

**GENERAL TERMS AND CONDITIONS for delivery by, research and/or  
analysis instructions to BioVisible B.V.**  
filed at the Office of the District Court in Groningen, the Netherlands,  
on October 6, 2006 under number 02094193

**BioVisible BV, L.J. Zielstraweg 1 9713 GX Groningen, The Netherlands**

**Article 1 - General**

1.1 In these General Terms and Conditions, "Client" shall be taken to mean the party BioVisible concludes an agreement with, as well as the party/parties any offer by BioVisible is addressed to.

- 1.2 These General Terms and Conditions shall apply to all offers by and all agreements concluded by BioVisible, including agreements regarding the delivery of goods (including test kits and the provision of licences), agreements regarding the provision of services including performance of (contract) research (hereinafter to be referred to as: R&D) and carrying out of analyses and provision of advice.

Modifications and/or supplements to the General Terms and Conditions shall only be valid if and insofar as these have been entered into in writing and signed by both parties.

**Article 2 - Offers**

- 2.1 Any offer by BioVisible shall be free of obligation and based on information, documents, drawings and the like, provided by or on behalf of the Client, unless the offer explicitly provides the contrary.

All offers shall remain valid during 30 days, unless explicitly provided for otherwise.

**Article 3 - Agreement**

- 3.1 An agreement shall be concluded by written and timely acceptance by Client of an offer (in this article including a confirmation of an instruction) by BioVisible or by signing of an agreement by both parties. If the offer is not accepted unmodified, an agreement shall not be concluded until it has been accepted in writing, or otherwise until the modified offer is confirmed by BioVisible in writing. The offer signed for approval by Client, or the modified offer signed for approval by BioVisible, shall correctly and completely represent the content of the agreement concluded between parties.

Modifications or supplements to the agreement can only be agreed upon in writing.

- 3.2 Contrary to the provisions in the previous paragraph, an agreement with respect to the performance of additional work can be concluded orally.

BioVisible shall also be entitled to separately invoice any additional work it has carried out in the event it considers the carrying out thereof reasonably necessary for the fulfilment of the agreement.

- 3.3 Any oral notifications, commitments and/or agreements with any employees of BioVisible shall not bind BioVisible unless these have been confirmed in writing by the general manager or by any officers with formal authority to sign.

- 3.4 In the fulfilment of the agreement, slight deviations with usual tolerances shall be permitted, as well as the supply of more materials to such an extent as reasonably considered necessary by BioVisible in connection with failure, processing loss, etc. within the framework of the R&D and/or analysis activities to be carried out.

- 3.5 Unilateral cancellation from the side of Client shall be invalid, unless BioVisible states in writing that it agrees with such cancellation.

**Article 4 - Prices**

- 4.1 Unless stated otherwise, all prices shall be in Euros and exclusive of turnover tax (VAT) and any other government levies.

- 4.2 If no prices have been agreed upon, the rates and prices customary at BioVisible at the moment of fulfilment of the agreement shall apply.

- 4.3.a The price for the delivery of goods shall be based on delivery ex warehouse, meaning delivery ready for forwarding at the premises of BioVisible. The costs of packaging and forwarding shall not be included in the price and shall be invoiced to Client separately in the event BioVisible takes care of packaging and/or forwarding.

- 4.3.b The price for performance of analyses shall include the delivery of 1 written report with respect to the findings.

- 4.3.c If no fixed price has been agreed upon for R&D work, the price shall be determined on the basis of the number of hours spent on the research, multiplied by the hourly fee applicable at the time the work is carried out.

- 4.4 BioVisible shall invoice any travelling expenses and travelling hours separately to Client, if this has not been agreed upon in more detail.

- 4.5 If after the conclusion of the agreement one or more cost price determining factors are increased, BioVisible shall be entitled to increase the prices and/or rates agreed upon by means of a written notification, also in the event that fixed prices have been agreed upon.

- 4.6 In the event of an agreement involving payments that periodically become payable by Client, BioVisible shall be entitled to adjust the applicable prices and rates by means of a written notification after a period of time of at least three months.

The provisions in the previous paragraphs of this article shall apply mutatis mutandis for the calculation of any additional work.

