

1. General

These general terms and conditions (“GTCs”) shall together with each work order (“Work Order”), any Provider’s quotation accepted by the Customer, and any documents attached by Provider to the quotation, the e-mail, the Work Order or this GTCs, constitute the agreement (“Agreement”) which shall govern FUNDACIÓ INSTITUT DE RECERCA CONTRA LA LEUCEMIA JOSEP CARRERAS (“Provider”) performance of laboratory services as described in the Work Order (“Services”) to the customer as described in the Work Order (“Customer”). By requesting the Services, Customer accepts these GTCs and any divergent or supplementary terms and conditions provided by Customer are not accepted and shall be excluded in their entirety.

2. Performance of Services

2.1 Provider will perform the Services in a safe and ethical manner, including the storage, handling and disposal of any hazardous materials and the treatment of animals, providing the technical and scientific staff, media, facilities and elements for the development of the required Services and in accordance with (i) the specification set out in each Work Order; (ii) applicable laws or regulations; and (iii) generally accepted and applicable professional standards of service.

2.2 The scope and description of the Services in each case shall be specified in the Work Order and Customer is solely responsible for ascertaining that the Services are duly described in the Work Order in accordance with its own requirements and for providing all necessary information and documentation for the correct performance of the Services.

Furthermore, Customer is solely responsible for making sure that the results of the Services are suitable for Customer’s intended use. The Customer shall take all reasonable steps to ensure, and hereby warrants, that, so far as it is aware, any information provided to the Provider pursuant to the Agreement shall be complete, accurate and not misleading. The Customer acknowledges and agrees that, in performing its obligations under this Agreement, the Provider will be relying upon information and material supplied directly or relating to the Services and the Customer warrants that all information and material supplied does not and will not infringe the rights of any third party or other rights whatsoever.

2.3 Provider shall provide Customer with reports detailing the progress and other information pertaining to the Services as set forth in each Work Order or as reasonably requested by Customer from time to time.

2.4 Provider will store all data, batch records, analytical procedures, testing and quality control records and any other record needed relating to the Work Order for three (3) years following completion of the relevant Services. Thereafter, the records may be destroyed or continued to be stored at Customer’s request and expense.

3. Price and Payment

3.1 Provider will invoice Customer for Services performed as set forth in the applicable Work Order and for all reasonable costs incurred by Provider related to the performance of the Services. All prices are excluding VAT and any other taxes, charges or fees, as shipping and handling, among others, which shall be borne by Customer.

3.2 Customer shall pay all amounts due within **thirty (30) days of Customer’s receipt of invoice** in the currency specified in the invoice. Each payment under a Work Order is a separate transaction, and Customer may not set-off such payments against other payments.

Upon late payment, without affecting Provider’s other rights, Provider may suspend delivery or cancel the Work Order, reject any future Work Orders, and **charge Customer a late-payment charge, from the due date until paid, at the monthly interest rate of one-half (1.5%) percent** of unpaid payment or, if less, the maximum amount allowed by law. Provider has the right to appoint a collection agency or an attorney to recover any unpaid amounts and Customer agrees to assume all such reasonable costs of collection.

4. Materials Transfer

4.1 Customer shall provide Provider with materials necessary for the performance of the Services. All such materials, provided to Provider by Customer will remain Customer’s property and will only be used by Provider to perform the Services.

4.2 Customer is required to fully identify all necessary materials in the applicable Work Order. Customer shall provide or commission the provision of sufficient supplies of all such required materials to Provider in due time in order to allow Provider the performance of the Services.

Customer is solely liable for any delays and increased costs due to insufficient specification or supply of materials to Provider.

4.3 If Customer provides materials and requires Provider to use these in the Services, then Customer shall indemnify Provider against any third-party claims that derives from Provider’s use of such materials or processes in performance of the Services infringes a third party’s intellectual property rights.

4.4 The Material is to be used with caution and prudence in any experimental work, moreover, it is not to be used for testing in or treatment of humans.

The Material shall be used by the Provider exclusively in connection with performance of the Services.

4.5 Customer represents and warrants that any material provided to Provider will conform to the overall description, features, function and specifications set forth in the relevant Work Order and that all materials provided to Provider will be compliant with any applicable ethical approval policies, informed consent forms and institutional review board approvals, if applicable.

4.6 Provider is authorized to request from Customer any legal document or certification in order to prove that Customer’s compliance with all legal proceedings and ethical applicable to the material provided.

4.7 Upon completion of the Services or termination of the Agreement, Customer shall promptly provide written notice of whether any remaining materials shall be disposed or transferred to Customer, at Customer’s cost.

4.8 Customer shall insure any materials provided to Provider and Provider shall not be liable for loss or damage to such material.

