

Please read these Terms carefully before using the AUGMENTED-DX Portal.

THESE TERMS AND CONDITIONS (“GENERAL TERMS”), ALONG WITH THE APPLICABLE ADDITIONAL TERMS AND CONDITIONS (“ADDITIONAL TERMS”), THE APPLICABLE DATA PROCESSING TERMS (“DATA PROCESSING TERMS”) SHALL GOVERN YOUR USE OF THE AUGMENTED-DX PORTAL AND THE APPLICATION (THESE GENERAL TERMS, THE ADDITIONAL TERMS, THE DATA PROCESSING TERMS SHALL COLLECTIVELY BE REFERRED TO AS THE “TERMS” OR THE “AGREEMENT”).

GENERAL TERMS

1. Interpretation and Definitions.

The words of which the initial letter is capitalized have meanings defined under the following conditions.

The following definitions shall have the same meaning regardless of whether they appear in singular or in plural.

- **“Access Credentials”** shall mean any username, identification number, password, license or security key, security token, PIN, or other security code, method, technology, or device, used alone or in combination, to verify a User’s identity and/or authorization to access and use the AUGMENTED-DX Portal.
- **“Application”** refers to the software program provided by bioMérieux online through the AUGMENTED-DX Portal.
- **“Affiliate”** means an entity that controls, is controlled by or is under common control with a party, where "control" means ownership of 50% or more of the shares, equity interest or other securities entitled to vote for election of directors or other managing authority.
- **“Account”** means an account created by bioMérieux for You to access our Application or parts of our Application, regardless of the Application.
- **“Additional Terms”** shall mean the additional terms and conditions applicable to the specific bioMérieux Application and, where applicable, any terms and conditions governing additional services in relation to the bioMérieux services, such as support, maintenance, and professional services.
- **“Anonymized Data”** shall mean Data which has been processed so that an individual is not or is no longer identifiable under applicable Data Privacy Laws.
- **“AUGMENTED-DX Portal”** refers to the online interface that provides You with access to Application as well as additional features.
- **“bioMérieux”** (referred to as either "the Company", "We", "Us" or "Our" in this Agreement) refers to bioMérieux.
- **“bioMérieux Instrument”** shall mean an Instrument that is developed or manufactured by bioMérieux.
- **“Content”** refers to content such as text, images, or other information that can be posted, uploaded, linked to or otherwise made available by You, regardless of the form of that content.
- **“Data”** shall mean data or information accessed, collected, uploaded, analyzed, or generated in connection with the use of the AUGMENTED-DX Portal.
- **“Data Privacy Laws”** shall mean any Applicable Laws that specifically govern or regulate the collection, use, transfer, disclosure, retention, and/or handling of Personal Data, including but is not limited to “GDPR, which refers to regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- **“Data Processing Terms”** shall mean the terms and conditions governing the collection, use, transfer, disclosure, retention, and/or handling of Personal Data in connection with the applicable Application available at the Data Processing Terms page.

- **“Documentation”** shall mean bioMérieux standard descriptions, user guides, end-user manuals, or electronic user guides, including online resources such as those located on the AUGMENTED-DX Portal, as updated and amended from time to time.
- **“Intellectual Property Rights”** shall mean all rights, whether registered or not, including without limitation patents, patent applications of any kind, trademarks, service marks, trade names, service names, logos, any other source identifiers, copyrights, copyrightable works, proprietary information (including trade secrets) or any equivalent form of protection in force anywhere in the world.
- **“IT Environment”** shall mean any computing platforms, computer networks, information systems or data repositories controlled by You, inclusive of any software, hardware or Instrument containing software that interacts with hardware or other software.
- **“Order Documentation”** shall mean any quote or other sales or ordering document mutually agreed-upon between, and executed by, You and bioMérieux, incorporating these Terms by reference.
- **“Personal Data”** shall have the same meaning as “personal data”, “personal information”, “personally identifiable information”, or “protected health information” under applicable Data Privacy Laws, or to the equivalent or corresponding term(s) as defined under Data Privacy Laws of the applicable jurisdiction.
- **“Pseudonymized Data”** shall mean Data which has been collected or processed so that an individual is not identifiable without additional information that is kept separately and subject to appropriate technical and organizational measures to ensure that the Data is not attributed to an identified or identifiable individual.
- **“Technical Data”** shall mean Data relating to the bioMérieux Instrument (including any software embedded therein) or the Application and which shall comprise, without limitation: (a) Data and statistics relating to how the bioMérieux Instrument or the Application is configured, including software version information, configuration settings, status information, and similar or related information; (b) Data and statistics generated at any time and relating to the performance of the bioMérieux Instrument and/or the Application ; and (c) Data and statistics generated at any time and relating to the use of a bioMérieux Instrument or an Application including, but not limited to, usage statistics, activity logs, run data, pouch or reagent usage data, and consumption data.
- **“Term”** shall mean the period of time in which a license or access to the AUGMENTED-DX Portal and/or an Application is granted as provided for in the Order Documentation.
- **“Terms and Conditions”** (also referred as "Terms") mean these Terms and Conditions that form the entire agreement between You and bioMérieux regarding the use of the AUGMENTED-DX Portal and/or the Application.
- **“Territory”** shall mean the country specified in the Order Documentation or, otherwise, the country where You are based.
- **“User”** shall mean an individual duly authorized by You to use or access to the Application on Your behalf and who may be either Your employee or an authorized contractor.
- **“User Information”** shall mean information reflecting the access or use of the Application by a User.
- **“You”** (also referred to as “Your”) means the individual accessing or using the Application, or the company, or other legal entity on behalf of which such individual is accessing or using the Service, as applicable.

