

Cambridge Protein Arrays Ltd: General Terms and Conditions of Sale

1. Definitions

In these Terms and Conditions, these words have the following meaning;

The Company: Cambridge Protein Arrays Ltd (CPA), the supplier of the goods to the Customer;

The Contract: any contract under which CPA sells goods and/or supplies services to the Customer;

The Customer: the individual, firm, company or any other party with whom CPA contracts for the supply of the Goods;

The Order: the order placed by the customer with CPA for the supply of the Goods;

The Goods: the items to be purchased by the Customer under contract in which these terms and conditions are incorporated (referred to herein as “the Contract”).

2. Application

No terms and conditions other than these Conditions of Sale shall be binding on CPA unless expressly agreed by it in writing. CPA reserves the right to accept or reject any Order and no binding contract shall exist until the Order is accepted by CPA in writing. These Conditions shall form the basis of the Contract between CPA and the Customer in relation to the sale of the Goods, to the exclusion of all other terms and conditions including the Customer’s standard conditions of purchase or any other conditions which the Customer may purport to apply under any purchase order or confirmation of order or any other document.

3. Validity

Quotations are valid for a period of 30 days from the date of dispatch of the quotation unless stated otherwise. CPA reserves the right to increase prices quoted according to increases in cost of labour, materials, components, transport duties, taxes and other matters outside its control taking effect between the time of quotation and delivery. Where the Goods comprise or contain items originating outside the UK, CPA reserves the right to pass on to the Customer any increase in the cost of the Goods arising out of any fluctuation in the rate of exchange between Sterling and the currency of the country of the overseas supplier.

4. Delivery, Title and Ordering.

4.1 CPA will use its best endeavours to meet the delivery dates specified in the Order, depending on availability and any lead times that may apply. Where orders are delivered in instalments, CPA may send a separate invoice for each delivery.

4.2 Once placed, an Order cannot be cancelled.

4.3 All Goods are sold FOB CPA’s facility. Goods are delivered when loaded onto the commercial carrier at CPA’s facility. At this point the Customer becomes responsible for risk of loss and damage. If any product is lost or damaged while it is being transported, CPA will try to help the Customer deal with the issue with the carrier. CPA does not clear products for import into the Customer’s country. Doing so is the sole responsibility of the Customer. CPA shall not be liable for any import duties, customs clearance charges, storage, value added tax or other local taxes that may be applicable in the country to which the Goods supplied by CPA are consigned, whether free of charge or charged or supplied under guarantee. Title to products will pass to the Customer upon delivery of the Goods to the carrier.

5. Inspection and Return of Goods.

5.1 Products that are damaged or defective on delivery may be returned, and any shortages corrected, provided that the Customer contacts CPA within 10 days from the day the Goods are received. CPA will provide instructions on returning the products and on replacements. If the Customer does not contact CPA within this 10-day period, the Goods will be deemed accepted. Authorisation for all Goods returns must be approved by CPA and a return authorisation number given to the Customer prior to the return of the Goods. Not all items will be authorised for return. Items authorised for return must be received by CPA in a state satisfactory for resale in order to be eligible for product credit. A restocking charge of 25% will be made on returns that are not the result of error by CPA. Shipping charges will not be credited. Goods may not be returned for credit more than 30 days after receipt of the Goods by the Customer.

5.2 Custom products that are made in accordance with Customer specifications can only be returned if the custom products do not conform to the given specifications. In that case, CPA will, in its sole discretion, either replace the custom products or issue a refund equivalent to the price paid for the custom products.

6. Price.

The price of the Goods is shown in CPA's quotation. Prices do not include any taxes (including VAT), duties, levies or other government fees that may apply to the Order. Where they apply, payment is the responsibility of the Customer. Where paid by CPA, the cost will be added to the Customer's invoice. The Customer is also responsible for standard delivery and handling charges, if any; these charges will be added to the Customer's invoice.

7. Payment.

Invoices must be paid within 14 days from the invoice date in the currency specified in the invoice. Each Order is a separate transaction, and payments from one Order may not be set off against another. If the Customer is late in making payment, CPA may suspend delivery or cancel the Contract, reject future orders and charge interest, from the due date until paid, at the rate of 3% above the base rate of Barclays Bank PLC per annum from the day any sum becomes overdue until the sum due is paid with interest or, if less, the maximum amount allowed by law. The Customer agrees to pay this interest on demand. If a collection agency or lawyer is appointed to recover any unpaid amounts, CPA will charge the Customer and the Customer agrees to pay all reasonable costs of collection, including all associated reasonable legal fees.

8. Product Use and Restrictions.

The Goods must be used in accordance with instructions from CPA. The Customer is solely responsible for ensuring that the way the Goods are used complies with applicable laws, regulations and governmental policies and must obtain all necessary approvals and permissions. It is solely the responsibility of the Customer to ensure that the Goods are suitable for the particular use to which they are applied.

