

GENERAL TERMS AND CONDITIONS OF DELIVERY/PURCHASE AND USE OF MIMETAS B.V.

1. DEFINITIONS

In these General Terms and Conditions of Delivery, Purchase and Use of MIMETAS B.V. (hereinafter General Terms and Conditions of Delivery):

- 1.1. **Agreement** the written agreement between MIMETAS and the Customer, regarding the purchase and the delivery of Products to the Customer.
- 1.2. **MIMETAS B.V.**, also acting under the name MIMETAS, the user of these General Terms and Conditions of Delivery, with registered office in Leiden, listed in the Trade Register under Chamber of Commerce number 53898737.
- 1.3. **Confidential Information:**
 - any and all information and knowledge concerning MIMETAS' products, their use and fabrication, including but not limited to materials, suppliers, manufacturing process, QA/QC, protocols, assays, models and users;
 - Any information marked as confidential;
 - Personal data;
 - Consumer information;
 - Any information that due to its character and nature a reasonable person under circumstances would treat as confidential.
- 1.4. **Customer** the natural or legal person with whom MIMETAS has entered into or intends to enter into an Agreement.
- 1.5. **Customer Information** has the meaning assigned to it in Section 4.2.
- 1.6. **Losses** has the meaning assigned to it in Section 12.2.
- 1.7. **Party** MIMETAS and the Customer, together the "**Parties**" that have entered into or intend to enter into an Agreement.
- 1.8. **Product** means all goods, to be generated and/or to be delivered by MIMETAS to the Customer under the Agreement.
- 1.9.

2. GENERAL PROVISIONS

- 2.1. These General Terms and Conditions apply to any and all offers made by MIMETAS, purchase orders and any Agreement between MIMETAS and the Customer, insofar as Parties have not deviated, expressly and in writing, from the contents of these General Terms and Conditions of Delivery.
- 2.2. These General Terms and Conditions of Delivery supersede any and all prior oral and written quotations, communications, agreements and understandings of the Parties.
- 2.3. By entering into an Agreement on the basis of these General Terms and Conditions of Delivery, 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 the 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.
- 3.4. If, and insofar as MIMETAS has not yet received the signed Agreement, then the Agreement will be considered as concluded under these General Terms and Conditions of Delivery, as soon as MIMETAS has started to distribute any Products at the Customers request, orally or in writing.

4. CUSTOMERS OBLIGATIONS

- 4.1. Customer shall timely and appropriately provide MIMETAS with any and all information and documents that MIMETAS requires for the proper and timely performance of the delivery of the Products under the Agreement.
- 4.2. Customer shall provide MIMETAS with all required information and documents ("**Customer Information**") no later than 14 (fourteen) days after Parties signed the Agreement. Customer shall notify and provide MIMETAS immediately with new information and documents in case the previously provided information and documents have expired or changed.
- 4.3. Customer guarantees the accuracy, completeness and reliability of the Customer Information provided to MIMETAS, even if this information has been obtained from third parties.
- 4.4. Customer guarantees that it is entitled to disclose to MIMETAS the Customer Information and that the Customer Information is no proprietary information of any third party.
- 4.5. Customer further guarantees that the Customer Information does not contain any personal data (with regard to the applicability of Dutch and/or European legislation).

- 4.6. Customer shall, at all times, keep a back-up of the information and documentation provided by the Customer.
- 4.7. Any additional costs and/or damage caused by a delay in the execution of the Agreement as result of the Customer's failure to timely provide MIMETAS with the requested Customer Information and documentation will be borne by the Customer.

5. EXECUTION OF THE ENGAGEMENT

- 5.1. All Products to be delivered by MIMETAS to the Customer are described in the Agreement.
- 5.2. MIMETAS will make every effort to ensure the delivery of Products with reasonable skill, care and diligence.
- 5.3. MIMETAS shall carry out its obligations under the Agreement with due observance of the applicable (inter)national 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 subcontractor in the execution of the Agreement without any notice to the Customer.

