

General Terms and Conditions (Effective as of 1 October 2012)

1. Applicability of These Terms and Conditions

- 1.1 The terms and conditions (the "Conditions") set forth hereinafter shall govern the sale of Products ("Products") and the provision of services ("Services") by Miltenyi Biotec Ltd. ("Miltenyi Biotec", "us", "we" or "our"), a company registered in England and Wales under company number 03096272, whose registered address is Almac House, Church Lane, Bisley, Surrey GU24 9DR, to the Customer. "The Customer" means the person, firm or company placing an order for Products or Services with Miltenyi Biotec. The Conditions shall also apply, without a separate Contract to this effect being necessary, to all future transactions with the Customer. "Contract" means any agreement (including these Conditions) entered into by and between Miltenyi Biotec and the Customer with respect to the Products and/or Services.
- 1.2 These Conditions shall apply to the exclusion of all other terms and conditions, and Miltenyi Biotec shall not be bound by any terms or conditions contained in any purchase order, acknowledgement, acceptance or other documents submitted by the Customer which propose any terms or conditions in addition to or differing from the Conditions herein set forth, irrespective of whether any of the same are in written or electronic form, and objection is hereby made to any such supplemental or conflicting terms and conditions of the Customer. Neither Miltenyi Biotec's commencement of performance nor delivery shall be deemed or constituted as acceptance of the Customer's supplemental or conflicting terms and conditions. No amendment, deletion, supplement or change in these Conditions shall be binding upon Miltenyi Biotec unless separately and specifically approved in writing and signed by a duly authorised representative of Miltenyi Biotec.
- 1.3 These Conditions are subject to change without notice at any time, in its sole and absolute discretion.

2. Conclusion of Contracts; Offer Documents

- 2.1 Miltenyi Biotec's offers and quotations are always without obligation. All prices and descriptions in any website, price list or other media are invitations to treat only. Any orders received by Miltenyi Biotec from time to time shall be treated as offers which are subject to acceptance by Miltenyi Biotec. Unless expressly agreed, by a written document signed by a duly authorised officer of Miltenyi Biotec, that the Customer's or any other terms apply, Miltenyi Biotec will only accept and deliver orders on these Conditions. All orders and deliveries are made subject to the Customer accepting these Conditions, which acceptance will be deemed by the Customer's use or acceptance of the relevant products or services. Commissions and orders from the Customer shall only become binding upon its written confirmation (including delivery note or invoice). Commissions and orders placed by the Customer may not be cancelled or rescheduled without Miltenyi Biotec's prior written consent. The Customer is responsible for the accuracy of its orders and specifications and for supplying any relevant information pursuant to Section 3.1 below within sufficient time to enable Miltenyi Biotec to perform the Contract for delivery of Products/Services. Miltenyi Biotec reserves the right to make changes to the specifications of any Product and/or Service supplied which are required to conform with any applicable safety or statutory requirements.
- 2.2 Miltenyi Biotec's field workers and sales personnel are not authorised to conclude oral agreements or any amendment to these Conditions. Any oral commitments deviating from Miltenyi Biotec's offer, quotation or order confirmation shall only be valid if confirmed in writing and signed by a duly authorised representative of Miltenyi Biotec. The Customer shall bear the burden of proof that Miltenyi Biotec has formally agreed to any terms that are not set forth in writing.
- 2.3 Verbal agreements made after execution of a Contract must be confirmed in writing by a duly authorised representative of Miltenyi Biotec to be valid.
- 2.4 Any typographical or other error or omission in any sales document, pricing, invoice or quote is subject to correction without any liability on Miltenyi Biotec's part.

3. Performance; Delivery

- 3.1 If the Customer has to provide Miltenyi Biotec with information or materials or has to meet other duties of cooperation for the execution of the order, Miltenyi Biotec is entitled to rely on the accuracy, completeness and proper quality of the information and materials provided and the complete fulfillment of the duties of cooperation. If the Customer does not or does not properly meet the above-mentioned duties, Miltenyi Biotec shall be released from

the obligation to perform the Contract without prejudice to any other right or remedy available to it.

