

Genetic ID[®]
Terms & Conditions of Service
Genetic ID (Europe) AG · Augsburg · Germany



1. General

All of our services and shipments -present or future- are based on the following Terms and Conditions. A Client's own dissenting conditions of purchase are not acknowledged simply by the acceptance of an order. By accepting our Analysis Reports on samples, statements on traceability or other, the Client will accept these Terms & Conditions of Services (Terms). The Parties agree that any order submitted to us legally constitutes a "Dienstvertrag" (service agreement) as known in German civil law.

2. Quotes and Prices

All our quotes and prices are without legal commitment and do not oblige us to accept an order. Legally binding are price sheets, catalogues and brochures current at the time of shipment or execution of service. Orders are binding only after we have confirmed them in writing. Information and advice given by our staff are binding only after our written confirmation.

3. Samples

Genetic ID shall not be responsible for determining whether the sample(s) tested serve as representative samples of the total quantity from which the sample has been taken. Samples sent to **Genetic ID** for testing will not be returned to the Client unless specifically requested in writing.

4. Representations

The Client agrees that he will not make any representations regarding **Genetic ID** other than with respect to the specific food or agricultural product(s) listed under a given Testing Order and subsequently reported in the Analysis Report. Use of the name "**Genetic ID**" by the Client must be approved in writing by **Genetic ID** prior to said use. In all representations made by the Client relating to **Genetic ID**'s testing, the Client agrees to identify **Genetic ID** as having conducted the testing. The Client will follow any guidelines of **Genetic ID** to preserve its trademarks/service marks and other intellectual property rights.

5. Conditions of Payment

All invoices are payable within 30 days from the date of invoice. In case payment is received within 14 days from the date of the invoice the Client may deduct a discount of 2%. In case of transfer of funds from abroad, all bank fees caused by the transfer are to be paid by the Client. In the event any credit has been granted, the Client will pay all invoiced amounts within the stated term of the invoice date as indicated on the invoice. **Genetic ID** reserves the right to charge interest on any amount remaining unpaid beyond the stated term. These amounts will be considered past due and will accrue late payment charges at the German interbank rate plus 5.0 % per annum until settled in full. Furthermore, the Client agrees to pay all collection costs, including reasonable attorney's fees and court fees incurred by us in collecting past due amounts. Payments are balanced first against the due fees and costs, and only subsequently against the invoice amount.

6. Liability

Genetic ID will be liable for acts or omissions in connection with testing as follows:

In cases of simple negligence ("leichte Fahrlässigkeit") **Genetic ID** will return its payment received. In cases of gross negligence ("grobe Fahrlässigkeit") **Genetic ID** will cover any direct, but not consequential, damages incurred to the Client up to twenty times the charged value of the analysis type applied. The foregoing warranty and agreement is in addition to statutory warranty rights granted by German civil law. To the farthest extent

legally possible, however, **Genetic ID** shall not be liable for indirect, consequential, or punitive damages in the nature of lost profits, or for injury or harm to any person. – Exceeding turn-around times (TAT) for analyses as specified in the price list(s) of **Genetic ID** does not constitute a case of liability or of warranty if the assured TAT is not exceeded by more than two days or if an ad hoc agreement was reached between the Client and **Genetic ID** allowing for an extension of TAT.

7. Indemnity

The Client will defend, indemnify, and hold **Genetic ID** and its directors, officers, employees, and agents (collectively, the "indemnified parties") harmless from and against any claim, suit, demand, loss, damage, or expense (including reasonable attorney's fees) imposed upon any of the indemnified parties by any third party arising from or related to the genetic testing of **Genetic ID** for the Client, or any acts or omissions of the Client in selling products of the kind tested by **Genetic ID**, or in using any name or trademark/service mark of **Genetic ID** or any of its affiliates. However, the foregoing indemnification shall not apply in the event and to the extent that a court of competent jurisdiction determines that any loss arose as a result of the gross negligence or willful misconduct of **Genetic ID**.

8. Court of Arbitration

Any dispute arising out of or relating to these Terms or any services provided by Genetic ID to the Client shall be governed by the laws of the Federal Republic of Germany. Any such disputes shall be resolved by arbitration in Germany in accordance with the rules of the DIS (Deutsche Institution für Schiedsgerichtsbarkeit – *German Institute of Arbitration*). The arbitration court is to be made up by one expert nominated by each party and a chairman to be nominated by the Augsburg Chamber of Industry & Commerce from among its list of experts. Any legal action against **Genetic ID** must be taken to courts in the jurisdiction for Augsburg, Germany.

9. Value Added Tax

For tests conducted in **Genetic ID**'s German laboratory, the applicable German Value Added Tax (VAT / USt) will be charged to Clients based in **Germany**. Tests for **other EU** Clients, invoices will be free of VAT provided the Client's VAT taxation ID number is received with the first order for tests. Clients **not** based in an EU country will not be charged any VAT.

Genetic ID's VAT/ USt ID No. is DE 215 248 767.

10. Current Version of these Terms

These Terms may only be modified in writing signed by us. Transmission by fax or eMail will suffice. Diverging conditions of purchase by the Client are valid only contingent upon our written consent. If any provision of these Terms shall be deemed unenforceable or unlawful, this shall not affect the remaining provisions.

Augsburg, 15 June 2002