

GENERAL TERMS AND CONDITIONS

OF NOVOGENIA GMBH CONCERNING THE ORDERING OF CHARGEABLE LIFESTYLE ANALYSES AND THE PURCHASE OF PRODUCTS

1. General Information

- 1.1. These General Terms and Conditions ("GTC") apply - subject to the provision in section 1.2 - to (i) the paid order of blood or genetic analysis for lifestyle purposes together with the preparation of corresponding recommendations for action (each without medical significance) at Novogenia GmbH, Strass 19, 5301 Eugendorf, Austria ("Novogenia," "we," "us") by customers ("Customer(s)," "you," "your"), and (ii) the purchase of products (in particular cosmetic products and dietary supplements) by customers from Novogenia.
- 1.2. Section 2 of these GTCs contains special provisions for contracts for the performance of a lifestyle analysis, and section 3 of these GTCs contains special provisions for contracts concerning the purchase of products. The remaining provisions of these GTC (i.e., section 1 and section 4 - 7) apply to both the contracts mentioned in clause 2 and those mentioned in clause 3.
- 1.3. General Terms and Conditions of the Customer (or of third parties) shall not become part of the contract without Novogenia's express consent; this shall also apply even if Novogenia does not expressly object to such General Terms and Conditions.
- 1.4. These General Terms and Conditions can be viewed in their current version at <https://novogenia.com/documents/gtc-paid-lifestyle-analyses-and-purchase-of-products>, printed out there and/or saved locally as a PDF document on a suitable data carrier.

2. Contracts for the performance of a lifestyle analysis with costs

2.1. General Information

- 2.1.1. The provisions in this section 2 apply exclusively to contracts concerning the performance of lifestyle analyses (see the definition of lifestyle analysis below in Section 2.2.1) and all directly related services, such as the transmission of the analysis report based on the lifestyle analysis (corresponding contracts are also referred to below as "Contract for the Performance of a Lifestyle Analysis").
- 2.1.2. The provisions in this Section 2 do not apply to the separate purchase of products from Novogenia (such as the purchase of cosmetics, dietary supplements, recipe books), even if these products are prepared for the Customer on the basis of any results of an analysis report. The provisions of this section 2 shall also not apply to any additional orders of an analysis report (such as when the Customer purchases a second copy of his analysis report); for such contracts, the provisions of section 3 below shall apply.
- 2.1.3. Lifestyle analyses are only offered to persons who have reached the age of 14.

2.2. The Subject of the Contract

- 2.2.1. Customers have the option to have Novogenia perform a paid lifestyle analysis of their blood and/or DNA sample (such analysis hereinafter also referred to as "lifestyle analysis"). In the context of the lifestyle analysis, for example, genes can be analysed, which - depending on the analysis offered - influence various aspects of the customers' lifestyle (e.g., diet, sport, skin aging). For example, the Customer's individual sport and nutrition type can be determined by examining all the genes relevant for body weight and fat loss, and a program can be developed that shows the way to optimizing body weight through a scientifically based dietary change and a corresponding sports program tailored to the individual type. You can find more detailed information on the lifestyle analyses we offer at <https://novogenia.com/>.
- 2.2.2. Lifestyle analyses are blood or gene analyses that only identify general (genetic) tendencies, but not analyses for medical purposes. This means that the lifestyle analyses do not make any statements regarding currently existing illnesses or health disorders of the Customer or regarding possible predispositions for future illnesses or health disorders. The Lifestyle Analyses do not serve as a means, procedure, or treatment and are not an object for the recognition, elimination or alleviation of illnesses, suffering, physical injury, or pathological complaints in humans. In particular, Lifestyle Analyses are not intended to serve as a basis for medical therapy.

