

## **General Terms and Conditions – Products of TAmiRNA GmbH** (hereinafter referred to as “TAmiRNA”)

Last updated: Feb 1<sup>st</sup>, 2024

### **1. Scope**

- 1.1. These General Terms and Conditions shall apply to all legal transactions between TAmiRNA and its Customers with regard to all offered Products.
- 1.2. General Terms and Conditions may be subject to modifications by TAmiRNA.
- 1.3. General terms and conditions of a Customer shall not apply. TAmiRNA shall not be required to object to any general terms and conditions of the Customer.

### **2. Conclusion of the Quote**

- 2.1. Upon a request from Customer, TAmiRNA will reply to Customer in writing, specifying cost and volume (“TAmiRNA Offer”).
- 2.2. A Quote shall be submitted by TAmiRNA and Customer shall be legally bound to purchase the Product when Customer accepts TAmiRNA’s Offer – within 30 days. If Customer does not accept TAmiRNA’s Offer within 30 days, the offer shall be no longer valid.
- 2.3. The Customer undertakes that all details provided to TAmiRNA for the purpose of purchasing will be correct. The Products described represent an offer without any binding commitment for TAmiRNA to provide the Products to the Customer.
- 2.4. To conclude a Quote with TAmiRNA a person has to be at least 18 years of age, shall not be limited in its legal capacity and/or shall be authorized to conclude legal transactions on behalf of the Customer.
- 2.5. Customer shall not distribute, sell, lend or otherwise commercially use or transfer Products to a third party without a separate prior written agreement with TAmiRNA.

### **3. Product**

The Manual (for RUO) / Instructions for Use (for CE-IVD) (each available here: [www.tamirna.com](http://www.tamirna.com)) (hereinafter referred to as “Manual”) for the Product is legally binding and applicable.

### **4. Delivery Date**

- 4.1. Unless otherwise agreed, the delivery of goods shall be FCA (Incoterms 2020) Leberstraße 20, 1110 Vienna.
- 4.2. The Products are dispatched as follows
  - 4.2.1. Dispatch within Austria: Monday through Wednesday
  - 4.2.2. Dispatch all over Europe: Monday and Tuesday
  - 4.2.3. Dispatch overseas to the USA / Canada: Monday and Tuesday
  - 4.2.4. Dispatch overseas to Asia: Monday and Tuesday
  - 4.2.5. Dispatch overseas to Australia: Monday and Tuesday

#### **Address**

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Leberstraße 20  
1110 Vienna | Austria

#### **Contact**

+43 660 420 58 56  
[office@tamirna.com](mailto:office@tamirna.com)  
[www.tamirna.com](http://www.tamirna.com)

#### **Company Facts**

UID: ATU68320738  
FN / commercial registry no: 406620x  
Place of jurisdiction: HG Wien

#### **Banking**

Sparkasse Herzogenburg  
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- 4.3. The delivery of Products takes place after the conclusion of the Quote, unless applicable import or export regulations, sanctions etc. conflict with it.
- 4.4. TAmiRNA shall make reasonable commercial efforts to deliver all Products at the earliest opportunity provided there is stock available. However, TAmiRNA cannot guarantee an exact delivery date. TAmiRNA shall not be liable for loss or damage of any kind caused directly or indirectly by any delay in delivery of the Product. If a Product is not available after the conclusion of the Quote, the Customer shall be informed by email without undue delay. No further rights arise out of this instance for Customer.
- 4.5. If the delivery of Products is delayed and/or impossible due to a fault of pre-suppliers, TAmiRNA shall not be liable for any inconveniences and/or damages of the Customer.

## **5. Packaging and Forwarding**

- 5.1. Cost of shipping and packing charges are announced with the TAmiRNA Offer.
- 5.2. A transport insurance at the expense of the Customer is optional. Any damages due to transport have to be notified to TAmiRNA/transport company immediately, without undue delay.

