

**Laboratories Services - General terms and conditions of  
LR – Medizinisch-Diagnostisches Labor GmbH (Limited)**

Last updated: February 2017

**§ 1 General**

1. These General Terms and Conditions exclusively apply to companies, legal persons under public law and public-law special funds as per paragraph 310 section 1 of the German Civil Code.
2. The terms and conditions set out hereafter govern the ordering, purchase and provision of our services and they shall be part of all our proposals and agreements for all the current and future business relations with our customers. Contrary conditions of the Customer are hereby rejected and are null and void. Failure to expressly object to any such terms shall not constitute a waiver, nor constitute acceptance by our laboratory. The acceptance of our services shall be deemed to constitute an acknowledgment of our terms and conditions.
3. No modification to or derogation from the current terms and conditions will be effective unless expressly acknowledged in writing by us. The present general conditions shall also apply to all future business relationships even though they may not have been expressly agreed separately.

**§ 2 Definitions**

For purposes of these conditions, the definitions set out hereafter shall apply.

- a) **Customer** means the medical person in charge who places the orders for (genetic) testing.
- b) **Patient** is the person who undergoes the (genetic) tests.
- c) **Sample** or **specimen** means the biological material collected for the purposes of (genetic) testing.
- d) (genetic) **testing** means the (genetic) tests performed with the Patient's sample, which is presented by the Customer.
- e) "**Declaration of consent - genetic testing**" means the form used by the Patient to give consent for genetic testing or as the case may be by the parents/legal representative.
- f) **MEDLogin** provides our Customers with a personal access to the secure database comprising all (genetic) tests results and the Patient's medical record.

### **§ 3 Contract formation**

1. Our offers are subject to changes. Testing requests of a Customer have no legal validity unless they have been expressly accepted in writing (order confirmation). Within a current business relationship, carrying out the order as required may replace the order confirmation.
2. The prices agreed shall apply provided that the underlying data on which the order is based remain unchanged. Legal value added tax will be also invoiced. Packaging or shipment costs and all customs duties and tariffs claimed or imposed by any governmental authority upon international shipment will be separately charged.
3. If our cost prices increase for reasons beyond our control (e.g. new regulations imposed by the authorities) or if new charges or fees are introduced or raised after conclusion of the contract, we shall be entitled to adjust price accordingly, unless a fixed price has been expressly agreed.
4. Any subsequent change to the order at the Customer's request will be invoiced. In the event that the Patient revokes his/her consent for (genetic) testing and that we have started running the tests, an expense allowance amounting to 50% of the contractual price will be charged.
5. We may cease performance (including cancellation of any order outstanding) immediately without liability to the Customer in the event that Customer's ability to pay deteriorates and that the Customer is not able to fulfill his obligations and to make payment within a reasonable deadline. Such circumstances in the above sense are mainly meant to be bill or cheque protests, or when the Customer becomes the subject of any proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors.

### **§ 4 Customer's obligation to co-operate**

1. Orders for (genetic) testing shall enclose following items:
  - Customer's request on behalf of the Patient,
  - the sample, when not collected by our staff,
  - the request forms of the (genetic) tests ordered,
  - if and when applicable, the specific health questionnaires,
  - if and when applicable, the Patient informed consent form for genetic testing duly filled in and signed as per paragraph 8 of the German Act of Gene Diagnostics,
2. If the Customer provides unsuitable samples for the tests, we shall be released from our obligation to perform. In this event, the Customer will immediately be informed. In that

case, we will be entitled to charge the Customer for the costs incurred to an appropriate extent, especially for those costs incurred through the identification of the unsuitability of the sample and its proper disposal.

3. If the Patient is to revoke the consent for the tests ordered, the Customer shall inform us without delay.

## **§ 5 Terms of payment**

1. The Customer can choose the means of payment like per invoice or credit card (Visa or Mastercard) to settle the invoice. In the case of delivery against invoice and unless otherwise specified, the Customer shall pay in full the amount within eight (8) days from the date of invoice. We reserve the right to refuse some particular means of payment and also to require cash on delivery (immediate payment upon delivery).
2. If payments made by the Customer do not lead to the complete cancellation of debts, we may allocate all payments received to the oldest account outstanding at the time of payment, even if otherwise stipulated by the Customer. By way of derogation from the first sentence, if additional interests / costs have been incurred, any payment made that is not sufficient to cover the whole debt shall be applied to respectively the oldest outstanding amount, then interests and at last to the principal debt pursuant to sentence 1.
3. We shall be entitled to charge interest at an annual rate of 9% above the legal base rate from the due date. Moreover, in case of late payment we are entitled to claim immediate payment of all receivables and to require alternative payment terms with equivalent security to deliver the services owed.

This shall also apply in case of the Customer's deteriorating creditworthiness, which may occur or be communicated after the conclusion of the contract, or which may put at risk the Customer's ability to fulfill current payment obligations.

