

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY AND PROVISION OF SERVICES

1. General

Unless otherwise agreed upon in writing, all sales and deliveries and services of BioSpring GmbH shall be exclusively governed by the following General Terms and Conditions of Sale and Delivery and Provision of Services. Other conditions, in particular the customers' general terms and conditions, shall not apply, even if BioSpring has not explicitly rejected such conditions. These General Terms and Conditions shall also apply exclusively in the event that BioSpring delivers products or provides services unreservedly while being aware that deviating terms and conditions exist.

2. Offer and Acceptance

Unless otherwise expressly noted in writing, quotes made by BioSpring shall be binding for the period mentioned in the quote only. Customers' purchase order respectively service order shall become binding with receipt of the purchase order, modifications of the quote by a purchase order shall be not binding.

3. Delivery, (Delivery Periods), Packaging, Risk of Loss

Unless otherwise agreed, deliveries shall be ex works Frankfurt (Incoterms 2010).

If, in individual cases, it is notwithstanding agreed that BioSpring shall undertake the dispatch of goods, customer agrees that the products are delivered by one of the major overnight carriers.

Further, in such case of agreed dispatch of goods by BioSpring, the risk of damage or loss shall pass to customer with handing over the batch to the carrier at BioSpring's premises and the customer shall be responsible for transport, transport packaging and transport insurance.

Any dates for the delivery of the Product or on the provision of Services requested shall be non-binding, unless BioSpring in its Acceptance explicitly agreed a certain date to be binding.

4. Acceptance

Customer shall examine the products manufactured by BioSpring promptly after delivery for compliance with the specifications, identity, shortage or any other defect. Should any of the products fail to meet the specifications or in case of any other claim, customer shall give a notice in writing of any defect without undue delay after physical receipt of the batch. Claims for defects asserted by customer in another way or after this period of time shall be excluded.

BioSpring shall be entitled to decide whether subsequent fulfillment will be met by either rectification (reprocessing or rework) or by replacement. Customer shall not be entitled to cancel the Purchase Agreement or to reduce the purchase price before such subsequent fulfilment failed, provided the chosen way already set a new appropriate deadline for subsequent fulfilment unsuccessfully.

5. Retention of Title

BioSpring shall retain title to all products delivered until the customer has fulfilled all payment obligations arising from the business relationship with BioSpring.

If the products subject to reservation of title are blended or combined, BioSpring acquires a co-ownership proportionate to the customers' ownership of the resulting item; in the event the product is the essential component of the resulting item, BioSpring becomes sole owner of the new item. This shall also apply if the product is processed alone or with other items not owned by BioSpring to a new item.

Customer shall not pledge, mortgage or transfer the delivered products by way of security, but is authorized to resell and process the goods in an ordinary course of business. In such case customer shall assign the purchase price claim arising of any resale of the product in advance to BioSpring as a substitute to the thereby expired title, irrespective of whether the products have been resold unmodified or after they have been blended or combined with other items or processed to a new item. Customer is authorized to have this receivables paid to its accounts. This does not affect the entitlement of BioSpring to assert this claim independently, but BioSpring will not assert any claims as long as customer meets its payment obligations towards BioSpring. As soon as customer is in default with any payment, BioSpring may demand that Customer notifies BioSpring of the assigned receivables, of the names and addresses of the debtors, provides all other information necessary to assert the claims, provides all relevant documentation and notifies the debtors of the assignment.

In the event the purchase price claim is included in a current account, customer herewith assigns its current account claim against its buyer to BioSpring in the amount customer did charge its buyer.

BioSpring may revoke the abovementioned authorization by written notice in the event of breach of an obligation of the Purchase Agreement by customer, including, but not limited to, a default of payment.

The customer shall handle the reserved goods carefully, care for properly storage and adequate insurance against all standard risks based on the replacement value of the goods as BioSpring's fiduciary agent until fulfilment of all payment obligations as defined above.

6. Warranty and Liability

The products shall comply with the specifications. Under no circumstances BioSpring shall be liable for the suitability of the product for a particular purpose customer intends to use it. Services shall be performed in a competent, diligent manner.

BioSpring's liability for damages caused by ordinary and slight negligence of its statutory representatives, employees or statutory persons shall be excluded.

The aforementioned exclusion of liability shall not apply for (i) damages to life, body or health, (ii) other damages caused by gross negligence and (iii) damages caused by an infringement of an essential contractual duty (Kardinalpflicht).

BioSpring's liability for damages due to an infringement of an essential contractual duty caused by ordinary negligence shall be limited to damages typically for the type of contract and foreseeable at the time of its conclusion. BioSpring shall not be liable for damages due to an infringement of an essential contractual duty by slight negligence.

Exempt from claims due to (i) damages to life, body or health or (ii) damages caused by gross negligence or wilful intent, BioSpring shall under no circumstances be liable for indirect, consequential or remote damages, including, but not limited to, loss of profit, incurred useless expenditures, standstill of operations or penalties.

Apart from claims due to (i) damages to life, body or health or (ii) damages caused by gross negligence or wilful intent, claims for damages against BioSpring shall be limited to the purchase price (respectively service fee) of the delivered batch (respectively the fee agreed upon for the service in question).