- 3.2 The Customer acknowledges that representations as to deadlines for delivery of Products or Services are estimates only and shall not be of essence, unless Miltenyi Biotec has given an express binding commitment in writing. Deadlines for deliveries and services shall begin to run when the order confirmation is given, but not before all technical issues and details relating to the order have been resolved. Deadlines shall not apply if the Customer is in default with the fulfilment of its duties, in particular, with regard to the provision of materials, documents, information, data, exemptions or permits that have to be furnished by the Customer, or with regard to such other information that Miltenyi Biotec may reasonably require to perform the Contract, or with regard to any payment which must be made for the delivery of any Product or Service or any previous delivery of Products or Services or with regard to any other payment or consideration due.
- 3.3 Delivery dates shall be deemed to have been met if, on or before this date, the Products or the deliverables of the Services have left Miltenyi Biotec's facilities or are ready for dispatch and the Customer has been notified accordingly. If delivery is delayed due to any act or omission of the Customer, or if having been notified that Products are ready for dispatch, the Customer fails to take delivery or provide adequate shipping instructions, Miltenyi Biotec shall be entitled to place the Products into a suitable store at the Customer's expense. Upon placing the Products into the store, delivery shall be deemed complete and risk of loss or damage to the Products will pass to the Customer.
- 3.4 Miltenyi Biotec shall not be responsible for failure or delay in performance or delivery as the result of events of force majeure, including, without limitation, all revisions of statutory law, acts of governmental authority or any agency or commission thereof, war, fire, flood, accidents, acts of God, terrorism, embargoes, acts of third parties, breakdown of equipment, shortages of material, labour or power, labour strikes, work stoppage or labour unrest or any other cause beyond Miltenyi Biotec's reasonable control which renders the delivery or service substantially more difficult or impossible. This shall also apply if such events occur during a delivery delay or at a supplier. Miltenyi Biotec shall have no obligation to deliver any Products or provide any Services unless and until it has received any necessary licenses or authorisations or is qualified for general licenses or license exceptions under applicable import/export laws, regulations, orders and requirements. If for any reason any such licenses or authorisations are denied or revoked, or a change in any such applicable laws, regulations, orders or requirements occurs thereby prohibiting Miltenyi Biotec from performing the Contract, or otherwise exposing Miltenyi Biotec and/or its affiliates to a risk of liability under applicable laws, regulations, orders or requirements, Miltenyi Biotec shall be relieved without liability of all obligations under the Contract. If any of the foregoing events occurs, Miltenyi Biotec may make deliveries of the Products and Services proportionate to production and/or postpone the shipment or delivery period of the Products and Services to a reasonable time after the difficulty has ceased, or Miltenyi Biotec may, at its option upon due notice given to the Customer after the commencement of any such event, declare the relevant Contract terminated whereupon all rights and liabilities of Miltenyi Biotec and the Customer under that Contract shall cease and terminate, but without prejudice to Products and Services previously shipped or performed or in its inventory and without prejudice to any accrued rights or liabilities not connected with the relevant events. In no such event shall Miltenyi Biotec be liable to the Customer for compensation or damages. Miltenyi Biotec shall notify the Customer without undue delay of the obstacle to performance and of its end.
- 3.5 Import, export and/or the transport of Products outside the United Kingdom shall be subject to the import and/or export regulations applicable in the United Kingdom, the European Union, the country imported to, and in all other relevant jurisdictions, as the case may be. The Customer shall be solely responsible for the procurement of relevant approvals and permits. However, at the Customer's request and expense, Miltenyi Biotec shall use its reasonable endeavours, to the extent reasonable and economical, to obtain the approvals necessary for the export of the subject of the relevant Contract and/or any other necessary documents from the domestic authorities. Miltenyi Biotec reserves the right to determine whether to sell and/or deliver Products and/or Services to Customers and/or nationals of countries outside the European Union.

