

General Terms and Conditions of BIOTECON Diagnostics GmbH

1. Scope

Sales, deliveries and services by BIOTECON Diagnostics GmbH (hereinafter referred to as "**BIOTECON Diagnostics**") shall be made exclusively – except for the services listed in Sec. 11 - in accordance with the following General Terms and Conditions (hereinafter referred to as "**GTC**"). By placing the order or the receipt of the delivery the buyer (hereinafter referred to as "**Customer**") acknowledges the validity of the GTC of BIOTECON Diagnostics. The GTC shall also apply to all future transactions with the Customer. Any deviating or supplementary terms and conditions of the Customer shall be excluded, even if BIOTECON Diagnostics does not expressly object to them. Subsequent amendments to BIOTECON Diagnostics' GTC shall be part of the contract if the Customer does not object within four weeks of receipt of the amended terms of contract.

2. Conclusion of the Contract

- 2.1. The offers by BIOTECON Diagnostics are subject to change without notice ("*freibleibend*"). A contract shall only come into existence upon written confirmation of the order and shall be governed exclusively by the contents of the order confirmation and the present GTC. Verbal agreements or promises must always be confirmed in writing. If BIOTECON Diagnostics indicates, without prior written order agreement - by performance of services or in any other way - that the Customer's individual order has been accepted, the content of the individual order shall be governed by the Customer's order and by the present GTC.
- 2.2. BIOTECON Diagnostics reserves all rights, including property rights and copyrights, regarding the advertising material (in particular explanatory notes and descriptions). They shall not be made accessible to third parties and shall be returned to BIOTECON Diagnostics immediately upon request. Such documents shall only be passed on to third parties with the prior written consent of BIOTECON Diagnostics.
- 2.3. The information provided in BIOTECON Diagnostics' sales catalogues or with the offer - e.g. drawings or pictures - only serve as a description of the products and is only approximately relevant unless such information has – with prior written consent - expressly been qualified as binding.

3. Scope of performance, delivery terms and delivery dates

- 3.1. The scope of performance shall only include the services described by BIOTECON Diagnostics in the Customers' service offer in writing. This shall also apply to follow-up contractual agreements with the same Customer. If BIOTECON Diagnostics' services shall be used for special purposes of the Customer, the requirements with which the services must comply must always be completely designated by the Customer in the individual order and shall always be subject to prior confirmation in writing by BIOTECON Diagnostics.
- 3.2. BIOTECON Diagnostics' services are rendered within the usual market periods. Schedule agreements and delivery periods shall only be binding, if they have been explicitly agreed upon in writing and shall be understood as periods by which BIOTECON Diagnostics' performance must be completed at the latest. These periods shall commence on the date of receipt of all information and documents required for the execution of the delivery and all down payments agreed upon in accordance with the agreement. Periods agreed upon shall commence on the date of the order confirmation. In case of additional orders or extensions of an existing order issued upon a later date, the deadlines agreed upon beforehand shall be extended accordingly.
- 3.3. Unforeseeable, unavoidable as well as such events beyond BIOTECON Diagnostics' control and for which BIOTECON Diagnostics is not responsible, such as force majeure, war, natural disasters, shall release BIOTECON Diagnostics from the obligation to deliver or perform in time for their duration. Periods agreed upon shall be extended by the duration of the respective disturbance commencing upon occurrence of the disturbance and the customer shall be informed in an appropriate manner. If the end of the disturbance is not foreseeable or if it lasts longer than two months, each party is entitled to withdraw from the contract.

- 3.4. If BIOTECON Diagnostics is in default with a delivery or service date, the client shall solely be entitled to rescind the contract after a reasonable grace period set by the client, which shall be at least three weeks, has expired.
- 3.5. Should the Customer be in default with his acceptance of delivery or should the Customer be in breach of any other obligations to cooperate with BIOTECON Diagnostics, BIOTECON Diagnostics shall be entitled to reasonably store the products at the Customer's risk and expense. Without prejudice to its other rights, BIOTECON Diagnostics is entitled to rescind the contract if a reasonable grace period set by BIOTECON Diagnostics for the acceptance of delivery has expired without success.
- 3.6. BIOTECON Diagnostics may make partial delivery.