- 4.7 If the creditworthiness and/or the payment behaviour of Client gives cause for this, BioVisible shall be entitled to require payment in advance or adequate security that both payment obligations and the other obligations will be fulfilled from Client, at its own discretion, before performing or continuing to perform.

BioVisible shall have the right to suspend fulfilment of its obligations, until Client has paid in advance or provided the above meant security.

**Article 5 - BioVisible Services**

- 5.1 All services to be provided by BioVisible, including R&D activities, analyses and advice, shall be carried out with the care and skill customary in the line of business, with due observance of the legislation applicable in the Netherlands, based on the information to be provided by Client, during workdays (not being Saturdays and Sundays and generally recognised Dutch holidays) and within normal working hours (from 8.30 until 17.30 hours).

- 5.2 The activities shall be carried out at the office of BioVisible, unless explicitly agreed upon otherwise.

If any activities take place at the office of Client, Client shall indemnify BioVisible against any claims by third-parties, including employees of Client and labour force deployed, with respect to the activities to be carried out by BioVisible at the office of Client.

In such case, Client shall also bear the risk of loss and/or damage of any substances, materials, equipment and/or (other) devices and aids BioVisible needs to use for carrying out the instruction, as from the moment these have been brought to the site, during the time these are there outside of the normal working hours and/or not under the direct supervision of BioVisible.

**Article 6 - Reporting, Usage Purpose**

- 6.1 BioVisible shall report the results of the R&D activities and/or analyses it has carried out by means of a written report or written reports within 30 days after it has completed its research and/or analyses. This report/these reports shall comply with the requirements that may be set for any report drawn up by any researcher acting reasonably. With due observance of the provisions in article 6 paragraph 2 and article 7, Client shall have the right to use this report/these reports.

- 6.2 Unless the agreement, the report(s) or the instructions for use with a test kit unambiguously prove the contrary, Client shall only have the right to use the R&D or the analysis results for non-clinical research purposes, and not for medical-clinical use.

Client shall indemnify BioVisible against any damage, costs and claims by any third parties that (may) arise from non-compliance of these provisions by Client or its legal successors.

**Article 7 - Industrial Property, Intellectual Property and Publication**

- 7.1 BioVisible shall at all times remain the party entitled to the intellectual and industrial property rights, including any copyrights, design rights, patent rights and trade rights on the offer, designs, technologies, working methods, models, samples, reports, test kits, know-how and the like (jointly to be referred to as:

the Objects) that were used and/or provided by BioVisible within the framework of the offer or the agreement, even though these have been charged. BioVisible shall be considered the party entitled to all rights of industrial and/or intellectual property thereof, also if these rights have come into being within the framework of the agreement.

- 7.2 Upon prior written consent of BioVisible, Client shall have the right to publish the reports and recommendations delivered by BioVisible, on the condition that the report is published word for word and wholly, and that BioVisible is mentioned as the author.

- 7.3 Client shall not be permitted to remove any indication with respect to copyrights, trade rights, trade names or other rights of intellectual or industrial property from the Objects referred to in paragraph 1 of this article.

- 7.4 Client shall not be permitted to subject the contents of any test kits supplied by BioVisible to any analysis or to have these subjected to any analysis. Client shall exclusively be entitled to use test kits in accordance with the corresponding instructions for use.

- 7.5 Client shall guarantee BioVisible that at all times the use of any information, drawings, materials, know-how, goods and the like provided by Client or the application of any working methods prescribed by Client is not in violation of any statutory regulations and/or protected third-party rights.

Client shall completely indemnify BioVisible against any direct and indirect consequences of any claims which any third parties might enforce with respect to BioVisible pursuant to any breach of the guarantee provided in this paragraph.

**Article 8 - Confidentiality by Client and BioVisible**

- 8.1 BioVisible shall keep analyses and measurements confidential with respect to the results of the research carried out. BioVisible shall not use this information outside of the scope of this agreement either.

- 8.2 BioVisible shall have the right to call in third parties in performing the activities, under the obligation to impose the confidentiality referred to in paragraph 1 of this article to these third parties as well.

