

Biognosys' General Conditions of Sales

The following general terms and conditions ("Terms and Conditions") apply to all agreements for products sold and/or for services rendered ("Agreements") that are entered into between Biognosys, Zurich ("Biognosys") and its customer ("Customer"), jointly referred to hereinafter as "Parties". Deviating terms may be agreed upon in writing by the Parties in a specific Agreement. Customer's general conditions do not apply. Biognosys sells products and services subject to the condition that the Customer agrees to these Terms and Conditions. By placing an order in any form the Customer accepts these Terms and Conditions.

Orders and Offers

Unless indicated differently in the respective offer, Biognosys' offers shall be binding for 21 working days (Canton of Zurich, Switzerland). Orders for products and services have to be made in writing by letter, facsimile or e-mail, unless made by signature of an Agreement by the Parties, and are subject to acceptance by Biognosys. Acceptance can be made in writing or by immediately effecting the delivering products and/or providing services to Customer. Orders are firm and binding for Customer.

Prices

The price of products and services shall be the price quoted in Biognosys' offer or, where no price has been quoted, the price listed in Biognosys' current price list at the date of acceptance of the order. Biognosys's current price lists will be provided to Customer upon Customer's request. For products and/or services not contained in the current price list, Biognosys may charge a customary price and will upon request quote prices. Unless otherwise indicated, prices in any price list or individual written price quote are quoted in Euro and do not include any taxes, including value added tax, which will be invoiced to Customer at the prevailing rate as provided by the relevant laws.

Payment Terms and Right of Termination

Customer shall pay the amount invoiced by Biognosys within 30 days of the date of invoice net to the bank account of Biognosys as shown on the invoice. Payment shall preferably be effected by interbank payment transaction; checks are accepted after prior written approval only. Customer is not entitled to set-off the invoiced amount against any claims Customer may have against Biognosys unless such counterclaim of Customer is undisputed or legally binding due to a final court decision. If prepayment is agreed upon, the prepayment is due 10 days after the date of the invoice. It may be agreed between the Parties that the Customer has to deliver a letter of credit issued by a reputable bank or insurance company. In this individual case it is assumed that any letter of credit will be issued in accordance with the current version of the Uniform Customs and Practice for Documentary Credits, ICC Publication No. 500. If the Customer fails to make payment on the due date then, without prejudice to any other right or remedy available to Biognosys, Biognosys shall at its discretion be entitled to cancel the contract or suspend any further deliveries to the Customer and charge the Customer interest on the amount unpaid, at the rate of 8 per cent per annum above LIBOR (CHF/3 months), until payment in full is made.

Intellectual Property

Biognosys Intellectual Property (“IP”) means all discoveries, inventions (whether patentable or not), knowledge, materials, data, techniques, assay designs, assays, processes, systems, know-how, trade secrets, formulations, designs, copyrights and information of any and every kind owned or licensed by Biognosys at the time of delivery of products and services to Customer. In particular, Biognosys' products and services as well as pharmaceutically, chemically or biologically active substances and biomarkers determined by using Biognosys' products and services are in the scope of patent application PCT/EP09/03611 licensed exclusively from the Swiss Federal Institute of Technology. Unless agreed otherwise in the respective Agreement, Biognosys hereby grants to Customer a non-exclusive, fully paid up, non sub-licensable, one year license to Biognosys' IP as far as necessary to use the products and services bought from and/or the products determined by means of the services performed by Biognosys in Customer's internal research. Exclusive licenses to Biognosys' IP for Customer's internal research and/or licenses to Biognosys' IP for commercial applications and/or implementations into commercial products, must be obtained separately.

In case Biognosys is providing services for Customer, and unless agreed otherwise in the respective Agreement, Customer grants to Biognosys a perpetual, irrevocable, non-exclusive, free, sub-licensable (through multiple tiers) license under any intellectual property generated by either Party as a result Biognosys providing such services, to research, develop, manufacture, use, sell, offer for sale, import, commercialize and otherwise exploit any possible products and services based thereon, for a) Biognosys' own proprietary research & development programs and b) the performance of multiple reaction monitoring (MRM) mass spectrometry assay development for and the provision of services based thereon to Biognosys' third party customers, and Customer declares that it is entitled to grant such rights.

