



General Terms and Conditions

The English translation of advanced biolab service GmbH's General Terms and Conditions is just for your information.
Only the German version is binding and is valid as of May 01, 2010 and prevail all previous versions.

1. Scope of Application

- 1.1 All our deliveries, services and offers are based exclusively on these general terms of sales and delivery (hereinafter referred to as "Terms and Conditions"). The Terms and Conditions are an integral part of all contracts concluded between us and our contractual partners (hereinafter referred to as "the Purchaser") in relation to our deliveries and service. The same applies to orders placed and confirmed via telephone, facsimile or email.
- 1.2 None of the Purchaser's terms or conditions that are in conflict with our Terms and Conditions or contain supplementary terms will under any circumstances become an integral part of the contract. This will apply even if we carry out the order without any reservations and are fully aware of the conflicting or supplementary terms of the Purchaser. Particularly, any acknowledgement is explicitly denied if we refer to a letter containing terms and conditions of the Purchaser or any third party, or which makes reference to such terms and conditions.
- 1.3 These Terms and Conditions also apply to all future contracts concluded between us and the Purchaser with regards to our deliveries and services, even if not separately agreed upon anew. They replace any terms and conditions that may have formerly been agreed upon between the Purchaser and us.

2. Orders and Contracts

Orders are binding only upon acceptance by us. Orders can be given in written form (letter, facsimile or email) or verbally. The contract is completed when confirmed in writing (letter, facsimile or email), or through shipping the merchandise or providing service.

3. Prices and Invoices

- 3.1 If no differing prices for instruments, parts or service are negotiated, prices will be as per our actual price lists for instruments, parts, consumables and services on the day of ordering. Price lists are published at www.advancedbiolabservice.com for download or can easily be ordered from us free of charge.
- 3.2 Prices are in EURO, exclusive of any applicable Valued Added Tax (VAT), exclusive customs duties (for none EU countries) and exclusive packaging and shipment expenses.
- 3.3 Invoices are sent along with the delivery of goods or are generated after on-site or in-house servicing. Invoicing partial deliveries or service is admissible. The invoicing for service contracts is done at the beginning of the service period.
- 3.4 Invoices for maintenance or repair are based on the service report. The service report will be filled out by the field engineer and must be signed by the customer or an authorised person (as a sign of acceptance of the provision of services). Service reports for in-house repairs will be handed out together with the instrument and will carry only the signature of the in-house engineer.
- 3.5 Quotes for maintenance or repair of instruments or parts are subject to change without notice as the final cost can only be determined during the actual repair or a detailed inspection.

4. Payment

- 4.1 Unless otherwise agreed, our invoices are due for payment within 30 days of the date of invoice, net without any discounts.
- 4.2 Customers cannot take their own charges (e.g. bank fees) into account when paying invoices.
- 4.3 If the Purchaser is in default of payment he must pay interest on the outstanding amount of 5% above the base rate of the European Central Bank during the default period. This does not affect any further claims for damages caused by the default.
- 4.4 The Purchaser may only set off counterclaims if they are non-appealable or undisputed or have been accepted by us. The customer may only assign his claims with our written consent. Up to this extend, § 354a HGB is excluded.

5. Terms of Delivery or Services

- 5.1 Terms of delivery and delivery dates are not binding and are only approximate, unless a binding term or date is explicitly agreed upon. As far as shipment is agreed upon, the terms of delivery and delivery dates refer to the time of handing over to the forwarding agent, the carrier or any other company entrusted with the transport. In all other cases, the timely readiness to deliver suffices for the fulfillment of the terms of delivery and delivery dates on condition that the Purchaser is notified thereof.
- 5.2 As far as there are circumstances on our side for which we cannot be held responsible and which materially hinder our delivery or performance or make delivery or performance impossible, we are entitled to withdraw from the contract if the hindrance is not temporary. If our performance becomes impossible, we will notify immediately the Purchaser thereof as well as immediately refund any consideration that may already have been obtained. In the event of a temporary hindrance the term of delivery and the term of performance are extended by the period of the hindrance plus a reasonable additional period of time.
- 5.3 If acceptance of the delivery is no longer feasible for the Purchaser due to the delay, he is entitled to withdraw from the contract with respect to that part of the contract that is being delayed. A prerequisite of the Purchaser's withdrawal is that he has set us a reasonable extension time in writing. Claims for damages on grounds of breach of obligations are excluded, even if such claims have arisen before withdrawal from the contract.

6. Shipment, Passing of Risks and Transport Insurance

- 6.1 Regardless of the individual transportation fee agreement, the risk of accidental loss and/or accidental damage to the goods is transferred to the Purchaser upon delivery of the consignment to the forwarding agent, carrier or any other company entrusted with the transport. This also applies to partial deliveries.
- 6.2 In case of the Purchaser's default of acceptance the goods, they will nevertheless be deemed as having been handed over.
- 6.3 Only when explicitly ordered by the Purchaser the consignment will be covered by insurance for damage during the shipping. Insurance fees will be paid by the Purchaser.