4. Shipment, Passing of the Risk, Insurance

- 4.1. If no written provision has been made by the Customer, shipment shall be made using a reasonable method of shipment in the usual manner of packaging. If a delivery of BIOTECON Diagnostics is made abroad, BIOTECON Diagnostics is obliged to respect foreign regulations on packaging, weighing and customs only if the Customer has given BIOTECON Diagnostics exact indications about this. The additional costs associated therewith shall be borne by the Customer. Should BIOTECON Diagnostics be obliged to effect any payment due to the mentioned foreign regulations or should BIOTECON Diagnostics have any other damages deriving therefrom, because the Customer had not made any reference to them in advance, the Customer shall exempt BIOTECON Diagnostics from such payment obligation and shall also compensate any further damage resulting therefrom.
- 4.2. The risk of accidental loss and accidental deterioration of the goods shall pass to the Customer at the latest when the goods are handed over. In case of a sale by delivery to destination, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the Customer upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment.
- 4.3. If the Customer is in default of acceptance, fails to cooperate or if BIOTECON Diagnostic's delivery is delayed for other reasons for which the Customer is responsible, BIOTECON Diagnostics shall be entitled to claim compensation for the resulting damage including additional expenses (e.g. storage costs).
- 4.4. Insurance shall be taken out only upon prior written request and at the expense of the Customer.

5. Pricing, Payment Methods

- 5.1. If the contracting parties have not agreed upon a specific price, the price shall be determined in accordance with BIOTECON Diagnostics' price list valid at the time of conclusion of the contract.
- 5.2. BIOTECON Diagnostics prices exclude the applicable statutory value-added tax, packaging and shipping costs as well as any customs duties, consular fees and other taxes, duties, fees and other related costs charged on the basis of regulations outside the Federal Republic of Germany, all of which are charged separately and shall be borne by the Customer.
- 5.3. Each invoice is due for payment without any deduction immediately, i.e. from delivery and due date of the corresponding invoice and must be paid to BIOTECON Diagnostics. The Customer shall not be released from his obligation to pay if he has doubts regarding the examination results transmitted to him. Payments made by the Customer shall not be deemed to have been made until BIOTECON Diagnostics is able to dispose of the amount. Payments may, at BIOTECON Diagnostics' option, be set off against other outstanding claims.
- 5.4. BIOTECON Diagnostics shall be entitled to demand a reminder from the Customer at any time from the due date of the claim. Insofar as the Customer is not in default by a reminder issued by BIOTECON Diagnostics,

he shall be in default no later than 30 days after expiry of the payment period set forth in Section 5.3 and receipt of the invoice.

- 5.5.** If the Customer is in default of payment (see Section 5.4), BIOTECON Diagnostics shall be entitled to charge default interest at a rate of five percentage points above the respective base interest rate of the European Central Bank per year. BIOTECON Diagnostics shall be entitled to claim commercial interest on arrears from merchants at a rate of nine percentage points above the respective base interest rate of the European Central Bank per year. The assertion of further damage caused by default shall remain unaffected.
- 5.6.** Bills of exchange and cheques shall only be accepted on account of performance by special agreements and free of costs and expenses for BIOTECON Diagnostics.
- 5.7.** The Customer shall only be entitled to set-off if his counterclaim is undisputed or has been established as final and absolute.
- 5.8.** The Customer shall only be entitled to assert a right of retention insofar as his counterclaim is based on the same contract and is undisputed or has been legally established. BIOTECON Diagnostics shall be entitled to avert the exercise of the right of retention by providing security - also by way of guarantee.
- 5.9.** If BIOTECON Diagnostics becomes aware of a significant reduction in the financial situation of the Customer after the conclusion of the contract, if the Customer suspends payments or if the Customer is in default with the encashment of due bills of exchange or cheques, all claims of BIOTECON Diagnostics against the Customer shall become due immediately and BIOTECON Diagnostics shall be entitled to make outstanding deliveries or render outstanding services only against advance payment or provision of security; if such deliveries or services are not made even after expiry of a reasonable grace period, BIOTECON Diagnostics shall be entitled to rescind the contract in whole or in part without prejudice to any further rights.

6. Warranty, Inspection Obligation

- 6.1.** Information in catalogues, price lists and other information material provided to the Customer by BIOTECON Diagnostics as well as product descriptive information are neither to be understood as a guarantee of quality nor as an agreed quality. Quality guarantees or an agreed quality must be expressly designated as such by BIOTECON Diagnostics in writing.
- 6.2.** The Customer's warranty rights are subject to the Customer inspecting BIOTECON Diagnostics' performance immediately upon delivery and immediately notifying BIOTECON Diagnostics in writing in case of any defects no later than two weeks after receipt of the performance; hidden defects must be notified to BIOTECON Diagnostics in writing immediately upon their discovery.
- 6.3.** Warranty claims shall, at BIOTECON Diagnostics' choice, be limited to remedy of the defect or delivery of a defect-free item (subsequent performance). If the subsequent performance fails, the Customer shall have the right to reduce the purchase price or withdraw from the contract at its discretion.
- 6.4.** The Customer shall grant BIOTECON Diagnostics the time and opportunity necessary for subsequent performance.
- 6.5.** Ownership of products which have been replaced by BIOTECON Diagnostics shall pass onto BIOTECON Diagnostics.
- 6.6.** BIOTECON Diagnostics shall not be liable for damages caused by unsuitable or improper use by the Customer or by natural wear and tear, unless BIOTECON Diagnostics is responsible for the damages.
- 6.7.** BIOTECON Diagnostics shall bear the material, shipping and labour costs incurred for the purpose of subsequent performance if a defect actually exists.