- 8.3 With the exception of the research results, Client shall be obliged to observe confidentiality with respect to all information regarding the goods, information and rights referred to in article 7 paragraph 1, as well as with respect to any other know-how and business information in the broadest sense of the word originating from BioVisible, that Client has taken cognisance of within the framework of the agreement, nor shall Client use this information outside the scope of this agreement.

**Article 9 - Client Obligations and Liability**

- 9.1 Client shall always timely provide BioVisible with all information and agreed materials, including any substances and samples, that are useful to and necessary for proper fulfilment of the agreement, and render all co-operation to the performance.

- 9.2 For its own account and its own risk, Client shall ensure that any activities to be carried out and/or supplies to be made by itself or one or more third parties that are not included in the instruction to BioVisible, are carried out and/or made in such a manner and timely to such an extent, that the performance of the instruction will not be delayed by that. Should any delay nonetheless arise, Client shall timely inform BioVisible thereof.

- 9.3 If any information and/or materials necessary for the performance of the agreement have not been made available to BioVisible, or not timely or not in accordance with the corresponding agreements, or if Client fails to meet its obligations in any other way, BioVisible shall in any case be entitled to suspend the performance of the agreement, as well as to charge the damage and costs that have arisen on account of this to Client in accordance with its usual rates.

In the event of any loss of time caused by delay on account of Client not timely having met one or more of its obligations described in this article, such an extension of the delivery period shall in any case be granted as is reasonable, all circumstances considered.

9.4 Client shall guarantee that the materials, samples and the like provided to it by BioVisible shall be free of substances or other elements that may be a health hazard or constitute any other danger, provided insofar as Client has pointed out explicitly, in writing and in a specified manner (the risk of) the presence of any real risk factors, timely prior to the making available of these materials and the like.

Client shall be liable for any damage offered by BioVisible and/or its employees, auxiliary persons or any other third parties as a consequence of any breach of the guarantee provided in this paragraph, and shall indemnify BioVisible against any third-party claim regarding any dangerous substances and/or substances detrimental to health they have made available.

Without prejudice to the above provisions, BioVisible shall at all times be entitled to refuse any materials involving any such risk factors.

#### Article 10 – Delivery period/delivery

(delivery) periods mentioned by BioVisible have been set to the best knowledge based on the information and circumstances known to BioVisible at the time the agreement was concluded and on timely supply of the materials ordered by BioVisible for the performance of the agreement.

10.2 If any delay arises which is caused by modification of these circumstances or because any materials that were timely ordered for the performance of the agreement are not timely supplied, the delivery period shall in any case be extended to such an extent as is reasonable, all circumstances considered.

Client realises that in particular in the case of R&D, (delivery) periods are very difficult to estimate.

10.3 The (delivery) periods shall be observed by BioVisible as much as possible; the mere act of exceeding of a set (delivery) period in itself shall not cause BioVisible to be in default. Exceeding of the delivery period can in principle only constitute cause for compensation, if this has been explicitly agreed upon in writing.

The delivery period shall begin on the last of the following moments:

- the date at which the agreement is concluded;
- the date at which BioVisible disposes of all documents, information, licenses, discretionary permits, approvals, assignments etc. necessary for the performance of the agreement;
- the date at which BioVisible disposes of all substances, samples, materials, information and the like to be provided to

BioVisible by Client;

the date at which BioVisible receives the payment due pursuant to the agreement before the beginning regarding periodic payment, or the date at which BioVisible receives the advance payment and/or security referred to in article 4 paragraph 8.

10.4 The moment the goods, any unimportant parts left aside, are ready to be inspected or to be forwarded and BioVisible has informed Client thereof, shall apply as the date of delivery of goods.

The moment the report(s) regarding the results of the R&D or analysis work or of the advisory work, any unimportant parts left aside, is/are ready for delivery, and BioVisible has informed Client thereof or has forwarded the report(s) to Client, shall apply as the date of delivery of services.

If any period threatens to be exceeded, BioVisible and Client shall consult together as soon as possible.

#### Article 11 – Sending and packaging

11.1 BioVisible shall not be obliged to send the goods to client goods to Client.

If however sending of the goods has been agreed upon, this shall take place for the account and the risk of Client in a manner to be determined by BioVisible and with packaging and means of transport at the discretion of BioVisible.

