

GENERAL TERMS AND CONDITIONS

AYOXXA LICENSE AGREEMENT

- AYOXXA Reader AR01, LUNARIS™ Analysis Suite, LUNARIS™ multiplex kits -

1. SCOPE; CONCLUSION OF CONTRACT

- 1.1 The license between AYOXXA Biosystems GmbH ("AYOXXA"), a corporation organized under the laws of Germany and having a place of business located at BioCampus Cologne, Nattermannallee 1, 50829 Cologne, Germany and the commercial business customer in the meaning of Section 14 German Civil Code (*Bürgerliches Gesetzbuch -BGB*) ("Customer") identified on AYOXXA's order confirmation ("Confirmation") concerning
- AYOXXA Reader AR01 ("Reader"),
 - the respective control LUNARIS™ Analysis Suite ("Control Software"),
 - the respective analysis software LUNARIS™ Analysis Suite ("Analysis Software") (Control Software and Analysis Software also referred to as "Software")
 - LUNARIS™ multiplex kits ("Kits"), as well as
 - the Software documents and manuals for the Reader, Software and Kits ("Documents"), (Reader, Software, Kits and Documents collectively, "Product(s)"),
- as outlined in the Confirmation to be licensed ("Licensed Product(s)"), shall solely be governed by this license agreement ("License Agreement"). AYOXXA and the Customer are hereinafter also separately referred to as "Party" or jointly referred to as "Parties".
- 1.2 The Parties have already concluded or are about to conclude a purchase contract with regard to the Licensed Product. The Customer wishes to use the Licensed Product for the use for services or performances in connection with external Clinical Research Organizations ("CRO"). AYOXXA is willing to permit and thus to grant the Customer a license concerning the Licensed Product for the use for services or performances in connection with external CROs, as identified in the Confirmation, according to this License Agreement.
- 1.3 This License Agreement shall only be formed and become effective upon AYOXXA's written Confirmation. This License Agreement will only take place in combination with the purchase and delivery of the respective Licensed Product to which this License Agreement shall apply (as identified in the Confirmation).
- 1.4 This License Agreement takes precedence over any additional or license terms and conditions which may be included on Customer's product order ("Order"), confirmation or otherwise, which shall be of no effect and to which notice of objection is hereby given.
- 1.5 AYOXXA reserves the right at any time to amend this License Agreement especially when its services are extended further or also after changes are made to the legal system. By means of the notification AYOXXA shall inform the Customer about the fact that the License Agreement has been amended and shall point out that upon the expiration of two (2) months after the notification its acquiescence will be deemed a consent to the modification or amendment of the License Agreement.
- 1.6 For clarification purpose and for the avoidance of an apparent power of attorney and power of attorney by estoppel (*Duldungs- und Anscheinsvollmacht*), AYOXXA's salespersons of internal and field sales have no authorization to close either verbal or side contracts. Any deviations from written offers or order confirmations given by such salesperson only apply, if these have been approved by AYOXXA's management prior or at conclusion of the contract. This also applies to

subsequent changes and supplements of the License Agreement – this includes this clause – as well as any type of collateral agreements. Clause 1.6 shall not apply for persons acting with legal representation authority for the Customer.

2. LICENSE

- 2.1 AYOXXA remains the owner of the Licensed Products.
- 2.2 Upon delivery of the respective Licensed Product to the Customer, AYOXXA grants to the Customer a non-exclusive, royalty-free, non-sublicensable right of use the Licensed Product for the use for the services or performances in connection with external CROs as identified in the Confirmation. The right of use is substantively and timely limited to the performance of the services or performances as specified in the Confirmation. The right of use is limited to its pure application. Unless otherwise stipulated in AYOXXA's offer or the Confirmation, the right of use does not include the processing, further development, reproduction and publication of the Licensed Product. For the avoidance of doubt, apart from clause 2.5, the Licensed Product may not be copied, revised, altered, decompiled or disassembled into its individual parts, further developed or reengineered without the prior written consent of AYOXXA. The source code of the Software contained in the Licensed Product ("Licensed Software") shall not be disclosed to the Customer.
- 2.3 The right to use the licensed Control Software is limited to the independently use on a laptop. The right to copy the Licensed Software granted to the Customer herein is limited to the installation of the Licensed Software on a computer system which is in the Customer's immediate possession and to fulfill the Purpose and a copy thereof which is required for the loading, display, running, transfer or storage of the Software as well as to the right for an authorized person to make a copy for security backup purposes, as stated in Section 69d para. 2 German Copyright Act (*Urheberrechtsgesetz - UrhG*).
- 2.4 The right to revise the Licensed Software granted to the Customer herein is limited to the maintenance or reinstatement of the agreed functionality of the Licensed Software.
- 2.5 The right to decompile the Licensed Software is only granted under the terms of Section 69e para 1 no. 1 to 3 UrhG and within the limits of Section 69e para. 2 no. 1 to 3 UrhG.

3. LIABILITY

- 3.1 AYOXXA shall only be liable, in accordance with the statutory provisions, for damages that AYOXXA or its performing and vicarious agent have intentionally or grossly negligently caused.
- 3.2 In the case of violation of essential contractual obligations (cardinal obligations), AYOXXA shall also be liable for slight negligence, whereby this liability is limited to the foreseeable, contractually typical damages, which have been foreseeable on the date the contract is concluded or, at the latest, when the breach of duty was committed. Cardinal obligations are such basic duties which form the essence of the contract, which were decisive for the conclusion of the contract and on the performance of which the Customer may rely.
- 3.3 Furthermore, AYOXXA shall be liable for losses arising from the lack of any warranted characteristics up to the amount which is covered by the purpose of the warranty and which was foreseeable for AYOXXA at the time the warranty was given.
- 3.4 Claims for damages under the German Product Liability Act (*Produkthaftungsgesetz – ProdHaftG*), and the injury and damage to life, body and health shall remain unaffected by any limitation of liability, as far as applicable.
- 3.5 AYOXXA shall not be liable for damages resulting from improper handling or improper use of the Licensed Product.

