

These **General Terms and Conditions (GTC)** govern the legal relationship between the customer and Alcom SA, Ackerstrasse 45, 8610 Uster (hereinafter referred to as "we" or "us").

***The English version of the GTC is a translation. If the English translation differs from the original German text, the German version is legally binding.***

## **1 General, Order, Mandate**

- 1.1 Unless otherwise agreed in writing, all our deliveries and services are made on the basis of these General Terms and Conditions (GTC), which are always part of the contract. Deviating general terms and conditions of our customers will only become part of the contract if we expressly acknowledge their inclusion in writing before or during the conclusion of the contract. We expressly contradict counter-confirmations by our customers with different conditions.
- 1.2 All agreements made in the name of Alcom SA by our agents, representatives and employees are only binding for us if they have been confirmed by us in writing and this confirmation has been signed by an authorized signatory.
- 1.3 Amendments and additions to the agreements made require our written confirmation to be effective.
- 1.4 If an order is canceled, the customer must do so in writing, by e-mail, by fax or by post. The costs incurred up to that point, the pro rata fee and compensation for any further damage will be invoiced.
- 1.5 A refusal to accept deliveries does not constitute termination or cancellation.
- 1.6 The customer has to formulate the order clearly. If an order is made unclear, the customer is liable.
- 1.7 Price lists contain non-binding information and recommended prices. Unless otherwise stated, offers are valid for three months from the date the offer was created.
- 1.8 The presentation of the goods and/or services on our website and our software/app does not constitute a binding offer. Only the order of goods and/or services constitutes a binding offer by customer to conclude a corresponding contract.
- 1.9 Orders placed with us by telephone will only be accepted if they are confirmed by the customer by fax, e-mail or post.
- 1.10 The contract is only concluded when our written order confirmation is sent to the customer.

## **2 Prices and delivery times**

- 2.1 All prices are exclusive of taxes. All taxes incurred are borne by the customer.
- 2.2 The respective information on our website, in our software/app or the information provided in writing in our offer apply to the scope of services, prices, payment conditions, contract duration, contractual conditions and termination conditions. If information is missing on our website, in our software/app or in the offer, the information in these GTC apply. The right to terminate for good cause remains unaffected.
- 2.3 We always endeavor to meet delivery dates. Delivery periods begin with the receipt of all data necessary for the execution of the order, but at the earliest with the sending of the order confirmation. Circumstances or events which we are not responsible for, which make timely performance impossible or unreasonably difficult, e.g. traffic or operational disruptions, lack of raw materials or energy, a legal strike or lockout, extend the delivery period appropriately. If we are unable to fulfill the contract within the extended delivery period or only with unreasonable difficulties in terms of performance, the customer is entitled to withdraw from the contract. Claims for damages by the customer are excluded in this case, unless we acted willfully or with gross negligence.
- 2.4 Despite the best efforts, a small number of products in our catalog or on our website may be labeled with the wrong price. We will check prices when processing the customer's order and before payment is charged. If a product is priced incorrectly and the correct price is higher than the price on the website or in the catalog, the customer will be contacted before the goods are shipped and asked whether he wants to buy the product at the correct price or cancel the order. If the correct price of a product is lower than the price indicated by us, we will invoice the lower amount and send the product to our customer.
- 2.5 Services may, depending on the type of service, include the delivery of information by post, e-mail or in our software/app. We assume no liability or responsibility for confidentiality or content when sending e-mails. Also if the industry-standard security precautions are not taken when using our software/app or our services on the website, we assume no liability or responsibility with regard to confidentiality or content.
- 2.6 If **products and services are agreed for delivery outside of Switzerland**, please note that with these orders/deliveries the customer will be regarded as the importer/importing company and must comply with all laws and regulations of the country in which the customer receives the products and services. Our customer's privacy is important to us and we would like to make our international customers aware that cross-border deliveries are subject to opening and inspection by customs authorities.
- 2.7 If **products and services are agreed for delivery outside of Switzerland**, they may be subject to import duties and taxes, which are levied as soon as the product reaches the specified destination or our service is received by the customer. Any charges for customs clearance (e.g. import duties) and taxes must be paid by the customer. We have no control over these costs. Customs and tax regulations vary widely from country to country. Therefore the customer should contact the local customs or tax authority for more information.