6. PRODUCTS AND DELIVERY PERIOD

- 6.1. Customer acknowledges and accepts that the use of MIMETAS' Products by the Customer is explicitly limited to 'research use only'. Diagnostic, therapeutic and use of the Products (other than for internal research use), including but not limited to reselling, distributing, use for commercial services (CRO) or in any way make available, MIMETAS' Products, protocols or procedures applicable to MIMETAS Products to any third party by the Customer is explicitly prohibited.
- 6.2. If MIMETAS requires an advance payment or requires 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 information has been made available by the Customer.
- 6.3. Delivery of Products shall take place ex Works MIMETAS facilities, 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, subject to Section 6.4.
- 6.4. If the Product consists solely of information, such Product will be delivered through email or postal services, in accordance with the Agreement.
- 6.5. Title to the Products, as set forth under Section 5.1., will remain with MIMETAS until Customer has paid to MIMETAS all outstanding amounts pursuant to the Agreement.

- 6.6. Customer is explicitly prohibited to sell, distribute or in any way make available, MIMETAS' Products, protocols or procedures applicable to MIMETAS Products to any third party.
- 6.7. Customer is explicitly prohibited to analyse, (de)compile, modify, edit, format, improve reproduce, derive from, reverse engineer, transfer, disassemble, distribute, market and/or sell, in whole or in part MIMETAS' Products, protocols or procedures.
- 6.8. MIMETAS shall make efforts to deliver its Products within 4 (four) weeks after the Agreement takes effect in accordance with Section 3.3 and Section 6.2.
- 6.9. Any times or dates set forth in the Agreement for the delivery of the Products or rendering of the Services are indicative and not binding, unless this has been agreed upon in advance and in writing.

7. CONFIDENTIALITY

- 7.1. Neither Party shall disclose 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 a Party; (ii) was already known by a Party, other than under an obligation of confidentiality, at the time of disclosure by the Party; (iii) is lawfully acquired by a Party from a third party on a non-confidential basis; or (iv) Confidential Information that a Party is required to disclose pursuant to any law, lawful governmental, quasi-governmental, judicial order or legal process.
- 7.3. Customer allows MIMETAS within the scope of the Agreement to process Confidential Information of the Customer and/or its employees, affiliates and clients or third parties, and allows MIMETAS, under confidentiality, to share the Confidential Information with (i) MIMETAS' employees that have a need to know in view of the Products, (ii) MIMETAS's insurers or legal or financial advisers and (iii) if required, and only with Customer's consent, third parties involved in the execution of the Agreements.
- 7.4. MIMETAS will process any personal data of the Customer in accordance with the applicable (inter)national laws and regulations concerning the protection of personal data.
- 7.5. Customer will not disclose any of MIMETAS' Confidential Information or provide third parties with any information concerning the Agreement, the content of reports, opinions or any other written or oral statements issued by MIMETAS without its

- prior, written consent, except if required by (inter)national laws or regulations.
- 7.6. Parties will impose their obligations under this Clause 7, to any third party engaged by them.

8. INTELLECTUAL PROPERTY

- 8.1. All improvements to MIMETAS' Products, and all files, software, data and information developed or provided by MIMETAS, and any know-how, methodologies, or processes used or developed by MIMETAS to provide its Products to the Customer under the Agreement that are of general applicability, and any copyrights, trademarks, patents, trade secrets, or any other proprietary rights thereon, including but not limited to the intellectual property rights that are directed to MIMETAS' proprietary PhaseGuide, OrganoPlate® and Rocker® technologies. ("**Intellectual Property of MIMETAS**") remain the sole and exclusive property of MIMETAS.
- 8.2. Customer is explicitly prohibited to reproduce, publish or use for commercial purposes any documents describing or reflecting Intellectual Property of MIMETAS without MIMETAS' prior written consent.
- 8.3. Customer will, fully and freely, own the results of the research performed through use of the Products.