- 3.6 If Miltenyi Biotec negligently delays delivery of any Product or delivery of any Service, Miltenyi Biotec shall be liable for the Customer's losses for each complete week of delay in the maximum amount of 0.5 percent of the value of such Product or Service. In any case the total liability of Miltenyi Biotec for any and all damages, claims or causes for action howsoever arising from such delay shall in no event exceed 5 percent of that portion of the total delivery of Products or provision of Services that cannot be used at the time required or for the purpose designated in the Contract as a result of the delay. This limitation shall not apply if Miltenyi Biotec's liability is due to intentional misconduct or gross negligence. Any degree of fault on the part of the Customer, including that fault arising from any act or omission of the Customer under Section 3.3 of these Conditions, shall be taken into account and proportionally reduce the amount of damages otherwise due under these Conditions by Miltenyi Biotec to the Customer. Notwithstanding the foregoing or any other provision of the Contract, Miltenyi Biotec, to the fullest extent permitted by the applicable law, shall not be liable to the Customer for any loss of profits, contracts, use, data or consequential or indirect losses.
- 3.7 Notwithstanding the foregoing provisions, if the Customer fails to accept delivery or negligently breaches any other obligations to cooperate in the performance of the Contract, Miltenyi Biotec shall be entitled to compensation for any loss it may suffer as a consequence, including any additional expenses or costs that Miltenyi Biotec may incur as a result of the delay.
- 3.8 Miltenyi Biotec, at its sole and absolute discretion, shall be entitled to make partial deliveries of Products and/or Services unless it would be unreasonable to expect the Customer to accept such partial deliveries. Each partial delivery may be invoiced separately. However, if Miltenyi Biotec exercises its right to make partial deliveries, costs for packaging and shipment shall only be charged once. Where the Products and/or Services are to be delivered in instalments, failure by Miltenyi Biotec to deliver any one or more instalments under these Conditions or any claim by the Customer in respect of any instalment shall not entitle the Customer to refuse future deliveries nor to terminate the Contract.
- 4. Shipment; Risk**
- 4.1 Unless otherwise agreed in writing, shipments of Products and/or deliverables of Services shall be FCA (as defined in Incoterms 2010) Miltenyi Biotec's facility.
- 4.2 Risk of loss or damage to the Products and/or deliverables of Services, as well as the obligation to bear any costs relating thereto, shall pass to the Customer upon Miltenyi Biotec's making delivery, including partial delivery, to a carrier at Miltenyi Biotec's facility in good condition, consigned to the Customer, or as the Customer may otherwise direct. Miltenyi Biotec shall select the carrier in the absence of specific instructions from the Customer. If the shipment is delayed as a result of instructions from the Customer or due to the Customer's fault, in particular, because the Customer has failed to give proper instructions in due time, risk shall pass to the Customer upon written notification that the Products and/or deliverables of Services are ready for shipment.
- 4.3 Any shipment shall be made on behalf of the Customer. This shall also apply if, owing to individual arrangements, Miltenyi Biotec agrees to bear the costs of shipment or have the shipment insured or to mount or set up the Products on the Customer's premises. Miltenyi Biotec shall not be liable for damage and loss during transport. In particular, any damage and loss shall not release the Customer from the obligation to pay the purchase price in full. If the Customer has not given any special orders relating to shipment, Miltenyi Biotec shall have the shipment sent via such route as it determines in its absolute discretion. At the Customer's request, which must be communicated in writing upon order placement, Miltenyi Biotec shall take out transport insurance for the shipments on behalf and at the expense of the Customer. Miltenyi Biotec shall be entitled to name itself as beneficiary. Miltenyi Biotec shall only be liable for care customarily taken when choosing the insurer for the transport.
- 4.4 If a shipment is delayed due to the Customer's fault, Miltenyi Biotec may, at its absolute discretion, after the expiration of a grace period of one week either arrange for shipment at the expense and risk of the Customer or provide for storage of the Products and charge the storage costs to the Customer. In the case of storage, Miltenyi Biotec shall be entitled to charge the Customer a monthly storage and handling fee in the minimum amount of 0.5 percent of the invoiced purchase price for each month of delay. Miltenyi Biotec reserves the right to assert a claim for higher storage costs if such higher costs are incurred.
- 5. Prices**
- 5.1 All prices are quoted FCA (as defined in Incoterms 2010), including normal packaging and handling, and are those specified in the Contract for the relevant Product and/or Service. The Customer shall bear all costs for shipment, which will be charged separately at the applicable rates. Unless otherwise specifically provided in writing, quotations are valid on day of issue only.
- 5.2 All prices are subject to change without prior notice except for work in progress or as otherwise specifically provided in a written quotation signed by an authorised representative of Miltenyi Biotec. Rates of tax and duties on the Products and Services will be those applying at the time of invoice.
- 5.3 Prices quoted unless otherwise expressly stated are exclusive of transportation and insurance costs and any sales, use or excise taxes, customs duties, imposts or other assessments of any kind, value-added or similar taxes, which may arise from the manufacture, processing, sale, delivery or shipment of the Products or Services. The Customer agrees to pay these taxes, duties and other assessments and shall be solely responsible for them, unless Miltenyi Biotec agrees in writing that the sale is exempted. If Miltenyi Biotec has the legal obligation to collect any such taxes, duties or other assessments, the appropriate amount shall be added to Miltenyi Biotec's invoice to the Customer and paid by the Customer. If, for whatever reason, Miltenyi Biotec does not collect any such amount from the Customer and Miltenyi Biotec becomes liable to pay any such taxes, duties or other assessments or any penalties related thereto, the Customer shall promptly pay such amounts directly to the appropriate governmental authority or, if Miltenyi Biotec is required to pay or has paid such amounts, shall pay such amounts to Miltenyi Biotec in accordance with Section 11 below. The Customer agrees to indemnify and hold harmless Miltenyi Biotec from any liability for any such taxes, duties, or other assessments in connection with the delivery of the relevant Products or Services, as well as the collection or withholding thereof, including penalties and interest thereof. When applicable, transportation and taxes shall appear as separate items on Miltenyi Biotec's invoice.
- 6. Limited Warranty**
- 6.1 Miltenyi Biotec's Products are manufactured and all Services are rendered with due care and in accordance with applicable statutory laws and regulations. Owing to the complexity of biotechnological products, materials and procedures, however, it cannot be guaranteed that any Products or Services function without defects in all applications, environments and/or combinations. For this reason, Miltenyi Biotec does not assume any guarantee or liability to the effect that its Products or the results of the Services are appropriate in each individual case for the specific purpose intended by the Customer. Subject to the limitations of this Section 6 and unless otherwise expressly provided, Miltenyi Biotec warrants only that the Products and Services will conform to Miltenyi Biotec's published specifications for such Products and Services in effect at the time of order acceptance, or any analysis certificate presented with the Product or Service result.
- 6.2 Any samples, measurements and Product or Service related details contained in catalogues, price lists, brochures and/or quotations presented to the Customer only constitute an approximate guide and may under no circumstances be understood as an assurance of properties in terms of a guarantee. Miltenyi Biotec reserves the right to make any changes thereto which Miltenyi Biotec considers necessary in its absolute discretion. If Miltenyi Biotec and the Customer wish to agree on a guarantee in an individual case, contrary to the above, this must be done expressly and in writing signed on behalf of each party by a person with requisite authority.
- 6.3 The warranty shall not cover defects and/or damage caused by force majeure or other outside impact, inappropriate treatment, improper storage, disregard of operating and safety procedures or recommended maintenance intervals or normal wear and tear. In particular, no warranty shall apply to any item which has been operated by untrained users, serviced, repaired or altered except as set forth in the user manual or otherwise expressly authorised by Miltenyi Biotec, or which has been otherwise interfered with by the Customer and/or by unauthorised third parties. Defects and/or damage caused by the use of replacement parts, accessories and/or expendable materials (in particular, reagents) other than those expressly approved by Miltenyi Biotec (e.g., in the user manual or otherwise in writing) shall also not be covered by this warranty.
- 6.4 Except as otherwise provided herein, Miltenyi Biotec's sole liability, and the Customer's sole and exclusive remedy, pursuant to any claim of any kind against Miltenyi Biotec, including without limitation any claim in contract, negligence or strict liability, shall be, at Miltenyi Biotec's option, (a) redelivery of any non-conforming Products or re-performance of any non-conforming

