/legal/privacy](http://mailchimp.com/legal/privacy)

## **11. Copyright**

All displayed corporate symbols of other companies, pictures and graphics are a property of the companies and are protected by copyrights of the licensors. All photos represented on these sides (pages), logos, texts, reports, scripts and programme routines which are developments of the Evercyte GmbH or have been processed by Evercyte GmbH must not be copied or used otherwise without its written consent. All rights reserved.

## **12. Jurisdiction**

The commercial court of Vienna (HG Wien, registered office of Evercyte GmbH) shall have jurisdiction overall disputes arising from the Agreement. However, we may also select a different place of jurisdiction as it may appear appropriate.

This agreement is governed by the law of the Austrian Republic to the exclusion of the UN Convention on Contracts for the International Sale of Goods together with the conflict of laws of international private law.

## **13. Validity of the AGB**

By ordering the customer agrees on the general terms and conditions of the Evercyte GmbH. Should any provision of these terms and conditions be fully or partially void, ineffective or unenforceable, this will not affect the effectiveness and enforceability of the remaining provisions. Any oral agreements have to be confirmed by Evercyte GmbH in writing.