11.2 Packaging that can be used only once shall not be taken back by BioVisible.  
BioVisible shall have the right to decide, at its discretion, whether or not it will take back packaging that can be used more than once.  
BioVisible shall have the right to charge packaging that can be used more than once to Client together with the goods supplied separately on the invoice. These costs shall be credited if and as soon as Client has returned the packaging in question to BioVisible in a good state.

Any damage to any goods caused by destruction/damaging of the packaging shall at all times be for the account of Client.

#### Article 12 – Risk and transfer of ownership of goods and reports

12.1 Client shall bear the risk for all direct and consequential damage arising to the goods immediately upon delivery of the goods, leaving aside any unimportant parts, in the sense of article 10.

12.2 BioVisible shall retain the right of ownership of all goods delivered (in this article including in any written reports), until all its claims on Client regarding the goods delivered or to be delivered by BioVisible to Client, or services provided or to be provided by BioVisible for the benefit of Client pursuant to the agreement in question, as well as regarding any failure from the side of Client in fulfilling the agreement in question, have been completely settled, or any bills of acceptance, letters of credit, cheques or any other payment instruments issued for this have been fully honoured.

12.3 If the goods delivered by BioVisible are processed in any other goods, whether newly manufactured or not, at the first request of BioVisible, Client shall grant an undisclosed pledge on those other goods to BioVisible with the highest rank.

12.4 As long as the ownership of the goods has not been transferred to Client, Client shall not be entitled to transfer the ownership of these goods to third parties or to transfer these goods as security to third parties, to grant any right thereto to third parties, or to connect these to other goods in such a manner, that the goods become components and/or objects of minor importance to these other objects.

12.5 Client shall be obliged to keep the goods supplied subject to retention of title with due care and as recognisable property of BioVisible. In addition, Client shall be obliged to take out insurance on the goods for the duration of the retention of title against damage or loss, for whatever cause, and to present the policies of this insurance to BioVisible for inspection on demand. All claims by Client on the insurance companies of the goods pursuant to said insurance shall be assigned to BioVisible as soon as BioVisible so desires, or, as soon as BioVisible so desires, it shall be granted a pledge thereon.

12.6 If Client fails in fulfilling its obligations toward BioVisible, BioVisible shall have the right to take back the goods delivered subject to retention of title that are still present at Client immediately and without prior notice of default. Insofar as necessary, Client shall irrevocably authorise BioVisible to exercise the right to take back referred to in this paragraph.

In the event that and insofar as BioVisible has used its right to take back as referred to in paragraph 5, the agreement shall be dissolved without judicial intervention entirely or for a pro rata part, without prejudice to the right of BioVisible to compensation of damages and costs.

In the event of the dissolution referred to in the previous paragraph, Client shall be credited for the market value (which shall in no case be higher than the original purchase price) decreased by the damage suffered and the costs made by BioVisible.

#### Article 13 - Payments

13.1 Unless otherwise agreed upon in writing, payment of the invoices of BioVisible shall take place within fourteen days upon the invoice data.

13.2 Payment shall take place without setoff or suspension for whatever reason and effective in the currency as stated on the invoice.

If Client does not pay the amounts due within the term agreed upon, without any notification being required, Client shall owe interest on the outstanding amount equal to the statutory interest rate, calculated on an annual basis, plus one per cent, in which respect a part of the month shall count as a full month. On the expiry of a calendar year, the interest that has then fallen due shall constitute part of the capital sum.

All judicial and extra-judicial costs to be made, including any lawyers' fees, shall be for the account of Client. The extra-judicial collection costs shall amount to at least 15% of the amount owed by Client including the above-mentioned interest, such with a minimum of 250 Euro.

13.3 If for any payment they make, Client does not explicitly indicate which debt is redeemed by this payment, BioVisible shall irrevocably have the right to write off such payment made by Client against

whatever outstanding invoice from BioVisible to Client.

In all cases, BioVisible shall have the right to demand an advance payment from Client until a maximum of 50% of the agreed price.

#### Article 14 – Goods made available by BioVisible

In case any goods made available by BioVisible to Client or to any persons appointed by Client have been damaged, irrespective of the cause, Client shall be obliged to compensate BioVisible for the repair costs or the replacement costs, depending on what should reasonably be considered the most economical. In case of loss or theft, the replacement costs shall be reimbursed. If the amount of the replacement costs is not indicated in the agreement, this shall be determined as the new value.