- 2.2.3. Lifestyle Analysis identifies only genetic tendencies and characteristics, without making any statement about a disease or the likelihood of disease. The analysis reports (cf. the definition of "analysis report" below in Section 2.2.4) only contain recommendations based on the technical evaluation of the data. These recommendations are prepared under the supervision of a physician but do not include any medical or medical advice. It is pointed out that the recommendations made on the basis of the Lifestyle Analysis in the analysis report are based on previous scientific research and are tailored to the average Customer (test person) equipped with the respective (genetic) characteristics. It cannot be ruled out, and Novogenia does not accept any liability that a customer may have other atypical gene variations or other factors, which may mean that the recommendations made do not fit his or her individual constitution.
- 2.2.4. As part of the evaluation of the lifestyle analyses, Novogenia will provide the Customer with a personal report containing the results of the analysis in electronic and/or printed form (the "Analysis Report").
- 2.2.5. Novogenia does not transmit the DNA or blood sample concerning the Lifestyle Analysis or the results of the Lifestyle Analysis to third parties. In particular, the DNA or blood sample and the results of the Lifestyle Analysis are not available for use by third parties (e.g., insurance companies or employers) in any way whatsoever, in particular in order to be able to make a decision on tariffs, risk classifications and the like.

2.3. Order; Conclusion of Contract

- 2.3.1. As a rule, the conclusion of the contract between Novogenia and the Customer is preceded either by the Customer is informed about Novogenia's offer by an advisor (e.g., nutritionist) and subsequently contacting Novogenia, or by the Customer learning about the offer without prior contact with an advisor and in turn contacting Novogenia. The further ordering process then takes place either in an online process via a web shop on the Novogenia website (hereinafter, also referred to as the "online process") or offline (by post). In both cases, it is usually necessary to provide a so-called "supervisor ID" for an order. The Customer receives the account manager ID either from his account manager, through whom he also received the link to the Web shop or from Novogenia itself (especially if he has no account manager).
- 2.3.2. In the offline process, Novogenia will send the Customer a set for carrying out the DNA or blood test (the "Sample Set") after the Customer has contacted Novogenia. The Customer carries out the test on himself/herself using the Sample Set according to the description and test instructions provided, thereby generating a DNA or blood sample (such samples also being the "Samples"). The Customer sends the sample back to Novogenia by mail together with the correspondingly signed contractual documentation and the required declaration of consent under data protection law (if necessary, Novogenia also offers the Customer the option of sending the contractual documentation to Novogenia online). By sending the sample (together with the relevant contractual documentation and the required declaration of consent under data protection law), the Customer makes an offer to conclude a contract for the performance of a Lifestyle Analysis. Novogenia will confirm receipt of the sample to the Customer in a suitable form (e.g., by e-mail). This confirmation by Novogenia represents the acceptance of the Customer's offer. If necessary, a contract may be concluded offline in another form (e.g., at trade fairs).
- 2.3.3. In the online process, the Customer can place the lifestyle analysis he/she wishes to receive in a "shopping basket" in Novogenia's Web shop. The completion of the order of the corresponding Lifestyle Analysis is done by clicking on the button "ORDER PAYMENT." By this click, the Customer makes a binding offer regarding the conclusion of a contract to perform a lifestyle analysis with regard to the services selected by him. Novogenia is under no obligation to accept the offer. The Customer's offer is accepted by Novogenia by sending the Customer a confirmation of his order by e-mail.

2.4. Performance, Delivery, Transfer of Risk

- 2.4.1. Novogenia's service obligation includes the performance and evaluation of the Lifestyle Analysis and the sending of the analysis report based on the Lifestyle Analysis to the Customer. With regard to the aforementioned online process, the sending of the sample set is also part of Novogenia's service obligation. The proper preparation of the sample and the sending of the sample to Novogenia is the sole responsibility of the Customer.
- 2.4.2. Novogenia will begin conducting the lifestyle analysis upon receipt of the sample, usually within seven (7) business days.
- 2.4.3. Upon receipt of the analysis report by the Customer, Novogenia's performance obligation is fulfilled and concluded. Irrespective of any recommendations in the analysis reports, Novogenia does not owe the Customer any specific success, in particular with regard to a concrete change in the physical constitution of the Customer.
- 2.4.4. The performance of the Lifestyle Analysis and the sending of the analysis reports are subject to the condition that the Customer has signed and sent Novogenia the declaration of consent under data protection law and that the sample is in the condition required for the proper performance of the lifestyle analysis. This means that Novogenia is released from the obligation to perform the Lifestyle Analysis if the aforementioned conditions are not met. If the sample received by Novogenia is not usable, Novogenia will send the Customer a new set of samples to generate a new sample. The Customer will not incur any costs other than the postage costs for sending the sample to Novogenia (Novogenia will do this a maximum of 10 times).

