



GENERAL TERMS AND CONDITIONS OF SUPPLY OF SERVICES AND BIOMATERIAL-BASED PRODUCTS

1 DEFINITIONS

In these General Terms and Conditions of Supply of Services by MIMETAS, (hereinafter, “General Terms and Conditions”) the following defined terms shall have the meaning set out below:

- 1.1 **MIMETAS** means MIMETAS B.V. with its headquarters located in Oegstgeest, the Netherlands, and registered under chamber of commerce number 53898737, and all of its affiliates and subsidiaries.
- 1.2 **Agreement** means any offer, purchase order or other confirmation under which MIMETAS offers, confirms or supplies the Customer Services to the Customer, which may include Biomaterial-based Products.
- 1.3 **Biomaterial-based Product** means all goods containing cells, culture medium, supplements, extracellular matrix and/or other biomaterials of any kind, including OrganoReady® products, to be generated and delivered by MIMETAS to the Customer under the Agreement.
- 1.4 **Confidential Information:** means
- Any and all information and knowledge concerning MIMETAS' or Customer's products, their use and fabrication, the Customer Materials and the Services, including but not limited to materials, suppliers, MIMETAS' manufacturing process, protocols, assays and models;
 - Any information marked as confidential;
 - Any information that due to its character and nature a reasonable person under circumstances would treat as confidential.
- 1.5 **Customer** the natural or legal person with whom MIMETAS has entered into or intends to enter into an Agreement.
- 1.6 **Customer Information** means any and all information and documents related to the Customer Materials provided by Customer for the performance of Services.
- 1.7 **Customer IP** has the meaning assigned to it in Section 8.2.
- 1.8 **Customer Materials** any biological or chemical material provided by Customer to MIMETAS in order to enable MIMETAS to provide the Services.
- 1.9 **Losses** has the meaning assigned to it in Section 12.3.
- 1.10 **MIMETAS IP** has the meaning assigned to it in Section 8.1.



1.11 **Party** means either MIMETAS or the Customer, who may also collectively be referred to as the "Parties".

1.12 **Services** means any and all services excluding custom services, including but not limited to OrganoReady® services to be delivered by MIMETAS to the Customer under an Agreement, which may include the sale of Biomaterial-based Products.

2 GENERAL PROVISIONS

2.1 These General Terms and Conditions apply to any and all offers made by MIMETAS, purchase orders issued by Customer and any agreement between MIMETAS and the Customer regarding the delivery of Services and/or Biomaterial-based Products to the Customer.

2.2 These General Terms and Conditions supersede any and all prior oral and written quotations, communications, agreements and understandings of the Parties in respect of the supply of Services and apply in preference to and supersede any and all terms and conditions of any order placed by the Customer and any other terms and conditions submitted by the Customer. MIMETAS explicitly rejects the applicability of any general (purchase) conditions used by the Customer. Failure by MIMETAS to explicitly object to the terms and conditions set by the Customer will in no event be construed as an acceptance of any of the terms and conditions of the Customer. Deviations from these General Terms and Conditions will only apply if and to the extent that they have been explicitly agreed to in writing by MIMETAS. If any provision of these General Terms and Conditions is or is held to be invalid or unenforceable, then so far as it is invalid or unenforceable it has no effect and is deemed not to be included in the General Terms and Conditions; this shall not invalidate any of the remaining provisions hereof and the Parties shall use reasonable efforts to replace the invalid or unenforceable provision by a valid provision, the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision. If, according to the Agreement concluded between the parties, the Customer consists of several legal entities, each of these legal entities is and will be jointly and severally liable towards MIMETAS for performance of the Agreement.

2.3 By entering into an Agreement on the basis of these General Terms and Conditions, the Customer agrees to the applicability thereof in respect of future Agreements even if this is not expressly stated.

3 OFFER AND FORMATION OF THE AGREEMENT

3.1 Unless explicitly stated otherwise, offers made by MIMETAS are without obligation.

3.2 MIMETAS prepares any offer based on the information supplied by, or on behalf of the Customer. The Customer cannot derive any rights from an offer that is based on incorrect or incomplete information supplied by, or on behalf of the Customer. Any information with regard to expected results or performance supplied through the offer of MIMETAS is indicative and not binding.

3.3 The Agreement shall take effect as soon as the Agreement made between the Parties has been signed by the Customer and made available to MIMETAS.



