

# General Terms and Conditions for PICO BioScience's Products, Services, and Software

## § 1 Applicability

The present general terms and conditions (GTC) apply to all contracts concluded between you ("customer") and us, the company PICO BioScience GmbH (Georges-Köhler-Allee 103, 79110 Freiburg, Commercial Register number 726744 Local Court Freiburg; "PICO BioScience") represented by the Managing Directors Dr. Peter Koltay and Dr. Tobias Groß, unless nothing else has been expressly agreed in writing. We do not accept deviating or conflicting conditions insofar as we have not expressly agreed to them in writing.

## § 2 Proof of your entrepreneurial status

(1) Our products and services are directed exclusively at entrepreneurs within the meaning of section 14 BGB (German Civil Code) as well as legal entities under public law unless they are already covered by the concept of the entrepreneur under § 14 BGB. We may therefore demand that you provide us with sufficient proof of your entrepreneurial status prior to the conclusion of the contract, e.g. by stating your VAT ID number or other suitable proof. The information required for proof shall be given by you complete and truthful. For EU Companies (other than German companies): The tax exemption for tax-free intra-community delivery can only be applied if the VAT ID number is provided before placing each individual order. This number may be sent to us at any time, but to be considered for an order, it must be submitted prior to that specific order being placed. Please send your VAT ID number via email to "info@actome.de" together with your complete company address and registration number (if applicable).

(2) Furthermore, our product offer is directed exclusively to users acting commercially or scientifically with an adequate personal training background for the use of laboratory equipment (e.g. digital PCR instruments, pipettes, etc.) corresponding to the specifications in the accompanying documentation.

## § 3 Opening a customer shop account; Processing of your personal data

(1) In our online shop ([shop.actome.de](https://shop.actome.de)) you may order goods or services after opening a customer account. With a customer account you must not enter your personal data every time you use our online shop, but you may log on to your customer account with your email address and your password before or during the order process. You will not be obliged to buy any of the goods offered by us only due to your registration. For information on the processing of your data, please read our data protection information, which you can find under the following [link](#). During your application for registration, you need to provide your name, a valid e-mail address and a password. You are obliged to keep the password secret and not to disclose it to third parties, i. e. persons outside of your company or persons in your company who do not have power of representation.

(2) Deletion of Registration: You may request deletion of your registration at any time by sending an email to "[info@actome.de](mailto:info@actome.de)" using the email address that was used for registration. Please note that deletion will be processed without undue delay but may not be immediate. Updating Personal Information: If your personal information changes, you are responsible for updating it. All amendments can be made online under "My account" after logging in.

#### **§ 4 Conclusion of Contract, Contract Language**

(1) The display of products and services in our online shop and website does not create a legally binding offer but is simply an invitation to place orders (invitatio ad offerendum). PICO BioScience GmbH reserves the right to decide, at its sole discretion but subject to restrictions imposed by applicable law (as the case may be), whether or not to make a contractual offer in response to any order.

(2) By clicking ordering, you submit a binding offer for purchase. After submitting the order, you may receive a confirmation of your purchase request by email, which however does not yet constitute the acceptance of your contract offer. A contract comes into existence between you and us as soon as we accept your order by means of a separate notification (via email or other means of text-form) or dispatch the goods or provide the services ordered. Please regularly check the spam folder of your mailbox as order-confirmations might be directed to your spam folder.

(3) The exclusive language available for the conclusion of the contract shall be English. Translations of these GTC into other languages are for information only. In the event of contradictions between the English text and the translations, the English text shall prevail.

(4) For information on the processing of your data, please read our data protection information, which you can find under the following [link](#).

#### **§ 5 Storage of the contract text**

You will receive the contractual provisions together with information on the goods ordered and/or services booked including these GTC together or together with the notification thereof this. We do not store the contractual provisions for you.

#### **§ 6 Payment Conditions**

If not agreed otherwise, all our prices shall become immediately due and payable upon conclusion of the contract.

#### **§ 7 Retention of Title; Resale**

(1) The goods shall remain our property until full payment.

(2) The resale as well as any other transfer of PICO BioScience GmbH's products is only permitted on the basis of a separate agreement.

## § 8 Delivery Conditions

We deliver the goods pursuant to the agreements made. Arising shipping costs are listed in the product description and are not included in each product's purchase price. By default, our shipments from the webshop are delivered DAP according to the [INCOTerms 2020](#). Thus, potentially occurring customs declarations have to be made and customs duties have to be paid by the customers at their own responsibility, unless other delivery conditions have been agreed upon in writing.

## § 9 Rights of use

- (1) With the purchase of PICO BioScience GmbH products, you only acquire the right to use the purchased product in accordance with the accompanying documentation and the corresponding software access. You do not acquire any additional copyrights, patent rights or other rights of use.
- (2) The right to use the software is limited to the data volume and duration outlined in § 11 below.