4. CONFIDENTIALITY

- 4.1 "Confidential Information" shall mean any and all confidential and proprietary information, either of business or technical nature, data or know-how, whether provided in written, oral, visual or other form, disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") pursuant to this contract and which is clearly marked as "confidential" and/or information which is regarded as confidential due to its nature.
- 4.2 The Parties each agree:
- (a) to maintain in confidence the Confidential Information received hereunder from the other Party, so as not to disclose the same directly or indirectly to any third party, using the same degree of care as the Receiving Party uses to maintain its own confidential information; and
 - (b) not to use, without the Disclosing Party's prior written consent, the Confidential Information except for as contemplated for activities within the scope of this License Agreement.
- 4.3 The Parties agree to limit access to Confidential Information received hereunder to those of their employees who have a need to know the Confidential Information in furtherance of the contract. In addition, the Parties may disclose such Confidential Information to their respective directors and professional advisors for use solely in accordance with the scope of the License Agreement. All such further recipients shall be bound towards the Receiving Party by confidentiality and non-use obligation in such way that the Receiving Party can comply with its obligations under this License Agreement.
- 4.4 Exempted from the non-use and secrecy obligation shall be the following:
- (a) information which at the time of disclosure is in the public domain, or which after disclosure becomes part of the public domain through no fault of the Receiving Party; or
 - (b) information which the Receiving Party can prove by written or other tangible evidence already was in its possession at the time of disclosure hereunder; or
 - (c) information which the Receiving Party can prove by written or other tangible evidence that it has received in good faith from a third party, which to the Receiving Party's knowledge the third party without breach of any obligation of secrecy is free to disclose to others; or
 - (d) information which the Receiving Party can prove by written or other tangible evidence is independently developed by the Receiving Party without reference to the Confidential Information disclosed to it pursuant to this License Agreement.
- 4.5 Notwithstanding the obligations set forth in clause 4.3 here above, either Party may disclose Confidential Information to the extent necessary to comply with the requirements of a government agency or any other applicable law or regulation, so long as the Receiving Party first provides the Disclosing Party (where permitted) with notice of such requirements and its intent to make the disclosure in order to give the Disclosing Party a reasonable opportunity to obtain a suitable protective order.
- 4.6 The Parties agree that, upon written request of the Disclosing Party, the Receiving Party shall destroy or return to the Disclosing Party all Confidential Information received from the Disclosing Party under this contract in written or other tangible form, including all copies thereof, provided, however, that one (1) copy may be retained solely for determining the Receiving Party's obligations hereunder.
- 4.7 The obligations under this clause 4 shall survive for a period of five (5) years following the effective date of the contract.

5. TERMINATION; EFFECTS OF TERMINATION

- 5.1 This License Agreement is subject to the conclusion of the purchase agreement(s) regarding the Licensed Product(s). This License Agreement remains in effect for the duration of the services and performances for the CROs as outlined in the Confirmation.
- 5.2 Either Party shall be entitled to extraordinary terminate the License Agreement.
- 5.3 Upon termination of this License Agreement according to clauses 5.1 or 5.2, any of the rights to use concerning the Licensed Products under the license of clause **Error! Reference source not found.** shall cease.

6. GOVERNING LAW, DISPUTE RESOLUTION AND VENUE

- 6.1 The License Agreement shall be governed and construed in accordance with the laws of Germany. The contract shall not be governed by the United Nations Conventions for the International Sale of Goods, the application of which is expressly excluded.
- 6.2 The regional courts (*Landgericht*) of Cologne, Germany shall have exclusive jurisdiction and venue over all disputes arising out of or in connection with the contract, provided that the Customer is a merchant within the meaning of the HGB, a legal entity under public law or if upon the commencement of legal proceedings, the Customer has no place of business or ordinary residence in Germany.

7. MISCELLANEOUS

- 7.1 Personal data (e.g. contact details) of the Customer, for which AYOXXA is a data controller, are collected and used exclusively for the contractual processing of the respective contractual relationship in accordance with the applicable data protection laws.
- 7.2 Contact details of AYOXXA's customer service can be found at www.ayoxxa.com.
- 7.3 Both Parties may only advertise the business relationship with the other Party, in particular by mentioning or using the company, company components and/or company logo of the other Party, with the prior written consent of the respective other Party.
- 7.4 This License Agreement, the Confirmation and AYOXXA's general terms and conditions concerning applicable to the Licensed Products are the entire and only agreement between the Parties with respect to the subject matter of this contract and may not be amended, superseded or altered except by an instrument in writing duly executed and delivered on behalf of each of the Parties hereto; this also applies to this clause 7.4.
- 7.5 Any headings used in this License Agreement are for convenience purposes only and shall not have any effect on the interpretation of the License Agreement.
- 7.6 If any provisions or part of this contract is invalid or unenforceable, it shall not affect the remainder of the contract, but the remainder shall be binding and effective. In such case the invalid provisions or unenforceable provision shall be replaced by a valid and enforceable provision which comes as close as possible to the commercial scope of the invalid or unenforceable provision.