

General terms and conditions of sale and delivery of MIMOX AG

1. Scope of application

These Terms and Conditions shall apply exclusively to all contractual relationships between MIMOX AG and its customers, unless agreed otherwise expressly and in writing in the individual contracts. These Terms and Conditions replace all previous versions.

Upon placement of an order, the customer accepts these Terms and Conditions of MIMOX AG. General Terms of Purchase or other General Terms of the customer differing from, contradicting or supplementing these Terms and Conditions are not binding for MIMOX AG, even if MIMOX AG does not expressly contradict.

2. Offers and conclusion of contract

All offers made by MIMOX AG are non-binding.

Only orders confirmed to the customer in writing by means of letter, fax or e-mail (order confirmation) shall be binding for MIMOX AG. The written order confirmation shall be examined by the customer immediately upon receipt and any deviations from the original order shall be immediately notified to MIMOX AG in writing. Order confirmations by MIMOX AG, which have not been examined and any possible deviations notified to MIMOX AG in good time, shall be deemed as approved by the customer and shall govern exclusively the delivery of products by MIMOX AG. Special demands of the customer, e.g. regarding packaging, delivery or quality, shall be repeated in each order.

3. Prices and terms of payment

Unless agreed otherwise expressly and in writing, all prices of MIMOX AG shall be deemed to apply DELIVERED DUTY PAID (DDP) according to Incoterms (ICC official rules for the interpretation of trade terms, version January 1, 2011), exclusive of the applicable statutory value added tax (VAT). Loaned packaging will be charged at the time of delivery and credited after its return.

Unless agreed otherwise in writing, all prices are in Swiss Francs (CHF) and shall be payable by the customer to MIMOX AG in Swiss Francs.

All prices are based on the prevailing cost factors at the time of the conclusion of the contract (exchange rates, prices for raw materials, transport costs, taxes, custom duties, etc.). Substantial changes in the cost factors beyond the control of MIMOX AG shall entitle MIMOX AG to withdraw from the contract up until the time of delivery or to present a new offer to the customer. An increase in any cost factor by more than 3% since the conclusion of the contract shall be deemed substantial.

Unless agreed otherwise expressly and in writing, all invoices of MIMOX AG shall be payable net within 30 days since the date of the invoice. The customer's obligation of payment is deemed to be fulfilled if the bank or postal account of MIMOX AG has been credited with the full amount of the invoice. After the due date of payment, the customer is automatically considered to be in arrears. Interest for late payment at a rate of 6% p.a. on any overdue balance shall be charged to the customer.

Due dates of payment shall also be adhered to if delivery to the customer or acceptance of the goods by the customer is delayed or made impossible for any reason beyond the control of MIMOX AG. In case of establishing a new business connection, or if the customer is in arrears with earlier payments, or if MIMOX AG has serious reasons to doubt the customer's solvency, MIMOX AG shall be entitled to make the delivery of ordered goods conditional on payment in advance or the lodging of security. In these cases, MIMOX AG shall also be entitled to withdraw any extensions of periods for payment.

4. Delivery and risk assumption

Unless agreed otherwise expressly and in writing, all deliveries by MIMOX AG shall be DELIVERED DUTY PAID (DDP) pursuant to Incoterms. If necessary, import licences are to be obtained by the customer at the customer's own expense.

Unless agreed otherwise expressly and in writing, all delivery dates are non-binding. In the event of late delivery, the customer shall send MIMOX AG a reminder. Appropriate packaging and the mode of delivery are at MIMOX AG's discretion. Additional expenditure caused by special demands of the customer regarding packaging or delivery (e.g. express or special delivery, provision of products at short notice) will be charged to the customer separately and on a time and material basis. If ordered products are not collected by the customer in accordance with the delivery date, MIMOX AG is entitled, at its sole discretion, to waive subsequent delivery or, after the third day following the collection date, levy a surcharge (storage costs, handling costs etc.). If MIMOX AG waives subsequent delivery, it shall be entitled to claim compensation for damages resulting from the non-delivery or to withdraw from the contract.

If the customer is in arrears with earlier payments, MIMOX AG is entitled to suspend the delivery of ordered products until all due obligations of the customer are fulfilled.