2. Acknowledgment.

These are the Terms and Conditions governing the use of the AUGMENTED-DX Portal and the agreement that operates between You and bioMérieux. These Terms and Conditions set out the rights and obligations of all Users regarding the use of the AUGMENTED-DX Portal. Your access to and use of the AUGMENTED-DX Portal is conditioned on Your acceptance of and compliance with these Terms and Conditions. These Terms and Conditions apply to all visitors, Users and others who access or use the AUGMENTED-DX Portal. By accessing or using the AUGMENTED-DX Portal You agree to be bound by these Terms and Conditions. If You disagree with any part of these Terms and Conditions, then You may not access the AUGMENTED-DX Portal. You represent that you are over the age of 18. bioMérieux does not permit those under 18 to use the Application.

Your access to and use of the AUGMENTED-DX Portal is also conditioned on Your acceptance of and compliance with the Privacy Policy of bioMérieux hereunder.

3. Obligations.

You shall: (a) use commercially reasonable efforts to prevent unauthorized access to or use of the AUGMENTED-DX Portal; (b) be responsible for all User acts and omissions; (c) grant bioMérieux access to pertinent instruments, Your IT Environment (d) obtain all necessary consents or authorizations in accordance with applicable law, including Data Privacy Laws, to permit the upload of Data into the AUGMENTED-DX Portal and/or sharing of Data with bioMérieux; (e) remain responsible for the reliability, integrity, accuracy and quality of any Data uploaded into or accessed by the AUGMENTED-DX Portal; (f) configure the Your IT Environment to enable the installation, configuration, or use of the AUGMENTED-DX Portal;

4. Restrictions.

You shall not, directly or indirectly: (a) access and/or use the AUGMENTED-DX Portal beyond applicable authorized use limitations; (b) assign, sell, lease, rent, license, sublicense, distribute, transfer, or otherwise make available its rights granted under the Agreement to third-parties; (c) use or access the AUGMENTED-DX Portal in any way that threatens the integrity, performance or availability of the AUGMENTED-DX Portal; (d) attempt to gain unauthorized or unlawful access to the AUGMENTED-DX Portal including engaging in any unauthorized activities for purposes of attempting to resolve defects or enhance features with such activities remaining within the exclusive purview of bioMérieux and its authorized representatives; (e) Download or upload Data from or into the AUGMENTED-DX Portal in violation of any applicable law or any legal or contractual duty owed to a third-party; (f) use the AUGMENTED-DX Portal to store or transmit malicious code, infringing or unlawful material, or material in violation of third-party rights; (g) remove, modify or obscure any Intellectual Property Rights notice or legend affixed to the Application or any documentation provided by bioMérieux; (h) reverse engineer the AUGMENTED-DX Portal or attempt to reconstruct underlying code or protectable algorithms in violation of Applicable Law; or (i) access, use, or copy any portion of the AUGMENTED-DX Portal or Documentation in violation of applicable law or to develop a competitive product or service.

