

Terms and Conditions

1. Controlling Provisions: These Standard Terms and Conditions, including any exhibits attached here to ("Terms") govern the agreed-upon services set forth in the Quote or any other document outlining the Services (the "Project") that Pace® Analytical Life Sciences, LLC ("Pace®") will perform on behalf of the client ("Client"). Pace® and Client, shall be referred to collectively as the "Parties," and individually a "Party." Unless otherwise specifically agreed to in writing by the Parties, all work, services, and Reports as applicable (collectively the "Services" provided by Pace® are undertaken upon these Terms and these terms **SUPERSEDE** any representations, oral, written, or otherwise communicated, that relate to the Project including **CLIENT TERMS AND CONDITIONS WHICH WILL NOT APPLY.**

2. Warranty: Pace® warrants it will: a) conduct all tests and observations using the protocols and laboratory procedures as specified herein (the "Contract Paperwork"); and b) uphold reasonable industry standards in effect as of the effective date of this proposal. To the extent Client provides Pace® with protocols and procedures, or with any Client Materials Pace® must use during the Project Client understands that Pace® cannot guarantee results and cannot provide a warranty of any kind. In that event, Client shall hold Pace® harmless from all claims, damages, and expenses arising from Client's Materials or direction. Pace® makes no other express warranties. Pace® excludes and disclaims all implied warranties, conditions, and undertakings, whether statutory, common law or otherwise, including but not limited to, any warranty of fitness for a particular purpose, warranty of merchantability, warranty of non-infringement, and warranty of results.

Client represents and warrants that any information, samples, and related documents it supplies to Pace® ("Client Material") are true, accurate representative, complete, and not infringing. Client acknowledges that Pace® will rely on such Client Material to provide the Services and that Pace® has no obligation or duty to confirm or verify the accuracy or completeness of Client Material. Client further agrees that it will not use any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Pace® in the course of providing the Services to Client together with status summaries or any other communication in any form describing the results of any work or services performed by Pace® (collectively, "Reports") misleadingly and that it will only distribute such Reports in their entirety.

3. Data: Pace® will provide Client with raw data as specified in the Contract Paperwork. Pace® will maintain Client raw data for three (3) years, and final reports for five (5) years or such time period as required by applicable law. Pending Client's payment in full for the Project, Pace® may retain any Client data not already released.

4. Intellectual Property/Ownership: Pace® shall own and retain all rights in any Pace® material and methodologies existing prior to the effective date of this proposal, as well as in any that Pace® may develop or discover during the execution of this proposal, so long as such discoveries do not incorporate any Client information and Materials. Client shall otherwise own all data, reports, findings, inventions, and Client Materials related to or resulting from the Project.

5. Non-competition: Client shall not solicit or recruit Pace® personnel for at least twelve (12) months following the completion or termination of all Client Projects within Pace®.

6. Material Delivery and Acceptance: Client shall provide Pace® with reasonable written notice prior to the shipment of any Client material(s) to Pace®. Pace® shall issue any written rejection of Client materials(s) within seventy-two (72) hours of such notice or acceptance of Client materials(s) may be presumed. Notwithstanding the foregoing, Client shall remain liable for any loss of or damage to Client material(s).

7. Material Storage and Disposal: Unless otherwise requested by Client, Pace® shall dispose of any non-hazardous Client material(s) within 30 days following completion of the Project. In the event Client requests Pace® retain Client material(s) longer than thirty (30) days Pace® may charge Client for the costs of storing of any such Client material(s). In addition, Pace® may return, and Client must accept, any/all highly hazardous, acutely toxic, or radioactive material(s), material containers, and residues, as well as any/all material(s) for which no approved method of disposal exists.

8. Non-Assignment: A Party hereto may not assign or transfer any rights or obligations existing under these Terms without prior written consent to the other Party, except that a Party may assign all of its rights and obligations to a third Party who has acquired all or substantially all of the business or assets of such Party through a sale, merger, consolidation, reorganization or similar transaction.

9. Time of Completion; Force Majeure: Pace® shall use all reasonable efforts to complete the Project within the time limitations specified herein. Pace® shall not be responsible for any delay in completing the Project where the delay results from Client, Client's employee, agents, or contractors' actions or inactions, or other factors or events beyond Pace®'s control, such as government shutdowns, natural disasters, labor strikes, or other such force majeure events.

10. Compensation:

- The pricing offered to Client by Pace® is predicated upon Client's acceptance of these Terms. Credit worthiness will be determined based upon factors including an assessment of Client's payment history, credit reports, and financial stability. If Pace® is serving as a subcontractor for Client, Pace® may request and receive information about the Prime Client prior to granting credit. If credit is not granted, Client must pay Pace® prior to initiation of the Project.
- Client agrees to pay for the Project. Payment terms for any uncontested invoice items are net 30 days. Client must notify Pace® of a dispute in writing within 15 days of the date of the disputed invoice to suspend its payment only of disputed amounts under said invoice pending resolution. Pace® may charge Client interest on all unpaid, undisputed balances, beginning 30 days after the invoice date, at a rate not to exceed the maximum rate allowed by law. In the event Client asks Pace® to invoice a third party, Client shall remain primarily liable for the payment of any outstanding balance.
- Failure by Client to pay any outstanding, undisputed invoice within 60 days of Pace®'s dated invoice shall constitute a material breach of these Terms, at which time Client acknowledges Pace® may, in its sole discretion, suspend its duties and obligations hereunder without liability until Client's account is made current. Client shall be liable to Pace® for any costs incurred by Pace® in collecting payment described herein, including reasonable attorneys' fees. Additionally, Pace® may assess 3% surcharge on any payments made by credit card.