## **6. Prices and Payment**

- 6.1. All prices are indicated in EURO and do not contain Austrian value-added tax (VAT) of 20% at present, if such VAT is required for the delivery of goods.
- 6.2. All invoices shall be paid by wire transfer. Bank charges shall be borne by Customer.
- 6.3. If Products shall be invoiced in a currency other than EUR, TAmiRNA shall have the right to convert the foreign currency to EUR based on currency rates, which are calculated by TAmiRNA in line with the current expense rates at the invoice date. The Purchaser gets informed accordingly before the invoice is issued.
- 6.4. The prices do not include costs for shipping, packaging or insurances.
- 6.5. In case of an actualization of prices any information with regard to price and state of goods given by TAmiRNA at an earlier time is no longer binding. TAmiRNA shall in no case be liable for errors and misprints.
- 6.6. If not otherwise stated in the Quote the payment of Product shall take place in advance.
- 6.7. **Late Payment.** If Customer does not fulfil its payment obligations within the agreed term, TAmiRNA is entitled to charge interests on overdue payments at a rate of eight percent (8%) above the interest rate of the [European Central Bank](#) (marginal lending facility), applicable on the due date. In addition, TAmiRNA is entitled to charge additional processing and dunning fees from Customer. The payment of such interest shall not foreclose TAmiRNA from exercising any other rights it may have as a consequence of the lateness of any payment.

## **7. Reservation of Proprietary Rights**

Until full payment the ordered Products remain the property of TAmiRNA. In case of default in payment TAmiRNA is entitled to reclaim the Product from the Customer. In this case the Customer has to bear the transport costs. The reclaim of the Product does not stand for a rescission of the Quote unless this is expressly stated by TAmiRNA. In case of a rescission of the Quote, TAmiRNA may at its sole option claim a contractual penalty in the amount of 20% of the order value without waiving any other available legal or contractual remedies.

## **8. Cancellation**

- 8.1. Customer is not entitled to cancel, extend or delay the Quote or parts thereof.
- 8.2. If TAmiRNA consents to Customer cancelling the Quote or parts thereof and returning any Products, the Customer shall be liable to pay TAmiRNA current handling charges.

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## 9. Force Majeure

A party shall not be held liable to the other for any delay in performance or non-performance of that party directly or indirectly caused by reason of force majeure including, but not limited to, industrial disputes, strike, lockouts, riots, mobs, epidemic, pandemic, fires, floods, or other natural disasters, civil strife, embargo, lack or failure of transport facilities, currency restrictions, or events caused by reason of laws, regulations or orders by any government, governmental agency or instrumentality or by any other supervening circumstances beyond the control of either party. Provided, however, that the party affected shall give prompt written notice to the other party of

9.1.1. the date of commencement of the force majeure,

9.1.2. the nature thereof,

9.1.3. expected duration, and

and shall use its best efforts to avoid or remove the force majeure to the extent it is able to do so; and shall make up, continue on and complete performance when such cause is removed to the extent it is able to do so.

## 10. Warranty

10.1. Special features and functionalities of any Product shall only be agreed between TAmiRNA and the Customer if they are explicitly documented in the Quote.

10.2. TAmiRNA does not represent or warrant that TAmiRNA license rights are all the intellectual property rights required by Customer for (i) its use of the Products, or (ii) its combination of Products with other products or components. Customer agrees that securing access to such proprietary rights is Customer's sole responsibility. TAmiRNA does not warrant merchantability or fitness of the Product for the use intended by Customer.

10.3. The Manual (for RUO) / Instructions for Use (for CE-IVD) (each available here: [www.tamirna.com](http://www.tamirna.com)) (hereinafter referred to as "Manual") for the Product is legally binding and applicable.

10.4. Once the agreed terms of payment have been complied with, Customer shall, subject to the conditions hereunder, remedy any defect existing at the time of acceptance of the Product in question. The Customer is obliged to examine the Product at the time of delivery. In case of any lack or defect the Customer shall inform TAmiRNA within 14 days of the date of dispatch of Product in respect of which a complaint is filed, without undue delay, in writing, outlining the occurrence, nature and effects of the lack or defect to enable TAmiRNA to initiate appropriate corrective actions or a replacement of goods. If the Product does not correspond objectively to the nature, content or scope of the Quote then the Customer has the right of improvement of the Product. If the Customer fails to timely inform TAmiRNA about a lack/defect in writing, the goods are considered as approved notwithstanding any other statutory consequences.

10.5. The burden of proof lies with the Customer (especially regarding compliance with the Manual according to Section 3).

10.6. TAmiRNA only provides a warranty as Customer has strictly followed and adhered to the procedure in the Manual. In case a defect is covered by warranty, TAmiRNA at its sole discretion shall have the option to replace the defective Product or to grant a fair and reasonable price reduction. In case of a supplementary performance through a replacement delivery by TAmiRNA the Customer is obligated to resend the defect Product within 30 days.

