

TERMS AND CONDITIONS FOR THE PROVISION OF DRUG DISCOVERY SERVICES

These Terms and Conditions shall govern the provision of Services provided by Evotec International GmbH and/or its Affiliates to its Clients.

1. Definitions

- 1.1 "Agreement" means the agreement for the provision of the Services by Evotec to the Client consisting of the Quotation/Purchase Order, the Order Acceptance and these Terms and Conditions.
- 1.2 "Affiliate" means any person or entity which is, now or hereafter, part of the Evotec Group. "Evotec Group" means Evotec SE and all entities directly or indirectly controlled by, or under common control with Evotec SE; whereby "control" means the legal power to direct or cause the direction of the general management and policies of such entity whether through the ownership of more than fifty percent (50%) of the voting interest, by contract or otherwise;
- 1.3 "Client" means the party ordering the Services;
- 1.4 "Client Materials" means all physical samples supplied to Evotec by the Client, including compounds, reagents and other materials to be used in the performance of the Services;
- 1.5 "Confidential Information" means any and all non-public scientific, technical, financial or business item or information, including but not limited to any and all inventions, patents, patent applications, trade secrets, information, know-how, data, programs, methods, concepts, specifications, formulations, designs, techniques, processes or samples; of any kind whatsoever, and in any form, which is disclosed by one party or its Affiliate(s) to the other party whether orally, in writing, visually, in graphic or in electronic or electromagnetic form, any derivatives (to include copies and reproductions) of any of the foregoing, and/or is acquired or obtained by receiving party while accessing the other party's site or facility, and which is by its nature or substance usually considered to be of confidential nature or is expressly designated as "Confidential," "Proprietary" or some similar designation by the disclosing party. Confidential Information shall not include any information which (a) is or becomes public knowledge through no improper conduct on the part of the receiving party or its Affiliate; and/or (b) is already lawfully possessed by the receiving party prior to receiving it from the other party; and/or (c) is obtained subsequently from a third party without any obligations of confidentiality and such third party is in lawful possession of such material and is not in violation of any contractual or legal obligation to maintain the confidentiality of such material; and/or (d) is independently developed by the employees or agents of the receiving party, as evidenced by such party's written records, without access to the other party's Confidential Information; and/or (e) is approved for release by the receiving party through written authorization of the disclosing party.
- 1.6 "Deliverables" means such data, information, reports, materials and other items that are to be delivered by Evotec to the Client as part of the Services pursuant to the Order Acceptance and/or Quotation/Purchase Order;
- 1.7 "Evotec" means Evotec International GmbH, a company registered in Germany whose registered office is at Manfred Eigen Campus, Essener Bogen 7, 22419 Hamburg, Germany;
- 1.8 "Evotec Background IP" means all intellectual property rights owned or controlled by Evotec relating to Evotec's technology and business;
- 1.9 "Order Acceptance" means
- (a) Evotec's written (including email or fax) acceptance of a Client's Purchase Order as sent by Evotec to the Client; or
- (b) a Quotation that has been signed by the Client without any amendments or additions by the Client and returned to Evotec;
- 1.10 "Purchase Order" means Client's written order for the provision of certain Services as issued to Evotec (including email or fax) setting out Client's requirements for the Services;
- 1.11 "Quotation" means Evotec's written (including email or fax) quotation for Services sent by Evotec to the Client;
- 1.12 "Services" means the drug discovery services provided by Evotec and/or its Affiliates to the Client as further specified in the respective

