

CONTRACT SERVICES TERMS AND CONDITIONS

SECTION 1

1.1 This document shall be incorporated by reference as an attachment to a quotation offered by Chenomx, Inc. or its agent to the client, which defines the project Scope, Pricing, and Deliverables. When included and referenced within a client purchase order, the quotation and this document are deemed to be forming a part of the entire Agreement thus entered into with the purchase order.

SECTION 2 SUITABILITY AND WARRANTY

2.1 Chenomx shall exercise the highest degree of commercially reasonable skill, care, diligence, and expertise in performing the Services and represents and warrants that it has the skill, knowledge, and resources available to provide analysis of NMR data consistent with industry standards for research purposes.

2.2 Any analysis or work performed as part of this Agreement, Project or the provision of services is for research purposes only and is not intended to be used for any diagnostic, regulatory or any other purposes unless further verified using other methods.

2.3 The Deliverables are provided "as-is" without any representation or warranty, express or implied, as to the accuracy or completeness of the materials and content, and the information is subject to change without notice. Chenomx makes no representations or warranties, express, implied or otherwise, with respect to the Services or the Deliverables and specifically disclaims any implied warranty of merchantability or fitness for a particular purpose.

2.4 Chenomx shall in no event be liable for any loss of profits, be they direct, consequential, incidental, or special or other similar or like damages arising from the Services, even if Chenomx has been advised, shall be advised, shall have other reason to know, or in fact shall know of the possibility of such damages. Chenomx shall not be held liable for any direct, indirect, consequential, incidental, special or exemplary damages arising out of the use of the information contained in the Deliverables, or as a result of reliance on the information the Deliverables, even if Chenomx has been advised in advance of the possibility of such damages. Other damages (if any) are strictly limited (in contract, tort, or otherwise) to a liquidated-damages amount of the aggregate total of the invoices payable for the most recent twelve (12) month period related solely to the specific Project for which such damages are claimed.

SECTION 3 INTELLECTUAL PROPERTY

3.1 "Chenomx Intellectual Property" means any copyrights, registered and unregistered trade-marks, trade names, trade secrets, industrial designs, discoveries, know-how, sample preparation procedures, sample analysis methods, data, metabolite signature libraries, computer software, inventions (whether patented or not), developments or other intellectual proprietary rights registered, recognized or owned in Canada or elsewhere by Chenomx. Any additional spectral signatures, or intermediate steps or processes with respect to the discovery of metabolites, discovered or created by Chenomx as a result of the Project, shall be the sole and exclusive property of Chenomx and as such shall be solely owned by Chenomx. In addition, the process of the discovery of metabolites and the patterns associated with metabolites is part and parcel of the Chenomx intellectual property.

3.2 "Client Intellectual Property" means all intellectual property related to the Samples or biomarker discoveries pertaining solely to the Samples owned by the Client.

Ownership of Intellectual Property

3.3 All Chenomx Intellectual Property shall remain at all times the exclusive property of Chenomx. Nothing herein shall be deemed a sale, transfer, assignment or grant to the Client of any right, title or interest in or to the Chenomx Intellectual Property.

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3.5 The Client will retain ownership of any data, information or intellectual property furnished to Chenomx by the Client in connection with this Agreement. All Deliverables produced by Chenomx in performance of the Services will belong to the Client. Chenomx hereby assigns, if and where applicable, and the Client hereby accepts such assignment of the ownership of the Deliverables. Chenomx agrees to provide to the Client, at the Client's expense, reasonable assistance to complete any documents necessary for the Client to file patent applications and to prosecute patents with respect to such Deliverables in either the Client's name or Chenomx's name, or both.

Use of Names, Trade Names and Trademarks

3.6 Except as provided herein, nothing contained in this Agreement shall be construed as conferring any right on either party hereto any right or license to use in advertising, publicity, marketing or other similar promotional activity any name, trade name, trademark or other designation of the other party hereto or of any of its licensors under any third party agreement, including any contraction, abbreviation or simulation of any of the foregoing, unless the prior written consent of such other party hereto is obtained.

SECTION 4 INDEPENDENT CONTRACTOR AND NON-EXCLUSIVE SERVICE

Independent Contractor

4.1 The parties hereto acknowledge and agree that Chenomx is an independent contractor and shall not be deemed to be an employee, agent, joint venturer or partner of the Client. Nothing in this Agreement shall constitute or be deemed to constitute either party hereto to be the legal representative or agent of the other, nor shall either party hereto have any authority to incur, create or assume any liability or any other obligation, express or implied, in the name of or on behalf of the other party hereto. The Client expressly acknowledges that Chenomx is not a fiduciary of the Client and that Chenomx owes to the Client no obligation or duties of loyalty or of good faith as a fiduciary.

4.2 Chenomx will be solely responsible for all insurance, employment and other taxes and all obligations to governments or other organizations for its employees arising out of the Services. Chenomx assumes all risks and hazards encountered in the performance of duties by its employees and representatives under this Agreement, and except as provided for in sections 7.4, 7.5 and 7.6 regarding sample handling.

