

GENERAL TERMS AND CONDITIONS OF SERVICES**1. General**

All sales and services are subject to the terms and conditions of individual contracts, but subsidiary for items not stipulated there, these general terms & conditions ("T&C's") shall fill possible gaps and are deemed to be individually assented by the parties. In this cases these T&Cs shall supersede and prevail over any other terms and conditions stipulated or referred to by Client.

2. Provision of Services

(1) Protagen will provide services using reasonable care and skill in accordance with Clients's specific instructions as confirmed by Protagen or, in the absence of such instructions:

- a) the terms of any standard order form or standard specification sheet of Protagen; and/or
- b) any relevant trade custom, usage or practice; and/or
- c) such methods as Protagen shall consider appropriate on technical, operational and/or economical reasons.

(2) Information stated in reports and findings is derived from the results of development, inspection or testing procedures carried out in accordance with the instructions of Client, and/or our assessment on such results on the basis of any technical standards, trade customs, or other circumstances which should in our professional opinion be taken into account.

(3) Reports on findings issued further to the testing of samples contain Protagen's opinion on those samples only and do not express any opinion upon the lot from which the samples were drawn.

(4) Reports and findings issued by Protagen will reflect the facts as recorded at the time of its intervention only and within the limits of the instructions received or, in the absence of such instructions, within the alternative parameters applied as provided for in clause 2 (1) b).

(5) Protagen may delegate the performance of all or part of the services to an agent or subcontractor and Client authorises Protagen to disclose all information necessary to the agent or subcontractor.

(6) All samples shall be retained for a maximum of 3 months or such other shorter time period as the nature of the sample permits and then returned to Client or otherwise disposed of at Protagen's discretion after which time Protagen shall cease to leave any responsibility to such samples. Storage of such samples for more than 3 months shall incur a storage charge payable by Client. Handling and freight fees will be billed if samples are returned. Special disposal charges will be billed to Client if incurred.

3. Obligations of Client, Sample Preparation

(1) Proper sample preparation is key for good results. Protagen will provide Client with their detailed requirements. Solubility: We assume that the proteins are soluble during the analysis. If this is not the case, overtime will be billed. Buffer conditions: We assume that the samples are present in a buffer compatible with the analysis. Protagen will provide simple, single-stage buffering free of charge, more elaborate sample preparations will be billed at cost.

(2) Furthermore, the Client will

- ensure that all relevant information, instructions and documents are given in due time (and in any event not later than 48 hours prior to the desired intervention) to enable the required services;
- supply, if required any special equipment or personnel necessary for the performance of the services;
- inform Protagen in advance of any known hazards or dangers, actual or potential, associated with any order or samples.

(3) Unless otherwise expressly indicated in Protagen's catalogues or on the label or other accompanying documentation, the goods and services are intended for *in vitro* laboratory purposes only. Client acknowledges this and warrants that for any use other than *in vitro* laboratory purposes, Client shall comply with all regulatory requirements in the territory in question.

4. Delivery, delays

(1) Without prejudice to the passing of property and title to goods and services, delivery shall take place when delivered by Protagen into the possession of the carrier at which point risk shall pass.

(2) The goods and services must be examined and signed for by Client at the time of passing to Client's possession or control or at the earliest opportunity thereafter. Protagen shall assist Client in pursuing any claim made against the carrier. No claims by Client in respect of damage, shortage or loss in transit prior to delivery shall be made unless notice in writing is given to Protagen and the carrier within 48 hours after their arrival at Client's premises or place where Client takes control or possession of the goods. Client accepts that this allows a reasonable period to allow such inspection.

(3) Any date for delivery is Protagen's estimate and Protagen will make every reasonable endeavour to meet such delivery date. However, Protagen shall not be liable (in contract, delict, tort or otherwise) in respect of any liability, loss, expense, claim or damage incurred by Client due to any reasonable delay in delivery and in no event Protagen shall be so liable for any special, indirect, consequential damage or economic loss including loss of profit, arising from any delay in delivery.

Protagen shall be entitled to deliver by instalments and in such case any failure in delivery of any instalment shall not entitle Client to reject the contract as a whole or to cancel any subsequent instalment.

5. Pricing

(1) All prices are in EUR unless otherwise noted and are subject to change to take account of any increase in any costs, charges, taxes or currency fluctuation which may occur at any time before shipment.

(2) Our written quotations are valid for 60 days. When placing your order, please reference our quoted prices or our pro forma number. Quotations are not offers open for direct and binding acceptance by Client, but invitations to orders by Client which have to be confirmed by Protagen, subject to availability.

(3) All prices quoted include standard delivery except orders under € 500,- which will be subject to a € 50,- handling charge. The following surcharges will be added to the price quoted: (i) Value Added Tax; (ii) the costs of carrying out any special test, examination, inspection or process required to be carried out and (iii) all other duties, taxes and levies of whatever nature. The quoted price plus the surcharges shall be the price for the purposes of other conditions hereof.

(4) Protagen will provide a detailed report. Upon request and possible suggestion of Client the report will be reviewed and potentially altered. One iteration of report-review is included in the pricing offer. Additional iterations will be charged additionally at cost.

(5) Protagen will return samples on request for a handling charge of € 200,- plus postage costs. The collection and mailing of Raw data will be provided on request for a flat fee of 5% of the price of the analysis.