4 CUSTOMER OBLIGATIONS

- 4.1 Customer shall timely and appropriately provide MIMETAS with any and all Customer Information and Customer Materials that MIMETAS requires for the proper and timely performance of the delivery of the Services and/or Biomaterial-based Products under the Agreement.
- 4.2 Customer will provide MIMETAS with all required Customer Information and Customer Materials no later than 14 (fourteen) days prior to the date of commencement of the Services as agreed upon in the signed Agreement. Where the abovementioned term cannot be met for reasons beyond the Customer's reasonable control, Customer shall use its best efforts to promptly notify MIMETAS thereof and provide MIMETAS immediately with the required Customer Information or additional quantities of Customer Materials in case the previously provided information and documents have expired or changed or in case the Customer Materials are lost or damaged during shipment.
- 4.3 Customer guarantees the accuracy, completeness and reliability of the Customer Information and Customer Materials provided to MIMETAS, even if this has been obtained from third parties.
- 4.4 Customer guarantees that it is entitled to disclose to MIMETAS the Customer Information and to provide any Customer Materials.
- 4.5 Customer further guarantees that the Customer Information and Customer Materials do not contain any personal data.
- 4.6 Customer shall, at all times, keep a back-up of the Customer Information provided by the Customer.
- 4.7 Any additional costs and/or damage caused by a delay in the provision of the Services as result of the Customer's failure to timely provide MIMETAS with the requested Customer Information, Customer Materials and related documentation will be borne by the Customer.
- 4.8 Customer will be responsible for delivering the Customer Materials to MIMETAS at MIMETAS' address and in the specific format as is agreed in the Agreement. Customer will be responsible for the costs of such delivery and for obtaining all import and export licences required to deliver the Customer Materials to MIMETAS.
- 4.9 Customer shall be responsible for notifying MIMETAS of any hazards associated with the Customer Materials and its use. Customer will provide MIMETAS with written safety declarations and instructions on handling, use, transport, storage, and disposal of Customer Materials. Customer shall further declare and guarantee that any Customer Material will be provided to MIMETAS in a sterile, non-infectious, non-hazardous, non-toxic, and non-carcinogenic state and based on its quantity, concentration or physical, chemical or biological characteristics, the Customer Material will not cause or pose a present or potential hazard to human health or the environment when properly used, treated, stored, disposed of, generated, manufactured, transported, or otherwise handled. Customer shall be responsible



for all Losses incurred by MIMETAS and its employees as a result of using or handling the Customer Materials.

- 4.10 The Customer Materials shall at all times remain the property of the Customer.
- 4.11 MIMETAS shall not reverse-engineer, analyze or otherwise attempt to derive the properties, composition, construction or method of manufacture of Customer Materials, including but not limited to, analysis by physical, chemical or biochemical means and shall not cause a third party to do the same.
- 4.12 Following (6) six weeks after completion of the Services, MIMETAS shall destroy any remaining Customer Material, unless otherwise specifically agreed to under an Agreement. Destruction, disposal, return or any other agreed upon processing of Customer Materials after completion of the Services will be done at Customer's cost.

5 EXECUTION OF THE ENGAGEMENT

- 5.1 All Services and Biomaterial-based Products to be delivered by MIMETAS to the Customer are described in the Agreement.
- 5.2 MIMETAS will make every effort to deliver the Services and/or Biomaterial-based Products with reasonable skill, care and diligence, and in accordance with the applicable general good laboratory practices and regulatory standards.
- 5.3 MIMETAS shall carry out its obligations under the Agreement in accordance with all applicable laws and regulations. MIMETAS shall not, under any circumstance, be required to commit any act or omission that is in conflict or incompatible with the aforementioned laws and regulations.
- 5.4 MIMETAS will determine the manner in which the Agreement will be executed and by whom and will be entitled to engage third parties as a subcontractor in the execution of the Agreement without any notice to the Customer.
- 5.5 In all cases, unless otherwise explicitly agreed to in writing by both Parties, MIMETAS shall not be responsible to provide to Customer any other deliverables than those specifically agreed upon in the Agreement.