#### Article 15 – Complaints

15.1 Client shall be obliged to check the products delivered and/or services provided for any defects upon delivery immediately, but in any case within 8 days upon delivery. Any complaints with respect to the activities carried out and/or deliveries made must have been submitted to BioVisible in writing and reasoned within 8 days upon delivery.

15.2 Client shall lose all remedies and authorities that were available to it pursuant to defectiveness if it has not lodged a complaint within the above-mentioned terms.

#### Article 16 - Warranty

16.1 With due observance of the limitations stated below, BioVisible shall provide a warranty with respect to the goods it has supplied to the effect that, in the event of any defects of which Client proves that these have arisen within 2 weeks upon the delivery as referred to in article 10, exclusively or predominantly as a direct consequence of a defect in the construction designed by BioVisible or as a result of the use of inferior material, the goods or parts in question shall be repaired by BioVisible or replaced by new ones free of charge, or, at the discretion of BioVisible, the market value of the goods in question at that moment shall be credited.

16.2 With respect to the test kits supplied by BioVisible, contrary to the provisions in paragraph 1, the warranty shall apply that until the expiration date indicated on the kit, these kits do not show any defects as referred to in paragraph 1. If the kit in question is equipped with a verification test, the defect must be shown by the verification carried out. In all other respects, the provisions of paragraph 1 shall apply mutatis mutandis.

16.3 With due observance of the limitations stated below, regarding the services it provides, including the carrying out of R&D, analyses and/or the provision of advice, BioVisible shall provide a guarantee to the effect that, if Client proves within 2 weeks upon delivery of the service in question that the service does not meet the requirements that may be set for a service by a reasonable and skilled advisor, it shall carry out the work in question once again free of charge, to replace the defective work.

Client is aware that;

- in case of any order to carry out R&D work, a certain result can never be guaranteed;
- in case of any order to carry out analyses, the findings depend on many external factors (such as for instance materials, actions, the taking of samples) that BioVisible is unable to influence, so that it can never be guaranteed that a next analysis of the same material will produce the same findings.

16.4 Client shall offer BioVisible the opportunity to repair any defect at all times. To this end, Client shall provide BioVisible with all necessary co-operation, samples and auxiliary materials without charging any costs.

16.5 The warranty and/or the guarantee by BioVisible shall not apply in any of the following cases:

- in the event normal wear and tear, injudicious or incorrect use, use and/or storage of or maintenance to the goods have contributed to the defects;
- exceeding of the expiration date of and/or in the event that the directions for the use of a test kit are not strictly observed;
- in the event that the defects entirely or partially result from any government regulation regarding the nature or the quality of the materials applied or the quality of the goods supplied;

- d. in the event that any repair work or any other work has been done on the goods or these have been modified by Client itself or by third parties without the prior written consent of BioVisible;
- e. in the event that Client has not or not timely or not properly fulfilled any obligation resting with it;
- f. in the event of faultiness of samples, materials, parts, designs, drawings, working methods and the like, that have been made available or prescribed by Customer.

16.6 Contrary to the above, BioVisible shall never provide more extended warranties for parts and/or goods purchased from third parties than it has received from its supplier.

16.7 BioVisible shall never be obliged to fulfil its obligations under its warranties and/or guarantees, insofar as the costs it incurs therefrom are higher than the price agreed upon (excluding VAT) for the supply of goods/provision of services in question. If the agreement primarily involves a continuing performance contract with a duration of more than six months, the price agreed upon shall be set at the total of the payments (excluding VAT) stipulated for six months.

Article 17 – Liability of BioVisible

17.1 The liability of BioVisible shall exclusively involve performance by BioVisible of its warranty obligations as described in the previous article. Beyond this liability, no liability whatsoever shall rest with BioVisible, irrespective of the ground that this would be based upon.

17.2 The liability of BioVisible pursuant to the agreement shall never extend to any trading loss or any other consequential damage, including consequential loss, lost profits, lost savings and loss on account of discontinuation of business. In no event however shall the total compensation amount to more than the payments received by BioVisible pursuant to articles 4 and 13, minus any refunded amounts or amounts to be refunded, for whatever cause.