Confidentiality

Confidential Information is to be understood as any information of a technical, scientific, financial, commercial, operational or other kind, which is labelled as confidential and exchanged in any form and to which access is given by Biognosys to Customer and vice versa. The Parties shall maintain secrecy with respect to Confidential Information. This obligation of confidentiality applies irrespective of whether access has been or is given to the Confidential Information in writing, orally, electronically, or in the form of samples, models, products or equipment. The Parties will not to use the Confidential Information except as permitted under these Terms and Conditions and/or the respective Agreement. The Parties will impose the same obligation of confidentiality on employees and other persons who need to have access to the Confidential Information. Unless agreed otherwise, the obligation of confidentiality ends five (5) years after the last delivery of products and/or services to Customer. This clause shall not apply to information which can be demonstrated by the receiving party to have been a) already in the public domain before it was disclosed by the disclosing party or it is afterwards made public through no fault of the receiving party, b) disclosed to the receiving party by a third party with authority to do so, c) already known to the receiving party before being disclosed by the disclosing party, d) developed by the receiving party independently of the disclosing party's Confidential Information, e) not subject to the obligation of confidentiality.

Packaging and Delivery

Delivery is made ex works (Inco-Terms 2000). If Customer asks Biognosys to organize shipping, Biognosys reserves the right to choose the way and means of transportation. Unless agreed differently in writing, dates of delivery are non-binding.

Transfer of Risk

Risk of damage to or loss of the products and services shall pass to the Customer when the products and services are placed at the disposal of the Customer or, in case of delivery, when the products and services are handed over to the carrier.

Warranty and Field of Use

Biognosys warrants that the products and services will meet the specifications given in the written order confirmation or Agreement at the time of delivery. Customer shall use the products and services in strict accordance with the written product information and instructions provided by Biognosys and shall strictly adhere to any instructions and product information material, whether written or oral, given by Biognosys with respect to the products and services including but not limited to instructions on storage, handling and use of the products and services. All products delivered, services provided or know-how disclosed are intended for in vitro laboratory research purposes only. Biognosys expressly disclaims any liability for use outside this field and, in particular, for use in vivo in humans or animals. Products and services may include technologies for which patents have been issued or are pending, or which are protected by any other form of intellectual property rights such as know-how, and/or for which components have been licensed to make them available. Customer is herewith expressly informed that Biognosys provides products and services according to the specifications as defined by the respective Agreement and these Terms and Conditions. Except as expressly provided in these Terms and Conditions or otherwise in the respective Agreement, Biognosys makes no representations of any kind and hereby expressly disclaims all warranties relating to the products or their use, including without limitation as to quality, condition, merchantability, fitness for a particular purpose, or non-infringement of third party intellectual property rights.

Liability

Biognosys is only liable for direct damages caused grossly negligent or with intent for products delivered or services provided. Biognosys is not liable for other damages than direct damages and in particular not for lost profits. The liability is limited to the sales price of the products bought or fee for services rendered under the specific Agreement. The Customer accepts the risk associated with the scientific methods. The Customer shall examine the products and services provided as soon as possible following their arrival and shall notify Biognosys in writing of any defect of the products and services within 10 days from the date of arrival. In any case, actions based on warranty for defects of the products and services shall be barred at the end of 2 months after delivery of the products and services to the Customer. Where products and services are defective (and provided the Customer has given notice of the defects in compliance with this article) Biognosys shall at its option: a) replace the products and services with conforming products and services, without any additional expense to the Customer, or b) reimburse the Customer the price paid for the defective products and thereby terminate the Agreement as regards those products and services.

Miscellaneous

Biognosys reserves the right to improve or modify any of the products without prior notice, provided that such improvement or modification shall not affect the form and function of the product.

Should one of the provisions of these Terms and Conditions or of the Agreement be or become invalid or unenforceable or should a gap become apparent, the validity of the other provisions shall remain unaffected. The Parties shall replace the invalid or unenforceable provision or fill the gap with a valid and enforceable provision, to the extent legally possible and permissible, which comes as close as possible to what the Parties would have agreed upon at conclusion of this Agreement if the necessity of such an adjustment had been known to them at that time.

Notification

Any notice to be made to Biognosys shall be directed to: Biognosys AG, Wolfgang-Pauli-Str. 16, HPT IMSB C119, CH-8093 Zurich, Switzerland.

Applicable law and place of jurisdiction

This agreement shall be construed and governed by the laws of Switzerland without reference to its principles on conflicts of law and excluding the United Nations convention on contracts for the international sale of goods (Vienna 1980). The sole place of jurisdiction shall be Zurich, Switzerland.

Biognosys AG
Zurich, June 2010