5. Personal data/ Privacy Policy.

Our Privacy Policy describes Our policies and procedures on the collection, use and disclosure of Your personal data when You use the AUGMENTED-DX Portal and tells You about Your privacy rights and how the law protects You. Please read Our Privacy Policy carefully before using Our Application: [Data Privacy – Information notices.](#)

The information provided (name, first name, e-mail, company name, site name) when creating an account are collected for the purpose of managing accounts on the AUGMENTED-DX Portal. The legal basis for data processing is the performance of a contract. Within the framework of this contract, the parties agree that You are the data controller, and the Company is the data processor. You acknowledge and consent that Your personal data may be accessed by the data processor and the data sub-processor for the needs of the contract and in compliance with the purpose of the processing. The concerned personal data shall be strictly limited to what is necessary for the data processor and the data sub-processor to perform the contract. The Company, as a data processor within the meaning of the GDPR, undertakes to:

- i. process the personal data You provided solely upon Your instruction; and for the strict purposes of the contract;
- ii. ensure that the persons collecting, processing, storing, communicating or archiving the personal data are subject to a confidentiality commitment;
- iii. implement any appropriate technical and organizational measures to ensure the security (being understood as integrity and availability) and the confidentiality of the personal data

- processing, and in particular prevent any alteration and damage, or any access by unauthorized third parties;
- iv. assist You in allowing individuals concerned to exercise their rights on their Personal Data; and
 - v. assist You in meeting Your own obligations relating to the security of personal data processing, the notification of personal data breaches, and personal data protection impact assessment, if any.

6. User Accounts.

When You create an Account with Us, You must provide Us information that is accurate, complete, and current at all times. Failure to do so constitutes a breach of the Terms, which may result in immediate termination of Your account on the AUGMENTED-DX Portal. You are responsible for safeguarding the password that You use to access the AUGMENTED-DX Portal and for any activities or actions under Your password. You agree not to disclose Your password to any third party. You must notify Us immediately upon becoming aware of any breach of security or unauthorized use of Your account. You may not use as a username the name of another person or entity or that is not lawfully available for use, a name or trademark that is subject to any rights of another person or entity other than You without appropriate authorization, or a name that is otherwise offensive, vulgar or obscene.

7. Intellectual Property.

The AUGMENTED-DX Portal and its original content (excluding Content provided by You or other users), features and functionality are and will remain the exclusive property of the Company and its licensors. The AUGMENTED-DX Portal is protected by copyright, trademark, and other laws of both France and foreign countries. Our trademarks and trade dress may not be used in connection with any product or service without the prior written consent of the Company.

8. End User License Agreement

bioMérieux grants You a non-exclusive, non-assignable and non-transferable license to use the AUGMENTED-DX Portal under the Terms. The right to use the AUGMENTED-DX Portal is granted for Your personal and exclusive needs which is expressly prohibited from allowing a third party to access and/or use the AUGMENTED-DX Portal, except with the prior written consent of bioMérieux.

You undertake not to transfer, sell, rent, license to third parties or distribute in any way the AUGMENTED-DX Portal.

9. Payment.

You shall pay the fees agreed upon in the agreed-upon Order Documentation ("Fees") in accordance with any applicable payment terms and conditions. Unless the agreed-upon Order Documentation or Applicable Laws specify otherwise, all Fees payables shall be non-refundable and not subject to offset. bioMérieux reserves the right to increase Fees upon reasonable prior written notice to You.

10. Term and Termination.

The Agreement shall come into force upon Your acceptance by and, subject to payment of the Fees as mentioned in the Order Documentation, the license to use the AUGMENTED-DX Portal is granted for the duration specified in the Order Documentation.

We may terminate or suspend Your Account immediately, without prior notice or liability, for any reason whatsoever, including without limitation if You breach these Terms and Conditions. Upon termination, Your right to use the Application will cease immediately. If You wish to terminate Your Account, You may simply discontinue using the AUGMENTED-DX Portal.

In the event of non-payment of the Fees, the license to use the AUGMENTED-DX Portal shall be automatically terminated, and Client must immediately cease all use of the AUGMENTED-DX Portal by the Users.

In the event of termination, for any reasons, Your Data will be deleted after 90 days unless You expressly request immediate deletion. Upon request, bioMérieux will provide You with a certificate of destruction. You agree that bioMérieux may retain one (1) in its secure files to reserve a record for regulatory record-keeping purposes.

