



### 1. Scope of these Conditions:

In these General Terms and Conditions (the "Conditions") "we," "us," and "our" means Delphi Genetics SA, and "you" and "your" means the person, company or other legal entity that orders or buys goods from us.

These Conditions apply to any order, purchase or sale of our goods either placed or entered into between you and us via our website [www.delphigenetics.com](http://www.delphigenetics.com) or otherwise, unless expressly stated otherwise in written. These Conditions supersede your own terms and conditions or other documents. Our failure to object to provisions contained in any purchase order or other form or document from you shall not be construed as a waiver of these Conditions nor as an acceptance of any such provision.

These Conditions, including all writings incorporated herein by reference, any quotation issued to you by us, and those specific terms of a purchase order or other document that are either consistent with these Conditions or expressly agreed upon by us in writing, constitute the entire contract between us (the "Contract"), and supersede all prior agreements and understandings between us, whether written or oral, relating to the subject matter hereof. In the event of a conflict, a quotation takes precedence over these Conditions, and a written contract signed by both of us takes precedence over either.

### 2. Prices and Information provided on the website

Prices, descriptive information, pictures, drawings and technical information mentioned on our website in relation with our goods are for indicative purposes and are not binding upon us, unless expressly stated otherwise in a written offer.

Prices are those which are in force on the date of reception of the order in our offices. However, prices may be adapted at any time without notice, due to circumstances beyond our control such as fluctuations of the market and of exchange rates. You irrevocably agree with the above.

Prices do not include any costs, whether of packaging, carriage, inspection or others, and are expressed net of any taxes, fees, levies or charges of any kind imposed by any public authority worldwide.

### 3. Order and Acceptance

By ordering goods from us, you acknowledge and accept that said order is governed by these Conditions. In addition, you are deemed to have accepted these Conditions unless you notify us in written within fifteen (15) days after placing your order.

Your orders are binding upon you during thirty (30) days after being submitted on the website or otherwise received in our offices, and may therefore not be cancelled within this timeframe. Such orders will become binding and form part of the Contract between us and you only after we sent you a written notice of acceptance. The same applies to orders submitted through intermediaries of any kind.

### 4. Delivery:

Delivery deadlines are given for information purposes and are not binding upon us. Late deliveries do not entitle the purchaser to any compensation nor to the termination of the Contract.

Unless specified otherwise in writing, all our sales are FCA our shipping point such point being determined at the time of the order.

We reserve the right to make delivery in installments, all such installments to be separately invoiced and paid for when due per invoice.

The goods remain our property until full payment of the corresponding invoice and of any outstanding invoices.

### 5. Inspection and Returns:

Upon your receipt of goods sold under a Contract, you shall inspect the same and notify our Customer Services Department (only by e-mail at [delphigenetics@delphigenetics.com](mailto:delphigenetics@delphigenetics.com)) of any claims for shortages, defects or damages. If you fail to so notify us within three (3) days after you receive the goods, the goods shall conclusively be deemed to comply with the order and with these Conditions and to have been irrevocably accepted by you. Authorization for all product returns must be approved by our Customer Services Department and a return authorization number given to you prior to the return of goods. Not all items will be authorized for return, due to temperature and packing requirements. In order for the returned items to be eligible for product credit, these items authorized for



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return must arrive at our facilities in a state satisfactory for resale, subject to our reasonable opinion. A restocking charge of 25% of the sale price such as defined above or \$25 (whichever is greater) shall be charged on returns that are not the result of any error or fault of ours. Shipping charges and other costs will not be credited. In any instance, and notwithstanding the foregoing, goods may not be returned for credit after fifteen (15) days after your receipt of the goods.

#### **6. Credits and Refunds:**

At our discretion, we may issue a product credit or refund for the product value and shipping charges. No product credit shall be available for use if a past due balance is outstanding on the account. Any product credit not used within six months of the date of issue thereof shall expire.

#### **7. Payments:**

Unless otherwise specified in writing goods will be billed at the price in effect at the time shipment is made; such prices shall be subject to change from time to time without notice; terms of sale are net 30 days of date of invoice.

All invoices or outstanding balance that remain unpaid on the due date, shall automatically be increased, without prior notice, with an interest of 1 % per month calculated as of the due date of said outstanding invoices, as well as damages equal to 20 % of the amount due, with a minimum of 50 EUR. Further, we reserve our right to claim the reimbursement of any judicial costs as well as recovery costs that we would incur due to late payment, in accordance with article 6 of the Act of August 2, 2002, relating to arrears in payments in commercial transactions.

In addition, in the event of non-payment of any of our invoices as of the due date, we reserve our right to automatically terminate the Contract with immediate effect and without prior notice, for all or part of the deliveries that are still pending as well as for any future delivery.

#### **8. Taxes and Other Charges:**

Any use tax, sales tax, excise tax, duty, inspection or testing fee, or any other tax, fee or charge imposed by any governmental authority, on or measured by the transaction between us shall be paid by you in addition to the prices quoted or invoiced. If we nevertheless are required by the competent authority to pay any such tax, fee or charge, you shall reimburse us the latter integrally.

