



# artichoke

GTC Artichoke Biotech GmbH Version as of 06.07.2023

**Caution!** The German version of the GTCs is to be regarded as the official (authentic) version of the GTCs. This means that the meaning of the GTCs is to be determined on the basis of the German version according to Austrian law. The English version is only for the information of English-speaking customers. In the event of any ambiguities or questions regarding the interpretation of the provisions, Artichoke should be contacted.

## General terms and conditions

### 1. General - Scope of these GTC

For all contractual relationships between Artichoke Biotech GmbH, Göstling 51, 3345 Göstling an der Ybbs (FN524692g, FBG Landesgericht St.Pölten), +43 720 980 990, [support@artichoke.eu](mailto:support@artichoke.eu) (hereinafter referred to as "Artichoke") and the contractual partner (hereinafter referred to as "AG"), the following General Terms and Conditions - in the respective version current at the time of the conclusion of the contract - hereinafter referred to as "GTC" for short, shall apply, unless otherwise agreed by special written agreements (e.g. in separate GTCs for individual products of Artichoke).

"Artichoke" contracts exclusively on the basis of these GTC. Deviations, supplements and special assurances by "Artichoke" require a written agreement.

By placing an order and taking note of these GTC, the AG accepts these GTC as the contractual basis. Should individual provisions in these GTC be invalid in whole or in part, the remaining provisions shall remain unaffected and effective. The GTC are published on the website of Artichoke Biotech GmbH.

The AG agrees that general terms and conditions of the AG or third parties shall not apply subject to express consent, even if we, Artichoke Biotech GmbH, do not separately object to them. In particular, acts of contract performance on our part shall not be deemed to be consent to any terms and conditions that deviate from our GTC.

### 2. Conclusion of contract

Unless otherwise communicated, our offers constitute a non-binding invitation to you to order goods/services from us.

By placing an order on your part, you are making a binding offer to conclude a contract under inclusion of our GTCs.

The acceptance of your offer by Artichoke is effected by a separate written order confirmation within a reasonable period of time or implied by performance.

Artichoke is entitled to accept orders, even only in part (in which case the order confirmation is deemed to be a new offer, unless otherwise agreed, the offer is deemed to be accepted if you do not object to it within 3 days) or to reject it without giving reasons. Should you not get an order confirmation, you will be asked to contact us at [support@artichoke.eu](mailto:support@artichoke.eu).

Declarations, confirmations or undertakings by employees by which existing orders are adjusted or changed shall not have any legal effect. Insofar as special conditions (e.g. deadlines and/or places of performance for the services) are provided for, these shall only be binding if they have been agreed in writing.

The contract language is "German", any other language versions are only for the information of foreign language customers.

### **3. Prices, terms of delivery and payment**

All prices are quoted in euros and include any value added tax.

We shall notify the AG of all additional freight, delivery, shipping or other costs prior to the submission of this offer, insofar as these costs can reasonably be calculated in advance. If such costs cannot reasonably be calculated in advance, we shall indicate in advance the possible incurrence of such additional costs prior to the submission of the offer by the AG.

Once a discount has been granted, it does not constitute a legal claim with regard to further services.

The AG shall provide an invoice address when placing the order. In addition, an e-mail address may be provided. Invoices shall be sent to an e-mail address if one has been provided, otherwise a single copy shall be sent to the invoice address.

Unless otherwise agreed in writing, claims/fees of Artichoke are to be paid in full and without deduction immediately after conclusion of the contract for the ordered products/services. For further details, please refer to the invoices or the respective product/service information.

Any delivery (posting by us) shall take place - provided the goods are in stock and nothing to the contrary is noted - within 4-5 working days after acceptance of the order by e-mail (order confirmation) or receipt of the order (in the case of acceptance by actual delivery). In any case, you must accept minor delays in delivery without deriving a claim for damages or a right to withdraw from the contract.

The choice of carrier is made by Artichoke at its best discretion, but without guarantee for the choice of the fastest and cheapest shipment.

The delivery period shall be extended by the duration of the hindrance due to all circumstances independent of the will of the parties, such as cases of force majeure, unforeseeable operational

disruptions, official interventions, transport and customs clearance delays, transport damage, rejects of important production parts and labour disputes.

Delivery shall be made to the delivery address indicated by the AG. Any additional costs caused by the AG providing an incorrect delivery address shall be borne by the AG.

Any use of our deliveries and services beyond the intended use is not permitted.