- Services (or such portion thereof as may reasonably be required to be re-performed) until completion or (b) a refund of payments allocable to the non-conforming Products or Services.
- 6.5 THE LIMITED WARRANTY IN SECTION 6.1 ABOVE IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES AND MILTENYI BIOTEC HEREBY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR (B) ANY IMPLIED WARRANTY THAT ANY USE OF THE PRODUCTS OR SERVICES WILL NOT VIOLATE OR INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHTS OF THIRD PARTIES, WITH RESPECT TO THE PRODUCTS OR SERVICES, OTHER THAN AS EXPRESSLY SET FORTH IN SECTION 6.1 ABOVE.
- 7. Inspection and Acceptance**
- 7.1 The Customer shall inspect the Products promptly upon delivery and shall give written notice to Miltenyi Biotec specifying any alleged non-conformance, defect, damage, or shortage. The Customer shall be deemed to have accepted the Products as having been delivered in accordance with the relevant contract and as being free from any defect, damage, shortage, or any other deficiency whatsoever, unless such notice has been given in writing and received by Miltenyi Biotec by (a) seven (7) working days after the Customer's receipt of delivery of the Products, in the case of any non-conformities or deficiencies reasonably ascertainable by visual inspection or routine testing procedures, or (b) seven (7) working days after the Customer learns of the facts giving rise to the claim, in the case of any other non-conformities or deficiencies not reasonably ascertainable by visual inspection or routine testing procedures, but in no event later than 12 months from the date of delivery of the relevant Product. The Customer's failure to give notice of any claim within the applicable time period specified above, shall be deemed an absolute and unconditional waiver of such claim, irrespective of whether the facts giving rise to such claim shall have been discovered or whether processing or use of the Products shall have then taken place, and Miltenyi Biotec shall have no liability for any alleged defect.
- 7.2 Miltenyi Biotec reserves the right to inspect and test any Product objected to. The Customer shall give Miltenyi Biotec reasonable time and opportunity for such inspection. The Customer shall return the relevant item to Miltenyi Biotec at Miltenyi Biotec's expense. If the Customer's notification of defects proves to be unjustified, Customer must reimburse Miltenyi Biotec for all costs incurred in this context (e.g., inspection costs, travel costs and shipment costs) upon submission of receipts.
- 7.3 Defects of partial deliveries shall not entitle the Customer to reject the remainder of the contractual quantity unless the Customer can prove that it would be unreasonable for the Customer to accept only a part of the delivery under these circumstances.
- 7.4 Customer's warranty claims owing to defects as to quality of the Products and/or Services shall become time-barred 12 months following the assumption of risk by the Customer. The same shall apply to defects of title. For expendable materials (e.g., reagents, kits), the warranty period shall expire upon the earlier of the date set forth in the first sentence and the indicated use-by date of the Product (see Section 8.3, below). In the event of maliciously concealed or intentionally caused defects, the statutory limitation periods shall apply with regard to the Customer's damage claims and rights.
- 8. Use**
- 8.1 Products sold or otherwise delivered by Miltenyi Biotec must only be used for the purposes and in accordance with the usage instructions stated on the product package and/or the applicable product use statement. In particular, Miltenyi Biotec's Products are for research use only and are not to be used, neither directly nor indirectly, for therapeutic or diagnostic purposes unless (a) the Product has been expressly approved for such purposes by Miltenyi Biotec, (b) such use is permitted under the statutory law applicable for the Customer and the user, and (c) all required permits have been granted by the appropriate regulatory agency or other competent authority. The Customer shall be solely responsible for ensuring that the Customer's intended use of the Products (in particular, reagents and kits) does not violate statutory law and that all required permits have been granted.
- 8.2 Customer shall handle and use the results of the Products in conformity with (a) good laboratory practice, (b) all applicable laws and regulations, guidelines and decisions of judicial or regulatory bodies and (c) any patent and other proprietary rights of third parties.
- 8.3 Products with use-by dates may only be used subject to the use-by dates stated on the product package and are only warranted for the use by such dates.
- 8.4 Any technical assistance or advice offered by Miltenyi Biotec regarding use of any Product or Service or provided in connection with the Customer's purchases, unless otherwise provided by the Contract or agreed in writing by the parties, is given free of charge and as an accommodation to the Customer. Miltenyi Biotec shall not be held liable for the content or the Customer's use of such technical assistance or advice nor shall any statement made by any of Miltenyi Biotec's representatives in connection with the Products or Services constitute a representation or warranty, express or implied.
- 9. No Resale; No Export**
- 9.1 Customer certifies that it will be the recipient of the Products to be delivered by Miltenyi Biotec. Except as otherwise agreed in writing by Miltenyi Biotec's authorised representative, the purchase or other delivery of Miltenyi Biotec Products only conveys to the Customer the non-transferable right for the Customer to use the delivered Products in compliance with the applicable product use statement. Unless otherwise authorised under a commercial license from Miltenyi Biotec, no right to resell the Products, or any portion of them, in any way, shape or form, including as a component of another Product, is conveyed.
- 9.2 Miltenyi Biotec does not permit the Customer to re-export the delivered Products from the country of delivery.
- 10. Limitation of Liability and Remedy**
- 10.1 MILTENYI BIOTEC SHALL NOT IN ANY EVENT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION PROPERTY DAMAGE, LOST PROFITS OR OTHER ECONOMIC LOSS, ARISING IN CONNECTION WITH THE CUSTOMER'S USE OF OR INABILITY TO USE THE PRODUCTS OR SERVICES, OR MILTENYI BIOTEC'S FAILURE TO PERFORM THE SERVICES IN ACCORDANCE WITH THE LIMITED WARRANTY SET FORTH IN SECTION 6 ABOVE. THIS LIMITATION OF LIABILITY WILL APPLY UNDER ANY LEGAL THEORY AND REGARDLESS OF THE FORM OF ACTION, INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND, EVEN IF MILTENYI BIOTEC HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES, AND SHALL ALSO APPLY TO LOSSES CAUSED BY THE BREACH OF DUTIES IN CONTRACT NEGOTIATIONS.
- 10.2 Except as otherwise provided herein, Miltenyi Biotec's liability for breach of warranty or for any loss or damage resulting from any other cause whatsoever, including alleged negligence, shall not exceed the lesser of (i) the cost of correcting any non-conformity in the Products or Services or (ii) the cost of replacing the Products or re-performing the Services. In no event (including unenforceability of the above limitations and independent of any failure of essential purpose of the limited warranty and remedies provided hereunder) shall Miltenyi Biotec's aggregate liability for damages hereunder exceed the purchase price or fee (exclusive VAT) paid or to be paid for the specific Products or Services to which the particular claim relates. The parties acknowledge that the limitations set forth in this Section 10 are integral to the prices charged and that, were Miltenyi Biotec to assume any further liability other than as set forth herein, such prices would of necessity be set substantially higher. The Customer expressly agrees that this limitation of damages and remedies shall constitute the exclusive remedies and measure of damages available to the Customer and all other remedies and measures of damages which might otherwise be available under the law of any jurisdiction are hereby waived by the Customer.
- 10.3 Without limitation to the generality of the foregoing limitation, Miltenyi Biotec shall not be liable for any damage or loss caused by the improper or unapproved use of the Products. The Customer shall defend, indemnify and hold harmless Miltenyi Biotec from and against any and all losses, costs and expenses, including without limitation reasonable attorneys' fees, in any way arising out of or relating to (a) any use of the Products not in compliance with the uses stated in Section 8 above, (b) any failure of the Customer to comply with good laboratory practice and all laws, regulations, guidelines or decisions governing the handling, use, storage, disposal, transportation, export or resale of the Products, (c) any violation or infringement of any patent or other proprietary rights of third parties by the Customer in the handling or use of the Products, or (d) any other use or misuse of the Products by the Customer.
- 10.4 The limitations set forth in this Section 10 shall not restrict or exclude Miltenyi Biotec's liability for death or personal injury caused by negligence on its part, on the part of its executive employees or on the part of its vicarious agents. Further, nothing set forth