4. The Customer shall pay for all costs such as reminder and collection fees arising from the collection of late payment.
5. The Customer shall not withhold payment or offset the invoiced amount against other amounts, unless the Customer's counterclaims are not contested and if they have been adjudicated by means of a final judgment.

## **§ 6 Services, scheduling of services**

1. Unless there is an express agreement in writing, our dates and deadlines are non-binding and are given as an estimate only.
2. Delayed performance of services attributable in whole or in part to any cause beyond our reasonable control including but not limited to strike, government actions, lockouts, breakdown of the telecommunication equipment may allow us to defer the date of performance for a period equal to the time lost by reason of delay or even to rescind the contract in whole or in part in the event that we may be unable to perform the service requested on account to the unfulfilled part. Cases of force majeure include also outage of computer networks and programs caused by viruses, worms, Trojans or attacks by hackers as long as adequate protection measures have been taken.

We will inform the Customer at the earliest opportunity about delayed performance of the contract and its estimated duration.

In the event that the delay exceeds four (4) weeks and that we fail to meet the extended deadline granted, the Customer may be entitled to cancel the part of the contract, which has not been fulfilled when the additional time laid down has already passed. Furthermore, as far as claims for compensation may arise from our failure to comply with our obligations, paragraph 8 shall apply.

3. We are entitled to make partial deliveries to a reasonable extent.
4. Pursuant to paragraph 11 (2) of the German Genetic Diagnosis Act (GenDG), the results of the genetic testing must be exclusively communicated to the Customer. Under paragraph 8 et seq of GenDG, the Customer is required to comply with additional provisions of the GenDG, especially relating to the Patient's consent form and information, to genetic counseling and results communication.
5. In compliance with paragraph 13 of GenDG, we may use the sample for the genetic tests only for the purpose for which it has been collected, unless explicitly otherwise agreed by the Patient in writing. We may also pursuant to paragraph 13 of GenDG destroy immediately the sample once it has been used for the purposes mentioned in sentence 1 or if the Patient revokes his/her consent to genetic testing.

## **§ 7 Rectification of deficiencies**

1. In case of claim because of deficiency, our liability is limited to the subsequent performance of any defective portion of the work. In the event that we are unsuccessful in providing the substitute performance within a reasonable time period, the Customer shall be entitled to reduce the purchase price or withdraw from the contract.
2. The claim for rectification of deficiencies is subject to a limitation period of one year after the statutory limitation period begins.
3. The paragraph 8 shall apply to possible claims for damages.

## **§ 8 Limitations of liability**

1. We exclude any liability arising from or in connection with this agreement unless the damage is caused by premeditation or gross negligence and unless it includes injuries to life, body, or health. In the event of violation of a significant contractual obligation, with the exception of damage caused by omission or gross negligence, the duty to compensate is restricted to the typical extent of such damage.
2. The Customer's claims for damages are subject to a limitation period of one year after the statutory limitation period begins, regardless of which legal ground they are based on, unless a longer period of limitation is imposed by law.
3. The above limitations of liability do not apply if we are found guilty of actual fraud or malice.
4. To the extent that our liability is excluded or limited, this shall also apply to the personal liability of our employees, staff, representatives and agents.

## **§ 9 Storage and protection of data**

1. We may store personal data of a Customer for the purpose of data-processing. All personal data collected will only be used for our purposes and merely to the extent permitted by the German Data Protection Act.
2. Storage, destruction and blocking of the results of our (genetic) tests comply with legal regulations, especially -where applicable- following the procedure laid down in Paragraph 12 of GenDG.
3. The Customer expressly agrees to receiving information from us without restrictions by e-mail, Internet or fax; this consent may be withdrawn by the Customer at any time without any formal requirements to be observed. The Customer is aware that only limited confidentiality may be assured by the use of electronic communications. The Customer shall be liable in concern to all third party claims brought against us in this respect.

## **§ 10 Miscellaneous**

1. Unless otherwise stated in the order confirmation, the place of performance for all rights and obligations is our registered office.  
Any dispute, claim or controversy arising from or relating to this agreement shall be determined by the court having jurisdiction over our registered office or in our sole discretion by the court having jurisdiction over the Customer's registered office.
3. The Customer shall not be entitled to assign the rights and duties from this agreement to third parties.
4. Each agreement is subject to German laws excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
5. The official languages of contracts are only German and English. This clause also applies, if an agreement may be prepared in a different language than German and English. We may be held liable for the accuracy or completeness of the translation into a different language of the present terms and conditions or of any other document and contract only in accordance to paragraph 8.
6. If any provision of the agreement shall be declared invalid or unenforceable, such provision shall not prejudice or affect the validity and enforceability of the remaining provisions of the agreement. Such an invalid provision may be severed and replaced by another regulation that meets the economic purposes of the ineffective provision. If a provision of these General Terms and Conditions is held to be invalid, the legal regulations shall apply.