In the event of any typing, printing or calculation errors, we reserve the right to withdraw from the contract.

## 4. Retention of title

Unless otherwise agreed in writing, all services provided by Artichoke are to be paid for in advance. Until full payment of all claims/fees of Artichoke, all products and services including rights and use remain the property of Artichoke Biotech GmbH. Prior to transfer of ownership, resale, pledging, transfer by way of security, processing or transformation is not permitted without our express consent.

The AG is obliged to treat the products with care during the existence of the retention of title. He must inform Artichoke without delay of all access to the products by third parties, in particular of enforcement measures, as well as of damage to or destruction of the products. If Artichoke is at fault, the AG shall compensate Artichoke for all damages and costs arising from a breach of these obligations and from necessary intervention measures against access to the products by third parties.

## 5. Warranty

### Warranty towards consumers:

In the event of defects in the products, the statutory warranty provisions apply to consumers (§8 KSchG). No case of warranty exists in the case of damage caused by improper use or treatment of the product. The same applies to normal wear and tear.

The product images on website/folder/app may differ in colour and size from the appearance of the delivered products due to resolution and size. The delivered products are deemed to be in accordance with the contract if the delivered pieces comply with the other product specification.

If the AG is a consumer within the meaning of the Consumer Protection Act (KSchG), he must inspect the delivered goods upon receipt for completeness, correctness and other defects, in particular for the integrity of the packaging, and notify us of any defects by email to [support@artichoke.eu](mailto:support@artichoke.eu) and briefly describe them. This only serves the purpose of faster and more effective processing of any notices of defects. A breach of this obligation shall not lead to any restriction of the statutory warranty rights.

If the AG requests that the product be returned to Artichoke and if the goods are actually defective, Artichoke shall bear the corresponding costs. Otherwise, any costs of the shipment are to be borne by the AG. Defective goods are therefore only to be returned at the express request of Artichoke.

### Warranty towards entrepreneurs:

If the AG is an entrepreneur, the AG must check the delivered products upon receipt for completeness, correctness and other freedom from defects, in particular the integrity of the packaging. In the event of defects, the AG shall notify these within a reasonable period of time, but no later than fourteen working days after receipt of the goods, by e-mail to [support@artichoke.eu](mailto:support@artichoke.eu).

Defects that become apparent at a later date must also be reported immediately, at the latest within fourteen working days after they become apparent.

In particular, the AG shall immediately inspect delivered products for quantitative completeness and functionality and immediately report any defects.

If the AG has not discovered and complained about any defects within the complaint period, the delivery shall be deemed to have been approved and all claims such as, for example, warranty, contestation of error or compensation for damages due to a later alleged deviation or defect (§ 377 of the Austrian Commercial Code) shall lapse. This also applies with regard to any incorrect deliveries or deviations in the delivery quantity.

The warranty for defects is limited to a period of 1 year from the date of performance.

Artichoke shall have the exclusive choice of remedy for any defect notified in time. Artichoke is also free to convert the agreement immediately.

The costs for returning the goods for improvement or replacement shall be borne by the AG.

## **6. Liability**

### General disclaimer:

Artichoke's liability is excluded for damage caused by improper/incorrect use of the product as well as in cases of normal wear and tear. The AG shall in any case indemnify and hold us harmless in this respect.

### Liability towards consumers:

If the AG is a consumer, Artichoke is liable for damages according to the statutory provisions. However, liability for damages caused by slight negligence is excluded. This limitation of liability does not apply to damages from the violation of the life, body or health of humans and for claims under the Product Liability Act.

### Liability towards entrepreneurs:

If the AG is an entrepreneur, Artichoke's liability for damages caused by slight negligence is excluded. This limitation of liability does not apply to damages resulting from injury to life, body or health of persons and to claims under the Product Liability Act. The AG must prove the existence of intent or gross negligence and assert claims for damages within one year from the transfer of risk; the absolute limitation period is 10 years.

The provisions on damages contained in these GTC or otherwise agreed shall also apply if the claim for damages is asserted in addition to or instead of a warranty claim.

Any recourse claims within the meaning of § 12 of the Product Liability Act are excluded unless the person entitled to recourse proves that the defect was caused in our sphere and was at least due to gross negligence.

## 7. Copyright, confidentiality, data processing

Artichoke retains the copyright to the services provided.

