

DATE:

Terms and Conditions of Sale

EFFECTIVE DATE:

CLIENT NAME:

CLIENT ADDRESS:

CLIENT PHONE NUMBER:

CLIENT FAX NUMBER:

CLIENT CONTACT:

ASTERAND BUSINESS DEVELOPMENT REPRESENTATIVE:

ALL OFFERS OF THE SALE OF SERVICES OR PRODUCTS BY ASTERAND, INC., A DELAWARE CORPORATION HAVING A PRINCIPAL PLACE OF BUSINESS AT TECHONE BUILDING, 440 BURROUGHS, DETROIT, MICHIGAN 48202 USA AND ASTERAND UK LIMITED, AN ENGLISH CORPORATION, HAVING A PRINCIPAL PLACE OF BUSINESS AT 2 ORCHARD ROAD, ROYSTON, HERTFORDSHIRE, SG8 5HD UNITED KINGDOM (TOGETHER, HEREINAFTER, "ASTERAND") ARE SUBJECT TO THESE TERMS AND CONDITIONS, UNLESS OTHERWISE AGREED IN WRITING AND SIGNED BY THE PARTIES.

The Client's signature below shall constitute an acceptance of these Terms and Conditions of Sale. These Terms and Conditions of Sale shall apply to all orders placed by the Client on or after the date first stated above and shall continue until either Party provides the other with thirty (30) days written notice of intent to terminate this Agreement.

1. ETHICS

Asterand warrants that all services shall be rendered in accordance with all applicable statutes, regulations and guidelines, including without limitation, those that govern the prior, free and informed consent of donors of the Materials and Data.

Client shall not use any Materials or Data obtained from Asterand for (a) any use that is in contravention of applicable federal, state or local statutes or regulations; or (b) involves the use of the Materials in human subjects. "Materials" shall refer to human biological materials, including without limitation, tissue, tissue derivatives, cell lines, blood, blood derivatives, biofluids and isolated cells. "Data" shall refer to any and all clinical or research information about the individual from whom the Materials were obtained, or about the Materials themselves. The Client shall not transfer any Materials and Data to any third party without prior written consent from Asterand; unless such transfer is to an affiliate of the Client for use in a manner consistent with this clause 1 Ethics and is not for valuable consideration.

2. PURCHASE ORDERS

Purchase Orders may be used to acquire Materials and Data from Asterand's XPressBANK™ and BioReserve™ biorepositories. Purchase Orders may be placed in any commercially reasonable manner that the Client and Asterand determine is appropriate, including via facsimile or electronic transmission. The Purchase Order will indicate the Products or Services and specifications related thereto, quantity, price, total purchase price, shipping instructions, requested delivery dates, appropriate billing and shipping addresses, and any other special instructions. All Purchase Orders are subject to acceptance by Asterand. For the avoidance of doubt, "Products" shall refer to any deliverables resulting from services rendered by Asterand, and includes but is not limited to Reports (hereinafter defined at clause 3 Project Briefs) and Results (hereinafter defined at clause 3 Project Briefs).

3. PROJECT BRIEFS

All purchases of Phase ZERO® Drug Discovery Services, Consulting Services, or ProCURE™ Custom Procurement Services shall be set forth in separate Project Briefs, which shall be agreed to in writing by both Parties. Asterand, subject to clause 4, shall use reasonable commercial efforts to complete all Phase ZERO® Drug Discovery Services, Consulting Services or ProCURE™ Custom Procurement Services in accordance with the applicable Project Brief. Each Project Brief shall be subject to these Terms and Conditions. To the extent that any Project Brief conflicts with or is inconsistent with

these Terms and Conditions, these Terms and Conditions shall govern and control the rights and obligations of the Parties. Each Project Brief shall be separate and distinct from all other Project Briefs. Neither Party shall have any obligation to enter into any Project Brief. “Results” shall refer to any and all data or information resulting from Asterand’s performance of Phase ZERO® Drug Discovery Services or Consulting Services. “Reports” shall refer to any and all final compilations of data or information titled ‘Report’ that results from Asterand’s performance of Phase ZERO® Drug Discovery Services or Consulting Services