- 2.4.5. Should the Customer have revoked his consent under data protection law to the performance of the genetic analysis and the preparation of the analysis reports, Novogenia shall immediately upon receipt of the declaration of revocation discontinue the analysis work and destroy the (DNA) sample.
- 2.4.6. The Lifestyle Analyses and the preparation of the analysis reports are carried out in accordance with the general state of the art in science and technology. The following applies in particular to genetic analyses: Genetic variations unknown at the time of conducting the gene analysis according to state of the art in science and technology cannot be evaluated. State of the art in science and technology for gene and blood analyses corresponds to the fact that due to technical limitations, it is not possible to guarantee 100% accuracy of such analyses.
- 2.4.7. The respective Lifestyle Analysis is limited to the purpose of the Lifestyle Analysis agreed between Novogenia and the Customer, other genetic tendencies or traits are not tested and evaluated.
- 2.4.8. Unless otherwise agreed with the Customer, the analysis reports will be sent to the Customer within five (5) weeks after receipt of the sample and the signed data protection declaration of consent by Novogenia. The Customer is informed that the period of time until the transmission of the analysis report may vary in individual cases. Should the transmission of the analysis report be significantly delayed, Novogenia will inform the Customer in good time.
- 2.4.9. If, after sending the sample to Novogenia, a circumstance occurs, which would significantly delay the performance of the Lifestyle Analysis and/or the preparation of the analysis report, Novogenia is entitled to withdraw from the contract.
- 2.4.10. If the sample sent by the Customer to Novogenia is destroyed, damaged, altered or lost during transport to Novogenia, this falls within the sole sphere and responsibility of the Customer, provided that the Customer has commissioned the person or company designated to carry out the shipment and Novogenia has not previously designated this person or company to the Customer.
- 2.4.11. The costs for the shipment of samples from the Customer to Novogenia shall be borne by the Customer in the event that the sample set is not yet accompanied by return shipping documents pre-franked by Novogenia.
- 2.4.12. Samples will be destroyed at the latest 30 days after completion of the lifestyle analysis and transmission of the analysis report to the Customer.

2.5. Right of Withdrawal for Consumers

- 2.5.1. Insofar as and to the extent that the Customer concludes the contract for the performance of a lifestyle analysis as a consumer (a consumer is a natural person who concludes a legal transaction for purposes that can predominantly be attributed neither to his commercial nor his self-employed professional activity), he is entitled to a right of withdrawal with regard to this in accordance with the statutory provisions, about which we provide the information below:

Cancellation policy

Right of Withdrawal

You have the right to revoke this contract within fourteen days without giving reasons.

The revocation period is fourteen days from the date of conclusion of the contract.

In order to exercise your right of revocation, you must inform us (Novogenia GmbH, Strass 19, 5301 Eugendorf, Austria, telephone: +43 662 42 50 99 11, fax: +43 662 42 50 99 44, e-mail: service@novogenia.com) by means of a clear statement (e.g., a letter by mail, fax or e-mail) of your decision to revoke this contract. You may use the attached model revocation form, which is not mandatory.

In order to comply with the revocation period, it is sufficient to send the notification of the exercise of the right of revocation before the end of the revocation period.

