

General Terms and Conditions

The following Terms & Conditions are applicable to all purchase and service agreements («Agreement(s)») between EMBLEM Technology Transfer GmbH («EMBLEM») and a purchaser («PARTNER») of EMBLEM's products and services. No other terms and conditions will be accepted unless agreed to in writing by both Parties and these Terms & Conditions shall in all respects prevail over any terms, warranties, conditions, descriptions or representations referred to in PARTNER's order and any prior negotiations between the Parties or their representatives. EMBLEM reserves the right to change or amend these Terms & Conditions for future purchase and service agreements without prior notice. Changes and amendments to these Terms & Conditions shall be published on EMBLEM's website www.embl-em.de and will come into force for existing purchase and service agreements only after PARTNER agreed thereto.

1. EMBLEM's quotes («Quotes») are subject to acceptance by PARTNER. A contract for the provision of the services is considered to be concluded upon receipt of PARTNER's written confirmation of the Quote by EMBLEM. PARTNER will confirm EMBLEM's Quote for services within reasonable time via e-mail or mail. A contract for the purchase of products is considered to be concluded upon receipt of PARTNER's written order and confirmation of that order by EMBLEM in writing or upon delivery of the goods. If a PARTNER's order for the delivery of a product is not accepted, EMBLEM will inform PARTNER. Information about EMBLEM's services and products provided on EMBLEM's website does not constitute an offer.
2. EMBLEM shall perform the services as described in the Quote («Services») and shall supply the products, including all intermediate and final versions of any reports and related documentation or data or other intangible or tangible items, which EMBLEM will have to generate and deliver to PARTNER in accordance with the confirmed Quote (together the «Deliverables») in compliance with the Quote, these Terms & Conditions and in accordance with all applicable laws and regulations and general scientific standards. Deliverables shall be provided in accordance with the agreed specifications, and the Services shall be conducted in a professional manner, with reasonable professional skill and care and all personnel performing the Services will be adequately trained to carry out their part of such Services.
3. PARTNER may request EMBLEM to (a) alter, amend, omit from, add or vary the Services to be provided, (b) alter, amend, omit from, add or vary the Deliverables to be provided, or (c) vary the manner in which EMBLEM performs the Services under the respective confirmed Quote. EMBLEM may propose to PARTNER to (a) alter, amend, omit from, add or vary the Services to be provided, (b) alter, amend, omit from, add or vary the Deliverables to be provided, or (c) vary the manner in which EMBLEM performs the Services under the respective confirmed Quote. Upon such request or proposal, EMBLEM shall inform PARTNER about the changes in cost and time schedule if such requested or proposed changes are implemented. Such change shall only become valid if both parties agreed in writing or per email to the changes of the Services, Deliverables or the performance of the Services and the amended costs.
4. EMBLEM shall provide the Results and Deliverables to PARTNER for internal research purposes only and does not assume any responsibility for the exploitability or fitness for a particular purpose of the Results or Deliverables. In the event, a Deliverable to be supplied does not comply with the outlined specifications in the Quote, EMBLEM may decide to replace the defective Deliverable or parts thereof. In the event, EMBLEM decides not to replace the Deliverable, PARTNER may cancel the Agreement (or parts thereof) and request repayment of a paid purchase price. PARTNER shall return the defective Deliverable or parts thereof properly packaged, post or shipping costs prepaid to EMBLEM. Results means any and all information, data, images, findings, test results, discoveries, inventions, processes, methods, techniques, formulae, substances, specifications, studies, designs or improvements whatsoever (whether patentable or not) that are generated by EMBLEM in the course of the performance of the Services or the generation of the Deliverables (with the exception of EMBL or EMBLEM Foreground IP, as defined below). EMBLEM makes no representation or warranty, expressed or implied, that the use of the Results or Deliverables will not infringe any patent, copyright, trademark or other proprietary rights of a third party. None of the Results or Deliverables shall be used in/on humans. Unless delivery times are specifically guaranteed in the applicable Quote, specified delivery times are only estimates.
5. The ownership of EMBL's (European Molecular Biology Laboratory) and EMBLEM's Background IP, meaning all inventions, discoveries, processes, know-how, trade secrets and other intellectual property in any form created prior to the conclusion of the Agreement or outside of the performance of the Services or the generation of the Deliverables, and of the EMBL or EMBLEM Foreground IP, meaning all inventions, discoveries, processes, know-how, trade secrets and other intellectual property in any form generated by EMBL or EMBLEM in the course of the performance of the Services or the generation of the Deliverables which relates specifically to EMBL or EMBLEM Background IP, including any improvements or modification thereto, is not affected by the Agreement. PARTNER shall not receive any license to such EMBL or EMBLEM Background IP or EMBL or EMBLEM Foreground IP hereunder.