The personal data disclosed by the AG within the scope of the business relationship, such as name, address, e-mail, telephone number and delivery address, are stored and processed by Artichoke. Artichoke uses the data within the scope of the legal authorisation, for the fulfilment of the concluded contract as well as for the fulfilment of legal obligations in order to execute the order and, if necessary, also transmits the data to third parties for this purpose. By placing the order, consent to the use of the personal data for the aforementioned purposes is thus deemed to have been given. Further information, in particular regarding the rights of data subjects, can be found in our [data protection declaration](#).

By announcing electronic communication options, the AG agrees that correspondence (in particular the transmission of personal data, documents, reporting, invoicing, etc.) may also be conducted via (insecure channels of) these communication options (fax, e-mail, etc.).

Cost estimates, brochures, samples, presentations and the like remain the intellectual property of Artichoke. Any disclosure, duplication, publication and making available of these documents, even in part, requires the express consent of Artichoke.

## 8. Choice of law, place of jurisdiction

The entire business relationship shall be governed exclusively by Austrian law, excluding the conflict-of-law rules of private international law and the UN Convention on Contracts for the International Sale of Goods. For all disputes arising from the business relationship, the jurisdiction of the court with subject-matter and local jurisdiction for Göstling an der Ybbs is declared. Our right to invoke another court with jurisdiction for the AG in this case shall remain unaffected by this.

This clause does not affect the statutory rights as a consumer, mandatory provisions of the law of the state in which the AG, as a consumer has his habitual residence, take precedence over this choice of law clause.

## 9. Severability clause

Should individual provisions of these GTC be invalid in whole or in part, this shall not affect the validity of the remaining provisions and the contracts concluded on the basis thereof. The wholly or partially invalid provision shall be replaced exclusively in the case of contracts with entrepreneurs by a provision that comes as close as possible to the meaning and purpose of the invalid provision.

## 10. Cancellation policy

Rights of withdrawal and rescission and consequences for consumers under FAGG (10.1 to 10.8) or KSchG (10.9)

10.1 If the AG is a consumer within the meaning of the Consumer Protection Act (austrian KSchG) and has concluded the contract based on these General Terms and Conditions either as a distance contract or outside our business premises (and if the fee to be paid in the latter case is more than EUR 50), it may withdraw from this contract without stating reasons until the expiry of the period specified in clause 10.2. This does not apply in the exceptional cases regulated in clause 10.8 and products under the conditions specified in clause 10.8.8. In order to withdraw, the customer must inform us of his decision to withdraw from this contract by means of a clear declaration (e.g. a letter sent by post, fax or e-mail). However, the withdrawal is not bound to any particular form. Please note, however, that the withdrawal must reach us in order to be effective. The customer can use the model withdrawal form attached here for this purpose. (attachment 2)

10.2 The withdrawal period is as follows:

10.2.1 In the case of sales contracts and other contracts for the purchase of goods against payment, they can be cancelled within 14 days from the day on which the consumer or a third party named by the consumer who is not the carrier has gained possession of the goods or the last partial consignment or the last goods delivered (Paragraph 11(2)(2)(a) to (c) FAGG).

10.2.2 In the case of contracts for the regular supply of goods over a fixed period of time, the period shall be 14 days from the day on which the consumer or a third party named by him, who is not the carrier, acquires possession of the goods first delivered;

10.2.3 In the case of contracts for the delivery of digital contents not stored on a physical data carrier - unless the exception to the right of withdrawal pursuant to Sec. 10.8.8 applies - the period shall be 14 days from the date of conclusion of the contract.

10.2.4 For service contracts, the period begins on the day the contract is concluded and is 14 days.

10.2.5 The withdrawal period according to points 10.2.1 to 10.2.4 is met if the declaration of withdrawal is sent within the period. Please note, however, that the withdrawal must reach us in order to be effective (the risk in the case of postal or electronic transmission (fax, email) lies with you).

10.3 If we have not complied with our duty to inform pursuant to Paragraph 4 (1) (8) FAGG, the withdrawal period from point 10.2 shall be extended by twelve months. If we comply with our duty to inform within this period, the withdrawal period ends 14 days after the consumer receives this information.

10.4 If the consumer withdraws from the contract, we must reimburse the consumer for all payments we have received from the consumer, including delivery costs (with the exception of additional costs resulting from the fact that the consumer has chosen a type of delivery other than the cheapest standard delivery offered by us), without delay and at the latest within 14 days of the day on which we received notification of the consumer's withdrawal from this contract. For this repayment, we shall use the same means of payment that the consumer used in the original transaction, unless expressly agreed otherwise with the consumer. In no case will the consumer be charged for this repayment. In the case of sales contracts or other contracts for the purchase of goods, we may refuse repayment until we have either received the goods back or the consumer has provided proof that the goods have been returned, unless we have offered to collect the goods ourselves.

