

LaboGene's Terms and Conditions of Sale

Unless otherwise expressly agreed in writing, all Sales are subject to the following terms and conditions:

These Terms and Conditions from LaboGene A/S ("Seller") shall apply to any and all sales of services or products ("Products") offered to any buyer ("Buyer"). Buyer agrees and accepts to be bound by the terms and conditions set forth herein. This applies regardless of anything the Buyer may have stated in, for instance, an order or confirmation. No failure on the part of the Seller to respond to communications from Buyer may be regarded as a waiver of the terms and conditions set out below.

Price & Offer

All prices published by Seller or quoted by Seller's representatives may be changed at any time without notice. For orders where the net amount exclusive of taxes and fees is below EUR 150, a handling fee of EUR 40 is charged. All prices quoted by Seller or Seller's representatives are valid for thirty (30) days, unless otherwise stated in writing. All prices for the Products will be as specified by Seller or, if no price has been specified or quoted, will be Seller's price in effect at the time of shipment.

Prices are exclusive of VAT and all taxes and duties. If Buyer claims any exemption, Buyer must provide a valid, signed certificate or letter of exemption for each respective jurisdiction.

Offers made shall not be binding on Seller unless Seller has accepted Buyer's order by issuing an order confirmation.

Delivery

Unless any other terms of delivery have been agreed, delivery shall be from Seller's factory in Lynge in standard packing according Incoterms 2010 "Ex works".

Seller has the right, at its election, to make partial shipments of the Products and to invoice each shipment separately. Seller reserves the right to stop delivery of Products in transit and to withhold shipments in whole or in part if Buyer fails to make any payment to Seller when due or otherwise fails to perform its obligations hereunder. All shipping dates are approximate only, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is due to any cause beyond Seller's reasonable control. In the event of a delay due to any cause beyond Seller's reasonable control, Seller reserves the right to terminate the order or to reschedule the shipment within a reasonable period of time, and Buyer will not be entitled to refuse delivery or otherwise to be relieved of any obligations as the result of such delay. Products as to which delivery is delayed due to any cause within Buyer's control may be placed in storage by Seller at the Buyer's risk and expense and for Buyer's account. Is the delivery deferred or can the delivery not be executed due to the Buyer, Buyer shall pay all costs in this connection. Orders in process may be canceled only with the Seller's written consent and upon payment of Seller's cancellation charges. Orders in process may not be changed except with Seller's written consent and upon agreement by the parties as to an appropriate adjustment in the purchase price therefore. Credit will not be allowed for Products returned without the prior consent of Seller.

Terms of payment

Seller may invoice Buyer upon shipment for the price and all other charges. If no payment terms are stated, payment shall be net thirty (30) days from the date of invoice. Is payment not effected when due the Seller is entitled to suspend its obligations or terminate the agreement. Buyer shall pay compensation in both instances. Lack of payment will annul Seller's liability for defects or warranty, if any. Fee and interest will be charged as from the date of maturity pursuant together with all costs and expenses (including without limitation reasonable attorneys' fees and disbursements and court costs) incurred by Seller in collecting such overdue amounts or otherwise enforcing Seller's rights hereunder. Buyer shall not be entitled to retain any payment on the basis of any counterclaim that has not been accepted by Seller.

Scope of delivery

The delivery covers the equipment specified in the made offer/order/order confirmation from Seller. Buyer shall be solely liable for the delivery fulfilling Buyer's requirements. The equipment must comply with Danish rules and regulations etc. in force at the time of making the offer/date of the order confirmation.

Title and Risk of Loss

Notwithstanding the trade terms indicated above and subject to Seller's right to stop delivery of Products in transit, title to and risk of loss of the Products will pass to Buyer upon delivery of possession of the Products by Seller to the carrier; provided, however, that title to any software incorporated within or forming a part of the Products shall at all times remain with Seller or the licensor(s) thereof, as the case may be.

Intellectual property rights and know-how

Sale of Products including software, if any, does not entail any transfer of intellectual property rights. Drawings, descriptions and similar which have been handed out free of charge in connection with the submission of offers shall remain the property of Seller. Such material shall not in any way be misused, copied or passed on to any third party and shall be returned to Seller if the offer made is not accepted. Seller maintains any and all intellectual rights to the Products, including trademarks, patents, utility model protection, designs, copyright and know-how developed and supplied by Seller. Buyer is only entitled to use the know-how in question in connection with the Products supplied by Seller and for the Buyer's own legitimate purposes.

Complaints

Any complaint of deficiency or other visible defects shall be made within 3 days from receipt of the delivery; however damage due to delivery must be stated on the delivery note by Buyer. Otherwise Buyer is prevented from setting up any claim for such defect against Seller.

Warranty

Seller warrant that upon delivery and for a period of 12 (twelve) months from the date of delivery, the Products will conform in all material respects to the applicable Seller specifications for such Products and will be free from material defects in workmanship, material and design under normal use. The warranty does not cover damage resulting from misuse, negligent handling, lack of reasonable maintenance and care, accident or abuse by anyone other than Seller.

With respect to Products which do not conform to the warranty, Seller's liability is limited to one of the following three remedies exclusively chosen by the Seller i) refund of the purchase price for such Products less a reasonable amount for usage ii) repair of such Products, or iii) replacement of such Products; provided, however, that such Products must be returned to Seller along with acceptable evidence of purchase and defects as per stated in Seller's template of Warranty Report, within fourteen calendar days after you discovered the lack of conformity or ought to have discovered it. Seller ship the spare part to Buyer who is responsible for installing / replacing the spare part - if necessary - under guidance of Seller (by phone or web cam). Replacement parts may be new or refurbished, at the election of Seller.

Seller makes no other warranty, expressed or implied, with respect to Products delivered hereunder, and the warranty constitutes Seller's sole obligation in respect of any lack of conformity of Products delivered hereunder. In particular, Seller makes no warranty with respect to the merchantability of Products delivered or their suitability or fitness for any particular purpose.

Force Majeure

Any delay or failure in performance hereunder by either party hereto shall be excused if and to the extent caused by occurrences beyond such party's control, including but not limited to wars, riots, civil commotions, no or late delivery from Seller's sub-contractors and cooperation partners, strikes, governmental laws, regulations, orders, restrictions, inability to obtain transportation, material shortages, any act of God such as floods, earthquakes, typhoons and any other casualty or cause(s) of a like nature and effect beyond the reasonable control of the party so failing, but the failing party shall make reasonable efforts to rectify such cause(s) and resume the performance. If the performance of the party so failing, however, should not be resumed to the satisfaction of the non-failing party within ninety (90) days after the occurrence of such event, the non-failing party may elect to terminate this Agreement effective immediately

LIMITATION OF LIABILITY

Seller cannot be held liable for indirect or consequential damages. Under no circumstances can Seller be held liable for an amount exceeding DKK 500.000.

GOVERNING LAW AND ARBITRATION

The formation, validity, construction and performance of this Agreement shall be governed by and interpreted in accordance with the laws of Denmark. Any disputes, differences or controversies arises between the parties hereto, out of or in relation to or in connection with this Agreement and/or any individual Contract shall be referred to arbitration in Copenhagen, Denmark in accordance with Commercial Arbitration Rules of Denmark Commercial Arbitration Association as in force at that time and the language is English. The number of arbitrators shall be one. The award of such arbitration shall be final and binding on the parties. Notwithstanding the foregoing provisions under this Article, either party may seek interim measures, including without limitation, injunctions, at any court having a competent jurisdiction