**3 Payment, late payment, retention and offsetting of payment, order value**

- 3.1 Invoices are payable in full, net and without any deductions within 30 days of the invoice date.
- 3.2 The exercise of a right of retention or offset against our payment claim is only possible with undisputed or titled claims.
- 3.3 If the customer defaults on a payment, all other claims, even those not yet due, are due immediately. In addition, the customer will be obliged to pay in advance to orders that have not yet been completed. The same applies if the economic situation of our customer deteriorates significantly after the conclusion of the contract.
- 3.4 In the event of default, we will charge interest at a rate of 4% above the respective discount rate of UBS SA, but at least 8%. We reserve the right to assert further damage. The customer is entitled to prove that the damage was lower.
- 3.5 We reserve the right to request prepayment at any time without giving reasons.
- 3.6 We have the right to refuse the provision of services, the delivery of the product or the granting of the license in the event of default in payment.

**4 Ownership, use of Audit, Inspection and Analysis Results**

- 4.1 We retain ownership of our products, devices, services, analysis results and audit, inspection and research reports until all payment claims to which we are entitled from the customer for deliveries, services and analyzes have been met in full.
- 4.2 Audit, inspection and analysis results are the property of the customer. The customer is not permitted to publish only extracts of the audit, inspection or investigation report. However, we reserve the right to use these results in the strictest confidence and anonymously for scientific purposes.
- 4.3 Our brand names and logos are our sole property.

**5 Defects, guarantee**

- 5.1 The buyer's rights due to defects/deficits in the delivered products or services, including third-party products (e.g. sensors, gateways), require that he checks the products or the result of the services after delivery and notifies us immediately in writing of any defects/deficits, but no later than two weeks after delivery. Subsequently, a thorough clarification of the possible causes of errors can no longer be guaranteed and the products or the result of the services are deemed to be approved and the order to be lawfully fulfilled. Hidden defects must be reported to us in writing immediately after their discovery.
- 5.2 In the event of any complaint, we have the right to inspect and examine the product in question. This also applies to products that we purchase from third-party suppliers and resell to the customer. The buyer has to give us the necessary time and opportunity for this. In addition, we may request the buyer to return the product in question to us at our expense. If a complaint by the buyer proves to be unjustified and if the buyer recognized this before the complaint was raised or negligently failed to recognize it, the buyer is obliged to reimburse us for all expenses and damage incurred in this context, e.g. travel or shipping costs.
- 5.3 We will, at our own discretion, remedy defects/deficits by remedying the defects/deficits free of charge or by delivering a defect-free item (jointly "subsequent performance"). The buyer will give us the necessary time and opportunity for the subsequent performance. The right to reimbursement of costs for third-party repairs is excluded. During the period of subsequent performance, the customer has no claim to a replacement product. The warranty begins anew for the repaired element; the original warranty period continues for the remaining elements of the product.
- 5.4 If the subsequent performance fails, if it is unreasonable for the buyer or if we reject it, the buyer can either withdraw from the contract or reduce the purchase price according to the statutory provisions.
- 5.5 The limitation period for the buyer's rights due to defects is twelve months starting with the delivery of the product to the buyer. The statutory limitation periods apply to claims for damages by the buyer for reasons other than defects in the product and with regard to the buyer's rights in the case of fraudulently concealed or deliberately caused defects.

**6 Exclusions and Limitations of Liability**

- 6.1 Our liability and the liability of our vicarious agents, regardless of their legal basis, is excluded, unless there are legally required liability obligations. This also applies to damage caused by third-party products (e.g. sensors or gateways). We and our vicarious agents are not liable for consequential damage, indirect material or immaterial damage or for lost profits that arise directly or indirectly for the customer or a third party as a result of our activities, our products, our services or third-party products (e.g. loss of prestige, decline in sales, cancellation of goodwill regulations, financial damage, etc.), insofar as there is no intent or gross negligence on our part.
- 6.2 Any liability for auxiliary persons is fully excluded.
- 6.3 Liability due to the assumption of a guarantee or under mandatory law remains unaffected by the liability exclusions and restrictions. We are only liable for software, devices, products and products of third-party providers within the meaning of the applicable laws.
- 6.4 The customer must ensure that his software and devices work correctly, are suitable for the applications and conditions of use, and that security measures that are appropriate to the confidentiality and importance of the data are taken to prevent their loss or access by unauthorized persons. Insufficient system knowledge and inadequate security precautions on the part of the customer can facilitate unauthorized access by third parties to the customer's computer. It is the responsibility of the customer to find out about the necessary safety precautions and to apply them accordingly. In addition, the customer undertakes to save a copy / backup of his data on his own hardware in order to prevent loss as a result of an unforeseen failure of the server. We cannot be held liable for any damage as a result of the loss or inaccuracy of data or programs or the provision of hardware, software or a service.
- 6.5 We are not liable for malicious access and/or misuse of data that occurs despite all necessary, customary security precautions taken.
- 6.6 The customer is responsible for using the delivered products and services in compliance with the applicable food safety regulations and for ensuring that the devices (e.g., sensors, gateways) are regularly maintained and calibrated. Any liability on our part for damage caused by violations of legal requirements or by improper use or maintenance of the devices is excluded unless caused by intent or gross negligence on our part.
- 6.7 We are only liable in any case up to the amount of the price paid by the customer for the service or the product in question, provided there is no intent or gross negligence. In all other cases, for whatever legal reason, we are liable up to a maximum of ten times the price paid/agreed by the customer for the order.
- 6.8 The customer is obliged to report to us any liability damage immediately.