10.5 The consumer must return or hand over any goods already received to us without delay and in any case no later than 14 days from the day on which the consumer notifies us of the cancellation of this contract. The deadline is met if the consumer sends the goods before the expiry of the 14-day period, the postmark being decisive. The consumer shall bear the direct costs of the return, provided that we have informed him in advance of the obligation to bear the costs of the return. The consumer shall only be liable for any loss in value of the goods if this loss in value is due to handling by the consumer which is not necessary for checking the quality, characteristics and functioning of the goods. However, the consumer shall in no case be liable for the loss in value of the goods if he was not informed by us of his right of withdrawal.

10.6 If the consumer withdraws from a contract for the delivery of digital content not stored on a physical data carrier - unless the exception to the right of withdrawal pursuant to clause 10.8.8 applies - the consumer shall not be obliged to pay for services already provided by the trader.

10.7 If, in the case of a contract for services, the consumer has requested that these should begin during the withdrawal period, he shall pay us a reasonable amount corresponding to the proportion of the services already provided up to the time when the consumer notifies us of the exercise of the right of withdrawal with regard to this contract, compared to the total scope of the services provided for in the contract.

10.8 Pursuant to Paragraph 18(1) FAGG, the consumer has no right of withdrawal when concluding contracts on:

10.8.1 services if we - on the basis of an express request by the consumer pursuant to Paragraph 10 FAGG as well as a confirmation by the consumer of his knowledge of the loss of the right of withdrawal in the event of complete fulfilment of the contract - have commenced performance of the service before the expiry of the withdrawal period pursuant to Paragraph 11 FAGG (see point 10.2) and the service has then been provided in full,

10.8.2 Goods or services whose price depends on fluctuations in the financial market over which the trader has no control and which may occur within the withdrawal period,

10.8.3 Goods that are manufactured according to customer specifications or are clearly tailored to personal needs,

10.8.4 Goods that can spoil quickly or whose expiry date would be quickly exceeded,

10.8.5 Goods that are delivered sealed and are not suitable for return for reasons of health protection or hygiene, provided that their seal has been removed after delivery,



10.8.6 Goods which, due to their nature, have been inseparably mixed with other goods after delivery,

10.8.7 Sound or video recordings or computer software supplied in a sealed package, provided that the seal has been removed after delivery,

10.8.8 the delivery of digital content not stored on a physical data carrier if the trader - with the express consent of the consumer, combined with the consumer's knowledge of the loss of the right of withdrawal in the event of premature commencement of performance of the contract, and after providing a copy or confirmation in accordance with Paragraph 5(2) FAGG or paragraph 7(3) FAGG - has commenced delivery before the expiry of the withdrawal period in accordance with Paragraph 11 FAGG.

10.9 If the agreed remuneration is less than EUR 50, the customer has the right of withdrawal according to § 3 KSchG as follows: If the consumer has not made his contractual declaration either in the premises permanently used by the trader for his business purposes or at a stand used by him for this purpose at a trade fair or market, he may withdraw from his contract application or from the contract. This withdrawal may be declared up to the conclusion of the contract or thereafter within 14 days. This period begins with the delivery to the consumer of a document containing at least the name and address of the trader, the information necessary for the identification of the contract as well as instructions on the right of withdrawal, the withdrawal period and the procedure for exercising the right of withdrawal, but at the earliest with the conclusion of the contract, in the case of contracts for the sale of goods with the day on which the consumer acquires possession of the goods. If the trader fails to deliver such a document, the consumer has the right to withdraw from the contract for a period of 12 months and 14 days from the conclusion of the contract or the delivery of the goods; if the trader delivers the document within 12 months from the beginning of the period, the extended withdrawal period ends 14 days after the consumer receives the document.

10.9.1 In this case, the provisions of points 10.4 and 10.5 above shall apply to the exercise of the right of withdrawal. The model declaration of withdrawal (Annex 1 and 2) may be used.

