

## LIFE TECHNOLOGIES CORPORATION TERMS AND CONDITIONS FOR CUSTOM RESEARCH SOLUTIONS

1. **Governing Provisions.** These terms and conditions ("Terms and Conditions") apply to custom research solutions, including custom laboratory products and/or custom laboratory services ("Work") provided by Life Technologies Corporation and, if applicable, the affiliate of Life Technologies Corporation that is processing this order (collectively "LTC") according to the detailed description in the applicable quotation or other written statement of work ("SOW"), as submitted by LTC and accepted by Client. These Terms and Conditions, together with the SOW, form the entire contract between Client and LTC ("Custom Agreement"), and supersede all prior communications between the parties, whether written or oral, relating to the Work, except for a written contract signed by both parties. Client's submission of a purchase order or other similar document to indicate payment for the Work ("PO") shall indicate acceptance of these Terms and Conditions to the exclusion of any other terms or conditions appearing or referenced in such PO, which are hereby deemed to be material alterations and notice of objection to which is hereby given, notwithstanding anything contained to the contrary in a PO.

2. **Performance of Work.** LTC shall perform the Work as an independent contractor, using methods, materials, equipment, and/or related intellectual property owned or controlled by LTC or its affiliates (collectively "LTC Technology") to provide Client with data and/or materials produced by LTC as a direct result of the Work, as specified in the SOW (collectively "Deliverables"), which Deliverables may include data or materials that result from the use of materials supplied by Client ("Client Materials"). LTC will make a good faith effort to start and complete all Work on time, and will notify Client if substantial delays are likely. LTC will comply with all laws and regulations generally applicable to Work, and with any specific regulatory framework agreed in the SOW. Unless otherwise expressly agreed in the SOW, the Deliverables are not produced in accordance with United States Food and Drug Administration good manufacturing practices or good laboratory practices or in accordance with any other similar laws or regulations in other jurisdictions. LTC may delegate performance of the Work, or portion thereof, to an affiliate or authorized subcontractor, provided that all Work will be performed in accordance with the Custom Agreement. Performance of Work hereunder is conditioned on Client's acceptance of the Terms and Conditions and the SOW, whether by execution of the SOW, a contract, or a PO that references the SOW. In the event of a conflict of terms, the SOW takes precedence over these Terms and Conditions, and any written contract signed by both parties takes precedence over either; inconsistent terms of a PO shall not apply unless LTC has agreed to them in writing.

3. **Client Materials and Data.** Client will provide LTC with Client Materials specified in the SOW, in compliance with applicable laws and regulations and in sufficient amounts, as well as relevant safety information and other characteristics of Client Materials needed by LTC to perform the Work, including without limitation any certification or documentation of Client Materials reasonably requested by LTC. The Client Materials, and all information about Client Materials, whether provided by Client or generated by LTC in the performance of Work (such information collectively referred to as "Data"), shall be subject to the confidentiality and non-use requirements of Section 8. Upon completion of the Work, LTC will maintain records of the Data for a period of no less than one (1) year. LTC will use Client Materials and Data only in accordance with the SOW, and will not modify nor reverse engineer Client Materials except as agreed therein. Unless otherwise specified in the SOW or agreed in writing, any Client Materials not consumed in the Work or required for additional Work will be destroyed after six months. LTC will not transfer Client Materials, in whole or in part, to any third party, other than a subcontractor, without Client's prior written approval.

4. **Use Limitations.** Except as expressly agreed otherwise in the SOW, Client agrees to use Deliverables only for Client's lawful internal research purposes, not for use in humans, and in accordance with any Limited Use Label License (LULL) identified in the SOW, and Deliverables shall not be transferred to or commercially used by or for any third party, regardless of whether such transfer or commercial use of Deliverables is for research purposes of Client. The research use limitation, however, shall not preclude Client's use of (i) Deliverables in its lawful research and development of commercial products or services, provided that such product or service does not require the practice of LTC Technology, or (ii) any Data for the regulatory approval and commercialization of such products or services. Where more than one LULL is applicable, the most restrictive LULL shall apply, and these Terms and Conditions take precedence over any less restrictive LULL, but any use limitations or permissions expressly stated in the SOW take precedence over either. Without limiting the foregoing, Client shall not directly or indirectly furnish materials or information provided hereunder to any entity, or destination, or for any use, except in full accordance with all applicable laws and regulations, including without limitation export control and trade sanctions laws and regulations of the United States.