#### **9. Warranty:**

We warrant to you, our direct customer, that our goods shall conform substantially to the description of such goods as provided in our catalogues and literature accompanying the goods until their respective expiration dates or, if no expiration date is provided, for 6 months from the date of your receipt of such goods. THIS WARRANTY IS EXCLUSIVE, AND WE MAKE NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. Our warranty shall not be effective if we determine, in our sole discretion, that you have altered or misused the goods or have failed to use or store them in accordance with instructions furnished by us. Our sole and exclusive liability and your exclusive remedy with respect to goods proved to our satisfaction (applying analytical methods reasonably selected by us) to be defective or nonconforming shall be the replacement of such goods free of charge, upon the return of such goods in accordance with our instructions, although at our discretion we may provide a credit or refund in accordance with Section 6 above. IN NO EVENT SHALL WE 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, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS), EVEN IF WE HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES . If we manufacture custom goods for you based on instructions, specifications, or other directions you provide to us, we shall not be liable for the lack of sufficiency, fitness for purpose or quality of the goods to the extent attributable to such instructions, specifications, or other directions. We shall not be liable for any loss, damage or penalty as a result of any delay in or failure to manufacture, deliver or otherwise perform hereunder due to any cause beyond our reasonable control.



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## 10. Intellectual Property Rights

All intellectual property rights that are not expressly assigned or licensed to you under these Conditions are reserved by us.

We shall at our own expense defend, or at our option settle, any claim or suit arising out of the alleged infringement of any third party's intellectual property rights by the goods sold to you under these Conditions, and hold you harmless against the consequences of said infringement, subject to the limitations provided for under these Conditions, and provided that all of the following conditions are met : (i) you shall give us in writing and as early as feasible proper and complete notice of such claim being made or action threatened or brought against you, (ii) you shall give us sole control of the defense and/or of all settlements, (iii) you shall make no waiver or acknowledgement nor admission of liability of any kind, (iv) you shall give us all information and assistance as reasonably required, (v) you shall cooperate with us in the settlement and/or the defense.

At our sole discretion and expense, should all or part of the goods become, or in our reasonable opinion be likely to become, the subject matter of a claim or suit for infringement of any third party's intellectual property rights, we may do one of the following : (i) procure for you the right to use the goods or the affected part thereof, or (ii) replace the goods or affected part thereof with suitable goods, or (iii) modify the goods of affected part thereof to make them non-infringing.

We shall in any instance have no obligations under the present section to the extent a claim is based upon (i) the use of any part of the goods otherwise than authorized under these Conditions, (ii) our manufacturing or selling of the goods in compliance with instructions, specifications, or other directions provided by you, (iii) the combination, operation or use of the goods with other material not delivered by us.

The foregoing states our entire liability and your exclusive remedy with respect to any alleged infringement of any third party's intellectual property rights by the goods or any part thereof.

## 12. Authorized Uses

**12.1.** Except as otherwise agreed in writing by our authorized representative, the purchase of goods only conveys to you the non-transferable right for only you to use the quantity of goods and components of goods purchased in compliance with the applicable intended use statement, limited use statement or limited label license, if any, in our catalogues or on the label or other documentation accompanying the goods (all such statements or licenses being incorporated herein by reference as if set forth herein in their entirety). Unless otherwise authorized, no right to resell the goods, or any portion of them, is conveyed hereunder.

**12.2.** Unless otherwise expressly indicated in our catalogues or on the label, use statement or other documentation accompanying the goods, the goods are intended for research use only and may not be used neither (i) for any other purposes including, but not limited to, unauthorized commercial purposes, *in vitro* diagnostic purposes, *ex vivo* or *in vivo* therapeutic purposes, investigational use, use in foods, drugs, devices or cosmetics of any kind, (ii) nor for consumption by or use in connection with or administration or application to humans or animals. You acknowledge that the goods have not been tested by or for us for safety or efficiency, unless expressly stated in our catalogues or on the label or other documentation accompanying the goods. Without limiting the foregoing restrictions, you represent and warrant that, should you use or sell the goods or part thereof or of their components for any purposes other than research, you shall do the same under your sole and exclusive liability, and you shall notably, at your own expense, without limitation, conduct all necessary tests, comply with all applicable regulatory requirements, issue all appropriate warnings and information to subsequent purchasers and/or users and be responsible for obtaining any required Intellectual Property rights or other authorization from private or public entities.

**12.3.** You represent and warrant to us that: you will properly test, use, and, to the extent authorized, manufacture and market any goods purchased from us and any final articles made from them in accordance with the practices of a reasonable person who is an expert in the field, including, but not limited to, a technically qualified individual and in strict compliance with all applicable national, state, provincial, and local food, drug, device, and cosmetic and other relevant laws and regulations.