5. Data Protection

5.1 Customer may not include any personal information that relates to an identified or identifiable person in the information, data and materials provided to Provider, unless strictly necessary for the performance of the relevant Services and contingent on agreement in advance by Provider to accept such personal information.

5.2 If Provider has accepted to receive personal information, Provider will comply with the applicable law in personal data protection, EU General Data Protection Regulation (GDPR 2016/679) and specifically the Personal Data Protection Act (LO 3/2018, December 5th, of Personal Data Protection), the Provider commits to, in relation with (i) personal data of the Customer or (ii) the data to which either Party has had access to on behalf of the other Party in relation with the execution of the Project, to:

- 5.2.1. keep the data confidential;
- 5.2.2. Process the data only in accordance with the instructions of the Customer;
- 5.2.2. Do not apply it or use it for purposes other than those described in this Agreement;
- 5.2.3. Not communicate information to third parties or copy them, not even for preservation;
- 5.2.4. Implement technical and security measures according to the applicable regulations, in order to avoid unauthorized access to the data, preserve the integrity, confidentiality and availability of the data;
- 5.2.5. Destroy or return the data to the Customer as well as any form or document that may contain some data that has been subject to treatment once the execution of the Projects is terminated.
- 5.2.6. Promptly and in any case no later than twenty-four (24) hours report to the other party (i) any potential or actual personal data breach and provide all relevant information and (ii) any notification from an authority of an inspection or an audit to start, if this affects the personal data belonging to the other party.

5.3. If Customer requires any specific procedures regarding the treatment of data under a Work Order, in addition to applicable laws and regulations, including the introduction of a data transfer agreement, such requirements must be explicitly included in the applicable Work Order, and will be subject to costs when outside the standard services provided by Provider.

6. Intellectual Property

6.1 Each party shall retain all rights to its background information, know-how and methods. Customer owns all biological and other material, data, reports and results produced by Provider as part of the Services, including any discoveries or inventions, whether patentable or not, that arise out of Providers’ performance of the Services, to the extent that such results relate exclusively to Customer’s intellectual property and do not rely on Provider’s confidential information and/or intellectual property. Provider will promptly notify Customer of any such invention or discovery. For services consisting of laboratory analyses of samples, Customer’s rights will include both the results of the testing of samples and associated reports, i.e. assay data, and materials generated during testing, including tapes, printouts, data sheets, images, and the like, i.e. raw data. Notwithstanding Customer’s ownership as described above, Provider shall have the right to use information about the type of materials (e.g. antibodies and antigens) used by Provider to set up assays and research.

6.2 Any materials, methodologies, processes, computer software and code, standard operating procedures, software, personnel information, or intellectual property used by Provider or supplied to Customer in connection with the Services (including modifications and/or improvements thereof, whether patentable or not), will remain Provider’s property. Furthermore, Provider retains and shall own all future rights, title and interest in and to the any and all inventions, processes, technology, know-how, trade secrets, improvements, other intellectual properties and other assets that have been developed by Provider, including but not limited to all results of the Services

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which include Provider's property, which shall be the sole and exclusive property of Provider. Customer covenants and agrees not to make any claim to all or any portion of the Provider intellectual property rights.

7. Delays

Unless specifically agreed otherwise by Provider, all delivery dates and times set out in a Work Order are estimates only. Provider will try to meet any such specified delivery dates, depending on availability and any lead times that may apply. Provider will promptly inform Customer of any anticipated deviation from the time plan, the reasons and effects thereof, however, Customer may not hold Provider liable for any losses, expenses or damages caused by a delivery after a stated delivery date unless explicitly agreed by Provider. If Customer delays a Work Order or suspends performance of a Work Order, Customer shall be liable to pay all costs and expenses incurred by Provider due to the delay and the parties will adjust all timelines to reflect additional time required due to the delay or suspension.

Provider agrees to perform, if applicable, the Services up to the number of monthly samples indicated in the Work Order or quotation, in case Customer is interested in increasing the number of samples, it must be notified to Provider at least thirty (30) days in advance. The Parties shall agree on and adjust new for delivery of the results of the Services due to the increase of number of samples.

8. Inspections and Audits

Customer may, upon at least thirty (30) days' prior written notice to Provider, inspect and audit Provider, its facilities and any documents relating to the Services, however, only as necessary to ensure that the Services are being performed in accordance with the applicable Work Orders and applicable laws and regulations. Inspections and audits shall be conducted during normal business hours.