6 BIOMATERIAL-BASED PRODUCTS, SERVICES AND DELIVERY PERIOD

- 6.1 Customer acknowledges and agrees that the use of Biomaterial-based Products by the Customer will be explicitly limited to in-house laboratory research use only. No other right is granted to the Customer whether expressly, by implication, by estoppel or otherwise. For clarity, any (i) diagnostic and therapeutic use, (ii) use of the Biomaterial-based Products in foods, cosmetics, drugs or medical devices for humans or animals, and (iii) any reselling, distributing, transfer, use for the provision of services to third parties of Biomaterial-based Products, or protocols or procedures applicable to MIMETAS Biomaterial-based Products to any third party by the Customer, is explicitly prohibited. Customer is explicitly prohibited to analyse, (de)compile, modify, edit, format, improve, reproduce, derive from, reverse

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engineer, transfer, disassemble, distribute, market and/or sell, in whole or in part, any Biomaterial-based Products and Confidential Information of MIMETAS. For the avoidance of doubt, Customer is also not allowed to extract and propagate any cellular component from Biomaterial-based Products. Customer further represents and warrants that it will not knowingly use any Biomaterial-based Product in any way that would infringe any third party intellectual property rights.

- 6.2 If MIMETAS requires an advance payment or requires Customer Information to be made available by the Customer in order to execute the Agreement, term(s) for the completion of the delivery will not take effect until the advance payment has been made in full or until all Customer Information has been made available by the Customer.
- 6.3 Unless indicated otherwise in an Agreement, delivery of Biomaterial-based Products shall take place Delivered At Place (DAP Incoterms), as selected at the discretion of MIMETAS, in conformity with the conditions of the latest version of Incoterms published by the International Chamber of Commerce as applicable on the date of the Agreement, and subject to Section 6.6.
- 6.4 If the Service consists solely of information and data, such Service will be delivered through email or postal services, in accordance with the Agreement.
- 6.5 Title to any Biomaterial-based Products will remain with MIMETAS until Customer has paid to MIMETAS all outstanding amounts pursuant to the Agreement.
- 6.6 Any times or delivery dates set forth in an Agreement are indicative in nature and not binding, unless this has been expressly agreed upon in advance and in writing.
- 6.7 Customer shall ensure that upon completion of its use, any used or unused Biomaterial-based Products shall be disposed of safely, and in compliance with all applicable laws, regulations and guidelines relating to the use of the Biomaterial-based Products by Customer.

7 CONFIDENTIALITY

- 7.1 Neither Party shall disclose the other Party's Confidential Information obtained in relation to the Agreement or during its execution. Each Party shall procure that its employees, affiliates or third parties engaged to perform the obligations under the Agreement will keep secret and not disclose such Confidential Information, other than referred to in Section 7.3.
- 7.2 The foregoing shall not apply to Confidential Information which (i) is or becomes part of the public domain without fault on the part of the receiving Party; (ii) was already known by the receiving Party, other than as a result of the receiving Party's breach of any legal obligation; (iii) becomes known to the receiving Party on a non-confidential basis through disclosure by sources other than the disclosing Party, and having the legal right to disclose such Confidential Information; or (iv) is independently developed by the receiving Party, as can be shown by written records, without reference to or reliance upon the disclosing Party's Confidential Information. If the receiving Party is required by a governmental authority or by order of a court of competent jurisdiction to disclose any of the disclosing Party's Confidential Information, the receiving Party will give the disclosing Party prompt written notice thereof

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and the receiving Party will take all reasonable and lawful actions to avoid or minimize the degree of such disclosure. The receiving Party will cooperate reasonably with the disclosing Party in any efforts to seek a protective order.

- 7.3 MIMETAS may provide Customer's Confidential Information solely to its employees, consultants and subcontractors on a need-to-know basis; provided, however, that (a) any such employees, consultants and subcontractors are bound by written obligations of confidentiality at least as restrictive as those set forth in this Agreement; and (b) MIMETAS remains liable for the compliance of such employees, consultants and subcontractors with such obligations.

8 INTELLECTUAL PROPERTY

- 8.1 Any know-how, methodologies, or processes used or developed by MIMETAS to provide the Services to the Customer under the Agreement that are of general applicability, as well as any improvements thereto developed during the performance of Services, and any copyrights, trademarks, patents, trade secrets, or any other proprietary rights thereon, ("**MIMETAS IP**") remain the sole and exclusive property of MIMETAS.

- 8.2 Insofar as it does not include any MIMETAS IP, Customer will, fully and freely, own the results and data arising from the provision of the Services and any intellectual property rights that may be vested on such results and data ("**Customer IP**"). MIMETAS shall have the right to use the results and data arising from the provision of the Services for its internal research purposes.