Consequences of Revocation

If you revoke this Agreement, we shall reimburse you for all payments we have received from you, including delivery charges (except for additional charges resulting from your choosing a different method of delivery from the cheapest standard delivery offered by us), immediately and no later than fourteen days from the date we receive notification of your revocation of this Agreement. For this refund, 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 refund.

If you have requested that the services should commence during the cancellation period, you shall pay us a reasonable amount corresponding to the proportion of the services already provided by the time you inform us of the exercise of the right of cancellation in respect of this contract compared to the total amount of services provided for in the contract.

Sample Revocation Form

(If you want to cancel the contract, please fill out this form and send it back).

- To Novogenia GmbH, Strass 19, 5301 Eugendorf, Austria, Fax: +43 662 42 50 99 44, E-Mail: service@novogenia.com
- 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 a communication on paper)
- Date

(*) Delete as applicable.

- 2.5.2. The right of revocation expires prematurely for such contracts, the subject of which is the provision of a service if the contractor has provided the service in full and has only begun to provide the service after the Customer has given his express consent and at the same time has confirmed his knowledge that he will lose his right of revocation upon full performance of the contract (§ 356 a para. 4 BGB); or

2.6. Rights of Withdrawal and Termination

- 2.6.1. Any rights of termination and/or withdrawal of the parties (in addition to the right of revocation under Section 2.5) with regard to a contract for the performance of a SARS-COV-2 analysis are excluded.
- 2.6.2. Section 2.6.1. does not apply to a termination for good cause. An important reason for termination of the contract exists for one of the parties, e.g., if, taking into account all circumstances of the individual case and weighing up the interests of both parties, this party cannot reasonably be expected to continue the contractual relationship until the conclusion of the contract.
- 2.6.3. For clarification: Any possible existing rights of revocation of the Customer according to section 2.5 are not affected by the regulations in this section 2.6.

3. Contracts Concerning the Purchase of Products

3.1. General Points

- 3.1.1. The provisions in this clause 3 apply exclusively to contracts concerning the purchase of products from Novogenia, such as the purchase of cosmetics, dietary supplements and recipe books, even if these products are only being prepared for the Customer (on the basis of any results of an analysis report). The provisions in this clause 3 also apply to any additional orders of an analysis report (e.g. if the Customer purchases a second copy of his analysis report).
- 3.1.2. The regulations in this clause 3 do not apply to contracts for the performance of a lifestyle analysis; the regulations in clause 2 apply to such contracts.

3.2. Subject matter of the contract

- 3.2.1. The subject matter of the Agreement is the purchase of certain products (in particular cosmetics, dietary supplements, prescription books or additional (printed) copies of an analysis report; the "Products") by the Customer from Novogenia, also independently of the prior conclusion of a contract for or the performance of a lifestyle analysis.
- 3.2.2. The Products are individually manufactured for the Customer - depending on the Customer's wishes and order - if necessary, on the basis of a lifestyle analysis carried out in advance. However, the order of a lifestyle analysis does not oblige the Customer to subsequently purchase corresponding products.
- 3.2.3. More detailed information on the products offered can be found at <https://novogenia.com/>.

3.3. Order, conclusion of contract

- 3.3.1. The contract for the purchase of products can be concluded in an online or offline process. In both processes, the contract comes into effect through the submission of an offer by the Customer and the subsequent acceptance of the offer by Novogenia.
- 3.3.2. In the offline process, the submission of the offer by the Customer takes place through the ordering of the products in the course of contacting Novogenia (e.g. by telephone or e-mail). Acceptance of the offer by Novogenia is effected by sending the ordered products.
- 3.3.3. In the online process, the conclusion of the contract shall take place in accordance with the description above in clause 2.3.3