5. Force majeure

Delays, stoppages and / or the impossibility of performance by MIMOX AG due to force majeure shall not be deemed a breach of contract for the duration of the impediment plus a reasonable transition period after the termination thereof. Force majeure is deemed to include all unforeseeable actual or legal events of any kind, which hinder or render impossible the performance of the contract and which are not caused by MIMOX AG. Force majeure is deemed to include the following in particular: Unforeseen operational impairments, traffic impairments, dispatch impairments, delivery impairments, natural disasters, fire, epidemics, energy shortages, raw material shortages, production material shortages, labour shortages, strikes, lockouts, governmental instructions and orders. In the event of force majeure, MIMOX AG shall inform the customer as far as possible of the impediment and the anticipated duration of the performance interruption.

In case the performance is hindered or rendered impossible just partly, MIMOX AG shall deliver and the customer shall accept the possible partial delivery.

6. Complaints, warranty and liability

Products offered by MIMOX AG are described in the company's specifications. MIMOX AG shall make these specifications available to the customer upon request. The customer's order shall serve as confirmation that the customer is familiar with the ordered products and their specifications.

The weight of the goods at the moment of their dispatch at MIMOX AG shall apply for the performance of contracts and the issuing of invoices. MIMOX AG shall be entitled to deviate from the contractual weight of the ordered product by up to 10% (overweight or underweight). Such deviation shall not be deemed as a breach of contract.

The customer shall inspect the delivered products immediately upon receipt, before use or further processing, and give written notice of any defects. Such notice of defects must not be given later than five working days after receipt of the product. In addition to the notice of defects, the customer shall also provide MIMOX AG with all information and documentation needed to identify the product and its defects. MIMOX AG shall be entitled to inspect the product in question at the customer's or to authorise a third party to inspect the product and to take samples. If the customer fails to give written notice of defects of the product in time, the product delivered by MIMOX AG shall be deemed as approved by the customer. Any such notices do not release the customer from its obligation to pay in due time.

MIMOX AG warrants that the delivered products are free from any defects. A defect shall be deemed to be any substantial deviation from the specifications or from the product information according to the order confirmation. In the absence of such data, the generally accepted standards for the product in question shall apply.

MIMOX AG does not warrant and is not to be held liable for the suitability of its products in a specific application or for a specific processing outcome. Technical advice provided by MIMOX AG is offered during our sales support and free of charge in good faith, but shall not be binding. The same applies to the observation of third party's industrial property rights. In any case, the customer is solely responsible to conduct evaluations to determine the suitability of the products of MIMOX AG for their specific applications. It is the customer's sole responsibility to comply with the relevant regulations (guidelines, statutes, ordinances), in particular with regard to the manufacturing of pharmaceutical, cosmetic or food applications.

In the event of defects in the delivered product, MIMOX AG shall, at its discretion, be entitled

- to take back the defective product against refund of the paid price;
- or to replace the defective product with a product without defects;
- or to eliminate the defect;
- or to replace the reduced value of the product for the customer.

In any case and in the event of delivery delays within the responsibility of MIMOX AG, its liability shall be limited to the invoiced value of the product. All liability of MIMOX AG for direct or indirect damages, in particular for loss of earnings by the customer or by third parties, and for any further resulting damages shall be excluded within the limits of the law.

7. Retention of title

All products delivered by MIMOX AG remain its property until all contractual payment obligations of the customer are fulfilled.

The customer shall not pawn nor transfer by way of security the delivered product prior to the full payment of the purchase price. The customer shall inform MIMOX AG immediately in the event of distraints, attachments or other acts of disposal by third parties.

In the event of breach of contract by the customer, in particular the delay in payment, MIMOX AG shall be entitled, upon notice, to take back and the customer shall return the delivered products. The realisation of the retention of title and the garnishment of the delivered products by MIMOX AG shall not be deemed a withdrawal from the contract.

8. Industrial property rights

The purchase of a product from MIMOX AG shall not be deemed the grant of a licence for any industrial property rights of MIMOX AG. MIMOX AG expressly points out that the export of its products may violate third party's industrial property rights and assumes no liability.

9. Applicable law and place of jurisdiction

These Terms and Conditions and all agreements between MIMOX AG and its customers shall be governed exclusively by the laws of Switzerland. The provisions of the United Nations Convention on Contracts for the International Sale of Goods are not applicable.

The place of jurisdiction for any controversy or claim arising out of or relating to this agreement shall be Zollikon or, at MIMOX AG's discretion, the place of residence or the company's registered office of the customer.