17.3 The limitations stipulated for BioVisible in this article and in the previous article, or otherwise exemptions from liability shall likewise be stipulated for and on behalf of its employees, auxiliary persons, as well as for the parties from whom it purchases supplied goods and/or parts, also in the event of intentional act or omission or gross negligence. Client shall indemnify BioVisible against any claims by any third parties in connection with the fulfilment of this agreement.

Article 18 – Premature Termination

18.1 Each of the parties shall only have the right to dissolve the agreement in the event that the other party imputably fails in fulfilling any essential obligations pursuant to the agreement, upon proper written notice of default which is as detailed as possible and which sets a reasonable term for curing the non-performance. A reasonable term does not need to be set in the event it is an established fact that fulfilment is no longer possible.

18.2 BioVisible shall be entitled to terminate the agreement partially or entirely without notice of default and without judicial intervention by written notification with immediate effect if Client is granted suspension of payments, whether provisional or not, if the involuntary liquidation of Client has been petitioned for or if the enterprise of Client is wound up or merges with other enterprises, if any goods of Client are seized before judgement or seized under a warrant of execution and this seizure is not withdrawn within one month, if Client in spite of fulfilment of the provisions in paragraph 1 imputably fails in the fulfilment of its contractual obligations in respect of BioVisible.

BioVisible shall in no event be obliged to pay any compensation on account of termination based on this article.

Article 19 – Consequences of Termination

19.1 In the event of termination of the agreement, Client shall send all goods, materials and Objects of BioVisible as referred to in article 7, that are not owned by Client or to which Client does not have/no longer has any right, to BioVisible as soon as possible, or destroy these or have these destroyed in consultation with BioVisible.

In the event of termination of the agreement, for whatever reason, the provisions with respect to confidentiality, intellectual property rights, payment, liability, applicable law and competent court shall remain in full force.

Article 20 – Force Majeure

20.1 In these Terms and Conditions, force majeure shall be taken to mean any circumstance beyond the control of BioVisible, even if this could have been foreseen at the time this agreement was concluded, that permanently or temporarily prevents fulfilment of the agreement, as well as insofar as this does not already include: war, threat of war, riot, acts of terrorism, strike, transport problems, fire and any other failures or disturbances in the company of BioVisible or any of its suppliers.

20.2 In the event fulfilment of the agreement is prevented as a result of force majeure, BioVisible shall have the right to either suspend the fulfilment of the agreement for a maximum period of six months, or to completely or partially dissolve the agreement, without judicial intervention and without BioVisible being obliged to pay any compensation.

In the event of dissolution as well as in the event of suspension resulting from force majeure, BioVisible shall have the right to demand payment of the goods it has already supplied, whether these have been processed or not, and of the work it has already carried out.

Article 21 – Subcontracting/Transfer of Rights

21.1 BioVisible shall have the right to use the services of third parties for fulfilling this agreement.

BioVisible shall have the right to transfer all claims, powers, rights, privileges, actions and obligations arising from any agreements with Client to third parties. Client now states that in the event of such transfer, third parties shall be able to exercise all rights granted to BioVisible under this agreement towards Client, and that Client shall accept the fulfilment of the transferred obligations by this third party/these third parties.

Client shall not be entitled to completely or partially transfer the rights and obligations from this agreement to a third party without prior written consent of BioVisible.

Article 22 - Partial nullity

Should any of the provisions from these Terms and Conditions appear null and void or be annulled, this shall not affect the legal effect of the remaining provisions.

BioVisible and Client shall then consult together in order to agree upon new provisions to replace the null and void provision(s) or annulling provision(s), whereby the purpose and the meaning of the annulled or the annulling provision(s) shall be observed as much as possible.

Article 23 - Jurisdiction

23.1 Netherlands law shall apply to all offers made and agreements concluded by BioVisible. The provisions of the Vienna Sales Convention shall not apply, nor shall any future international regulation with respect to the purchase of movable physical items, of which the application can be excluded by parties.

23.2 Any disputes arising from or in connection with offers and agreements, of whatever nature, shall exclusively be adjudicated by the court competent in that respect in the District of Groningen, without prejudice to the right of appeal and cassation.