5. **Payments.** Client shall pay LTC for the Work within 30 days after the date of the respective invoice(s), which shall be sent to Client upon completion of the Work (or portion thereof), according to the payment schedule and currency specified in the SOW. If Client defaults on any payment when due, LTC, at its option and without prejudice to its other lawful remedies, may delay performance, defer delivery, charge interest on undisputed amounts owed, and/or terminate the Custom Agreement.

6. **Ownership, Intellectual Property.** As between the parties, except as otherwise expressly agreed in the SOW, Client shall be the exclusive owner of (i) the Data, (ii) Client Materials, (iii) any derivatives or modifications of Client Materials that are generated by LTC as a direct result of the Work, and (iv) any inventions and/or discoveries that directly result from the performance of the Work and that directly relate to Client Materials, whether or not copyrightable or patentable (collectively, the "Client Inventions"). At Client's request and expense, LTC shall do all things reasonably necessary to assist Client in obtaining patents or copyrights on any Client Inventions, provided however that Client Inventions shall not include LTC Technology or any improvements or modifications thereof, whether developed before or during the performance of the Work. Client shall not, by virtue of the Work performed hereunder, obtain any license or other rights in any LTC Technology to (a) use Deliverables other than as set forth in Section 4, (b) independently recreate the Deliverables or any materials that are proprietary to LTC, even if used to perform the Work; and/or (c) sell or otherwise use the Deliverables for commercial purposes whether or not commercialized for research use; unless expressly stated in the SOW or agreed in a separate written contract between the parties. LTC's laboratory notebooks or other records maintained with respect to the Work shall be owned by LTC, provided however that if such notebooks or records contain any Data or other confidential information of Client, such Data and confidential information will continue to be the property of Client, and the parts of the notebooks and records that contain Client confidential information will be subject to LTC's obligations of nonuse and confidentiality as set forth in Section 8.

7. **Non-Exclusivity.** Unless expressly agreed in writing, all Work is provided on a non-exclusive basis, and LTC reserves all rights for itself and its affiliates to provide third parties with deliverables that are identical or similar to Deliverables, provided that LTC shall not use any Client Materials or information received from Client to perform Work for any third party. Notwithstanding anything else in the Terms and Conditions, where LTC performs the Work without reliance on Client Materials or confidential information received from Client, LTC reserves all rights to commercialize such Work as a catalog product.

8. **Confidentiality.** LTC shall treat all Data and Client Materials as proprietary and confidential to Client, and will not disclose Data or Client Materials to any person except its employees, consultants, and subcontractors as necessary for purposes of providing the Work, and then only subject to a written confidentiality agreement that includes the requirements specified herein. If LTC discloses any information or materials comprising LTC Technology to Client, Client shall treat such information and materials as proprietary and confidential to LTC. Each party shall protect the proprietary and confidential information or materials of the other party by using the same degree of care as such party uses to protect its own materials and information, but in any event no less than a reasonable degree of care. Notwithstanding any other provisions herein, however, each recipient party shall have no obligation to the other party for any information or material that is (a) already known to the recipient party; (b) publicly known other than by a wrongful act of the recipient party; (c) received from a third party lawfully entitled to disclose it; (d) disclosed pursuant to an enforceable order of a court or administrative agency; and/or (e) is independently developed by or for the recipient party.

9. **Limited Warranty.** LTC's sole warranty for the performance of Work is that the Work will be performed using due care in accordance with (a) the Custom Agreement, including the respective SOW and (b) laws, regulations and generally prevailing industry standards applicable to such Work; LTC does not warrant or represent that the results of the Work will be acceptable to any regulatory agency to which they are presented or that they will advance the interests of Client. If Client believes that LTC, in breach of its limited warranty, has made a material error in the Work that renders the results of such Work invalid, Client must notify LTC of such error in writing, within one month after receipt of the final Deliverable for such Work; and as Client's sole remedy for such error, LTC shall either (i) repeat the particular Work at LTC's own expense or (ii) refund to Client the fees actually paid for the particular Work giving rise to the breach of warranty.