**7 Retention of Records**

- 7.1 Raw data and inspection reports for pharmaceutical products under GMP (Good Manufacturing Process) and accounting documents are archived for 10 years. Raw data and inspection reports for food, feed and the environment are archived for 5 years.
- 7.2 The documentation for the test reports as well as the test reports are electronically archived in the partner laboratory.
- 7.3 The customer's data and documentation that are transmitted and stored with the help of our software/app and our website, including backend services, remain stored until the customer's request for deletion or the end of the contract. Details on this are given in Chapter "[Additional Provisions](#)".

**8 Severability Clause**

- 8.1 Any part, provision, representation or warranty of this Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Upon such determination that any term or other provision is invalid, illegal or unenforceable, this Agreement shall be modified so as to effect the original intent of the parties and the economic purpose of this provision as closely as possible so that the transactions and agreements contemplated herein are consummated as originally contemplated to the fullest extent possible. The same applies in the event of a loophole in this Agreement.

**9 Confidentiality / Business Secrets / Data Protection**

- 9.1 We may collect, process and use the data recorded in the context of the conclusion of the contract to fulfill our obligations under the contract. The customer declares his full consent to the storage and contractual use of his data by us and is aware that we might be obliged by order of courts or authorities to disclose information from the customer to these or third parties. The data required to fulfill the service can also be passed on to commissioned service partners, e.g. the partner laboratory.
- 9.2 We, our partner laboratory, our IT service provider and the operator of the data center (data storage and processing) undertake to treat all data and information that becomes known about the client and its products in the course of the services as strictly confidential, in particular to be kept secret from third parties. Unless otherwise instructed by the customer or client, reports, statistics, analyzes and further documents are made available exclusively to the client or the partner named in the order.
- 9.3 The customer is fully responsible for the safe storage of his login credentials and passwords.
- 9.4 With the security measures customary in the industry for the handling of confidential data, we ensure the confidentiality of customer data and protect the data appropriately against interference by third parties according to the risk.
- 9.5 We point out that the transmission of data on the Internet (e.g. by e-mail) may have security gaps. Accordingly, an error-free and trouble-free protection of the data cannot be fully guaranteed. Our liability is excluded in this regard.
- 9.6 The [privacy policy](#) also applies. (Available on our website)

**10 Changes**

- 10.1 These general terms and conditions can be unilaterally changed by us at any time, at our sole discretion. The new version comes into force when it is published on our website.
- 10.2 The version of the General Terms and Conditions that was in force at the time the contract was concluded applies, unless we have informed the customer of the changes by e-mail or notifications that are displayed when the user opens our software / app, at least four weeks before the planned entry into force of the new version of the General Terms and Conditions. Within this period, the customer has the opportunity to object to the change. If the customer continues to use our services without objection, the new General Terms and Conditions are deemed to have been accepted. If the customer objects, we expressly reserve our ordinary termination rights.

**11 Further provisions**

- 11.1 Deliveries and services are generally only agreed with companies and craftsperson/entrepreneurs. Deliveries and services to private individuals are excluded.

**12 Applicable law and place of jurisdiction**

- 12.1 Swiss law is authoritative. The place of jurisdiction for disputes arising from the contractual relationship, the conclusion of the contract and its execution is the headquarters of Alcomo SA. However, we are entitled, at our option, to sue at the customer's general place of jurisdiction.