11. Risk Allocation and Damages: Client understands the Project involves inherent risk, that Pace® is providing Client with services, and that Pace® cannot guarantee Project outcomes. Notwithstanding the foregoing, should a court of competent jurisdiction find that Pace® materially breached its obligations to Client under these Terms, **CLIENT UNDERSTANDS THE AGGREGATE LIABILITY OF PACE® SHALL NOT EXCEED THE ACTUAL FEES PAID TO PACE® BY CLIENT UNDER THE LOWER OF THE SOW OR PROJECT AND IN THE AGGREGATE THE FEES PAID DURING THE 12 MONTHS PRECEDING THE CLAIM GIVING RISE TO THE LIABILITY.** This limitation shall not apply to losses arising from Pace®'s willful misconduct, so long as:

- Client notifies Pace® within thirty (30) days from the date of discovery of the claimed misconduct; or two (2) years from the date of Client's claimed losses; and
 - Client provides Pace®, insofar as possible, an opportunity to cure the losses alleged by Client.
- Neither Pace® nor Client shall be liable to the other for special, incidental, consequential, or punitive losses, except as allowed in Section 12 herein.

12. Client Responsibilities:

- Client shall:
- Timely provide Pace® with complete information about all known, reasonably knowable, and/or later learned information related to the Project, as well as any information Pace® may deem necessary for the Project;
 - Enable access by Pace® personnel and/or subcontractors to any site where Pace® is to perform work, and to all Client personnel who are critical to the success of the Project;
 - Obtain, on behalf of Pace®, any license or permission required by any third party for work under the Project;
 - Provide Pace® with at least 10 business days' notice of any known and/or later learned of delays that may reasonably affect the ability of Pace® to

start, or complete the Project; and
e) Reimburse Pace®'s reasonable costs to perform any out-of-scope services, such as compliance audits, responding to subpoenas, etc.
Client shall reimburse Pace® for its actual expenses, as well as any lost profits directly attributable to Client's failure to maintain the Client responsibilities provided for herein.

13. Indemnification: EXCEPT IN CASES OF PROVEN GROSS NEGLIGENCE OR FRAUD BY PACE®, CLIENT SHALL INDEMNIFY AND HOLD HARMLESS PACE®, ITS OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, CONTRACTORS AND SUB-CONTRACTORS FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, LIABILITIES (INCLUDING COSTS OF LITIGATION AND ATTORNEY'S FEES) ARISING, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION WITH: (I) ANY CLAIMS OR SUITS BY ANY REGULATORY BODY OR GOVERNMENTAL AUTHORITY OR OTHERS FOR ANY ACTUAL OR ASSERTED FAILURE OF THE CLIENT TO COMPLY WITH ANY LAW, ORDINANCE, REGULATION, RULE OR ORDER OF ANY GOVERNMENTAL OR JUDICIAL AUTHORITY; (II) ANY CLAIMS OR SUITS ARISING AS A RESULT OF ANY MISUSE, UNAUTHORIZED, OR FALSE USE OF ANY REPORTS ISSUED BY PACE®; OR (III) CLIENT'S BREACH OF THIS AGREEMENT OR VIOLATION OF APPLICABLE LAW. THIS SECTION SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

14. Insurance: At all times during the Project, each Party will maintain at its own expense insurance that is customary and reasonable in connection with its respective obligations and liabilities under Project, including, without limitation, general liability, and product liability insurance sufficient to cover its respective liabilities.

15. Term and Termination: (a) These Terms shall continue in full force and effect until completion of the Project, unless earlier terminated in accordance with below. (b) Either Party may terminate this Agreement if (i) the other Party materially breaches any of its obligations under this Agreement and has not cured such breach within thirty (30) days; or (ii) the other Party is subject to an insolvency or adjudication of bankruptcy or the making of an assignment for the benefit of creditors.

For services related to process development or manufacturing of batch materials, customer may request to cancel by providing written notice to Pace® Life Sciences (Pace®). Any such cancellation requires Pace®'s approval. If customer cancels for any reason, then customer shall, in addition to paying Pace® for any services already performed or completed up to and including the date on which Pace® receives written notice of such cancellation, the customer also agrees to pay the cancellation fee outlined below.