9.1. LTC SHALL NOT BE LIABLE HEREUNDER, UNDER ANY LEGAL THEORY, FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF PROFITS OR LOSS OF BUSINESS, EVEN IF LTC HAD NOTICE OF THE POSSIBILITY THEREOF.

9.2. THE WARRANTY SET FORTH IN THIS SECTION 9 IS IN LIEU OF ANY AND ALL OTHER WARRANTIES RELATING TO THE WORK, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT DELIVERABLES OR USE THEREOF WILL NOT INFRINGE ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT.

9.3. LTC'S LIABILITY TO CLIENT FOR BREACH OF ANY PROVISION OF THE CUSTOM AGREEMENT (OTHER THAN BREACH OF THE WARRANTY IN THIS SECTION 9 FOR WHICH LIABILITY IS LIMITED TO RE-PERFORMANCE OR REFUND AS SPECIFIED HEREIN) SHALL BE LIMITED TO DAMAGES IN AN AMOUNT NOT TO EXCEED THE FEE TO BE PAID FOR THE WORK.

9.4. NOTHING IN THE CUSTOM AGREEMENT SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY FOR DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE OR FOR FRAUD OR FRAUDULENT MISREPRESENTATION.

10. **Indemnification.** Except to the extent caused by the willful misconduct of LTC, Client shall indemnify and hold harmless LTC, its affiliates and their respective officers, directors, employees and agents ("Indemnified Party") from and against any and all expenses (including, but not limited to, reasonable attorney's fees) and losses incurred by any such Indemnified Party in connection with any claim asserted by a third party arising out of or based on (a) Client Materials or use thereof in performance of the Work as specified in the SOW; and/or (b) any product or service of Client based in whole or part on Client's reliance on Deliverables, or any portion or derivative thereof; and/or (c) breach of Section 4.

11. **Changes, Termination.** Changes to the Work must be agreed by both parties in writing, and may require changes in the fees or timelines. LTC may terminate the Custom Agreement if (a) Client breaches any material provision of the Custom Agreement and fails to remedy the breach to the satisfaction of LTC within 15 days after written notice thereof; (b) LTC is unable to obtain third party materials or technology specified in the SOW, for reasons beyond LTC's reasonable control; (c) LTC determines that biosecurity, biosafety, and/or feasibility reasons prevent or are likely to prevent the performance of the Work, or (d) Client is or is deemed by law to be unable to pay its debts or perform its obligations under the Custom Agreement. Client shall have the right to terminate any SOW upon 30 days prior written notice to LTC. Termination of Work in progress will result in a partial charge commensurate with the percentage of Work completed at the time of cancellation, in addition to any other termination or cancellation charges specified in the SOW.

**Miscellaneous.** This Custom Agreement may not be assigned without the consent of the other party, except that each party may assign the Custom Agreement to an affiliate or to any other party to whom it transfers the business and assets related to this Custom Agreement, provided that such assignee assumes all the rights and obligations of its assignor. The Custom Agreement shall be governed by the laws of the state of Delaware, USA for such portion of Work performed in the United States and by the laws of England and Wales for such portion of Work performed outside the United States, except that matters pertaining to patents and other intellectual property rights shall be governed by the laws of the jurisdiction in which such intellectual property rights exist. The Custom Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. If Client is a US government agency, POs > \$3000 will be subject to commercial item acquisition under 48 C.F.R. (FAR) Part 12 and these Terms and Conditions shall apply, supplemented only by the mandatory provisions of FAR 52.212-4 and 52.212-5 pursuant to FAR 12.302(b). If Client is a prime contractor to a US government agency and this agreement constitutes a subcontract under the FAR, then these Terms and Conditions shall apply, supplemented only by the minimum mandatory FAR flow-down clauses for commercial item subcontracts at 52.212-5(e) or 52.244-6. If any part of these Terms and Conditions is found to be legally unenforceable, the remaining clauses of these Terms and Conditions shall be unimpaired, and the parties shall in good faith negotiate an enforceable provision that most closely achieves the objectives of the unenforceable provision. Except for payment obligations, neither party shall be responsible for failure to perform its obligations due to natural disasters or other force majeure causes beyond its reasonable control. Neither party shall use the name of other party or of its employees in any promotion or publication without prior written consent of such other party. No waiver by either party of any breach hereof shall constitute a waiver of any other breach thereof.