## Additional Provisions

### 13 Food sampling and analysis thereof

#### Delivery times, analyzes and reports

- 13.1 The **delivery time** for the written laboratory analysis report by e-mail for standard tests is usually one working day after the end of the longest incubation period of the microorganisms examined. Provisional reports with the data available so far can be sent at any time by e-mail. If the customer wishes, he/she will be alerted immediately if an examination result is outside the target area.
- 13.2 **Delivery periods** begin with the receipt of the samples and all data required for the execution of the order in our partner laboratory.
- 13.3 The **analyzes** are carried out by our partner laboratory. The evaluations are based on the analysis results and on the information provided by the customer or by us. Evaluations and conclusions relate to the comparison with information from scientifically recognized work and publications, the knowledge and data from the partner laboratory, as well as corresponding standards and legal regulations.
- 13.4 Analytical tests are carried out within the scope of the accreditation of our partner laboratory in accordance with the requirements of **ISO / IEC 17025**.
- 13.5 The analysis results from the partner laboratory are summarized in an **laboratory analysis report** and sent to the customer by e-mail in PDF format. If desired, the report can also be sent by post. An original signed report can also be requested. When sending e-mails, we assume no liability or responsibility with regard to confidentiality or content.
- 13.6 The clearly structured **laboratory analysis report** with comparison of reference values is included in the analysis price of the partner laboratory. The additional time required for special presentations, evaluations or statistics requested by the customer, will be charged.
- 13.7 Each **laboratory analysis report** explicitly refers only to the sample(s) that we or our partner laboratory have received from the customer and the references from the sampling form that was sent to us or the partner laboratory by fax, by e-mail or submitted personally at sample delivery.
- 13.8 If the customer takes the samples on his own, the customer must ensure that this has been carried out correctly. We are only responsible that the **samples were taken correctly** if we have been given the express order to take samples and if we have accepted and carried out this order.

#### Condition of Samples and Liability

- 13.9 Our partner laboratory and we are only liable for the loss or destruction of a sample or multiple samples after its/their receipt, if we acted with willful intent or gross negligence.
- 13.10 The customer assures us that all incoming samples are in a stable condition and that they do not pose any risk. The customer is liable for all damage, injuries or illnesses that we, our partner laboratory or one of our or the partner laboratory's employees suffer as a result of unstable sample(s). This also applies if the customer has expressly pointed out the possible risks of this/these sample(s).

#### Storage of samples and their destruction

- 13.11 The samples will be stored by the partner laboratory up to two days after validation and transmission of the test results, if the nature of the food permits.
- 13.12 Samples will be destroyed without binding and written instruction from the customer at the discretion of our partner laboratory two days after submission of the laboratory analysis report. Only if the customer has expressly requested this in writing, samples will not be destroyed. In this case, storage costs and conditions are subject to a separate agreement.

#### Obligation to report

- 13.13 According to the Swiss Epidemic Act, our partner laboratory is obliged to report positive salmonella findings to the Federal Office of Public Health. Other germs and / or diseases can be classified as notifiable by the responsible authorities, which would oblige our partner laboratory to report positive findings. The same or similar requirements also exist in other countries.

**14 Use of our software / mobile app and our website, including the backend services****Contract conclusion, subscriptions, costs & usage**

- 14.1 The customer automatically agrees to these GTC, when downloading our software/app from the app stores (Google Play Store and Apple App Store) and installing it, and also when using our web and back-end services, as well as when making a payment for the corresponding services.
- 14.2 The use of our software/app is fee-based. The prices agreed when purchasing a subscription apply. A test phase (free of charge) or a reduced price is only valid for the agreed period. After that, the published prices apply. For customers who purchase other services from us, the costs for using our software/app can be waived in whole or in part.
- 14.3 Contracts for subscriptions are concluded for the duration specified on the website, unless the contract contains a different agreement.
- 14.4 Subscriptions are automatically extended by the previously agreed contract period if they are not canceled in due time.
- 14.5 We reserve the right to change our business model and/or prices at any time. Such an adjustment has no influence on the subscriptions already concluded until the end of the term. If the business model and/or the prices are adjusted, the customer is free to decide whether to continue using it or to end the use.
- 14.6 All subscriptions and services in connection with our software/app are billed in advance for the reference period.
- 14.7 The costs for the equipment (computer, tablet, smartphone) required to access our services, as well as all other costs incurred for accessing our services, including telecommunication fees (e.g. internet connection), shall be the user's sole responsibility. The user is responsible for the hardware used.

**Cancellation**

- 14.8 Subscriptions can be canceled at any time by the customer at the end of the subscription period via our website, via the app store (if the subscription is billed via the app store) or in writing, without giving reasons.
- 14.9 If the user account section (login required) of our website or the app store (if the subscription is billed via the app store) is used to cancel, a notice period of one day to the end of the subscription period applies.
- 14.10 In the event of written termination, a notice period of 30 days applies to the end of the reference period.
- 14.11 Written termination will only be accepted by post or fax with the signature of an authorized representative with attached proof of his authorization.
- 14.12 We have the right to terminate the user contract (e.g. subscriptions) without giving reasons with a notice period of 30 days by fax, e-mail or post to the end of the subscription period and to stop offering the service after the subscription period has expired.
- 14.13 We have the right to temporarily block a customer's access to our services and/or to dissolve the contractual relationship due to a culpable breach of contract. For the remaining term of the contract, the customer has to pay damages in the amount of the agreed remuneration minus the saved expenses. The amount of the saved expenses is set at a flat rate of 10% of the remuneration. Both contracting parties are free to prove that the saved expenses are actually higher or lower. Liability on our part for direct and indirect damage due to the temporary blocking of the customer's access to our services or the dissolution of the contractual relationship is excluded.