- Order Acceptance and/or Quotation/Purchase Order;
- 1.13 "Terms and Conditions" means the terms and conditions for the provision of Services set out herein, together with any terms and conditions set out in the Order Acceptance and the respective Quotation/Purchase Order.
- 2. Conclusion of an Agreement**
- 2.1 A binding Agreement for the provision of the Services shall only arise between Evotec and the Client as and when an Order Acceptance has been issued. The only terms and conditions applicable to an Agreement shall be those set out in the Agreement and any additional provisions as agreed between the parties, for instance those contained in any confidentiality agreement between the parties. For the avoidance of doubt, no other terms and conditions shall apply to the Agreement, including, without limitation, the Client's own terms and conditions, even if Evotec does not explicitly object to such other terms and conditions.
- 2.2 If the Client accepts a Quotation without any amendments by e-mail, acceptance shall be deemed to take place and a valid Agreement will be formed when the Client's e-mail is received by Evotec's email system.
- 2.3 If Evotec accepts a Purchase Order by e-mail, acceptance shall be deemed to take place and a valid Agreement formed when Evotec's e-mail is received by the Client's e-mail system.
- 2.4 For the avoidance of doubt, the absence of signatures on behalf of the Client and Evotec on the Quotation/Purchase Order or any Order Acceptance shall not affect the validity of an Agreement formed by e-mail in accordance with this Section 2.
- 3. Provision of Services, Delivery**
- 3.1 Unless otherwise specifically set forth in the Order Acceptance and the respective Quotation/Purchase Order, Evotec is free in determining the place, including subcontracting to its Affiliates, and time for the provision of the Services.
- 3.2 No Guarantee of Outcome. The Parties acknowledge that, as with all research and development projects, it is not possible to guarantee that any Service will be successful or completed within a specified time-scale, or at all. In particular, it is not possible to guarantee that the Services will result in useful outcome. Accordingly, Evotec shall not be liable for failure of any Service to generate any useful results provided that Evotec has used reasonable efforts to carry out its obligations under the Agreement.
- 3.3 Delivery. Unless otherwise specifically set forth in the Order Acceptance and the respective Quotation/Purchase Order, delivery of the Deliverables shall be, and all risk in the Deliverables shall pass to the Client, Ex-Works (EXW) Evotec's facility in Hamburg, Göttingen, Munich, Toulouse, Manchester or Abingdon (as agreed in the Order Acceptance and the respective Quotation/Purchase Order) (Incoterms 2010). Notwithstanding the foregoing, unless requested otherwise by the Client, Evotec shall act as an agent to arrange shipping of all Deliverables to the Client or any designee and shall insure such Deliverables during shipment in accordance with the Client's instructions.
- 4. Client Materials**
- 4.1 The Client shall provide a sufficient amount of the Client Materials to Evotec free of charge in accordance with the timetable and the specifications set out in the Order Acceptance and the respective Quotation/Purchase Order as being necessary for the Services performed by Evotec hereunder.
- 4.2 The Client hereby represents that it has the right to transfer all such Client Materials to Evotec for the purpose of performing the Services.
- 4.3 The Client hereby further represents that such Client Materials provided to Evotec will be provided in compliance with all applicable federal, state, local and international laws, rules, regulations, orders and guidelines. The Client shall inform Evotec of any safety hazard that relates to any of the Client Material.
- 4.4 Property of Client Materials. Client Materials shall remain the property of the Client. Evotec shall use Client Materials solely for the purpose of performing the Services.
- 4.5 Retention of Client Materials. Unless otherwise agreed in writing, upon completion of the Services, Evotec may retain or return or, upon the written request of the Client, appropriately discard or destroy, all unused Client Materials.

5. Changes

The Client shall not be entitled to vary or cancel the Agreement unless otherwise agreed in writing by Evotec. If any mutually agreed changes result in an increase in the cost of the Services, the fee shall be adjusted commensurate with such increase. If such changes affect the projected completion date of the Services, the completion and Deliverables due dates shall be adjusted commensurate.

6. Price and Payment

6.1 The price for the Services shall be the price specified on the Order Acceptance and the respective Quotation/Purchase Order. The Client shall make payment in full for all charges specified, with no right to set-off or reduction,

6.2 The price specified on the Order Acceptance and the respective Quotation/Purchase Order does not include:-

- (a) the costs of packaging, storage, carriage and insurance of Deliverables to the Client's premises; or
- (b) any Value Added Tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority on the transaction between Evotec and the Client;

which shall be payable by the Client to Evotec in addition to the price for the Services.