- 6.8.** The limitation period for warranty claims for any services shall be one year from the date of transfer of risk. However, Customers' claims for damages pursuant to Section 7.2 Sentence 1 and Section 7.2.1 as well as pursuant to the German Product Liability Act shall become statute-barred exclusively in accordance with the statutory limitation periods.
- 6.9.** All further claims of the Customer, in particular due to consequential damages, are excluded. This shall not apply in the case of Section 7.2.1 or unless Section 7 provides otherwise.

7. Other Liability, Damages, Limitation of Liability

- 7.1.** BIOTECON Diagnostics shall be liable for any breach of contractual or non-contractual obligations in accordance with the statutory provisions, unless otherwise stipulated in these GTC including the following provisions.
- 7.2.** BIOTECON Diagnostics shall be liable for damages - for whatever legal reason - within the scope of liability for culpa in contrahendo in cases of intent and gross negligence. In case of ordinary negligence BIOTECON Diagnostics shall be liable, subject to statutory limitations of liability (e.g. care in its own affairs; insignificant breach of duty), only for
- 7.2.1.** for damages resulting from injury to life, limb or health,
- 7.2.2.** for damages resulting from the breach of an essential contractual obligation (an obligation, the fulfilment of which is essential for the proper performance of the contract and the compliance with which the contractual partner regularly relies on and may rely on); in this case, however, the liability of BIOTECON Diagnostics shall be limited to compensation for the foreseeable, typically occurring damage.
- 7.3.** The limitations of liability resulting from Section 7.2 shall also apply to breaches of duty by or for the benefit of persons whose fault BIOTECON Diagnostics is responsible for in accordance with statutory provisions. The limitations of liability shall not apply if BIOTECON Diagnostics fraudulently concealed a defect or guaranteed the quality of a product or if BIOTECON Diagnostics claims under the German Product Liability Act.
- 7.4.** BIOTECON Diagnostics shall not be liable for damages if none of the categories of cases under Section 7.2 is fulfilled.
- 7.5.** The Customer shall be obliged to undertake appropriate measures to prevent and mitigate any damage.

8. Retention of Title

- 8.1.** The delivered products shall continue to remain the property of BIOTECON Diagnostics until full payment of all claims of BIOTECON Diagnostics arising from the business relationship with the Customer, even if individual goods have been paid for. If the Customer is not a merchant, the delivered products shall remain the property of BIOTECON Diagnostics until full payment of the related claims of BIOTECON Diagnostics.
- 8.2.** In case of current accounts, this retention of title shall be deemed to serve as security for the outstanding owing claim of BIOTECON Diagnostics.
- 8.3.** The Customer shall only be allowed to sell the products subject to retention of title upon BIOTECON Diagnostics' prior written approval. The Customer is not entitled to pledge the products subject to retention of title, to assign them as security or make other dispositions endangering BIOTECON Diagnostics' title to such products.
- 8.4.** The Customer shall always provide BIOTECON Diagnostics with all desired information concerning the products subject to retention of title. The Customer shall immediately report BIOTECON Diagnostics any access to or claims by third parties to the products subject to retention of title and shall hand to BIOTECON Diagnostics all necessary documents related thereof. The Customer shall also advise any third party of

BIOTECON Diagnostics' retention of title. The costs of a defense against access and claims shall be borne by the Customer.

- 8.5. The Customer shall be obliged to handle the products subject to retention of title with care for the entire duration of the retention of title.
- 8.6. If the value of securities exceeds the total amount of BIOTECON Diagnostics' claims by more than ten percent, the Customer shall be entitled to demand release of securities to this extent.
- 8.7. If the Customer is in default with material obligations (e.g. payment to BIOTECON Diagnostics), BIOTECON Diagnostics may, without prejudice to any other rights, take back the products subject to retention of title and dispose them otherwise for the purpose of satisfying any due claims against the Customer. In this case, the Customer shall grant BIOTECON Diagnostics or BIOTECON Diagnostics' agents immediate access to the products subject to retention of title and release them. Should BIOTECON Diagnostics demand the release under this Section, this shall not be deemed to be a cancellation of the contract with the Customer. The Customer shall grant BIOTECON Diagnostics or his agents access to all his office premises during office hours. BIOTECON Diagnostics or BIOTECON Diagnostics' agents shall be entitled to take possession the products subject to retention of title, to exploit them respecting the diligence of a prudent businessman and to settle his claims with the proceeds of their exploitation.
- 8.8. In case of deliveries to other legal systems in which the abovementioned provisions governing the retention of title do not have the same security effect as in Germany, the Customer shall do everything in his power to create equivalent security rights for BIOTECON Diagnostics without undue delay. The Customer shall cooperate concerning all measures, which are necessary and beneficial to the validity and enforceability of such security rights, such as registration, publication, etc.
- 8.9. Should the Customer breach any obligation mentioned in this Section, BIOTECON Diagnostics shall be entitled to rescind the contract without prejudice to any other rights.