4. PERFORMANCE

All Asterand obligations set forth in these Terms and Conditions shall be subject to the following: Asterand shall not carry out such obligations where (a) the relevant Phase ZERO® Drug Discovery Services, Consulting Services, or ProCURE™ Custom Procurement Services would lead to a conflict of interest with Asterand’s preexisting contractual or legal obligations; (b) necessary Materials and Data are unavailable; or (c) Asterand is prevented from doing so by any reason outside of its control, including breach of these Terms and Conditions by the Client. The Client acknowledges that Asterand may have preexisting contractual relationships that permit the use of the Materials and Data only to perform Phase ZERO® Drug Discovery Services or Consulting Services and that Asterand may not be able to transfer the Materials and Data to the Client except for limited viewing or inspection purposes and a limited time, during which Asterand will retain custody and control of the Materials and Data. Asterand shall provide reasonable notice to the Client of any such restrictions. Asterand may cancel any order at any time and without penalty, and Asterand’s sole obligation shall be to return any advance payment paid by the Client. Asterand shall retain the right to suspend performance of any order or require adequate assurance satisfactory to Asterand when, in its sole opinion, reasonable grounds exist for such action. Asterand shall not guarantee any favorable or useful result arising from the performance of any Phase ZERO® Drug Discovery Services, Consulting Services, ProCURE™ Custom Procurement Services or provision of Materials and Data.

5. PAYMENTS

Prices quoted by Asterand are subject to change without notice. Payment terms for all Services and Products shall be net within thirty (30) days of receipt of invoice. Client shall pay all applicable sales tax, shipping, import or export duties, customs fees and freight charges. The Parties agree that all payments made hereunder are for the Services or Products, and are not for the Materials or Data themselves. Interest shall be payable, calculated on a daily basis, on any overdue payments, at the maximum rate allowed by law.

6. DELIVERY

All Products or Materials and Data transferred to the Client will be shipped F.O.B. Destination, or, where appropriate, sent via Asterand designated courier. Freight will be prepaid and added to the invoice based on common carrier rates. All delivery dates are best estimates possible based on current and anticipated conditions. Asterand shall not be liable for any loss, damage or claim by the Client arising out of failure to meet an estimated delivery date. The risk of loss shall pass to the Client upon delivery of the Products or Materials and Data to the F.O.B. Destination. Asterand shall keep the Client reasonably apprised of the availability and estimated delivery dates of such Products, Materials and Data.

7. REPORTS AND RESULTS

Right and title to the Materials and Data shall pass to the Client upon delivery in accordance with Section 6 Delivery of this Agreement. To the extent that the Products are comprised of the Results or Reports arising from Asterand Phase ZERO® Drug Discovery Services, Consulting Services or Custom Services, the Reports or Results shall become the sole property of the Client upon receipt by Asterand of full payment of all Asterand invoices for the services. As between Asterand and the Client, each Party shall remain the absolute and unencumbered owner of any intellectual property rights owned by or otherwise in the possession of that Party at the date of this Agreement. As between the Parties, the Client shall own any invention to the extent that it is first reduced to practice by the Client during the course of any development based on the Reports or Results provided that (i) this clause shall not apply to the extent it relates to any method of process used by Asterand in its own business; and (ii) the Client shall not assert or seek to assert against Asterand or its other clients any such right to the extent it would preclude Asterand providing its services to third parties. Except as set forth above, all intellectual property rights which arise in the performance of the Phase ZERO® Drug Discovery Services, Consulting Services and Custom Services as set forth in any Project Brief automatically vest in Asterand. Save as otherwise expressly stated in these Terms and Conditions, no rights, licenses or obligations are granted by or to be implied by these Terms and Conditions.

8. ACCEPTANCE

The Client shall accept any Products, Materials or Data that comply with the Specifications set forth in any applicable Purchase Order or Project Brief. The Client may reject any Products, Materials or Data that do not conform to the Specifications. To properly reject any Products, Materials or Data, the Client shall deliver written notice of its intent to reject the Products, Materials or Data within thirty (30) business days of receipt of the applicable Products, Materials or Data, together with a written indication of the basis for such rejection. If such notice is not delivered within the specified period of time, any such Products, Materials or Data shall be deemed accepted by the Client. For any Products, Materials or Data properly rejected hereunder, Client shall be entitled to return the Products, Materials or Data, in reasonable good condition, at the Client's expense, for replacement by Asterand.

9. CONFIDENTIALITY

The Parties shall take all steps reasonably necessary to hold the other Party's Confidential Information in trust and shall not use such Confidential Information for any purpose other than that expressly stated in these Terms and Conditions; nor shall either Party disclose the Confidential Information belonging to the other Party to any third party without the prior written consent of the disclosing Party. "Confidential Information" shall refer to any information provided to either Party by the other pursuant to these Terms and Conditions, or generated in relation to these Terms and Conditions, other than any information which (i) has been published or comes into the public domain other than by breach of this Agreement by the recipient; (ii) is known to the recipient prior to the date of disclosure as evidenced by written records; (iii) is disclosed to the recipient by a third party having the legal right to make such disclosure; (iv) is developed by Asterand for a third party, independently of these Terms and Conditions; or (v) is required to be disclosed by any applicable law or any competent authority to which a Party is subject, provided the recipient gives the disclosing Party a reasonable opportunity to oppose, limit or seek confidential treatment with regard to such required disclosure.