6.3 Evotec shall be entitled to invoice the Client for:

- (a) the price of the Services and the price on delivery of the Deliverables; and
- (b) any costs, taxes, fees or charges referred to in Clause 6.2 that Evotec is obliged to pay in relation to the Services.

6.4 The Client shall pay all sums due to Evotec within thirty (30) days of the date of Evotec's invoice relating to such sums.

6.5 Interest may be charged by Evotec on any late payments due under the Agreement at

the rate specified by §§ 247, 288 Absatz 2 BGB at the date of the invoice relating to the Services.

7. Retention of Title

Notwithstanding that risk and possession of the Deliverables may have passed to the Client, all title in and to the Deliverables shall remain with Evotec, and shall not pass to the Client, until such time as full payment for the Services, together with any interest due on such payments, has been received by Evotec.

8. Indemnity

The Client shall fully indemnify and hold harmless Evotec from and against any and all damages, losses, costs and/or expenses (including without limitation legal expenses and experts' fees) incurred by Evotec in respect of any claim or allegations by any third party arising out of (i) any development, exploitation, use or other activities in connection with the Deliverables or other results of the Services; or (ii) Evotec's use of the Client Materials for the performance of the Services, except to the extent that such liability is caused by the gross negligence or wilful misconduct of Evotec.

9. Ownership of IP

9.1 Ownership of the results. Subject to Section 9.2, the Client shall own all results and Evotec hereby assigns all results to the Client as far as permissible by applicable law.

9.2 Ownership of Evotec IP. Evotec shall own (i) all Evotec Background IP and (ii) all intellectual property rights relating to generally applicable technology, methodology or processes essentially developed by Evotec, including all improvements, variations, modifications or enhancements of these intellectual property rights (referred to as "Evotec IP"). The Client shall have no ownership or other interest in any Evotec IP. No rights to Evotec IP are granted under this Agreement, unless explicitly stated hereunder or mutually agreed otherwise in writing on a case-by-case basis.

10. Warranty

The warranty is based on the statutory provisions for service contracts unless stipulated otherwise in these Terms and Conditions.

11. Liability

- 11.1 Evotec is only liable (a) for damages caused by intent or gross negligence of Evotec or its legal representatives or its agents or subcontractors (b) in the event of an injury to life, body and health caused by negligence of Evotec or its legal representatives or its agents or subcontractors. Additionally Evotec is liable (c) for damages caused by an infringement of an obligation of Evotec, the fulfilment of which is essential for the due of a proper implementation of the Agreement, and on the fulfilment of which the Client can regularly rely (cardinal obligation).
- 11.2 Evotec's liability is unlimited in the case of Section 11.1 lit (a) and (b). In all other cases, the liability of Evotec towards the Client is limited to typical, foreseeable damages.
- 11.3 In all other cases not mentioned in Section 11.1, Evotec's liability is excluded.
- 11.4 The liability provisions contained in the previous paragraphs of this clause 11 are also applicable to any personal responsibility of Evotec's representatives, employees, agents or subcontractors.
- 11.5 The liability under the German Product Liability Act and/or the liability for any guaranteed feature or specification and/or the liability for any fraudulent misrepresentation shall remain unaffected by this clause 11.

12. Confidentiality

Each party shall keep, and shall cause its respective employees, directors, auditors, agents, consultants, and Affiliates to keep confidential all Confidential Information belonging to the other party and shall not use any confidential information belonging to the other party for purposes other than carrying out the Services and/or exercising its rights hereunder.

13. Miscellaneous

- 13.1 These Terms and Conditions shall only apply vis à vis entrepreneurs, entities under public law, or special funds under public law within the meaning of sec. 310 para. 1 BGB (German Civil Code).
- 13.2 Client hereby acknowledges and agrees that Evotec shall have the right to subcontract any Services to any third party, including its Affiliates.

13.3 Nothing in the Agreement shall confer on any third party the right to enforce any provision of the Agreement.

13.4 If any terms of the Agreement are held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other terms and the remainder of the terms in question shall not be affected thereby.

13.5 The Agreement shall be governed by the laws of Germany and the Client agrees to submit to the exclusive jurisdiction of the courts of Hamburg, Germany.