9 FEES AND EXPENSES

- 9.1 Customer shall pay to MIMETAS the prices and fees specified in the Agreement. All prices and fees are excluding value-added tax ('VAT') and duties (including export or import duties), permits and licenses, freight or insurance and inspection and any other taxes or government levies, as well as costs for transport and delivery, which are borne by the Customer unless explicitly stated otherwise in the Agreement. If in consultation with the Customer deviations from the Agreement between MIMETAS and the Customer are made, the costs deriving from such deviations are invoiced to the Customer against the prices and fees that apply at such time.

- 9.2 Unless otherwise stated in the Agreement, payment will be made, without any deduction, discount or debt settlement, within thirty (30) days of the date of invoice for Services delivered by MIMETAS. Payment shall be into the bank account mentioned in the invoice.

- 9.3 Customer will pay a late fee of 1% (one per cent) per month on any overdue amounts. All costs and expenses incurred by MIMETAS with respect to the collection of overdue payments (including, without limitation, reasonable attorney fees, expert fees, court costs and other expenses of litigation) are for the Customer's account. If any portion of an invoice is disputed, then Customer shall pay the undisputed amounts and the parties shall use good faith efforts to reconcile the disputed amount as soon as practicable.

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9.4 In the event of a jointly commissioned Agreement involving more than one Customer, all Customers are jointly and separately liable for payment of the full fee charged under the Agreement.

10 COMPLAINTS

10.1 Customer must notify MIMETAS in writing of any complaints relating to the Services delivered and/or the invoice amount within 30 (thirty) days after (i) delivery of the Services and/or (ii) the receipt of the invoice. If MIMETAS determines that the Customer has filed a legitimate and timely complaint, MIMETAS will provide the defective Service again at MIMETAS' own expense to the extent that MIMETAS is reasonably able to. If MIMETAS provides such Service again in accordance with the Agreement, MIMETAS shall have no further liability for the defective Service. Customer's failure to give notice to MIMETAS of any claim within thirty (30) days after the date of delivery shall constitute unqualified acceptance of the Services and a waiver by Customer of all claims with respect thereto.

10.2 Customer shall inspect any Biomaterial-based Product supplied hereunder immediately after delivery and if it finds that the Biomaterial-based Product fails to meet the functional or technical specifications expressly made known by MIMETAS in writing, the Customer must report these errors without delay and ultimately within five (5) days of delivery, in writing in a clear, detailed and comprehensible manner, accompanied with sound and reproducible evidence of the error concerned. Subject to Section 12, MIMETAS will use reasonable efforts to fix the errors within a reasonable term or replace the Biomaterial-based Product concerned. Customer's failure to give notice to MIMETAS of any claim within five (5) days after the date of delivery shall constitute unqualified acceptance of the Biomaterial-based Product and a waiver by Customer of all claims with respect thereto.

10.3 Complaints as referred to in Section 10.1 and 10.2 shall not suspend the Customer's obligation to pay any fee, or additional costs, due. The Customer is not entitled, by virtue of a complaint in respect of a certain part of the Services, to defer or refuse payment for other Services delivered by MIMETAS to which the complaint does not relate.

11 TERM AND TERMINATION

11.1 Except as otherwise provided in the Agreement, the Agreement shall expire at the moment that all Services have been delivered, unless the Agreement is terminated as provided in Section 11.2 or 11.3.

11.2 Each Party may forthwith terminate this Agreement with a prior written notice upon

- (a) the breach of any material provision of the Agreement by the other Party if (a) such breach is not curable or (b) if curable, the breaching Party has not cured such breach within 30 (thirty) business day period following receipt of a written notice by the non-breaching Party substantiating such breach ("*ingebrekestelling*").
- (b) the filing or institution of bankruptcy, liquidation or receivership proceedings of the other Party or in the event a receiver or custodian is appointed for the other Party's business, or if its business is discontinued.