herein shall restrict or exclude its liability based on intentional misconduct or gross negligence on its part, on the part of its executive employees or on the part of its vicarious agents, or its liability resulting from mandatory product liability laws or other mandatory statutory laws and regulations, as applicable.

11. Payment Terms

- 11.1 The full amount of each invoice in respect of the deliveries and Services provided by Miltenyi Biotec hereunder shall be paid net 30 days following the date of receipt by the Customer of the invoice or an equivalent request for payment, unless otherwise specified in the invoice. Time for payment is of the essence. Miltenyi Biotec may invoice each shipment separately. The Customer may not withhold payment of any amounts due to Miltenyi Biotec by reason of any claim to a right of set-off or counterclaim or for any other reason, unless to the extent the Customer's counterclaims have been affirmed finally and absolutely in a court judgment, are undisputed or are acknowledged in writing by Miltenyi Biotec.
- 11.2 Payment by check or bill of exchange will be effective only after these instruments have cleared and been paid. Any discounts and expenses shall be borne by the Customer. Any check or remittance received from or for the account of the Customer may be accepted and applied by Miltenyi Biotec against any indebtedness owing by the Customer, without prejudice to, or the discharge of, the remainder of any such indebtedness regardless of any condition, provision, statement, legend or notation appearing on, referring to or accompanying any check or remittance.
- 11.3 Miltenyi Biotec reserves the right to charge interest on late payments from the Customer at a rate equal to the interest paid for drawing on a corresponding bank loan, but at least at a rate of eight percentage points above the then-current interest rate set by the Bank of England Monetary Policy Committee in its most recent main refinancing operation carried out before the first calendar day of the half-year in question, or if lower, the maximum amount permitted by applicable law, calculated on a daily basis beginning with the first day following the invoice due date, and for reimbursement of all debt collection costs incurred by Miltenyi Biotec in relation to the Customer's default in payment.
- 11.4 At any time, if in Miltenyi Biotec's absolute opinion the financial condition of the Customer so warrants, or if the Customer fails to make payment when due or otherwise defaults hereunder, Miltenyi Biotec may change any terms of payment, suspend any credit previously extended to the Customer, require partial or full payment in advance and delay shipment until such terms are met, and pursue any other remedies available at law. In such event, if the Customer refuses to accept such changes, or in the event of bankruptcy or insolvency of the Customer or in the event any proceedings are brought by or against the Customer under any bankruptcy or insolvency laws or their equivalent or in the event of the material breach of any term of these Conditions or any breach of Section 17.2 below, Miltenyi Biotec may cancel any order then outstanding and/or terminate the contract with immediate effect without any liability to the Customer on its part and recover any Products and/or deliverables held by the Customer which remain the property of Miltenyi Biotec and enter upon the Customer's premises for that purpose.
- 11.5 In the event of discontinuation of payments by the Customer, Miltenyi Biotec shall be entitled to disclose a silent assignment to it of all Products which have not been paid for in full by way of security by the debtor. Collection and discount charges shall be borne by the Customer. The Customer shall pay discount charges, stamp duties, default interest immediately. Miltenyi Biotec shall not be liable for timely presentation, protest, notification and return of bills of exchange if they are dishonoured.
- 11.6 Any grant of deferment shall only become valid with Miltenyi Biotec's written approval. Such grant may be revoked at any time. Deferred receivables shall also become due without revocation if the Customer discontinues payments, becomes insolvent, is in default of payment or has bills of exchange protested.
- 11.7 At its absolute discretion, payment shall initially be allocated to older debts. If costs for prosecution (in particular, costs for reminders) have already arisen, Miltenyi Biotec shall be entitled to offset the Customer's payment first against such costs, then against the interest and finally against the primary claim. In the event of default, unless higher costs have arisen, a fixed amount of € 15 shall be charged for each reminder following the occurrence of the default.
- 11.8 Miltenyi Biotec shall have a lien on all Customer Material and other property provided by the Customer for the performance of a Contract, until all amounts due to Miltenyi Biotec in respect of the delivery of Products or Services, or any previous deliveries of Products or Services to the Customer, or other payments due under any other Contract with the Customer have been paid in full.