3.4. Performance, delivery, transfer of risk

- 3.4.1. If a product to be manufactured in a personalized manner for the Customer is ordered by the Customer, Novogenia's obligation to perform owes Novogenia the manufacture of the product based on the findings of the respective lifestyle analysis or certain information provided by the Customer (with regard to the information provided by the Customer only to the extent (i) possible for Novogenia and (ii) contractually agreed) and the shipment of the ordered product to the Customer.
- 3.4.2. If the Customer orders a product that is not to be personalized, Novogenia's obligation to perform comprises the delivery of the ordered product to the Customer.
- 3.4.3. Novogenia's obligation to perform shall be fulfilled upon delivery of the respective product to the Customer. Irrespective of the manufacture and delivery of the products, Novogenia does not owe the Customer any specific success, in particular with regard to a concrete change in the Customer's physical constitution.
- 3.4.4. The respective regular delivery time shall be communicated to the Customer in a suitable form and is also derived from the respective information in Novogenia's Web Shop. Novogenia shall inform the Customer in good time of any delay in the delivery time.

3.5. Right of withdrawal for consumers

3.5.1. Insofar as and to the extent that the Customer concludes a contract for the purchase of products as a consumer (a consumer is a natural person who concludes a legal transaction for purposes that can predominantly be attributed neither to his commercial nor his self-employed professional activity), he is entitled to a right of revocation in accordance with the statutory provisions, which we will inform you about below:

Cancellation policy

Right of Withdrawal

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The revocation period is fourteen days from the date of conclusion of the contract.

In order to exercise your right of revocation, you must inform us (Novogenia GmbH, Strass 19, 5301 Eugendorf, Austria, telephone: +43 662 42 50 99 11, fax: +43 662 42 50 99 44, e-mail: service@novogenia.com) by means of a clear statement (e.g., a letter by mail, fax or e-mail) of your decision to revoke this contract. You may use the attached model revocation form, which is not mandatory.

In order to comply with the revocation period, it is sufficient to send the notification of the exercise of the right of revocation before the end of the revocation period.

Consequences of Revocation

If you revoke this Agreement, we shall reimburse you for all payments we have received from you, including delivery charges (except for additional charges resulting from your choosing a different method of delivery from the cheapest standard delivery offered by us), immediately and no later than fourteen days from the date we receive notification of your revocation of this Agreement. For this refund, 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 refund.

If you have requested that the services should commence during the cancellation period, you shall pay us a reasonable amount corresponding to the proportion of the services already provided by the time you inform us of the exercise of the right of cancellation in respect of this contract compared to the total amount of services provided for in the contract.

Sample Revocation Form

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- Ordered on (*) / Received on (*)
- Name of the consumer(s)
- Address of the consumer(s)
- Signature of the consumer(s) (only in case of a communication on paper)
- Date

(*) Delete as applicable.

3.5.2. The Right of Withdrawal shall not Apply to such Products,

- which are not prefabricated and for the production of which an individual selection or determination by you as the Customer is decisive or which are clearly tailored to your personal needs (§ 312g para. section 2, no. 1 BGB);
- which can spoil quickly or whose expiration date would be quickly exceeded (§ 312g para. 2 no. 2 BGB); or
- which involve food and/or beverages (§ 312, section 2, No. 9, BGB).

3.5.3. The Right of Withdrawal Expires for such Products,

- which are not suitable for return for reasons of health protection or hygiene after their seal has been removed after delivery (§ 312g para. 2, no. 3, BGB), or
- which, after delivery, were inseparably combined with other goods due to their nature (§ 312 para. 2 no. 4 BGB).
- which, after delivery, were inseparably combined with other goods due to their nature (§ 312 para. 2 no. 4 BGB).

3.6. Other Rules Concerning Contracts for the Purchase of Products

3.6.1. The Customer is advised that - in particular - in case of possible existing illnesses (e.g., existing allergies to cosmetics or skin diseases) or pathological overweight (so-called obesity), he should consult a doctor before ordering products.

3.6.2. Novogenia shall be liable for material defects or defects of title of delivered products in accordance with the applicable statutory provisions, in particular, pursuant to §§ 434 et seq. BGB.