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**12.4.** You realize that, because our goods are intended primarily for research purposes, they may not be on the Toxic Substances Control Act (TSCA) inventory. You shall have the sole and exclusive responsibility to ensure that the goods purchased from us are approved for use under TSCA, if applicable. Consistent with your agreement to comply with all TSCA R&D substance exemption requirements applicable to the purchase, you agree and warrant that you will comply with all requirements necessary to maintain the R&D exemption, including using the R&D substance under the supervision of a technically qualified individual, maintaining all necessary labeling, and providing all necessary notifications. You also agree and warrant that you will use or sell (if otherwise so authorized) the R&D substance exclusively for R&D purposes or specified exempt commercial purposes. You specifically agree and warrant that you will not sell or distribute the R&D substance to consumers.

**12.5.** You have the responsibility to conduct any research necessary to learn the hazards involved for any of your uses of goods purchased from us and to warn your customers, employees and any auxiliary personnel (such as freight handlers, etc.) of any risks involved in using or handling the goods. You agree to comply with instructions for use of the goods furnished by us, if any, and not to misuse the goods. If the goods purchased from us are to be repackaged, relabeled or used as starting materials or components of other products, you will verify our assay of the goods, qualify the goods provided by us for such applications, and comply with all governmental requirements relating to labeling or providing other communications to customers. You acknowledge that we provide Material Safety Data Sheets (MSDS) for our products, and that they are available electronically on our web site at [www.delphigenetics.com.com](http://www.delphigenetics.com.com), and that you are willing and able to access MSDS by these means. You also agree to inform your employees of the risks, if any, involved in using or handling the goods and to train and equip them to handle the goods safely.

**13. Indemnity:**

You shall, at your own expense, indemnify us, defend us and hold us harmless from and against any and all losses, damages and expenses (including reasonable attorneys' fees and other costs of defending any action) that we may incur as a result of any infringement of any third party's intellectual property rights, negligence, breach of implied warranty, strict liability in tort, or other theory of law, by you, your officers, agents or employees, your successors and assigns, and your customers, whether direct or indirect, in connection with the use or resale of any goods sold pursuant hereto either as a standalone product or a component part or raw material of another product, or by reason of your breach of or failure to perform any of your obligations hereunder, except to the extent provided in section 10 above or caused by a breach by us of the express warranty set forth in section 9 herein. You shall notify us promptly of any incident involving goods sold pursuant hereto resulting in personal injury or damage to property, and you shall fully cooperate with us in the investigation of such incident and provide us with all related statements, reports and tests available to you.

**14. Technical Assistance:**

Unless otherwise agreed, all technical assistance and information we provide to you regarding the goods will be provided gratis, and you are solely and exclusively responsible for the results obtained in reliance thereon. We make no warranty regarding such technical assistance or information.

**15. Privacy and data protection**

**Personal data processed through this website are under the control of DelphiGenetics S.A., a Belgian company having its registered offices at Rue A. de Saint-Exupéry, 5, 6041 Charleroi (Belgium).**



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We collect personal information directly from you either on our website forms or otherwise, when you open an account or buy a product from us, or more generally when you contact us. We keep information on your activity with us, including your visits to our website. Some marketing and research analysis is conducted by third parties providing data collection and analysis services under contract with us, using anonymous data collected from cookies. You can reject such cookies by customizing your browser's settings. In addition, we may use information provided by third parties.

We shall only process said information for the following purposes :

- Dealing with your requests, manage your account and propose selected products or services to you ;
- Delivering information, targeted advertising, services or products to you;
- Improving web site navigation and administration;
- Compiling and analyzing aggregate statistics and trends for market analysis purposes.

We may disclose the same information to our group of companies who will process your data for the same purposes. We may occasionally disclose your information to third parties for direct marketing purposes.

You have the right to oppose the processing of your personal data for direct marketing purposes, and you have the right to access and rectify your personal data, in accordance with the Act of December 8, 1992 on the protection of privacy with respect to the processing of personal data.

#### 16. Miscellaneous:

If one or more of these Conditions are held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining Conditions shall be unimpaired.

If, due to acts of God, strikes, lock-outs, or the occurrence of any event with is beyond our control, we are unable to perform the Contract, we reserve the right to terminate said Contract without any compensation to the purchaser.

You agree to waive the application of article 7, §1, 8°, and articles 9 and 10 of the Belgian Act on electronic commerce of March 11, 2003.

Our exercise of any option, or failure to exercise any rights hereunder shall not constitute a waiver of our rights to damages for breach of contract and shall not constitute a waiver of any subsequent failure, delay, or breach by you.

We may assign our rights and/or obligations under the Contract to any person, in whole or in part and without prior notice.

These Conditions and all Contracts shall be governed by and construed in accordance with the laws of Belgium, without giving effect to the principles of conflicts of laws. In the event of a dispute arising between you and us, the Courts of Brussels will have sole and exclusive jurisdiction. However, we reserve our right to submit any dispute to any other Court that would have jurisdiction in accordance with the provisions of the Belgian Judicial Code.



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