12. Retention of Title

- 12.1 Notwithstanding delivery, title in the Products and/or deliverables of the Services shall not pass from Miltenyi Biotec to the Customer and Miltenyi Biotec shall retain full legal and beneficial ownership of the Products and/or deliverables of the Services until all amounts due to Miltenyi Biotec in respect of the delivery of Products or Services, or any previous deliveries of Products or Services to the Customer, or other payments due from the Customer under any other Contract or agreement with the Customer or otherwise have been paid in full.
 - 12.2 Until title in the Products and/or deliverables of the Services passes to the Customer, the Customer shall hold the Products and/or deliverables of the Services on a fiduciary basis as bailee for Miltenyi Biotec and shall take all necessary steps for their protection (including, without limitation, by identifying them clearly as being the property of Miltenyi Biotec, by not removing any identifying mark and by maintaining them in satisfactory condition) and insure them against all risks with a reputable insurance company for the full purchase price (plus VAT).
 - 12.3 Notwithstanding that full legal and beneficial ownership of the Products and/or deliverables of the Services (or any of them) remains with Miltenyi Biotec, the Customer may use the Products and/or deliverables of Services in the ordinary course of the Customer's business. Except as permitted by this paragraph the Customer may not create (or allow to be created) in favour of any third party any right in or security over any of the Products or deliverables of the Services which are the property of Miltenyi Biotec.
 - 12.4 Miltenyi Biotec shall be entitled to claim for and recover all amounts due to Miltenyi Biotec in respect of the Products or deliverables of Services notwithstanding that title in any of them has not passed from Miltenyi Biotec to the Customer.
 - 12.5 Before title has passed to the Customer in respect of any Product and without limiting any other right or remedy Miltenyi Biotec may have, it may at any time require the Customer to deliver up any such Product and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the relevant Product is stored in order to recover them.
- ## 13. Supplementary Terms and Conditions for Services
- 13.1 Miltenyi Biotec will perform all Services using due care in accordance with (a) the statement of work relating to the Services, of which these Terms and Conditions are a part (hereinafter "the Services Contract") and (b) generally prevailing industry standards. Miltenyi Biotec will make a good faith effort to start and complete all Services in a timely manner and will notify the Customer if it has determined that there are likely to be substantial delays.
 - 13.2 If changes to the Services Contract result in an increase in the cost of the Services or affect the projected completion date of the Services, the fee and/or completion date shall be adjusted to a degree commensurate with such changes. Cancellation of Services in progress will result in a partial charge commensurate with the percentage of work completed at the time of cancellation.
 - 13.3 Customer shall furnish Miltenyi Biotec with sufficient amounts of information and materials such as cells, compounds, samples, or other substances, as required to perform the Services ("Customer Materials"), as well as comprehensive data or information concerning the stability, storage and safety requirements of provided Customer Materials. Prior to the performance of microarray Services, Miltenyi Biotec will perform QC testing of the Customer Materials. An additional charge will be incurred where a repetition of the pre-processing tests should be required due to the Customer Materials failing such a test. Miltenyi Biotec reserves the right to ship the Customer Materials to other Miltenyi Biotec facilities for processing. Shipments of Customer Materials shall be made at the Customer's sole risk. Miltenyi Biotec shall not be liable for any loss or damage to the Customer Materials during transit, unless caused by intentional misconduct or gross negligence of Miltenyi Biotec. All claims for loss or damage incurred during shipment shall be made by the Customer directly to the carrier. Upon completion of the Services excess Customer Materials will be disposed of, unless otherwise requested by the Customer in writing. Excess non-amplified RNA will be stored at Miltenyi Biotec GmbH at the Customer's risk for a period of three months after completion of the Services. On request, excess non-amplified RNA, and/or other Customer Materials, shall be sent to the Customer subject to an additional charge. Otherwise all excess non-amplified RNA will be destroyed without further notice after the end of the three month storage period.
 - 13.4 Except as set forth otherwise herein or in the Services Contract, the Customer shall be the exclusive owner of and shall have title to all documentation, information, records, raw data, specimens