6. Payment

(1) Unless otherwise agreed by the parties, payment of each consignment of goods or services shall be made by Client within 30 days of the date of the invoice issued in respect of such consignment (Due Date).

(2) Any changes in standing orders have to be communicated to Protagen 14 days prior to scheduled dispatch date.

(3) Protagen shall be entitled to charge interest on all sums which may at any time be overdue for payment at the rate of 1 % for each month or the maximum interest allowed by law, whichever is lower. Delayed payments will entitle Protagen to suspend any outstanding deliveries.

(1) Payments may not be withheld or set off for any reason without Protagen's consent. Protagen reserves the right at any time to withdraw or vary credit terms in respect of further new consignments.

7. Suspension and Termination of Services

Protagen shall be entitled to immediately and without liability either suspend or terminate provision for the services in the event of:

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- failure by Client to comply with any of his obligations hereunder and such failure is not remedied within 10 days after the notice of such failure has been notified to Client; or
- any suspension of payment, arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by Client.

8. Limitation of Liability

(1) To the extent that any quotation given by Protagen is based on Client's specifications, Protagen shall not be responsible for any lack of sufficiency, fitness for purpose or satisfactory quality in respect of goods insofar as attributable to Client's specifications.

(2) If Client claims that any of the goods or services by Client are defective in material or workmanship or not to conform to the agreed or stipulated specifications, Client shall notify Protagen in writing of such defect or non-conformity without delay and Client shall give to Protagen full opportunity to inspect and test such goods. Defective goods at the time of delivery to Client, Protagen shall at its sole decision either repair or replace such goods or (if the goods shall have been paid for in full) refund to Client the price thereof, but in no circumstances whatsoever shall the liability of Protagen in connection with any such goods exceed the cost of replacement thereof or the price paid or agreed to be paid by Client.

(3) Protagen shall not be liable for any claims, losses, liabilities, expenses or damages arising from any defects in the goods which defects occur as a result of or are reasonably attributable to: (i) improper storage, treatment or use of the goods or use for purposes which are not expressly indicated by Protagen in writing as suitable for such goods, or (ii) negligence on the part of any person other than Protagen.

(4) Protagen has no responsibility for any out of label uses by Client. Client shall indemnify, defend, and hold harmless Protagen, its affiliates, its distributors, and the directors, officers, employees and agents of each such entity (together, the Indemnified Persons) from and against all claims, liabilities, losses, expenses (including without limitation reasonable attorneys' fees and other legal costs and expenses) or damages incurred by the Indemnified Persons which result directly or indirectly from: (i) use of the goods or supply of the goods by Client to any third party for uses not expressly authorised in writing by Protagen; (ii) breach by Client of his obligations and/or warranties of compliances; (iii) manufacture, use or resale of the goods or services by Client in a manner that infringes or is claimed to infringe the Intellectual Property rights of any third party to the extent resulting from any specification or instruction furnished by Client.

(5) Nothing in these conditions shall limit or exclude Seller's liability for personal injury or death resulting from any negligence of Protagen or its employees or which may be established as resulting from a proven defect in the goods.

(6) Protagen shall not be liable or responsible for any failure of compliance to any administrative or regulatory requirements for use or sale of the goods or services in the country in which they are destined for such use or sale.

9. Indemnification

Client shall guarantee, hold harmless and indemnify Protagen and its officers, employees, agents or subcontractors against all claims, actual or threatened, by any third party for loss, damage or expense of whatever nature including all legal expenses and related costs and howsoever arising relating to the performance, purported performances or non-performance of any services for the Client.

10. Intellectual Property Rights

(1) Protagen does not warrant that the manufacture and sale of goods manufactured in reliance upon instructions, specifications, or other directions provided by Client or Client's use or resale of goods delivered hereunder will not infringe the claims of any Intellectual Property of any third party.

(2) Protagen does not claim Intellectual Property rights on any finished product or service it performed on behalf of the customer and by obey-

ing customer's specifications, however, all methods, arrays and proprietary IP of Protagen remains with Protagen.

11. Confidentiality, Force Majeure, waiver and severability

(1) Protagen and Client shall keep confidential and shall not without prior consent in writing of the other disclose to any third party any technical or commercial information acquired from the other as a result of discussions, negotiations and other communications between them in relation to the goods.

(2) Protagen shall not be responsible or liable in any manner whatsoever for any loss or damage whether direct, indirect or consequential, arising from any delay or default as a result of any circumstances or conditions beyond its control like war, industrial dispute, strike, lockout, riot, malicious damage, fire, storm, flood, act of God or issued by any government or other duly constituted authority.

(3) No relaxation, delay or waiver by Protagen of its rights in respect of any breach of obligation of Client pursuant to this contract shall constitute a waiver of any other rights in respect of any prior or subsequent breach or obligation.

(4) The invalidity in whole or in part of any of these conditions shall not affect the validity of any other provision. Each of these conditions shall be separate and severable and shall be enforceable accordingly.

12. Governing law

Unless specifically agreed otherwise, these conditions and all possible contractual relations or disputes between the parties regarding to the supply of goods or services shall be governed by the Law of Germany exclusive of any rules with respect to conflicts of laws. Court proceedings shall be submitted to the jurisdiction of the competent court for the location of the defendant.

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