9. Product Liability

Should the Customer sell the products, he shall hold BIOTECON Diagnostics harmless from any product liability claims of third parties, provided that Customer is responsible for the defect causing such liability.

10. Intellectual Property Rights

If the Customer specifies, how BIOTECON Diagnostics shall manufacture the products, by means of instructions, data, documentation, drafts or drawings, the Customer warrants that BIOTECON Diagnostics does not violate or infringe any rights of third parties such as patents, utility models, trademarks, copyrights and any other intellectual property rights. BIOTECON Diagnostics shall not be responsible for the violation of intellectual property rights for a delivery object which has been produced in accordance to drawings, developments or other indications provided by the Customer or for an application which is unforeseeable for him. The Customer shall hold BIOTECON Diagnostics harmless from any claims of third parties which these parties may assert against BIOTECON Diagnostics based on any of the abovementioned violations.

11. General Provisions

- 11.1. These GTC of BIOTECON Diagnostics GmbH shall apply exclusively. Individual agreements made with the Customer (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTC. Subject to proof of the contrary, the content of such agreements shall be governed by a written contract or written confirmation by BIOTECON Diagnostics.
- 11.2. The Customer's legally relevant declarations and notifications in accordance with the GTC and in relation to the contract with BIOTECON Diagnostics (e.g. setting of a deadline, notification of defects, withdrawal or reduction) must be made in writing, i.e. in written form or text form (e.g. by letter, e-mail or fax). Legal formal requirements and further evidence, in particular in the event of doubt as to the legitimacy of the declarant, shall remain unaffected.

- 11.3.** References to the validity of statutory provisions are only of clarifying significance. Even without such clarification, the statutory provisions shall therefore apply insofar as they are not directly amended or expressly excluded by BIOTECON Diagnostics in these GTC.
- 11.4.** If a provision of the contract and/or these GTC is invalid in whole or in part, this shall not affect the validity of the remaining provisions. In this case, the contracting parties undertake to replace the ineffective provision with the effective provision that comes closest to the economic purpose of the ineffective provision.
- 11.5.** Place of performance for all contractual and legal claims is Potsdam. If the Customer is a merchant, legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from the contractual relationship - also for cheque and bill proceedings - shall be Potsdam. This shall also apply if the Customer does not have a general place of jurisdiction in the Federal Republic of Germany or has moved his usual place of residence abroad after conclusion of the contract. BIOTECON Diagnostics shall, however, be entitled to sue the Customer at any other legal venue.
- 11.6.** The law of the Federal Republic of Germany shall apply under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 11.7.** The business and trade secrets obtained through the cooperation between BIOTECON Diagnostics and the Customer shall be kept secret by both contracting parties, shall not be disclosed to third parties without the prior written consent of the other contracting party and shall not be used for own business purposes without the written consent of BIOTECON Diagnostics. This shall also apply beyond the duration of the agreement.

12. Additional Terms for Products manufactured according to Customer's Specifications

If BIOTECON Diagnostics manufactures products in accordance to specifications of the Customer, the following regulations shall apply in addition to the regulations mentioned above:

- 12.1.** The Customer shall be obliged to accept the contractually manufactured products within a period of one week after being asked for acceptance.
- 12.2.** Should the Customer not accept the products within the period according to Section 12.1, BIOTECON Diagnostics shall be entitled to request the Customer to accept the products within a reasonable period. Should the Customer not accept the products within that period, the products shall be deemed to have been accepted as far as BIOTECON Diagnostics informed the Customer about the intended consequence of the Customer's behaviour at the beginning of the grace period.
- 12.3.** The risk shall pass to the Customer upon acceptance of the products according to Section 12.1 or 12.2.
- 12.4.** Furthermore, the risk shall pass to the Customer if the Customer defaults on acceptance.
- 12.5.** If the products are shipped upon the Customer's request, Section 4.2 shall apply to the passage of risk.
- 12.6.** The Customer's statutory warranty rights shall require that he inspects the products upon acceptance without undue delay and notifies BIOTECON Diagnostics thereof in writing no later than two weeks following acceptance; hidden defects must be notified to BIOTECON Diagnostics in writing without undue delay upon their discovery. Furthermore, the remaining clauses of Section 6 shall apply.