

BIOCODE TERMS: MICROCLOT TESTING AND PLATELET ANALYSIS

1. INTRODUCTION

- 1.1. Thank you for choosing Biocode.
- 1.2. Please note that these Terms apply to the Services.
- 1.3. All clauses in these Terms displayed in **BOLD** are provisions which limit the risk or liability of Biocode and constitute an assumption of risk or liability by you, impose an obligation on you to indemnify Biocode or is an acknowledgement of a fact by you. **Please read these clauses carefully before agreeing to these Terms and making a booking for the Services.**

2. INTERPRETATION AND DEFINITIONS

- 2.1. "**Biocode**", "**us**" and "**we**" means Biocode Technology Proprietary Limited (company registration number 2019/594725/07), a private company incorporated in terms of the laws of the Republic of South Africa, with its physical address 15 De Beer Street, Stellenbosch 7600;
- 2.2. "**Customer**" and "**you**" means a person who makes a booking for and receives the Services;
- 2.3. "**Doctor**" means a registered, medical practitioner who has advised and referred you to us to make use of the Services and who has an agreement with Biocode, for Biocode to perform the Services for the benefit of the Doctor's patients;
- 2.4. "**Fees**" means the fees payable for the Services;
- 2.5. "**Personal Information**" has the meaning as ascribed in the Protection of Personal Information Act 4 of 2013 as it relates to you;
- 2.6. "**Privacy Policy**" means the privacy policy available on our Website;
- 2.7. "**Services**" means the microclot test and platelet analysis performed by Biocode in respect of a blood sample of a Customer, as more fully set out in clause 5;
- 2.8. "**Terms**" means these terms and conditions; and
- 2.9. "**Website**" means biocode.co.za, including all sub-domains.

3. APPLICATION OF THESE TERMS

- 3.1. These Terms apply when you make a booking for and when we provide the Services to you. The Terms will apply until any disputes between us have been

settled. By clicking the “*I agree*” button , you agree to be bound by these Terms and our Privacy Policy.

- 3.2. Our Privacy Policy governs how we use your Personal Information. If there is a conflict between these Terms and the Privacy Policy, the terms of the Privacy Policy will prevail.

4. MAKING A BOOKING

- 4.1. In order to receive the Services, you have to make a booking online through the process advised by the Doctor.
- 4.2. You agree that all information provided about yourself is your own and is correct. You further acknowledge and agree that we may use this information to provide the Services to you. All Personal Information will be used by us according to our Privacy Policy.

5. SERVICES

- 5.1. We have agreed with the Doctor to provide the Services to Customers.
- 5.2. The Services are intended for the Doctor's patients who suffer from Long COVID symptoms, as diagnosed by the Doctor. **Please note that Biocode does not make any medical diagnoses.**
- 5.3. In order to receive the Services, you must book a blood test through the process as instructed by the Doctor for an available time as indicated through the process. Upfront payment is required when making the booking.
- 5.4. The blood draw will be performed by the Doctor's personnel at the Doctor's premises and we are not responsible for the procedure in respect of the blood draw itself. Once the blood draw has been performed, Biocode will be informed by the Doctor and will collect the blood sample from the Doctor's premises.
- 5.5. The Service involves Biocode to perform a microscopic test on the blood sample by analysing the blood using fluorescence microscopy and prepare and provide a report on the results to the Doctor. The results of the test will be qualitative only and will include images of the results of the microscopic test. Biocode will also provide their comment to the images, based on their interpretation of the images.
- 5.6. **The Service does not include any medical diagnosis or medical advice by Biocode. Only the Doctor will make a medical diagnosis or provide medical advice, following an interpretation of the results received from Biocode in providing their Service.**
- 5.7. **Biocode expressly disclaims any liability for the misuse, misinterpretation, or application of any results or data provided to clients or users. All outputs, results, or reports provided by Biocode, whether in digital or printed form, shall**

be regarded strictly as informational or indicative in nature and do not constitute a diagnosis, medical advice, or clinical opinion. Biocode is not a registered healthcare provider for purposes of the Act or any other healthcare-related enactment.