Non-Exclusive Service

4.3 The Client acknowledges and agrees that Chenomx may provide the same or similar services to third parties and that Chenomx may devote its time, as required, in furtherance of those relationships.

Subcontracting by Chenomx

4.4 Chenomx may, at its discretion, subcontract part of the analysis portion of the contract to third parties who have agreed to client confidentiality terms similar to this agreement. Chenomx accepts the responsibility for this work as if it was done by Chenomx employees and as described in the rest of this agreement. Details available upon request.

SECTION 5 EARLY TERMINATION

Termination by Either Party

5.1 Either party hereto shall have the right to terminate at will by giving written notice to the other party at any time.

5.2 In the event this Agreement is terminated by either party hereto for any reason prior to the completion of the project Chenomx or its agent shall submit to the Client for verification and approval an itemized invoice for Services performed up to and including the date of termination and the Client shall pay Chenomx for such approved listed Services.

SECTION 6 CONFIDENTIAL INFORMATION

6.1 The parties hereto acknowledge that they will each disclose to the other certain confidential and proprietary information in connection with their performance under this Agreement. For the purposes of this Agreement, "Confidential Information" shall mean information relating to the products, services, or business affairs of a party hereto which is of a proprietary or confidential nature, whether communicated orally or in writing, data or sample form, including, without limitation, concepts, techniques, processes, designs, cost data, computer programs, know-how, show-how, technology and inventions, whether or not patentable, that is disclosed by a party hereto or obtained by a party hereto through observation or examination of the other party's facilities, or otherwise in connection with this Agreement. Confidential Information shall also include any information of a confidential nature concerning the business, customers and suppliers of a party hereto, as well as any information a party hereto has received from others, including prospective customers, which the party is obligated to treat as confidential or proprietary. The parties agree that all information disclosed pursuant to this Agreement shall be presumed to be Confidential Information, unless the party disclosing the information explicitly identifies the information as non-confidential.

6.2 A party hereto receiving Confidential Information pursuant to this Agreement (the "Receiving Party") shall not, without the consent of the party hereto that disclosed the Confidential Information (the "Disclosing Party"), disclose such Confidential Information to any third party. Further, a Receiving Party shall only use the Confidential Information pursuant to and as allowed pursuant to this Agreement. For the purposes of clarification disclosure and use of the Deliverables, the Client Intellectual Property and the Samples, which are property of the Client, shall be at the Client's discretion, but will remain Confidential Information to Chenomx until such time as such information is no longer considered Confidential Information pursuant to section 6.3 below. The foregoing restrictions shall not be applicable to any information which: a Receiving Party can show was previously known to it prior to receipt from the Disclosing Party, without breach of an obligation of confidence to any third party;

- a. is now, or hereafter, comes into the public domain or is otherwise legally known or available to the public;
- b. is subsequently legally disclosed to a Party by a third party not owing obligations of confidence to the other party hereto;
- c. is, or will be, developed independently by a party hereto solely through its employees which have not been exposed directly or indirectly to the Confidential Information; or
- d. a Receiving Party is obligated to produce as a result of a court order or other valid and legally enforceable mandate, provided that the Disclosing Party has been given notice thereof and an opportunity to waive its rights or to seek a protective order or other appropriate remedy.

6.3 For the purposes of this Section 6, disclosures which provide specific detailed information shall not be deemed to be within the foregoing exceptions merely because they are embraced by more general disclosures in the public domain or in the Receiving Party's possession. In addition, any combination of features shall not be deemed to be within the foregoing exceptions merely because information about individual components are separately in the public domain or in a Receiving Party's possession, but only if the combination itself and its principle of operation are in the public domain or in the lawful possession of a Receiving Party without restriction on disclosure.

6.4 The Parties' obligations under this Section 6 shall survive any termination of this Agreement and shall continue thereafter for five (5) years from any termination of this Agreement.

SECTION 7 BIOLOGICAL SAMPLE HANDLING (IF APPLICABLE)

7.1 The samples sent to Chenomx for NMR analysis and/or biological sample analysis (the "Samples") shall remain at all times the exclusive property of the Client.

7.2 Chenomx shall only use the Samples for NMR analysis and/or biological sample analysis as required for the provision of the Services.

7.3 Unless otherwise requested by the client, all Samples will be maintained in storage by Chenomx for thirty (30) days following NMR analysis and/or biological sample analysis, after which time Chenomx will destroy the Samples. Chenomx shall not be responsible for any losses or damages in relation to the Samples after this thirty (30) day period.

7.4 The Client shall be responsible to ensure that proper safety measures are implemented with respect to the transportation of all Samples. All transportation of the Samples shall be at the risk of the Client and Chenomx assumes no risk whatsoever or howsoever for the safe transport of the Samples. The Client shall be responsible for all costs, expenses and fees associated with the transportation of the Samples.

7.5 The Client shall clearly identify and properly label all Samples which may potentially contain hazardous substances and/or infectious diseases and ensure that all handling procedures are undertaken to ensure safe handling of the Samples.

7.6 The Client shall strictly and fully satisfy all laws, regulations and policies with respect to the proper labelling and handling of all Samples in all of the following jurisdictions: the country of origin, all transit locations and the country of Canada and all of its provinces.