10. HAZARDOUS MATERIALS

Products, Materials and Data delivered pursuant to this Agreement may be experimental in nature and have hazardous or unknown properties. Asterand makes no representations or warranties, either express or implied, as to the merchantability or fitness of the Materials for a particular purpose. Asterand expressly recommends that all individuals who handle the Materials on the Client's behalf adhere to *Universal Precautions for the Prevention of Transmission of HIV and other Bloodborne Pathogens* (www.cdc.gov/ncidod).

11. ASSUMPTION OF RISK

Except to the extent prohibited by law, the Client shall assume all liability for damages or loss that may arise from the Client's use, storage, transfer, processing or disposal of the Products, Materials or Data. Asterand shall not be liable to the Client or any other Party for any loss, claim or demand made by or against the Client or other Party, due to or arising out of the use of the Products, Materials and Data, except to the extent caused by the willful misconduct of Asterand.

12. LIMITATION ON LIABILITY

Asterand's maximum liability to the Client in relation to this Agreement for any cause whatsoever shall be limited to direct costs and damages only in an amount not exceeding the sum equivalent to the total amount received by Asterand from the Client under this Agreement. The Parties hereby agree that the limitations contained herein are reasonable in light of all the circumstances. All liability that is not expressly assumed by Asterand in this Agreement is hereby excluded. Under no circumstances shall Asterand be liable to the Client for any special, exemplary, punitive, incidental or consequential damages regardless of the cause.

13. PUBLICATION

The Client, and any individuals designated by the Client may publish the results of work performed with the Products, Materials or Data. The Client shall use reasonable efforts to reference Asterand as the provider of the Products, Materials or Data in any scholarly or industry publication arising from the use of the Products, Materials or Data. Notwithstanding, neither Party shall use the name, logo, trademark or service mark of the other Party, or any variation thereof, for any purpose in advertising, press release, publicity or promotional literature without the prior written consent of the Party whose mark is proposed to be utilized.

14. INTEGRATION

This Agreement, and all Purchase Orders and Project Briefs governed by it, are the final, complete and exclusive agreement of the Parties with respect to the subject matter hereof and supersede and merge all prior discussions or proposals between the Parties. The terms of this Agreement take precedence over any conflicting terms, including without limitation, terms included on an invoice, quote, proposal or receipt.

15. INDEPENDENT CONTRACTORS

The relationship between the Parties is that of independent contractors. Nothing in this Agreement shall be interpreted to create a partnership, joint venture or employment relationship. No Party may act as an agent of the other Party hereunder, except as otherwise provided in this Agreement.

16. COUNTERPARTS

Facsimile or PDF electronic signatures shall be accepted as original signatures. Placement of any orders or the transaction of any business by electronic medium shall be subject to this Agreement. This Agreement may be executed as two or more counterparts, each of which shall be deemed an original Agreement.

17. NOTICES

Any notice required under this Agreement shall be in writing and shall be delivered by certified mail, return receipt requested; postage prepaid, or guaranteed overnight delivery service to the addresses provided by each Party to the other.

18. ASSIGNMENT

The Client shall not assign this Agreement without the prior written consent of Asterand, which consent shall not be unreasonably withheld.

19. SEVERABILITY

If any provision of this Agreement shall be void, unlawful or for any reason unenforceable, that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of the remaining provisions of the Agreement.

20. AMENDMENTS

The Parties agree that any amendment, revision, waiver or alteration to this Agreement shall be in writing and signed by both Parties. No waiver by either Party of any breach of this Agreement shall be a waiver of any preceding or subsequent breach. No waiver by either Party of any right under this Agreement shall be a waiver of any other right. The Parties shall not be required to give advance notice to enforce strict adherence to the terms of this Agreement.

21. INJUNCTIVE RELIEF

A breach of this Agreement may result in irreparable and continuing harm to a Party for which there may be no adequate remedy at law. Each Party is therefore entitled to seek injunctive relief as well as other and further relief as may be appropriate.

22. ARBITRATION

Nothing in this § 22 may be interpreted so as to limit or modify § 21 of this Agreement. If a dispute arises under or relating to this Agreement, the Parties shall submit the dispute to binding arbitration in the State of Michigan. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of such arbitration shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses and reasonable attorney fees. Any such arbitration shall be conducted by an arbitrator experienced in scientific research and commercial law and shall include a written record of the arbitration hearing. The Parties reserve the right to object to any Individual who is employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction.

Client has consented to these Terms and Conditions of Sale, as evidenced by the signature of its authorized representative below.

CLIENT

By : _____

Name : _____

Title : _____