- 5.8. Clients and users are expressly advised that all reports and results provided by Biocode are intended to support, but not replace, clinical evaluation by a suitably qualified and registered healthcare practitioner. Accordingly, any decision or action taken based on such results must be taken only in consultation with a registered medical practitioner.

- 5.9. Biocode will provide the results of the tests directly to the Doctor and the Services will be regarded as finalised once submitted to the Doctor. Biocode will not directly discuss the results of the Service with the Customer under any circumstances.
- 5.10. Biocode adheres to internal standard operating procedures when performing the Services.
- 5.11. The Customer acknowledges that as part of the Service, Biocode will collect and process health information about the Customer, including a blood sample. Biocode will use the health information collected and processed for purposes of the Services strictly for purposes of rendering the Services and for internal business purposes as provided for in the Privacy Policy.
- 5.12. All diagnostic sample processing, laboratory testing, analytical review, and reporting services rendered by Biocode are conducted exclusively by personnel who are appropriately qualified and registered in accordance with the Health Professions Act 56 of 1974 ("the Act"), as amended, and the subordinate legislation, regulations, and professional ethical rules promulgated thereunder. In particular, Biocode confirms that such activities are performed by, or under the direct supervision of, Medical Scientists, Medical Technologists, or Technicians duly registered with the Health Professions Council of South Africa ("HPCSA"), within the relevant professional boards recognised under the Act.

6. CANCELLATION

- 6.1. You may cancel a booking up to 24 hours of the scheduled appointment for the blood draw to receive a full refund. You will not be able to cancel your booking for a refund after this time.
- 6.2. The following process will apply to cancellation:
 - 6.2.1. You can cancel the booking by sending a request to cancel to bookings@biocode.co.za and providing your reference number. It is your responsibility to ascertain whether we received the email;
 - 6.2.2. We will confirm the cancellation by return email.
 - 6.2.3. Payment will be refunded within 7 (seven) days of cancellation through the same process through which payment was made.
- 6.3. On cancellation of a booking, we will retain your Personal Information for a reasonable period in line with our Privacy Policy, at all times in compliance with the Protection of Personal Information Act.

7. PRICING AND PAYMENT

Pricing

- 7.1. The Fees applicable to the Service are specified during the booking process.

- 7.2. All Fees must be paid in full when making a booking.
- 7.3. All Fees include value added tax in terms of South African tax laws.

Payment

- 7.4. **Billing information.** You warrant that you are authorised to use the relevant billing details provided when making a booking and we reserve the right to cancel any booking if we reasonably suspect that you are not authorised to use such details.

You acknowledge that Biocode will not be liable for any overdraft or other fees that you might incur if your billing account does not have sufficient funds to pay for your booking.

- 7.5. **Making payment.** To make payment, you will be directed to one of our payment gateway partners to provide your payment information *via* a secure connection if you want to pay by credit card. All payments by credit cards will be *via* a payment gateway partner and Biocode will not have access to your payment card information submitted to the payment gateway partner. You may also make payment by EFT payment into the bank account as specified on the provided invoice and send the proof of payment to <bookings@biocode.co.za>. Your booking is confirmed once we have received the payment and confirmed the booking via email.
- 7.6. **Payment Gateway Partners.** You agree to adhere to the terms and conditions stipulated by our payment gateway partners and agree to pay any of the payment gateway partners' fees that may be charged by them, in addition to the Fees, when making payment of the Fees. **Under no circumstances will Biocode be responsible for any fees incurred by you to the payment gateway partners or any other third parties.**
- 7.7. **Transaction records.** We will make all documentation relating to transactions between you and us available to you via email.
- 7.8. **Taxes.** All Fees include any applicable taxes unless stated otherwise. To the extent allowed under applicable laws, you are responsible for any applicable taxes.
- 7.9. **Failed payment.** Should payment for the booking be unsuccessful, you will be notified of this and will be able to attend to payment again. In the event of a failed payment, you will not be able to make a booking until it has been successfully paid.