- or other work product supplied by the Customer and/or generated by Miltenyi Biotec as a direct result of the performance of the Services ("Data"). Upon completion of the Services Miltenyi Biotec will maintain a file of the Data for a period of no less than one year.
- 13.5 During performance of the Services and for three (3) years thereafter, Miltenyi Biotec will treat all Data as proprietary and confidential and will not disclose the same to any person except its employees, consultants, and subcontractors to whom it is necessary to disclose the Data for purposes of providing the Services. Miltenyi Biotec may disclose Data to its employees, consultants, or subcontractors, provided that such employees, consultants, or subcontractors are subject to a written agreement that includes confidentiality terms at least as restrictive as those specified herein. Any employee, consultant, or subcontractor who is given access to the Data will be informed by Miltenyi Biotec of these Conditions. Miltenyi Biotec shall protect the Data by using the same degree of care as Miltenyi Biotec uses to protect its own confidential information, but in any event no less than a reasonable degree of care. Notwithstanding any other provisions herein, Miltenyi Biotec shall have no liability or obligation to the Customer for, nor be in any way restricted in, its disclosure or use of any Data which (a) is already known to Miltenyi Biotec; (b) is or becomes publicly known by any means whatsoever, through no wrongful act of Miltenyi Biotec; (c) is received from a third party without breach of these Conditions or the Contract; (d) is disclosed pursuant to an enforceable order of a court or administrative agency; or (e) is independently developed by or for Miltenyi Biotec.
- 13.6 Invoices shall be sent to the Customer upon completion of the Services and delivery to the Customer of the written report of the results. If the Customer defaults in any payment when due, Miltenyi Biotec, at its option and without prejudice to its other lawful remedies, may defer delivery or terminate the Services.
- 13.7 Except as set forth otherwise herein or in a Services Contract, the Customer shall be the exclusive owner of, and Miltenyi Biotec hereby assigns to the Customer, all Customer Materials, Data, inventions, improvements, designs, programs, formulas, know-how and writings supplied by the Customer and/or generated or discovered as a direct result of Miltenyi Biotec's performance of the Services, whether or not copyrightable or patentable (collectively, the "Inventions"). If requested by the Customer, Miltenyi Biotec shall, at the Customer's expense, do all things reasonably necessary or appropriate to assist the Customer in obtaining patents or copyrights on any Inventions. The Customer shall not by virtue of the Contract or either party's performance thereof obtain any intellectual property or other ownership rights in any methods or processes used or developed by or for Miltenyi Biotec in or for the provision of Services or any documentation, records, raw data, materials (other than Customer Materials), specimens, work product, concepts, information, inventions, improvements, designs, programs, formulas, know-how, or writings related thereto, except those methods and/or processes, if any, provided by the Customer to Miltenyi Biotec and designated as being owned by the Customer in a separate written agreement between the parties.
- 13.8 Miltenyi Biotec's sole warranty with respect to the Services is that Miltenyi Biotec will perform all Services in accordance with the standard of performance set forth in Section 13.1 above. The Customer shall notify Miltenyi Biotec in writing of any claim for a breach of such warranty by Miltenyi Biotec within one (1) month after delivery by Miltenyi Biotec of the written report of the results relating to such Services. The Customer's failure to give notice of any claim within the applicable time period specified above, shall be deemed an absolute and unconditional waiver of such claim, irrespective of whether the facts giving rise to such claim shall have been discovered or whether processing or use of the Services shall have then taken place.
- 13.9 Except to the extent proximately caused by gross negligence or intentional misconduct of Miltenyi Biotec, the Customer shall indemnify and hold harmless Miltenyi Biotec, its affiliates and their respective officers, directors, employees and agents from and against any and all expenses (including, but not limited to, reasonable attorney's fees), damages, judgments, and losses incurred by any such indemnified party as a result of or in connection with any claim, demand, or cause of action asserted by a third party for physical injury to or death of persons, physical damage to property, or infringement of intellectual property arising out of or based upon (a) the Customer's manufacture, sale, or use of any quantity of the Customer Materials, the Data or any product or service based in whole or in part on the Customer's reliance on the Services or any portion thereof provided to the Customer by Miltenyi Biotec, or any derivative thereof, or (b) Miltenyi Biotec's use or reliance on Customer Materials for the performance of the Services for the Customer.
- 13.10 It shall be a condition of any Contract that the Customer will use any materials provided by Miltenyi Biotec, including without limitation any compounds, biological materials, and nucleic acid molecules (e.g. DNA, RNA, vectors, clones, libraries such as cDNA libraries, cells, etc.) ("Samples"), only for the Customer's internal research purposes. In particular, the Customer shall not be permitted to sell or transfer Samples to any third party, whether or not Samples are sold or transferred without consideration for use in research.
- 14. Intellectual Property, Property Rights of Third Parties**
- 14.1 The Customer shall be solely responsible that the materials, documents or other information provided by the Customer do not infringe the intellectual property rights or other rights of third parties (in particular, patents, utility patents and other property rights and copyrights). The same shall apply if the Customer prescribes by means of instructions, information, documentation, drafts or drawings how an ordered Product is to be created or an ordered Service is to be rendered.
- 14.2 The Customer shall indemnify and hold harmless Miltenyi Biotec from any claims of third parties that are asserted against Miltenyi Biotec on the basis of such infringement.
- 15. Confidentiality**
- 15.1 The term "Confidential Information", as used herein, shall include all scientific, technical, business, or financial information disclosed by Miltenyi Biotec to the Customer, including any information learned by the Customer during the performance of a Contract or during any visit to Miltenyi Biotec's facilities. This Condition shall not apply to Confidential Information or of any portion of such information which as the Customer can show by presenting adequate written evidence: (a) is now or later made known to the public through no default by the Customer of its obligations under these Conditions; (b) the Customer can show was in its rightful possession prior to the earliest disclosure by Miltenyi Biotec, as evidenced by written documents in its files; (c) is rightfully received by the Customer from a third party having no obligation of confidentiality to Miltenyi Biotec; (d) is independently developed by the Customer by persons who did not have access to Confidential Information.
- 15.2 The Customer agrees to hold in confidence and not publish or disclose to any third parties any of the Confidential Information without the prior written consent of Miltenyi Biotec, and not to use the Confidential Information for any purpose except for using the Products and/or the results of the Services. The Customer agrees to use the same degree of care (and in any event not less than reasonable care) to safeguard the confidentiality of the Confidential Information that it uses to protect its own secret information, and to keep the Confidential Information in a secure location at all times.
- 15.3 The Customer agrees to limit any disclosure of the Confidential Information only to those of its directors, officers, employees, and outside professional advisors (including consultants, independent contractors, and the like) or of an entity controlled, controlling, or under common control with the Customer ("Affiliate"), who have a need to know and who are bound by obligations of confidentiality and non-use at least as restrictive as set forth herein, and to advise such persons of the Customer's obligations hereunder.
- 15.4 If the Customer is required to disclose Confidential Information in order to comply with laws, regulations or court order, the Customer shall disclose such Confidential Information only to the extent necessary for such compliance, provided, however, that the Customer shall give Miltenyi Biotec prompt written notice of such requirement or request to disclose Confidential Information so that Miltenyi Biotec may seek an appropriate protective order, and the Customer shall use its best efforts to secure confidential treatment of the Confidential Information to be disclosed.
- 15.5 The Customer shall return any and all tangible Confidential Information provided to it by Miltenyi Biotec, including without limitation any materials, documents, plans, drawings, data carriers of whatever kind, and any copies thereof, to Miltenyi Biotec immediately upon Miltenyi Biotec's written request, provided, however, that the Customer may retain one copy thereof in the confidential, restricted access files of its legal counsel for the purpose of determining any continuing obligation and only in connection with that purpose.
- 15.6 No warranties or representations are made by Miltenyi Biotec for Confidential Information. The Customer should rely on Confidential Information at its own risk. The Customer expressly recognizes that ANY AND ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS".
- 15.7 In the event of breach, or a threatened breach of the provisions of