3.6.3. Novogenia shall bear the shipping risk (risk of transfer of risk) concerning the shipment of products from Novogenia to the Customer if the Customer is a consumer. If the Customer is not a consumer, the Customer shall bear this risk.

3.6.4. Novogenia retains title to the products delivered until the purchase price for these products has been paid in full.

4. Prices, Terms of Payment, Compensation

4.1. All prices are understood to include the statutory value-added tax applicable at the time.

4.2. Subject to any provisions to the contrary in these GTC, any shipping costs for the shipment from Novogenia to the Customer will be communicated to the Customer during the ordering process and are to be borne by the Customer (subject to any rights of revocation to which the Customer may be entitled; cf. clauses 2.5 and 3.5 below).

4.3. The remuneration agreed between Novogenia and the Customer is payable within thirty (30) days of receipt of the invoice by the Customer.

4.4. The Customer shall only be entitled to set off claims against Novogenia's claims if its claims have been legally established, if Novogenia has acknowledged them or if the Customer's claims are undisputed. The Customer shall also be entitled to offset against Novogenia's claims if the Customer submits justified notices of defects or counterclaims arising from the same contract. The Customer may only exercise a right of retention if its counterclaim is based on the same contractual relationship.

5. Data Protection

Novogenia will comply with all data protection regulations applicable to Novogenia, in particular the Basic Data Protection Ordinance, when providing services.

6. Liability

6.1. Novogenia shall be liable in accordance with the statutory provisions in the following cases for expenses and damages (in this clause 6 together "damages"): In the event of liability under the Product Liability Act; in cases of intent or fraudulent misrepresentation; in cases of gross negligence; for injury to life, body or health; in the event of the assumption of a guarantee by us; as well as in all other cases of mandatory statutory liability.

6.2. Novogenia shall also be liable for damages in accordance with statutory provisions in the event of culpable violation of so-called cardinal obligations. Cardinal obligations in this sense are all obligations, the violation of which endangers the achievement of the purpose of the contract as well as all obligations, the fulfilment of which is essential for the proper execution of the contract and on the observance of which one may regularly rely upon. However, if the breach of a cardinal obligation was only slightly negligent and did not lead to injury to life, body or health, the Customer's claims for damages shall be limited to the amount of the typically foreseeable damage.

6.3. Otherwise, the Customer's claims against Novogenia for damages - regardless of the legal basis, in particular, due to a material defect, defect of title and/or the breach of other obligations arising from the contractual relationship or from a pre-contractual obligation by us, our legal representatives, employees or vicarious agents - are excluded.

6.4. Insofar as Novogenia's liability is limited or excluded under the above provisions, this shall also apply to the personal liability of Novogenia's legal representatives, employees, and vicarious agents.

7. Miscellaneous

- 7.1. Unless otherwise provided for in these GTC, changes and amendments to the provisions of the contracts concluded with the Customer must be made in writing (this also applies to this clause 7.1).
- 7.2. The Customer agrees that testimonials and experience reports submitted to Novogenia by the Customer may also be used for advertising purposes in an anonymous form (i.e., without any inference as to the identity of the person).
- 7.3. The European Commission provides an Online Dispute Resolution (OS) platform, which can be found at <http://ec.europa.eu/consumers/odr/> We are neither willing nor obliged to participate in dispute resolution proceedings before a consumer dispute resolution body.
- 7.4. These GTC and the contracts concluded on the basis of these GTC shall be governed by Austrian law, excluding (i) the rules of private international law, and (ii) the United Nations Convention on Contracts for the International Sale of Goods.
- 7.5. If the Customer is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction for all disputes arising from contractual relationships between the Customer and Novogenia, to which these GTCs apply, shall be Novogenia's registered office.
- 7.6. Should individual provisions of these GTC be or become invalid, the validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by a provision that comes closest to the invalid provision in economic terms. If these General Terms and Conditions contain a loophole, this loophole shall be filled by a provision which the parties would have agreed upon if they had been aware of the loophole at the time of the conclusion of the contract.