10.9.2 The consumer does not have the right of withdrawal if he himself initiated the business relationship with the trader or his agent for the purpose of concluding this contract, if the conclusion of the contract was not preceded by discussions between the parties or their agents, or in the case of contracts where the mutual services are to be provided immediately, if they are usually concluded by entrepreneurs outside their business premises and the agreed remuneration does not exceed 25 Euros, or if the business is by its nature not operated in permanent business premises and the remuneration does not exceed 50 Euros, in the case of contracts which are subject to the Distance and Outward Transactions Act (in this case the right of withdrawal pursuant to points 10.1 to 10.8) or in the case of contractual declarations made by the consumer in the physical absence of the trader, unless the consumer has been urged to do so by the trader.

## 11. Other

Subsequent additions or amendments to contracts must be made in writing. This also applies to any waiver of the written form requirement.



The currently valid GTC can be accessed at any time at <https://www.artichoke.eu/agb>. Should you require access to earlier versions, we will be happy to provide you with these - if necessary - please send us an email at [support@artichoke.eu](mailto:support@artichoke.eu).

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# Annex 1

## Information on exercising the right of withdrawal Cancellation policy

### Right of withdrawal

You have the right to cancel this contract within fourteen days without giving any reason.

The withdrawal period is fourteen days:

- from the day of the conclusion of the contract, in the case of (digital) services and digital content.
- from the day on which you or a third party named by you, who is not the carrier, has or has taken possession of the goods in the case of a purchase contract.
- from the day on which you or a third party named by you, who is not the carrier, has or has taken possession of the last goods in the case of a contract for several goods which the consumer has ordered as part of a single order and which are delivered separately.
- from the day on which you or a third party named by you, who is not the carrier, has taken possession of the last partial consignment or the last piece, in the case of a contract for the delivery of goods in several partial consignments or pieces.
- from the day on which you or a third party named by you, who is not the carrier, have taken or has taken possession of the first goods, in the case of a contract for the regular delivery of goods over a fixed period of time.

To exercise your right of withdrawal, you must send us

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Artichoke Biotech GmbH, Göstling 51, 3345 Göstling an der Ybbs

FN: FN 524692g, +43 720 980 990, [support@artichoke.eu](mailto:support@artichoke.eu)

by means of an unambiguous declaration (e.g. a letter sent by post, telefax or e-mail) about your decision to revoke this contract. You can use the attached model withdrawal form for this purpose, which is, however, not mandatory.

To comply with the cancellation period, it is sufficient that you send the notification of the exercise of the right of cancellation before the end of the cancellation period.

## **Consequences of revocation**

If you withdraw from this contract, we must repay you all payments that we have received from you, including the delivery costs (with the exception of the additional costs resulting from the fact that you have chosen a type of delivery other than the cheapest standard delivery offered by us), without delay and at the latest within fourteen days from the day on which we received the notification of your withdrawal from this contract. For this repayment, we will use the same means of payment that you used for the original transaction, unless expressly agreed otherwise with you; in no case will you be charged for this repayment.

If you have already received any goods, you must return or hand them over to us immediately and in any case no later than fourteen days from the day on which you informed us of the cancellation of this contract. The deadline is met if you send the goods before the expiry of the deadline of fourteen days, the postmark is decisive.

You shall bear the direct costs of returning the goods.

You only have to pay for any loss in value of the goods if this loss in value is due to your handling the goods in a way that is not necessary for testing the quality, characteristics and functioning of the goods.

If you have requested that the services begin during the withdrawal period, you must pay us a reasonable amount corresponding to the proportion of the services already provided up to the time you notify us of the exercise of the right of withdrawal in respect of this contract compared to the total scope of the services provided for in the contract.

## Annex 2

### Cancellation form

(If you wish to cancel the contract, please fill in and return this form)

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Artichoke Biotech GmbH, Göstling 51,

3345 Göstling an der Ybbs

FN: FN 524692g, Tel: +43 720 980 990, E-Mail: [support@artichoke.eu](mailto:support@artichoke.eu)

I/we (\*) hereby revoke the contract concluded by me/us (\*) for the purchase of the following goods (\*)/the provision of the following service (\*)

-Ordered on (\*)/Received on (\*)

-Name of the consumer(s)

-Address of the consumer(s)

-signature of the consumer(s) (only in case of paper notification)

-Date

(\*) Delete as applicable.

Note on the use of both forms:

Both in the model cancellation instructions and in the model cancellation form, instead of the term "right of withdrawal" contained in the Austrian FAGG, the term "right of withdrawal" is used.

"Right of withdrawal" is used. This is explained by the fact that the models should be able to be used internationally (also in Germany). While Germany is generally exempt from the "right of withdrawal", in Austria the term "right of rescission", which is common in our country, was used. However, both terms mean the same thing.