7. Indemnity

The parties shall indemnify and hold harmless each other, their officers, directors, employees, sub-licensees, customers, agents and authorized subcontractors from and against any and all suits, claims, losses, demands, liabilities, damages, expenses and costs (including reasonable attorney's fees and expenses) in connection with any claims, demands, suits or proceedings of any third party ("Losses") arising out of any actual or alleged breach of any third party rights relating to or in connection with the substances respectively the services ordered by customer under the Purchase and/or the Service Agreement. In the event the injury or damage is caused by joint or concurrent negligence of customer and BioSpring, the loss or expense shall be borne by each party to its degree of negligence.

8. Force Majeure

BioSpring shall not be liable for failure to perform any of its obligations to the extent BioSpring's performance is delayed or prevented directly or indirectly, by any cause beyond its reasonable control (Force Majeure). Such impediments shall include, but shall not be limited to, strike, lockouts, flood, fire, war (either declared or undeclared), insurrection, riot, civil unrest, embargos, which prevent fulfilment of the Purchase and/or the Service Agreement in whole or in part. If a force majeure event occurs, the schedule for BioSpring's performance shall be extended by the amount of time lost by reason of the event plus such additional time as may be needed to overcome the effect of the event. If acts or omissions of customer or customers' contractors cause the delay, BioSpring shall be entitled to an equitable price adjustment.

Should the effect of the Force Majeure endure for a period of more than sixty (60) Days, both Parties shall timely settle the problems for further execution of the Purchase and/ or the Service Agreement by friendly negotiations and reach an agreement as soon as possible.

9. Confidentiality

BioSpring and customer may provide each other with Confidential Information in connection with the fulfilment of the obligations concerning the ordered products respectively services. "Confidential Information" shall mean all trade secrets, know-how, proprietary information, business or personal data which are disclosed or provided by one party to the other whether or not identified as confidential in written or other tangible form or orally, visually or otherwise. The parties hereto agree not to use the Confidential Information disclosed or obtained by analysis of the Confidential Information for purposes other than provided in the Purchase and/or Service Agreement and not to commercially exploit such Confidential Information without the prior written consent of the disclosing party.

Both Parties undertake to treat the existence of the Purchase and/or the Service Agreement, its contents and all information regarding the other Parties business as well as information relating to the Product disclosed by one Party to the other Party as confidential, not to use such information for its own purposes outside of the Purchase and/or the Service Agreement and not to give third parties access to such information. This shall apply during the term of this contractual relationship and for ten years thereafter.

Both Parties shall also impose a similar confidentiality obligation on their affiliated companies, employees, directors or officers and other agents.

Both Parties shall make such information available only to those of its employees, directors or officers, affiliated companies and agents who need to have access to it for the purpose of this Purchase and/or Service Agreement bound by the abovementioned a similar obligation.

Notwithstanding the foregoing, Confidential Information does not include information which:

- (a) is available in the public domain at the time of disclosure or becomes part of the public domain other than as a result of any breach of the Purchase and/or the Service Agreement;
- (b) is received by the receiving Party in good faith from any third party which has the right to disclose it;
- (c) is in rightful possession of the receiving Party prior to disclosure by the disclosing Party hereunder;
- (d) is independently developed by the receiving Party without breach of the Purchase and/ or the Service Agreement as shown by respective documentation.

In case Confidential Information of the other Party must be disclosed to courts, governmental and/or other regulatory agencies and/or other authorities or is otherwise required by law, the receiving Party shall be entitled to do so to the extent required by law provided, however, that if either Party is so required, such Party shall give reasonable advance notice of such disclosure in written form to the other Party to the extent legally possible and use reasonable efforts to secure confidential treatment of such Confidential Information (whether through protective order or otherwise). Such protective order shall, however, not release the disclosing Party of its confidentiality obligations contained hereunder.

10. IP Rights and Know-How

BioSpring owns certain IP rights and know-how relating to the manufacture and analysis of oligonucleotides in general and the products as object of the Purchase and/or the Service Agreement in particular. BioSpring shall retain ownership of all Confidential Information and intellectual property, including, but not limited to its know-how, it had prior to the Purchase and/or the Service Agreement. All new intellectual property, including, but not limited to particularities or further development of the manufacturing technology conceived or created by BioSpring whether alone or with any contribution of customer, shall be owned exclusively by BioSpring. Customer shall not infringe with those rights of BioSpring and shall reasonably support BioSpring in pursuing right infringements by third parties related to the Purchase and/or the Service Agreement.

11. Prices, Payment Terms

The price of the goods and the fees for services are exclusive of any taxes (including without limitation value added tax- VAT), customs, bank transfer fees, and other duties. If applicable, VAT will be charged in addition to the current rate.

The payments shall to be made to a bank account indicated on BioSpring's invoice in full within 16 (sixteen) days from the date of the invoice.

If any sum becomes overdue BioSpring may suspend all further deliveries and services until full payment has been made without prejudice to any other right or remedy.

BioSpring may charge interest on any sum not paid on the due date.

12. Off-Set of Claims with Demands

The customer can only offset or reduce BioSpring's payment demands by means of a claim which is undisputed or recognized by declaratory judgment.

13. Applicable Law and Jurisdiction

The relationship between BioSpring and its customers shall be governed by German law excluding collision law stipulates which would submit the Purchase and/or Service Agreement to any other than German law and excluding the UN Vienna Convention on Contracts for the International Sale of Goods (CISG).

Exclusive place of jurisdiction shall be Frankfurt am Main, Germany.

14. Severability Clause

If any provision of these General Terms and Conditions should become void or unenforceable, the validity of the remaining provisions shall not be affected. The invalid provision shall be substituted by a regulation that comes as close as possible to the invalid provision with respect to its practical and economic effect.