this Section 15 by the Customer, Miltenyi Biotec shall be entitled to an injunction restraining the Customer from committing such breach without showing or proving any actual damage sustained.

16. WEEE Disposal Obligations

Commercial Customers shall be solely responsible for the proper disposal of discarded Products considered as waste electrical or electronic equipment, and any fees and other costs associated with such disposal, in accordance with the provisions of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on Waste Electrical and Electronic Equipment (WEEE) and/or any applicable statutory national regulation based thereon, as amended from time to time. Upon accepting delivery of such Products, the Customer agrees to hold harmless, release, and indemnify Miltenyi Biotec from any and all claims or demands by third parties or authorities in anyway resulting from or arising out of the proper treatment and disposal of these Products at the end of their life cycles, unless otherwise required by mandatory stipulations of applicable law. In particular, the Customer shall, if resale restrictions under Section 9 above do not apply, impose a like obligation on any commercial third party to which the Products are transferred later on. Should the Customer fail to impose such contractual obligation on commercial third parties to whom the delivered Products are transferred, the Customer shall remain responsible to Miltenyi Biotec for the proper disposal of these Products in compliance with statutory law. The Customer's obligation hereunder to hold harmless and indemnify shall not become time-barred before the expiration of two (2) years following the date of final termination of use of the equipment (suspension of the statute of limitations). Said suspension period shall commence no earlier than upon proper receipt by Miltenyi Biotec of a written notification by the Customer indicating the final termination of use of the equipment. Miltenyi Biotec reserves the right to reach a different, separate agreement concerning the take-back of used equipment with the Customer in individual cases.

17. Data Privacy Protection, Bribery and Corruption

17.1 Miltenyi Biotec shall treat all personal data relating to the Customer confidentially. BY PLACING ORDERS, THE CUSTOMER CONSENTS TO THE STORAGE AND FORWARDING OF PERSONAL DATA FOR THE PURPOSE OF CREDIT REVIEW, COLLECTION OF DEBTS AND NOTIFICATIONS UNDER ANY APPLICABLE LAWS AND REGULATIONS. UPON REQUEST, MILTENYI BIOTEC SHALL INFORM THE CUSTOMER OF THE CONSEQUENCES OF A REFUSAL OF CONSENT.

17.2 The Customer shall:

(a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");

(b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010;

(c) have and shall maintain in place throughout its own policies and procedures, including but not limited to adequate procedures for the purposes of the Bribery Act 2010; and

(d) promptly report to Miltenyi Biotec any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with any Contract.

18. Notices

Notices and other communications hereby required or contemplated shall only be effective if delivered in writing to the party for whom intended at its designated "Invoice Address" if to the Customer or the Miltenyi Biotec contact address if to Miltenyi Biotec, either by (a) personal delivery, (b) postage prepaid, return receipt requested, registered or certified mail, (c) internationally recognised overnight courier (such as DHL, FedEx, or UPS), or (d) facsimile with a confirmation copy sent simultaneously by any of the other methods described above. Notice by registered or certified mail shall be effective on the date officially recorded as delivered to the intended recipient by return receipt or equivalent, and in the absence of such record of delivery, the effective date shall be presumed to have been the fifth (5th) business day after deposit in the mail. Notices delivered in person or sent by courier shall be effective on the date of personal delivery. Notices delivered by facsimile shall be deemed to be effective on the date sent. Notice not given in writing shall be effective only if acknowledged in writing by a duly authorised representative of the party to whom it was given.

19. Miscellaneous

19.1 If any provision hereof is determined to be invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability, and the statutory provision shall apply instead; under no circumstances shall the provision in question be replaced by the Customer's terms and conditions.

19.2 Amendments and supplements to these Conditions and/or any agreement concluded on the basis of these terms and conditions, as well as any and all collateral agreements must be in writing. This shall also apply to any waiver of this written form requirement.

19.3 The contractual relationship shall be subject to the laws of England and Wales only, excluding any conflict of laws provisions, and the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

19.4 The place of performance for the Customer's payment obligations and for Miltenyi Biotec's Services shall be Bergisch Gladbach. The place of performance for its obligation to deliver shall be its relevant dispatch warehouse.

19.5 Place of jurisdiction for all disputes arising indirectly or directly from any contractual relationship based on these Conditions shall be the court of competent jurisdiction located at Miltenyi Biotec's principal place of business, but nothing in this Section 19.5 shall limit the right of Miltenyi Biotec to take proceedings against the Customer in any other court of competent jurisdiction. This shall apply only to the extent the Customer is a fully qualified merchant, a legal entity under public law or public law special assets.