9. FEES AND EXPENSES

- 9.1. Customer shall pay to MIMETAS the prices and fees specified in the Agreement.
- 9.2. Prices and fees specified in the Agreement do not include (i) actual, reasonable travel and out-of-pocket expenses, (ii) expense claims filed by third parties engaged by MIMETAS, (iii) value added tax (iv) other government levies (v) and license fees, unless stated otherwise in the Agreement. Customer will reimburse MIMETAS for such additional expenses and costs.
- 9.3. If, between the signing of the Agreement and its completion, any parameter relevant to the calculation of the fee will be subject to change, MIMETAS will have the right to adjust the fee accordingly.
- 9.4. 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 Products delivered. Payment shall be into the bank account mentioned in the invoice.
- 9.5. Customer will pay a late fee of 1,5% (one and a half per cent) per month or the statutory interest pursuant to article 6:119A Dutch Civil Code (whichever is higher) on any overdue amounts. Customer also agrees to pay MIMETAS all reasonable costs and expenses of collection, including reasonable attorneys' fees.
- 9.6. If any facts or circumstances give MIMETAS good reason to fear that the Customer will not fulfil its obligations under the Agreement or will not fulfil

them (or have them fulfilled) in full, the Customer shall, immediately at the request of MIMETAS provide sound security (in the form of pledge, surety or otherwise) for the payment(s) owed and/or make an advance payment. If the Customer fails to provide such a security or advance payment, MIMETAS has the right to immediately suspend (further) execution of the Agreement, and all amounts owed by the Customer will become immediately due and payable.

- 9.7. In the event of a jointly commissioned Agreement, 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 Products delivered and/or the invoice amount within 30 (thirty) days after (i) receiving the Products and/or (ii) the receipt of the invoice. If a complaint is not reported within this period, the right to file a complaint will lapse.
- 10.2. Complaints as referred to in Section 10.1 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 Product, to defer or refuse payment for other Products delivered by MIMETAS to which the complaint does not relate.
- 10.3. If MIMETAS determines that the Customer has filed a legitimate and timely complaint, MIMETAS will replace the defective Product(s) at her own expense.

11. TERM AND TERMINATION

- 11.1. Except as otherwise provided in the Agreement, the Agreement shall expire at the moment that all Products have been delivered, unless the Agreement is terminated as provided in Section 11.2 or 11.3.
- 11.2. MIMETAS may terminate the Agreement without cause upon 1 (one) month prior written notice.
- 11.3. Each Party may forthwith terminate this Agreement upon prior written notice upon
- i. 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 14 (fourteen) day period following receipt of a written notice by the non-breaching Party substantiating such breach ("*ingebrekestelling*").
 - ii. 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.
- 11.4. MIMETAS may terminate the Agreement in the event that material or technical difficulties are faced in the delivery of the Products, which cannot be