10.7. Damages to the Products caused by the Customer due to inappropriate treatment do not represent a lack or defect. Decisive for an appropriate treatment and a treatment in accordance with the Quote is in particular the information of TAmiRNA provided with the supplied Product (e.g. Product data sheet, material safety data sheet) and standard industry practice.

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- 10.8. The foregoing shall be Customer's sole and exclusive remedy for any failure of or defect (including hidden defect) in the Product.
- 10.9. Customer shall promptly notify TAmiRNA of any suspected infringement by any third party of any patents relating to the Products and/or any of TAmiRNA's trademarks.

## **11. Limitation of Liability**

- 11.1. In no case will TAmiRNA be liable for any indirect, special, incidental or consequential damages (including loss of profit, loss of revenue, damages to reputation or goodwill, failure to realize expected saving or earning, treble damages or other such commercial or economic losses of any kind) of any kind in connection with or arising out of this Quote (whether in contract, tort, negligence, strict liability, statute or otherwise) even if TAmiRNA has been advised of the possibility of such damages; except liability is mandatory by law on the basis of the product liability law.
- 11.2. Any liability claims of Customer prescribe six (6) months after the damages were or could have been known to Customer, as far as legally permissible.
- 11.3. TAmiRNA's aggregate liability for any claims of Customer shall not exceed fifty percent (50%) of the aggregate amount paid by the Customer to TAmiRNA during the last twelve (12)-months period for the delivered goods, provided, however that this limitation of liability shall not apply
- 11.3.1. where the applicable law is compulsory and excludes any limitation; and
  - 11.3.2. to claims arising from intentional or willful misconduct or intentional breach by TAmiRNA.
- 11.4. TAmiRNA shall not be liable for damage based on whatever legal ground if such damage was caused by slight negligence.
- 11.5. The burden of proof lies with the Customer (especially regarding compliance with the Manual according to Section 3).
- 11.6. These provisions shall not affect cases of personal injury or where liability is mandatory by law on the product liability law.

## **12. Indemnification**

- 12.1. Customer shall indemnify, defend and hold harmless TAmiRNA, its directors, trustees, board members, officers, employees and agents from and against any and all third party claims, losses, expenses and damages, including reasonable attorneys' fees and other costs of defending any action (collectively "Claim(s)") arising out of or relating to
- 12.1.1. Its breach of representations or warranties or for a material breach;
  - 12.1.2. Negligent or reckless activities or omissions, or the willful misconduct under this Quote.
- by wire transfer (in EUR) within fourteen (14) days of the threatened Claim.
- 12.2. In the event that TAmiRNA is held liable according to the rules concerning product liability in relation to a third party, Customer is obliged to indemnify TAmiRNA from all Claims (by wire transfer (in EUR) within fourteen (14) days of the threatened Claim) to the extent that TAmiRNA has limited its liabilities as follows,
- 12.2.1. TAmiRNA is not liable for damages to real property or moveable unless it is established that such damage to real property or movable is due to gross negligence on TAmiRNA's part or others for whom TAmiRNA is liable.
  - 12.2.2. TAmiRNA is under no circumstances liable for personal injury or damage if such are due to the use of the delivered Products contrary to TAmiRNA's manuals or technical specifications or due to negligent acts on the part of others than TAmiRNA.

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- 12.2.3. TAmiRNA is under no circumstances liable for indirect loss, loss of profits or any other kind of consequential loss.
- 12.2.4. TAmiRNA is liable for personal injuries and for damages to real property or movables intended for noncommercial purposes according to the rules in the Austrian Product Liability Act to the extent that TAmiRNA's liability is not limited pursuant to the above-mentioned clauses.

- 12.3. Customer shall immediately notify TAmiRNA of any Claims. Customer shall also immediately notify TAmiRNA of any likelihood of a claim by a third party under any of the foregoing warranties. No adjustment, settlement or payment of such claim made by Customer to a third party, shall be binding on TAmiRNA or obligate TAmiRNA to compensate Customer for such adjustment, settlement or payment, unless final authorization thereto was given by TAmiRNA.