## § 10 Molecular Biological Services

- (1) PICO BioScience GmbH offers specific molecular biological services ("SMBS") including the delivery of measurement data or modified antibodies or otherwise customized products as an outcome. If so ordered, these services are performed on behalf of the customer, possibly utilizing molecular biological reagents provided by the customer. The result may include measurement data and/or modified reagents (e.g. kits or antibodies) as specified in the relevant order.
- (2) PICO BioScience GmbH ensures the careful execution of SMBS according to the state of the art but cannot and will not assume any responsibility for the achievement of specific outcomes (data or modified materials).
- (3) The customer bears the sole risk and liability for any infringement of intellectual property rights, environmental, and health risks arising from potentially hazardous substances provided by the customer or improper use of SMBS outcomes. PICO BioScience GmbH is not liable for any damages arising from these risks or infringement.
- (4) The use and dissemination of substances processed by PICO BioScience GmbH outside the research laboratories of the customer is not permitted. The outcomes of SMBS are intended for research use only by the customer and its affiliates. Particularly, use of any outcomes of SMBS for medical purposes is strictly forbidden. PICO BioScience GmbH's responsibility does not extend to any subsequent unintended or unauthorized use of any outcomes of SMBS or products.

## § 11 Terms and conditions regarding the PICO BioScience PIQuant Software ("software")

### § 11.1 Rights of Use to the software

- (1) The PICO BioScience GmbH grants customers the non-exclusive and non-transferable right to use the software for the duration of 12 months upon delivery of the physical products

purchased from PICO BioScience GmbH within the scope of the SaaS services as intended. For this purpose customers will receive a token valid for 12 months and a link to access the PIQuant software through a conventional internet browser as SaaS service. (2) Customers may operate the software only to the extent that this is covered by the intended use of the software according to the respective current service description. Specifically, customers are only entitled to upload such raw data to the software that has been obtained by using the products purchased from PICO BioScience GmbH. Raw data generated otherwise must not be processed with the PIQuant software.

(3) As a customer, you are not entitled to make the software available to third parties for use against payment or free of charge. Thus, you are explicitly not allowed to sublet the software, forward the login link, or give the token to third parties.

## **§ 11.2 Data volume**

(1) PICO BioScience GmbH does not provide any data storage volume to customers to store their raw or processed scientific data. Customers may process data with the software SaaS service, but it is the sole responsibility of the customer to save raw as well as processed data on their own devices and on their own accounts.

(2) All scientific data is processed only locally on the computer of the customer, and no data is transferred through the internet to PICO BioScience GmbH. All processed scientific data will be lost, when the browser window running the PIQuant software will be closed. It is the sole responsibility of the customer to save any raw or processed data prior to terminating the PIQuant software.

## **§ 11.3 Obligations of the Customer**

(1) You are obligated to prevent unauthorized access of third parties to the protected areas of the software by taking appropriate precautions. For this purpose, you shall, if necessary, instruct your employees to comply with these terms and conditions and any copyrights.

(2) You are obligated to check your data and information for viruses or other harmful components before entering them into the software and to use state-of-the-art virus protection programs for this purpose.

(3) You are obliged to keep your access token and the link to the PIQuant software secret and not to make it accessible to third parties.

## **§ 12 Composition and Use of the Product**

(1) The customer itself is responsible for the availability of the corresponding equipment, including associated consumables, as well as their functional readiness. These are not the subject of this contract.

(2) The analysis of raw data obtained with PICO BioScience reagents requires the use of our specific PIQuant software, which is provided free of charge as a web-based SaaS solution (see § 11.2 above). The software is used to process the raw data generated by the dPCR device when uploaded into the PIQuant software (see § 11).

(3) Details of the use of our products as well as instructions for use and process descriptions, are contained in the detailed accompanying product documentation. Users agree to use the products of PICO BioScience GmbH exclusively in accordance with the accompanying documentation.

(4) The products of PICO BioScience GmbH may only be used for research purposes and for molecular biological analysis of biological specimens. Use of our products and software for medical and veterinary purposes is strictly prohibited.

### **§ 13 Exclusion of warranty for evaluation results**

(1) The results of the application of our products depend significantly on factors that are exclusively within the sphere of influence of the user. These are among others: Correct compliance with the work procedures described in the accompanying documentation, correct function and maintenance of the equipment used by the customer, correct selection and composition of the substances to be used by the customer (e.g. antibodies), as well as the correct readout and transfer of the raw data into the PIQuant software.

(2) For the reasons stated in (1), PICO BioScience GmbH cannot assume any warranty for factors outside its area of responsibility and can therefore only guarantee that the reagents sold and the PIQuant software are free of defects. PICO BioScience GmbH cannot assume any further warranty or liability for the results obtained through the use of the products by the customer.

(3) For the reasons stated in (1) and (2), PICO BioScience GmbH cannot assume any further warranty or liability for the results obtained by the processing and evaluation of samples carried out by the customer. PICO BioScience GmbH shall also not assume any warranty for the evaluation results in the event that the processing and evaluation of samples is carried out by PICO BioScience GmbH on behalf of the customer.