8. Warranties.

8.1. CPA warrants that the Goods will, at the time of delivery, correspond to the description given in the confirmation of the Order. All other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods are excluded.

8.2 Limitations. CPA's warranties extend only to the original Customer and cannot be transferred. In no event will CPA's total liability for breach of Warranty exceed

the purchase price of the product or service. The above warranties are exclusive, and CPA makes no other representations or warranties of any kind whatsoever, express or implied, including without limitation any implied warranties of merchantability or fitness for a particular purpose, of non-infringement, or regarding results obtained through the use of any items, whether arising from a statute or otherwise in law or from a course of performance, dealing or usage of trade, all of which are expressly disclaimed.

8.3 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

9. Custom Products.

9.1 When the Customer has requested a custom product to be produced, such as a custom printed microarray, the Customer represents and agrees to purchase the entire custom production lot, as defined in the confirmed order. Custom products can only be returned if the custom products do not conform to the given specifications (see also 5.2).

9.2 Any warranty for a custom product, such as a custom printed microarray, extends only to the specifications agreed at the time of ordering the custom product. CPA and CDI Laboratories offer no warranty whatsoever that the custom product is fit for any particular purpose or that any particular results will be achieved through the use of the custom product.

9.3 When the Customer has requested a custom product, such as a custom printed protein microarray, with non-off the shelf elements, the Customer represents and agrees that (a) they have provided all information that the Customer is aware of regarding any biological, radiological and chemical hazards associated with the handling, transport, exposure or other usage of the materials supplied; and (b) that the Customer has the right to cause the requested sequences or proteins to be manufactured or printed.

10. Intellectual Property.

10.1 The Customer acknowledges that all intellectual property rights relating to the Goods, as between the Customer and CPA, are solely and exclusively owned by CPA or by CDI Laboratories. Unless otherwise provided in applicable Supplementary Terms, the sale of the Goods only grants a limited, non-transferable right under such intellectual property, for only the Customer to use the quantity of the Goods purchased from CPA and only for the Customer's own internal research purposes. No right to resell the Goods or any of their components is conveyed expressly, by implication, or by estoppel. Unless expressly stated otherwise in Supplementary Terms, CPA provides no rights to use the Goods in commercial applications of any kind, including, without limitation, manufacturing, quality control or commercial services such as reporting the results of the Customer's activities for a fee or other form of consideration. To the extent that the use of the Goods is outside the scope of the Contract, it is solely the Customer's responsibility to acquire additional intellectual property rights related to such use "(Additional Rights)". Nothing in the Contract limits CPA's or CDI Laboratory's ability to enforce its intellectual property rights.

10.2 In relation to processes, methods or related synthesis of a custom product, or otherwise in connection with the design or manufacture of a custom product, any inventions (patentable or otherwise), discoveries, improvements, data, know-how or other results that are conceived, developed, discovered, reduced to practice, or generated by or for CPA, or jointly by CPA and the Customer, will be and will remain the sole and exclusive intellectual property of CPA or CDI Laboratories, and the Customer agrees to transfer and assign all of its rights, title and interest in and to any such joint intellectual property to CPA and will assist CPA, at its request and at

its own expense, in securing and recording CPA's or CDI Laboratories' rights in such intellectual property.

11. Intellectual Property Indemnity.

11.1. Indemnity of the Customer. CPA will defend and indemnify the Customer from and against infringement damages finally awarded in any legal action brought by a third party against the Customer to the extent that the action is based on a claim that the manufacture and sale of the Goods infringes any patent, copyright, trademark or other intellectual property right of such third party, if CPA had actual knowledge of such intellectual property right and the actual infringement at the time of delivery of the Goods. This indemnity does not apply to claims that arose based on (i) the Customer's failure to comply with the Contract, (ii) the Customer's failure to acquire any applicable Additional Rights, (iii) products that are made, assembled or labelled in reliance upon the Customer's instructions, specifications, or other directions, (iv) the Customer's use or resale of products, or (v) modifications made by the Customer or any third party. This indemnity does not apply to products originating from third parties. This indemnity is CPA's only liability to the Customer, and the Customer's only remedy, for any infringement or claimed infringement of intellectual property rights by or in connection with any product. As a condition to this indemnity, the Customer must (i) notify CPA in writing, as soon as becoming aware of any claim; (ii) not admit any liability or take any other action in connection with the claim that could affect the defence; (iii) allow CPA to solely control the defence or settlement of the claim; and (iv) give CPA all reasonable information, co-operation and assistance.