11. Limitation of Liability.

Notwithstanding any damages that You might incur, the entire liability of bioMérieux and any of its affiliates under any provision of these Terms and Your exclusive remedy for all of the foregoing shall be limited to the amount actually paid by You through for a one-year subscription for a single site to the AUGMENTED-DX Portal or [100 EUR] if You haven't purchased the AUGMENTED-DX Portal. To the maximum extent permitted by applicable law, in no event shall the bioMérieux or its affiliates be liable for any special, incidental, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits, loss of data or other information, for business interruption, for personal injury, loss of privacy arising out of or in any way related to the use of or inability to use the AUGMENTED-DX Portal, third-party software and/or third-party hardware used with the AUGMENTED-DX Portal, or otherwise in connection with any provision of these Terms), even if bioMérieux or any affiliate has been advised of the possibility of such damages and even if the remedy fails of its essential purpose. Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply. In these states, each party's liability will be limited to the greatest extent permitted by law.

12. Indemnification.

bioMérieux Indemnity. Subject to any limitations or restrictions imposed by Applicable Law or in other agreement between bioMérieux and You, bioMérieux shall indemnify, defend, and hold harmless You from and against third-party claims, demands, causes of action, or liability arising from a claim that Your use of the AUGMENTED-DX Portal infringes or misappropriates the Intellectual Property Rights of any third-party except to the extent such claim arises from: (a) Your use of the AUGMENTED-DX Portal in combination with software or hardware not provided, licensed or authorized by bioMérieux; (b) Your unauthorized modification or alteration of the AUGMENTED-DX Portal; (c) Your continued use of the AUGMENTED-DX Portal after being notified to discontinue use because of an actual or potential infringement claim; (d) Your failure to implement any release made available by bioMérieux to You to remedy a potential third-party infringement; or (e) Your violation of Applicable Law or this Agreement.

Indemnity. Subject to any limitations or restrictions imposed by Applicable Law, Customer shall indemnify, defend, and hold harmless bioMérieux from and against third-party claims, demands, causes of action, or liability to the extent such claim arises from: (a) Customer's use of the AUGMENTED-DX Portal in violation of Applicable Law or the terms of this Agreement; or (b) Customer's use or sharing of Data in connection with the AUGMENTED-DX Portal in violation of legal obligations to third-parties.

13. Severability and Waiver.

Severability. If any provision of these Terms is held to be unenforceable or invalid, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

Waiver. Except as provided herein, the failure to exercise a right or to require performance of an obligation under these Terms shall not affect a party's ability to exercise such right or require such performance at any time thereafter nor shall the waiver of a breach constitute a waiver of any subsequent breach.

14. Changes to these Terms and Conditions.

We reserve the right, at Our sole discretion, to modify or replace these Terms at any time. If a revision is material, We will make reasonable efforts to provide at least 30 days' notice prior to any new terms taking effect. What constitutes a material change will be determined at Our sole discretion. By

continuing to access or use Our AUGMENTED-DX Portal after those revisions become effective, You agree to be bound by the revised terms. If You do not agree to the new terms, in whole or in part, please stop using the AUGMENTED-DX Portal.

15. Applicable Law

The parties shall try to settle amicably any dispute arising from the Agreement. This Agreement is governed by and construed in accordance with the laws of the Territory. Any disputes shall be settled by the competent courts within the Territory, which shall have exclusive jurisdiction, even in the event of multiple defendants or third-party claim.



AUGMENTED-DX PORTAL Terms and Conditions

ADDITIONAL TERMS - GENE-UP® TYPER APP

ANY CAPITALIZED TERMS NOT DEFINED IN THESE ADDITIONAL GENE-UP® TYPER APP TERMS SHALL HAVE THE MEANING ASCRIBED TO THEM IN THE GENERAL TERMS.

1. ADDITIONAL DEFINITIONS

- **“Meta Data”**, means all Data (including data used by the Client to contextualize the analyses) and information, from the Client’s internal data. Such Meta Data shall be added by the Client in the GENE-UP® TYPER APP. The Meta Data remains the property of the Client.
- **“Results”**, means the raw data generated by the GENE-UP® Instrument.
- **“Final Results”** means Results after they have been interpreted by the GENE-UP® TYPER APP’s algorithm.

2. ADDITIONAL TERMS AND CONDITIONS

License relative to the Results and Final Results.

The Client provides bioMérieux with a non-exclusive, irrevocable, perpetual, royalty-free, transferable and worldwide license, that may give rise to the granting of a sub-license, to have access and use the Results and Final Results anonymously, for support, research, development, comparative analyses and statistical reporting purposes, to the extent such use is consistent with applicable law.