8. **CONSENT REQUIRED FOR MINORS**

- 8.1. In terms of South African law, any persons under the age of 18 (eighteen) years require the consent or assistance of a parent or guardian to legally enter into a reciprocal agreement.
- 8.2. If a Customer is not at least 18 (eighteen) years old, we will require the consent or assistance of a parent or guardian to provide the Services to the minor.
- 8.3. We accept no responsibility for invalid consent being provided.

9. **ELECTRONIC MESSAGES AND COMMUNICATION**

- 9.1. We will mainly use email, phone calls, SMS, WhatsApp messages and electronic notices on the Website as our communication tool for all communications relating to these Terms and the Services.

- 9.2. By accepting these Terms you agree that we may use your personal contact information provided by you for communicating with you *via* electronic messages. This includes us sending you direct marketing communications. You can opt-out from receiving further direct marketing messages at any point in time.

10. INTELLECTUAL PROPERTY AND LICENSES

- 10.1. Unless otherwise agreed between the Parties, Biocode and/or its licensors own the intellectual property rights for all material on the Website, as well as the intellectual property in the Services. All intellectual property rights are reserved for Biocode or its licensors. You agree that you will not acquire any rights of any nature in respect of that intellectual property by using the Services.
- 10.2. **You agree that you will not acquire any intellectual property rights of any nature in respect of our intellectual property by using our Services.**

11. WARRANTIES AND REPRESENTATIONS

- 11.1. **You warrant to and in favour of us that:**
- 11.1.1. **you have the legal capacity to agree to and be bound by these Terms; and/or**
 - 11.1.2. **to the extent applicable, you have the authority to consent as a parent/guardian in cases where the Customer is younger than 18 (eighteen) years old; and**
 - 11.1.3. **these Terms constitute a contract valid and binding on you and enforceable against you.**
- 11.2. Each of the warranties given by you will:
- 11.2.1. be a separate warranty and will in no way be limited or restricted by inference from the terms of any other warranty or by any other words in these Terms;
 - 11.2.2. continue and remain in force irrespective of whether these Terms are active, suspended or cancelled; and
 - 11.2.3. be deemed to be material.

12. LIMITED LIABILITIES

- 12.1. **The provisions of this clause 12 are subject to applicable laws, and Biocode's liability will be limited to the extent allowed by applicable laws.**
- 12.2. **IMPORTANT: The Biocode Service includes a novel test which is new within the industry. The test is still in development phase and has not been**

standardised globally. It is currently one of a kind and development is still in process. The analysis from the test is based on the latest research available in the applicable industry.

- 12.3. The test is specialised, and no medical code exists for it. As such, payment for the test and Services cannot be claimed against a medical aid.
- 12.4. Biocode will not be liable for any delay, loss, harm, damage, injury or death whether direct or consequential (except if such delay, loss, harm, damage, injury or death arises from the gross negligence or willful misconduct of Biocode) arising from your use of the Services or any reliance on the information presented as part of the Service.
- 12.5. We are not responsible for the proper and/or complete transmission of the information contained in any electronic communication or of the electronic communication itself, nor for any delay in its delivery or receipt. Reasonable security measures have been implemented to ensure the safety and integrity of our Website and all information processed by us. However, despite this, information that is transmitted over the internet may be susceptible to unlawful access and monitoring.
- 12.6. Our limited liability applies to all and any kind of loss which we can possibly contract out of under law, including direct, indirect, consequential, special or other kinds of losses or claims which you may suffer.
- 12.7. If any matter results in a valid claim against Biocode, Biocode's liability will be limited to the total Fees paid for the Service.

13. INDEMNITY

Subject to applicable laws, you hereby indemnify and hold us (including our shareholders, directors and employees) harmless against any claim by any person for any costs, damages (including, without limitation, direct, indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind), penalties, actions, judgements, suits, expenses, disbursements, fines or other amounts arising, whether directly or indirectly, from a breach of these Terms by you.