**Use of the services on our website or our software/app**

- 14.14 We make the software/app and the services on the website available to the customer during the term of the contract (for the term of the contract, see section 2.2, 14.3 and 14.4 of these GTC) and in the scope of functions described in more detail on our website. The backend services of the app and the website remain on our servers.
- 14.15 The customer is responsible for the content of the data and information recorded.
- 14.16 The customer determines his user name and password for the access to the services and is solely responsible for all actions carried out via his account. The customer is also obliged to inform us of any unauthorized use of his account or password or other known or suspected security breaches, and to take appropriate measures to stop them.
- 14.17 An upgrade from a cheaper subscription to a more expensive subscription is possible at any time. However, a downgrade is only possible at the end of the subscription period and must be registered on the website before the subscription expires or the subscription is automatically renewed. If the customer does not use all of the paid services, he is not entitled to full or partial refund.
- 14.18 Add-ons chosen supplementary to the subscription will be charged in advance and cannot be refunded. If the services of the add-on are no longer required, the add-on must be canceled via the website, via the app store (if the add-on is billed via the app store) or within the software/app before the add-on expires or the subscription is automatically renewed.

- 14.19 The customer is obliged to exercise the rights of use only to the extent granted and, among other things, to refrain from the following:
- Make copies of all or part of the software in any way whatsoever;
  - Any further use, publication and making available of information, images, texts or the like that the customer receives in connection with the services of our software/app, the backend services of the app and the website, unless it was explicitly approved by us.
  - Analyzing (observing, studying, or testing) the operation of the software/app to thereby determine the ideas and principles of the program's elements on the basis of which the software performs its loading, displaying, executing, transmitting or storing operations;
  - Decompiling or disassembling, reverse engineering of the software, or creating derivative works based on our software or try to find out the source code, algorithms, ideas behind it, file formats or programming interfaces of the software;
  - Modifying, improving or translating our software, including to correct bugs and errors
  - Transfer, lease, cede or grant as security the ownership of the software in part or in whole in any way whatsoever.

#### **Provision of the service, further development, liability**

- 14.20 Our software/app, the backend services of the app and the website are continuously updated and adapted. This serves, among other things, the security and the stability of our applications. This may change the system requirements. We assume no obligation to permanently provide the customer with a functional application (such as the Alcomo Hygiene App) for his end device if the ability to run on the customer's end device is restricted by technical developments. The customer has no claim to get/use a newer version of the software.
- 14.21 As part of the provision of our software/app, the backend services of the app and the website, we take all reasonable measures to guarantee an uninterrupted availability. We point out, however, that complete, seamless and error-free availability is technically not feasible and we therefore do not assume guarantee for trouble-free operation or a specific availability. We are entitled to carry out maintenance work if necessary. During the maintenance work, the backend services of the app and the website might temporarily not be available. During this time, however, our app can continue to be used within the scope of the "offline" features. Claims for damages by the customer are excluded in the event of failure of our app, the backend services of the app and the website, unless it was intentional or grossly negligent behavior on our part.
- 14.22 The technical support for our software/app, the backend services of the app and the website is based on the contract, and is provided exclusively via tutorial, tips within the app and a compilation of frequently asked questions (FAQ) or feedback function in the app.
- 14.23 We have the right, but no obligation, to further develop the software/app and to create appropriate updates.

#### **Ownership**

- 14.24 The software/app, the backend services of the app and the services on our website with all their updates, upgrades, improvements and changes, their general structure, their texts, graphics, images, sounds and videos as well as all business secrets, copyrights, Patents, trademarks, business names and other intellectual property rights are at all times our complete and sole property.
- 14.25 Documents created by the services on our website or our software/app are the property of the customer. The customer is not permitted to publish only extracts of these documents.

#### **Disclosure / deletion of data after the end of the contract**

- 14.26 If the customer deletes the customer account on our website, we will automatically delete all customer data after 30 days, unless we are legally obliged to store them for a certain period of time.
- 14.27 The customer can have his account and all underlying data deleted at any time with a written application and the signature of an authorized person (proof required). The data will be deleted by us within 14 days of receipt of the application. If it concerns data for which we are legally obliged to store for a certain period of time, we will delete it after this period has expired.

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