### **13. Confidentiality**

- 13.1. The parties agree not to disclose any Confidential Information to any third party without the other party's written consent, unless expressly permitted by these General Terms and Conditions. The parties shall protect the Confidential Information by using the same degree of care as such party uses to protect its own Confidential Information, but in any event no less than a reasonable degree of care.
- 13.2. A party may disclose Confidential Information in accordance with a judicial or governmental order provided it gives the other party reasonable notice prior to such disclosure to allow the other party an opportunity to seek a protective order or equivalent. In the event that such protective order or other remedy is not obtained, the party required to disclose, shall furnish only that portion of the Confidential Information which is legally required to be furnished in the opinion of that party's counsel.
- 13.3. A party may also disclose Confidential Information to obtain advice from legal, financial or technical consultants provided such third party is bound by a written agreement with Customer that contains obligations of confidentiality at least as restrictive as those specified herein.
- 13.4. The parties may not disclose the existence or terms of these General Terms and Conditions and any transaction hereunder without the prior written consent of the other party; provided, however, that TAmiRNA may disclose the terms of the Quote and these General Terms and Conditions or any other relevant documents in confidence to third party in connection with bona fide merger or acquisition diligence.
- 13.5. "Confidential Information" of a party means any commercial or technical data, documents, materials, procedures, and similar information of such party that is not generally known to the public and is maintained in a confidential manner by such party, whether in oral or tangible form, that is disclosed by such party pursuant to the Quote or these General Terms and Conditions or is observed at such party's facilities.

Confidential Information shall not include any information that the receiving party can demonstrate:

- 13.5.1. is or subsequently becomes publicly available without the receiving party's breach of any obligation owed to the other party;
- 13.5.2. was known to the receiving party prior to the other party's disclosure of such information pursuant to the terms of these General Terms and Conditions;
- 13.5.3. is received by a party from a third party, who has the legal right to disclose information to the party; or
- 13.5.4. is independently developed by a party without the aid, application, or use of information disclosed hereunder, as can be evidenced by written records.

Without limiting the foregoing, Confidential Information of TAmiRNA includes all commercial terms of the Quote, these General Terms and Conditions, and all know-how disclosed or made available by TAmiRNA hereunder.

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#### 14. Copyright

All displayed corporate symbols of other companies, pictures and graphics are a property of such companies and are protected by copyrights of them. All photos represented on this website, all logos, texts, reports, scripts and program routines which are developments of TAmiRNA or have been processed by TAmiRNA must not be copied or used without the prior written consent of TAmiRNA. All further rights are reserved.

#### 15. Jurisdiction and Governing Law

15.1. All disputes or claims arising out of or in connection with the Quote including disputes relating to its validity, breach, termination or nullity shall be finally settled under the Rules of Arbitration of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one arbitrator appointed in accordance with the said Rules. The provisions on expedited proceedings are applicable. The substantive law of Austria shall be applicable without regard to the conflicts-of-laws provisions of such law and without United Nations Convention on Contracts for the International Sale of Goods, 1980. The language to be used in the arbitral proceedings shall be German or English. Documents shall either be submitted in German or English language.

15.2. These General Terms and Conditions are governed by the laws of Austria except for

15.2.1. its conflict of laws provisions and

15.2.2. for the UN Convention on Contracts for the International Sale of Goods.

#### 16. Miscellaneous

16.1. The Customer is not entitled to set off any claims against payment.

16.2. The invalidity of any provision of these General Terms and Conditions shall not affect the validity of any other provision hereof. The parties undertake to replace the invalid provision with another provision which reflects legally the originally intended commercial objectives of the parties as closely as possible. Any oral agreements have to be confirmed by TAmiRNA in writing.

16.3. The Customer hereby agrees that TAmiRNA may wholly or partially assign the Quote or any rights or obligations under this Quote to a third party.

16.4. These General Terms and Conditions together with the Quote, set out the entire understanding between the parties with respect to the matters dealt with herein and supersede any prior agreements, written or oral, previously entered into by the parties covering the matters dealt with herein. These General Terms and Conditions may not be amended except by a writing amending these General Terms and Conditions that is signed by both parties.

16.5. The Customer shall immediately notify TAmiRNA in case of a change of address and/or contact details. Otherwise, any communication of TAmiRNA to the Customer shall be deemed to be received by the Customer if addressed by TAmiRNA to the address/contact details originally provided by the Customer.

16.6. **Counterparts.** The Quote and these General Terms and Conditions may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The Quote and these General Terms and Conditions may be executed and delivered by electronic signature (e.g. DocuSign®) or as a file by electronic mail with signatures by hand; all of such shall be binding as originals.

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