9. Limited Warranties and Limitation of Liability

Provider provides the Services without warranty, express or implied, in particular regarding the outcome or the results of the Services and any statistical analysis that may be provided with the results. To the maximum extent permitted by law, Provider shall not be liable to Customer, whether in tort, contract or otherwise, for any special, punitive, indirect or consequential losses (including, without limitation, lost profits and loss of data). Notwithstanding anything to the contrary, Provider's aggregated liability, howsoever arising, shall in no event exceed the compensation which at that time has actually been received from Customer under the applicable Work Order.

10. Force Majeure

A party shall not be liable for delays and damages to the extent and for so long as that such performance is actually prevented or substantially impaired by an event over which that party has no ability or authority to effectively control or influence, including but not limited to riots, strikes, wars, insurrection, rebellions, terrorist acts, civil disturbances, pandemic, dispositions or orders of governmental authorities, earthquake, freeze, storm, explosion, fire, flood, inability to obtain equipment, supplies or fuel. A Force Majeure event suffered by a subcontractor shall also discharge the affected party from liability.

11. Confidentiality

Provider and Customer shall each keep confidential all material and information received from the other party, however, only if conspicuously marked as confidential and only disclose it to its employees and advisers and only use such material or information as necessary to exercise its rights under Agreement or for the purpose of collaborating in the performance of the Services. These restrictions will end five (5) years after the disclosure of such information. The confidentiality and non-use obligation shall, however, not be applied to material and information which, (a) is generally available or otherwise public; (b) the party has received from a third party without any obligation of confidentiality; (c) was in the possession of the receiving party prior to receipt of the same from the other party without any obligation of confidentiality related thereto; or (d) a party has independently developed without using material or information received from the other party.

12. Subcontractors

Provider may, without Customer's prior consent, use subcontractors for the performance of the Services or part thereof. Provider shall always be responsible for any work of subcontractors retained directly by Provider, however, Provider shall not be responsible for work by subcontractors retained due to a request by Customer.

13. Termination

13.1 The parties shall be entitled to terminate any Work Order upon notification of termination to the other party if (i) the other party fails to perform or otherwise is in breach a material obligation under the Agreement, including under a specific Work Order, considering that if Customer fails to make timely payments pursuant to the Agreement, such non-payment shall always be considered material breach of agreement; and (ii) the other party goes into liquidation or files or has filed against it, a petition for bankruptcy, makes an assignment for the benefit of creditors, has a receiver appointed for it or any of its assets, or otherwise takes advantage of or is subject to any statute or law designed for relief of debtors. Termination shall become effective if the breaching party does not cure breach within thirty (30) days of the written notice and shall be without prejudice to any damages or any other remedy which the terminating party may have as a consequence of the cause of such termination. Termination will be without prejudice to any rights which may have accrued to either party before termination.

13.2 Upon termination, Provider shall be entitled to compensation and costs for any work performed and any additional work as reasonably necessary as a result of the termination and winding down of the activities under a Work Order or as otherwise agreed by the parties.

13.3 The rights and obligations of the parties under the Agreement, which by intent or meaning have validity beyond such termination, shall survive the termination of a Work Order or the Agreement.

14. Miscellaneous

14.1 The Agreement shall be deemed effective when (i) the parties have agreed and signed a work order; or (ii) Provider has accepted a Customer request for Services in writing; or (iii) when Provider has initiated performance of the Services requested by Customer. The Agreement will be binding upon and shall inure to the benefit of the parties, and their respective successors and permitted assigns.

14.2 If any provision of these GTCs is invalid or is unenforceable, the parties intend that the remainder of the GTCs will be unaffected.

14.3 Customer acknowledges that Provider is in the business of providing services for a variety of organizations other than Customer.

Accordingly, nothing in this Agreement shall preclude or limit Provider from providing services or developing products for itself or other customers, or from utilizing the general knowledge gained during the course of its performance hereunder or improvements to Provider property to perform similar services for other parties.

14.4 In the event that any communication is issued to Provider by Customer, the issuance of such communication or direction shall be conclusively presumed to have been approved and authorized by Customer without the need for Provider to confirm such approval or authorization with Customer.

14.5 For public or non profit research or educational institutions Customers, if any publication arises in connection with the Provider provided Service, the Customer must mention the Unit of Provider in the acknowledgement section and notify Provider of the dissemination. For further details, Customer shall contact with the Unit.

14.6 In case of discrepancy between the terms of these GTCs and the terms of any duly signed Work Order, the terms of the Work Order shall prevail.

14.7 Provider is an independent contractor responsible for its own employees and shall independently conduct the performance of all Services.

15. Governing Law

The Agreement, including these GTCs, shall be construed and determined by the substantive laws of Spain, without regard to provision on the conflict of laws.

16. Dispute resolution

Any dispute or claim arising out of or in connection with this Agreement or the breach, termination or invalidity thereof, shall be exclusively submitted to the Barcelona (Spain), in the first instance.