7. Retention of Title

- 7.1 We retain title to any products delivered by us, including packaging, until all claims against the Purchaser arising from the ongoing business relation have been satisfied in full.
- 7.2 In the event of third parties attaching goods the title which has been reserved by us, the Purchaser must inform such parties of our title and notify us immediately. The Purchaser is jointly and severally liable with the third party for the judicial and extrajudicial expenses of a lawsuit as per Section 771 of the German Code of Civil Procedure (ZPO).
- 7.3 If the value of the securities due to us from retention of title exceeds our overall claim against the Purchaser by more than 20%, we are obliged upon request of the Purchaser to release such securities arising from the agreement at our own choice up to the said limit.

8. Warranty

- 8.1 The Purchaser may only assert any claim based on defects of the goods delivered if he has properly fulfilled his duties of inspection and notification of defects as per Section 377 of the German Commercial Code (HGB).
- 8.2 If no other statement if given in written form, we warrant all products to meet the specification of the original manufacturer or our product specifications at the time of the transfer of risk to the customer and the following 90 days. For consumables and reagents the warranty is limited to the product field of application, the correct storage conditions and the date of expire. Warranty on service, repair and refurbishment is limited to the solved problem or repaired part.
- 8.3 Excluded from warranty are failures caused by the user not following the manufacturers instructions or lack of attention of the user during the utilization or inadequate care for the product. For reagents we do not warrant products that have been mixed or contaminated or otherwise combined with other chemical product by the customer.
- 8.4 Upon our discretion, we will either repair the defective product or will replace it. We do not pay for other costs (e.g. our or third party labour or travel expenses) than supplying the needed parts for repair or replacement. If afterwards quality specifications are still not met, the customer can ask for a reduction in price, or cancellation of the contract. Any further claims of the customer, of any kind, especially for damages or compensation are excluded. This exempts eventual rights according to section 9 of these Terms and Conditions.

9. Liability

- 9.1 We are liable according to statutory law subject to the Purchaser asserting claims for damages due to intent or gross negligence, including intent and gross negligence by our representatives or vicarious agents. This liability for damages is limited to the reasonably foreseeable at time of conclusion of the contract and typically occurring damage, unless we are accused of intentional breach of contract.
- 9.2 We are liable according to statutory law for any culpable violation of a material contractual obligation by us; however, also in this case, liability for damages is limited to reasonably foreseeable at time of conclusion of the contract and typically occurring damage. The delivery of a defective Product does not by itself constitute the breach of such material contractual obligation.
- 9.3 The Purchaser may claim compensation instead of performance. Our liability is limited to damage reasonably foreseeable at time of conclusion of the contract and typically occurring. We will not compensate for consequential and indirect damages or loss of profit. The contract parties agree that the damage volume reasonably foreseeable at the time of the conclusion of the contract is in no case higher than the value of the order.
- 9.4 Liability for culpable damages to life, body or health remains unaffected; the same applies to compulsory liability according to the German Product Liability Act ("Produkthaftungsgesetz")
- 9.5 Except for cases of intent or gross negligence, our liability is limited to the amount covered by our liability insurance:
**3.000.000,00 € for personal injury and
3.000.000,00 € for material damages**

Upon request we will grant the Purchaser permission to inspect our liability insurance policy. We will maintain the liability insurance to the extent mentioned above during the whole duration of the contract. As far as the insurance does not cover damages in a particular case, we will answer directly to those damages.

- 9.6 Claims for damages of the Purchaser become statute-barred after one year from the date of the delivery of the goods or fulfilled service or repair. The statute of limitation of claims based on tortious acts remains unaffected.
- 9.7 Any further liability - whatever the legal nature of the claim - is excluded. This applies in particular to claims for damages on grounds of culpable behaviour in connection with the conclusion of the contract, other violations of obligations or claims for damages based on tortious acts relating to material damages in terms Section 823 of the German Civil Code (BGB).
- 9.8 As far as our liability for damages is excluded or limited, the same applies to the personal liability for damages of our employees, co-operators, representatives and vicarious agents.

10. Miscellaneous

- 10.1 Special arrangements and subsidiary agreements will only become valid if we confirm them in writing.
- 10.2 In case that one of these Terms and Conditions above is invalid or incomplete, the validity of all other Terms and Conditions shall remain untouched.
- 10.3 These Terms and Conditions are subject to the law of the Federal Republic of Germany. Application of the United Nations Convention on the International Sale of Goods is excluded.
- 10.4 We will ensure that any customer data will be kept confidential and will be processed, stored, transmitted, and used only in accordance with the German Data Protection Act.
- 10.5 The place of jurisdiction for all disputes arising from or in connection with this agreement is our place of business in Munich. We are free to bring an action against the Purchaser in his place of residence or at his registered offices or the premises of a branch.