11.2 Customer Indemnity of CPA. If a third party makes a claim against CPA for infringement of its intellectual property rights based on (i) the manufacture or sale of a product CPA or CDI Laboratories make under the Customer's instructions, specifications, or other directions, (ii) the Customer's failure to comply with the Contract, (iii) the Customer's failure to acquire any applicable Additional Rights, (iv) CPA's or CDI's use of materials provided by the Customer, or (v) the Customer's modification, use or resale of a product, then the Customer will indemnify and hold CPA harmless from and against any and all claims, losses, damages, liabilities and expenses (including reasonable legal fees and other costs of defending and/or settling any action) that CPA may have to pay as a result of the claim.

11.3 Avoidance. CPA wishes to avoid claims of intellectual property infringement. If CPA believes that a product may be subject to a claim for intellectual property infringement, then the Customer will allow CPA, at CPA's option and expense, to either: (i) secure for the Customer the right to continue using the product; (ii) substitute the product with another suitable product with similar functionality; or (iii) require the Customer to return the product to CPA for a refund of the purchase price paid.

12. Limitations of Liability.

12.1 To the maximum extent permitted by applicable law, CPA will not be liable under any legal theory (including but not limited to contract, negligence, strict liability in tort or warranty of any kind) for any indirect, special, incidental, punitive, multiple, exemplary or consequential damages (including but not limited to costs of cover, lost profits, lost data, loss of business, loss of goodwill or loss of revenue) that the Customer might incur under the Contract, or that may arise from or in connection with the Goods, even if CPA had notice of the possibility of such damages. In addition, CPA's maximum aggregate liability arising out of or in connection with the Contract, or any product or service, is limited to the amount paid to CPA for the product or service purchased. However, these provisions do not

limit CPA's liability for death or personal injury caused by CPA's negligence or fraud, fraudulent misrepresentation or any other liability that cannot be excluded by law.

12.2 Delivery dates and times are estimates only and CPA will not be liable (in contract, delict, tort or otherwise) for any losses, expenses, claims or damages caused by a late delivery.

13. Export Control.

Products and information that the Customer receives from CPA are subject to United States, European Union and local export-control laws and regulations. The Customer may not, directly or indirectly, sell, export, re-export, transfer, divert, or otherwise dispose of any such product or information (including products derived from or based on our products or information) to any destination, entity, or person prohibited by United States, European Union or local laws or regulations.

14. Entire Contract.

The Contract represents the entire agreement between the Customer and CPA regarding the products provided to the Customer under it, and supersedes and replaces any previous agreements between the Customer and CPA (whether written or oral). Any of the Customer's additional or different terms and conditions that the Customer may provide to CPA, are material alterations and CPA rejects them. CPA's offer to sell the Goods is expressly limited to the terms of the Contract. If the Customer submits a purchase order, or other document for the purchase of the Goods, whether or not in response to a quotation, the Customer is deemed to have accepted and agreed to the Contract, to the exclusion of (a) any other terms and conditions appearing in or referenced in the Customer's purchase order or other documents the Customer gives to CPA, and (b) any previous course of dealing, course of performance, trade usage or co-existent agreement. The Contract cannot be amended or modified unless the Customer and CPA agree in writing.

15. Miscellaneous.

15.1 CPA will not be responsible or liable for failing to perform its obligations under the Contract to the extent caused by circumstances beyond its reasonable control. In certain situations, CPA may use its reasonable judgment and apportion products then available for delivery fairly among its customers.

15.2 A failure on the part of CPA to exercise any rights under the Contract is not a waiver of its rights to damages for the Customer's breach of contract and is not a waiver of any subsequent breach. If any provision or part of the Contract is found by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of the Contract. No person other than CPA or the Customer will have any rights under the Contract. Headings are for convenience only and shall not be used in the interpretation of these Terms.

15.3 The Customer agrees to keep confidential any non-public technical information, commercial information (including prices, without limitation) or instructions received from CPA as a result of discussions, negotiations and other communications between CPA and the Customer in relation to CPA's products or services.

15.4 For U.S. Government customers and prime contractors, our products and services qualify as commercial items pursuant to 48 C.F.R. (FAR) 2.1. The following additional federal terms apply to an order, unless CPA and the Customer have agreed that other terms apply instead. U.S. Government micro purchases shall be subject only to these standard commercial Contract Terms. All other U.S. Government orders shall be subject to only FAR 52.212-4 and FAR 52.212-5, as well as these Contract Terms as an addendum thereto. If the Customer is a prime contractor and the Order constitutes a subcontract under the FAR, this Contract

shall apply to the Order, supplemented only by the minimum mandatory flow down clauses reflected in FAR 52.212-5(e) or FAR 52.244-6, as applicable.

15.5 Each of the parties acknowledges and agrees that in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Contract or not) relating to the subject matter of this Contract other than as expressly set out in the Contract.

16. Governing Law.

The Contract and performance under it will be governed by English law. All proceedings in relation to this Agreement shall be brought in the jurisdiction of the courts of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Contract.