(4) With reference to the preceding paragraphs, it is clarified: PICO BioScience GmbH shall not be liable for the repetition of test series or for damages resulting from the publication or use of evaluation results that are later identified as incorrect. In particular, liability for damages and futile expenses of the customer resulting from products, product developments or production processes is excluded in this respect. The same shall apply to claims asserted by third parties against the customer in connection with such products, product developments or production processes.

(5) For the special molecular biological services ("SMBS") provided, PICO BioScience GmbH does not assume any warranty or liability for the outcome of the services and whether these are fit for any purpose intended by the customer. PICO BioScience GmbH particularly cannot and will not assume any responsibility and/or liability for the delivery of measurement data or customer-specific modified standard products and any consequences deriving from the use of such data or products.

(6) Reference is made to the general limitation of liability in § 15 of these GTC.

### **§ 14 Warranty in case of purchasing goods**

(1) If the goods delivered are defective, you are entitled, within the scope of statutory provisions, to demand supplementary performance in the form of removal of defects or delivery of a defect-free item. We are entitled to choose the form of supplementary performance. If the supplementary performance fails, you have the right to reduce the purchase price or to withdraw from the contract. Precondition for any warranty claim is that you fulfill all obligations to inspect and to reprimand owed pursuant to Sec. 377 HGB German Commercial Code.

(2) The limitation period of warranty claims for the goods delivered is twelve months from receipt of the goods, except in cases of claims for damages.

(3) The warranty expires in the following cases:

- Use on equipment that does not comply with the specifications of the accompanying documentation.
- Use in process sequences that do not correspond to the specifications of the accompanying documentation.
- Use under accompanying circumstances (temperatures, other environmental influences) that do not correspond to the specifications of the accompanying documentation.

## **§ 15 Limitation of Liability**

(1) We are liable for intent and gross negligence. Further, we are liable for the negligent breach of obligations, whose fulfillment is essential to enable the ordinary implementation of the contract, whose breach jeopardizes the achievement of the purpose of the contract and on whose compliance you as a customer may rely on regularly. In the last-mentioned case, we are only liable for the foreseeable, typical contractual damage. The same applies to breaches of duty by our vicarious agents.

(2) We point out that the products and procedures offered by us are scientific procedures of the latest generation. Therefore, changes to the procedures, subsequently modified evaluations of the evaluation results and procedures as well as product and procedure improvements developed in the course of application are not the exception but the rule typical for the application.

(3) Damage caused by PICO BioScience GmbH's products to the customer's equipment shall be rejected if it is based on application errors or non-observance of the accompanying documentation.

(4) PICO BioScience GmbH does not assume any warranty or liability for loss of data in relation to the use of its SaaS service.

(5) The abovementioned exclusions of liability do not apply in case of damage of life, body and health and if PICO BioScience GmbH has fraudulently concealed the defect or has assumed a guarantee for the quality of the item. The same applies if PICO BioScience GmbH and the customer have reached an agreement on the quality of the item. The liability pursuant to the product liability law remains unaffected.

(6) The liability of PICO BioScience GmbH is further limited in the context of special molecular biological services ("SMBS"). PICO BioScience GmbH shall not be liable for any intellectual property infringement, environmental, health risks or improper use related to the substances provided by the customer or processed as part of the services. PICO BioScience GmbH's responsibility is strictly limited to the careful execution of the services as described.

(7) To the extent permitted by law, the scope of liability of PICO BioScience GmbH towards each individual customer is limited to the purchase price of the products that this customer has purchased within the last 12 months. Any further liability on the part of PICO BioScience GmbH is excluded.

## **§ 16 Trial access PICO BioScience PIQuant Software**

Trial access to the PIQuant software is granted free of charge upon request, even without purchase of any product. The provision of trial access is provided at the sole discretion of PICO BioScience GmbH and might be terminated without prior notice any time. The processing of data by the trial access is limited to test data provided by PICO BioScience in this case, otherwise the Terms of Use apply accordingly, provided they are applicable mutatis mutandis. This is especially but not exclusively the case for the regulations of these GTC regarding the use of the software (§ 11) and the limitations of liability (§§ 13, 14, 15).

## **§ 17 Final Provisions**

(1) Amendments or supplements of these terms and conditions require the written form to be binding.

(2) The law of the Federal Republic of Germany shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

(3) Venue of performance is the city of Freiburg, Germany. The courts of Freiburg (Germany) shall have exclusive jurisdiction for dispute, in connection with this contract.

(4) If individual provisions of these terms and conditions are ineffective, statutory laws, the terms and conditions as a whole remain unaffected. The contractual parties shall amicably decide to replace the ineffective provision by a legally effective provision, which comes closest to the commercial purpose of the ineffective one. The aforementioned provision shall accordingly apply in case of gaps.