14. FORCE MAJEURE

Neither you nor we will be liable if either of us cannot perform in terms of any agreed terms due to reasons beyond our control. This includes lightning, flooding, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes, acts or omissions of persons for which we are not responsible, and acts of government or other competent authorities (including telecommunications and internet service providers).

15. ARBITRATION

- 15.1. Any dispute which arises out of or because of these Terms or the Services (other than where an interdict is sought, or urgent relief may be obtained from court) which cannot be settled between the parties acting in good faith to reach a resolution will be submitted to and decided by arbitration according to the arbitration rules and legislation for the time being in force in the Republic of South Africa.
- 15.2. The parties will jointly appoint an arbitrator within 14 (fourteen) calendar days of either party demanding arbitration from the other party, failing which either party shall be entitled to approach the Secretariat of the Arbitration Foundation of South Africa ("**AFSA**") to recommend an arbitrator to preside over the arbitration proceedings. Any recommendation made by AFSA will be deemed to be accepted by the parties as soon as the recommendation is made to either party and the arbitration process may start immediately.
- 15.3. The rules of Commercial Arbitration as stipulated by AFSA will apply to such arbitration.
- 15.4. That arbitration will be held with only the parties and their representatives present; at Cape Town.
- 15.5. The provisions of this clause 15 are severable from the rest of these Terms and shall remain in effect even if these Terms are terminated for any reason.
- 15.6. The arbitrator's award shall be final and binding on the Parties and incapable of appeal.

16. GENERAL

- 16.1. **Entire agreement:** these Terms are the whole agreement between the parties relating to the subject matter of these Terms and supersedes any other discussions, agreements and/or understandings regarding the subject matter of these Terms.
- 16.2. **Confidentiality:** neither party will disclose any confidential information to any third party without the prior written approval of the other party, unless required by law.
- 16.3. **Law and jurisdiction:** these Terms and all obligations connected to them or arising from them shall be governed and interpreted in terms of the laws of the Republic of South Africa. Each party submits to the jurisdiction of the South African courts.
- 16.4. **Breach:** if either party breaches any material provision or term of these Terms and fails to remedy such breach within 7 (seven) calendar days of receipt of written notice requiring it to do so then the aggrieved party will be entitled without notice, in addition to any other remedy available to it at law or under these Terms (including

obtaining an interdict), to cancel these Terms or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to the aggrieved party's right to claim damages. Termination of these Terms in terms of this clause 16.4 will not result in a refund unless so required by law.

- 16.5. **No waiver:** the failure of Biocode to insist upon or enforce strict performance by the Customer of any provision of these Terms, or to exercise any right under these Terms, will not be interpreted as a waiver or relinquishment of Biocode's right to enforce any such provision or right in any other instance.
- 16.6. **No assignment:** the Customer will not be entitled to cede its rights or delegate its obligations in terms of these Terms.
- 16.7. **Relationship between the parties:** the parties agree that neither party is a partner or agent of the other party and neither party will have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party.
- 16.8. **No representation:** to the extent permissible by law, no party will be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.
- 16.9. **Severability:** any provision in these Terms which is or may become illegal, invalid or unenforceable will be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of these Terms, without invalidating the remaining provisions of these Terms.
- 16.10. **No stipulation:** no part of these Terms will constitute a stipulation in favour of any person who is not a party to these Terms unless the provision in question expressly provides that it does constitute such a stipulation.
- 16.11. **Notices:**
 - 16.11.1. Biocode selects 15 De Beer Street, Stellenbosch 7600 as its physical address and info@biocode.co.za as its email address for the service of all formal notices and legal processes in connection with these Terms, which may be updated from time to time by updating these Terms.
 - 16.11.2. You hereby select the email address specified during the registration of a Registered User as your address for service of all formal notices and legal processes in connection with these Terms, which may be changed by providing Biocode with 7 (seven) calendar days' notice in writing.

- 16.11.3. Service *via* email shall be accepted in all cases where notice is required unless alternative service is required by law. Service *via* email is deemed to be received at the time and day of sending.