6. All rights to the Results that are generated by EMBL or EMBLEM in the course of the performance of the Services, with the exception of EMBL or EMBLEM Foreground IP, shall be owned by PARTNER as soon as all payments according to the respective confirmed Quote have been made.
7. To the extent permitted by law, EMBLEM shall only be liable for damages caused by willful misconduct or gross negligence. EMBLEM shall not have any liability to the PARTNER for any indirect or consequential loss or damage, including – without limitation – loss of business, profit or goodwill. These limitations of liability shall not apply in case of personal injury or death to a person, willful acts or omissions, slightly negligent breach of material contractual obligations or a breach of confidentiality obligations. In the event of a slightly negligent breach of material contractual obligations, EMBLEM's liability shall be limited to the foreseeable damage.
8. PARTNER will indemnify, defend and hold harmless EMBL and EMBLEM from and against all claims, damages, losses, liabilities and expenses, including court costs and reasonable attorney fees, which arise from third party claims arising from (a) breach of the Agreement; or (b) failure to comply with any applicable laws, rules, statutes, ordinances, or regulations; or (c) the use of Deliverables, in all cases unless such liability results from wilful or gross negligent acts of EMBLEM.
9. PARTNER shall retain strict confidence and not disclose to any third party any Confidential Information of EMBL or EMBLEM. Confidential Information shall mean any and all information of EMBL or EMBLEM which is protected against becoming public by reasonable measures and disclosed to PARTNER under the Agreement, if marked as "confidential" when disclosed in written, graphic, electronic or tangible form, or designated in writing or per email as "confidential" within fifteen (15) days when disclosed orally or identifiably "confidential" due to its nature. PARTNER shall not use any confidential information of EMBL or EMBLEM for any purpose other than as provided for in the Agreement (which includes the exercise of any right or the performance of any obligations thereunder).

The provisions of this Section 9 shall not apply to any confidential information which was either (a) independently developed or known by PARTNER prior to its disclosure, as evidenced by written records, or (b) is in the public domain or has been lawfully disclosed to PARTNER by a third party, or (c) is required to be disclosed by PARTNER to comply with applicable laws or regulations. The confidentiality obligations hereunder shall remain binding upon PARTNER for a period of ten (10) years after the completion of the Services as described under the Agreement.

10. Each party acknowledges that when processing personal data (as defined in Art. 5 of the General Data Protection Regulation (GDPR) or any other applicable data protection legislation) the Parties shall comply with the applicable statutory data protection provisions. The parties are independent data controllers within the meaning of Art. 4 No. 7 GDPR. The transferring party shall be responsible for fulfilling the information obligations pursuant to Art. 13 or 14 GDPR vis-à-vis the affected data subjects, including informing them about the transfer of personal data to the receiving party. The receiving party is obliged to process personal data entrusted to it only in connection with the respective Agreement and the personal data must be deleted immediately after termination or completion of the Agreement; provided that personal data may be kept for longer periods if legal retention obligations apply.
11. PARTNER shall make payments (plus VAT if applicable) by latest thirty (30) days upon receipt of EMBLEM's invoice. Receipt of payment is deemed received upon its complete and unconditional credit to EMBLEM's account. Place of payment is Heidelberg, Germany. EMBLEM accepts payment by wire transfers. All other methods of payment must be expressly agreed to by EMBLEM.
12. No failure or omission in the performance of any of EMBLEM's contractual obligations shall create liability, if such failure or omission is the result of acts of God, war, riot, accidents, compliance with any action or restriction of any government or agency thereof, strikes or labor disputes, limitations of transportation, inability to procure materials required to the performance of the contract or any other factor or circumstance beyond EMBLEM's control hereto. In this case EMBLEM will give written notice to PARTNER within fourteen (14) days of EMBLEM's knowledge of such occurrence.
13. Should single provisions of the Agreement be or become invalid, entirely or partly, this shall not affect the validity of the remaining provisions. The Parties agree to replace the invalid provision by a valid provision which comes as close as possible to the economic intention the Parties had in mind when drafting the invalid provision. The same shall apply in case of gaps in the contract.

14. No waiver, amendment or modification of any purchase contract between EMBLEM and PARTNER shall be valid, enforceable or binding upon EMBLEM unless expressly agreed to in writing. Waiver of this form requirement shall be in writing. Application of any contradicting term or condition by PARTNER is rejected.
15. Unless expressly specified otherwise in writing, any legal relationship between EMBLEM and PARTNER, including the Agreement, shall be governed and construed in accordance with the laws of the Federal Republic of Germany, with the exclusion of its conflict by laws provisions. The exclusive venue for any disputes arising out of or in connection with the Agreement shall be Mannheim, Germany.
16. Failure of either party to insist upon or enforce strict performance of any provision of the Agreement will not be construed as a waiver of that provision or any other provision nor future right or provision. Neither shall the course of conduct between EMBLEM and PARTNER nor shall the trade practice modify any provision of the Agreement.
17. Any notice required under the Agreement shall be made in writing, email sufficient. All notices to EMBLEM shall be directed to: EMBL Enterprise Management Technology Transfer GmbH, Boxbergring 107, D-69126 Heidelberg, Germany, via email to info@embl-em.de.