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- 11.3 MIMETAS may terminate the Agreement in the event that any unforeseen material or technical difficulties are faced in the delivery of the Services, which cannot be addressed without significant changes to the prices, fees and/or timelines under the Agreement.
- 11.4 If the Customer terminates the Agreement prior to completion of the Services and payment of the fees in full, the Customer is obliged to pay the prices and fees for any Services delivered by MIMETAS until the effective date of termination. The Customer shall further reimburse MIMETAS all cost which include any out of pocket cost, including for non-cancellable commitments to third parties and personnel costs that will be reasonably incurred by MIMETAS after the effective date of termination of the Agreement pursuant to commitments entered into by MIMETAS prior to the effective date of termination that cannot be re-allocated to other projects, provided, however, that MIMETAS will use commercially reasonable efforts to mitigate such costs.
- 11.5 Clauses 7, 8, 12 and 13 shall survive for an indefinite period of time. In addition, any other provisions which are required to interpret and enforce the Parties' rights and obligations under the Agreement shall also survive any termination or expiration of this Agreement, but only to the extent required for the full observation and performance of the Agreement.
- 11.6 Each Party will, at request of the other, return all Confidential Information provided by the other upon termination or completion of the Agreement.

12 LIABILITY AND INDEMNIFICATION

- 12.1 All Services are delivered by MIMETAS "as is" without warranty of any kind. MIMETAS explicitly excludes all implied warranties of title, non-infringement, merchantability and fitness for a particular purpose.
- 12.2 All Biomaterial-based Products are warranted to meet the quality specifications provided on the Agreement when used under normal conditions in Customer's laboratory for the period indicated as the maximum experimental window in the Agreement.
- 12.3 Except for gross negligence or wilful misconduct of MIMETAS or its officers, or the third parties engaged by MIMETAS in the execution of the Agreement, MIMETAS total liability and Customer's exclusive remedy for any cause of action associated with an Agreement, whether based in tort, contract, strict liability or any other legal theory, is expressly limited to replacement of nonconforming Biomaterial-based Products or payment in an amount not to exceed the total amount of the fees paid or owed by the Customer for the Services from which the liability arises. In no event shall MIMETAS be liable for any other damages including, without limitation, incidental, special, punitive or consequential damages ("**Losses**"). In any event, a claim will be unenforceable and lapse unless the Customer initiates legal proceedings within a period of 1 (one) year after the Customer has first notified MIMETAS. Furthermore, MIMETAS is not liable for damages, including but not limited to damages related to the infringement of third-party intellectual property rights, resulting from the use of the Biomaterial-based Products by the Customer.
- 12.4 Customer will indemnify, and hold harmless MIMETAS or the third parties engaged by MIMETAS in the execution of the Agreement, from and against any and all claims, demands,

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causes of action, damages, losses, liabilities, costs, expenses (including reasonable attorneys' fees and other costs of defending any action), penalties, and judgments (each, a "Claim") caused by the use of the results and data arising from the provision of the Services, or the transportation, delivery or use of any Biomaterial-based Product after delivery, including, without limiting the generality of the foregoing, Claims associated with infringement of any third party's intellectual property rights, unless a Claim is the direct result from a Biomaterial-based Product failing to meet the functional or technical specifications of the products expressly made known by MIMETAS, or the gross negligence or wilful misconduct of MIMETAS.

- 12.5 Neither Party shall be held liable or responsible to the other Party or be deemed to have defaulted under or breached an Agreement for failure or delay in fulfilling or performing any term of the Agreement and these General Terms and Conditions (other than an obligation to pay an amount) when such failure or delay is caused by or results from events beyond the reasonable control of the non-performing Party, including fires, floods, earthquakes, hurricanes, embargoes, shortages, epidemics or pandemics, quarantines, war, acts of war (whether war be declared or not), terrorist acts, insurrections, riots, civil commotion, strikes, lockouts, or other labour disturbances (whether involving the workforce of the non-performing Party or of any other person), acts of God or acts, omissions or delays in acting by any governmental authority. The non-performing Party shall notify the other Party of such force majeure within thirty (30) days after such occurrence by giving written notice to the other Party stating the nature of the event, its anticipated duration, and any action being taken to avoid or minimize its effect.

13 GOVERNING LAW AND JURISDICTION

- 13.1 These General Terms and Conditions, any and all Agreements and any and all offers made by MIMETAS are exclusively governed by the laws of the Netherlands. The United Nations Convention on Contracts for International Sale of Goods (CISG) does not apply.
- 13.2 Any disputes arising out or in connection with an Agreement, which cannot be solved amicably within a month after the dispute arose, will be submitted to the competent court in The Hague, it being understood that MIMETAS reserves the right to bring any dispute before the courts of the Customer's place of residence.