- addressed without significant changes to the prices, fees and/or timelines under the Agreement.
- 11.5. If the Customer chooses to terminate the Agreement prior to its completion, the Customer is obliged to pay the prices and fees for any Products delivered by MIMETAS until the effective date of termination. In the event that Customer chooses to terminate the Agreement prior to its completion pursuant to Section 11.2, the Customer shall, furthermore, reimburse to MIMETAS all (out of pocket and internal) 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.
- 11.6. The terms of Clause 6 of these General Terms and Conditions of Delivery shall survive 5 (five) years after termination or expiration of the Agreement. Clauses 7, 8, 12 and 14 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.
- 11.7. MIMETAS will, at request of the Customer, return all Customer Information provided by the Customer upon termination or completion of the Agreement.
- 12. LIABILITY AND INDEMNIFICATION**
- 12.1. All Products 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. In no event will MIMETAS be liable to Customer for any indirect loss, direct loss for which MIMETAS has no cover at all under any assurance, claim, (consequential) damage, fines, tax claims, liability or expenses (including attorney's fees), lost profits, and damage due to the stagnation of business operations ("**Losses**") caused by the performance of MIMETAS or the third parties engaged by MIMETAS in the execution of the Agreement, unless for and to the extent that such loss or damages are due to gross negligence or wilful misconduct on the part of MIMETAS. If, despite the provisions in these General Terms and Conditions of Delivery, liability exists anyway, only direct damage will be eligible for reimbursement.
- 12.3. Save for gross negligence or wilful misconduct of MIMETAS or its officers, or the third parties engaged by MIMETAS in the execution of the Agreement, any and all liability of MIMETAS (including its indemnification obligation) is limited to an amount equal to 25% (twenty-five per cent) of the fee paid or owed by the Customer for the Product order from which the liability arises. MIMETAS' aggregate liability towards the Customer shall be limited in all cases to the amount, which is paid under MIMETAS' professional liability insurance in the matter concerned.
- 12.4. 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 notified MIMETAS in accordance with section 10.1.
- 12.5. Any and all Agreements are accepted and executed exclusively by MIMETAS or on its behalf. Any right of indemnification or action by the Customer should be brought directly and exclusively to MIMETAS.
- 12.6. 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 Losses caused by:
- any inaccuracy or incompleteness in the Customer Information provided by it or on its behalf;
 - a delay in the delivery of Customer Information provided by it or on its behalf;
 - any other failure in the performance of the obligations of the Customer under the law, these General Terms and Conditions of Delivery or the Agreement;
 - circumstances which cannot be attributed to MIMETAS otherwise.
- 12.7. Except where wilful misconduct or gross negligence of MIMETAS is concerned, the Customer shall indemnify MIMETAS against all third-party claims on any grounds whatsoever in respect of compensation for any Losses, directly or indirectly related to the performance of the Agreement.
- 12.8. Neither Party shall be liable in any way for any Losses arising out of or in connection with any delay, restriction, interference or failure in performing any obligation towards the other Party caused by any circumstance beyond its reasonable control. Upon the occurrence of any such event, the party suffering thereby shall promptly inform the other party by written notice thereof specifying the cause of the event and how it will affect its performance. The Party not affected by the force majeure is entitled to terminate the Agreement upon one month written notice.
- 13. MISCELLANEOUS**
- 13.1. Parties may communicate with each other by electronic mail. Parties recognise the risks associated with electronic mail including, but not limited to, distortion, delays, interception, manipulation and viruses. Parties hereby declare that they shall not hold each other liable for any damage incurred by either of them as a result of the use of electronic mail. This also applies to the use of electronic communication between MIMETAS and third parties including, but not limited to the Dutch tax

authorities. The parties shall do or omit all that can reasonably be expected of them to avoid such risks. If a Party should be in doubt as to the content of an electronic message received, the content of the message originating with the sender shall be decisive.

- 13.2. The invalidity or unenforceability of any provision of this Agreement shall not affect or limit the validity or enforceability of any other provisions hereof. Any such invalid or unenforceable provision shall be replaced or deemed to be replaced by a provision that is considered to be valid and enforceable. The interpretation of the replacing provision shall be as close as possible to the intent of the invalid or unenforceable provision.
- 13.3. In case of conflict between these General Terms and Conditions of Delivery and the Agreement, the provisions of the Agreement shall prevail.
- 13.4. Changes to these General Terms and Conditions of Delivery can only be agreed upon in writing in the Agreement.
- 13.5. The Customer cannot assign the Agreement, any rights and/or any obligation therein, to a third party without the prior written consent of MIMETAS, not to be unreasonably withheld. MIMETAS may assign its rights and/or obligations under the Agreement to a third party in the event of a merger with or sale of its assets to a third party.

14. GOVERNING LAW AND JURISDICTION

- 14.1. These General Terms and Conditions of Delivery, any and all Agreements and any and all offers made by MIMETAS are exclusively governed by the law of the Netherlands.
- 14.2. 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

15. FINAL PROVISIONS

- 15.1. These General Terms and Conditions have been filed at the office of the Trade Register of the Chamber of Commerce for The Hague, The Netherlands under nr. 53898737. These General Terms and Conditions of Delivery can also be downloaded from the website of MIMETAS.