<i>Number of days before scheduled manufacturing date when notice is received</i>	<i>Cancellation Fee</i>
<i>>60 days</i>	<i>No charge</i>
<i>31-60 days</i>	<i>50%</i>
<i>8-30 days</i>	<i>75%</i>
<i>0-7 days</i>	<i>100%</i>

16. Amendments/Change Orders: Any attempt by a Party to modify, vary, supplement, or clarify any provision of these Terms shall have no effect unless reduced to writing and signed by both Parties ("Project Amendments"). Project Amendments, including to these Terms, may result in changes in Project costs as well as the time of completion.

17. Confidentiality: Each Party agrees that if, during the performance of the Project, it becomes aware of any confidential or proprietary information of the other, it will not disclose such information except to those employees, or agents who have expressly agreed to maintain confidentiality. For clarity, Pace®'s compliance with a subpoena or other order shall not violate any requirement for confidentiality between the Parties.

18. Conditioned Offer and Acceptance. PACE®'S TERMS AND CONDITIONS (AS DEFINED HEREIN) ARE THE ONLY TERMS AND CONDITIONS TO WHICH PACE® HAS OR WILL AGREE. PACE® WILL ONLY BE DEEMED TO HAVE ACCEPTED CLIENT'S OFFER TO PURCHASE ON ISSUE OF A CORRESPONDING ORDER CONFIRMATION THAT DOES NOT ALTER PACE®'S TERMS AND CONDITIONS OR UPON CLIENT'S RECEIPT OF PACE'S GOODS AND/OR SERVICES, AND UPON THE SATISFACTION OF EITHER CONDITION, A CONTRACT FOR THE SALE BY PACE® AND PURCHASE BY CLIENT FOR PRODUCTS AND/OR SERVICES SHALL COME INTO EXISTENCE COMPRISED OF THE TERMS AND CONDITIONS (AS DEFINED HEREIN). UNDER NO CIRCUMSTANCES SHALL THE PERFORMANCE OF THIS AGREEMENT OR THE ACCEPTANCE BY CLIENT OF PACE®'S GOODS AND/OR SERVICES INDICATE MUTUAL ASSENT TO AN AGREEMENT THAT DOES NOT INCLUDE THE TERMS AND CONDITIONS (AS DEFINED HEREIN). IN THE EVENT ANY COURT FINDS AN ABSENCE OF A FULLY EXECUTED AGREEMENT BETWEEN THE PARTIES, THE PARTIES ACKNOWLEDGE THAT ACCEPTANCE BY THE CLIENT OF PACE®'S SERVICES WILL OPERATE AS ACCEPTANCE OF THESE TERMS. ANY ATTEMPT BY A PARTY TO MODIFY, VARY, SUPPLEMENT, OR CLARIFY ANY PROVISION OF THESE TERMS AND CONDITIONS OR SUBMIT A COUNTEROFFER, SHALL HAVE NO EFFECT UNLESS REDUCED TO WRITING AND SIGNED BY AN INDIVIDUAL WITH AUTHORITY TO ACT ON BEHALF OF PACE®. ANY REQUEST TO MODIFY, VARY, SUPPLEMENT, OR CLARIFY ANY PROVISION OF THESE TERMS AND CONDITIONS OR SUBMIT A COUNTEROFFER SHALL BE EXCLUSIVELY INITIATED BY SENDING SUCH REQUEST TO FLOWDOWNS@PACELABS.COM. IF PACE® DOES NOT RESPONDED BY WAY OF A SIGNED WRITING WITHIN SEVENTY-TWO (72) BUSINESS HOURS (8:00 A.M. – 5:00 P.M. CENTRAL TIME, MONDAY THROUGH FRIDAY, EXCLUDING HOLIDAYS AND WEEKENDS) FOLLOWING THE TRANSMISSION OF SUCH REQUEST BY CLIENT TO THE DESIGNATED PACE® EMAIL ADDRESS SPECIFIED IN THE PRECEDING SENTENCE, SUCH REQUEST WILL BE DEEMED REJECTED AND SHALL NOT BE BINDING UPON PACE®. YOU ARE HEREBY PLACED ON NOTICE THAT PACE® SHALL NOT BE BOUND TO AN AGREEMENT OR CONTRACT THAT ALTERS OR MODIFIES THESE TERMS AND CONDITIONS IN THE ABSENCE OF SUCH REQUEST.

19. Miscellaneous Provisions:

- a) All understandings, including all prior or contemporaneous understandings, between the parties are incorporated in this Agreement. The terms of this Agreement (including Pace®'s Terms and Conditions, as defined above) are intended by the parties as a final, complete and exclusive expression of their agreement with respect to its subject matter and supersede and replace all prior or contemporaneous discussions, negotiations, letters, memoranda or other communications, oral or written, with respect to the subject matter hereof and may not be contradicted by any evidence of any prior agreement (either written or oral). Client represents and agrees that it has not relied on any statement, communication, representation, or promise that is not set forth in this Agreement, and Client acknowledges that any such statement, communication, representation, or promise is hereby revoked. These Terms shall be construed and interpreted in accordance with the laws of the State of Delaware, United States of America, and the Parties agree the appropriate venue for any dispute arising out of or relating to the Project shall be the Minnesota courts of general jurisdiction or the United States District Court for the District of Minnesota.
- b) Client may publicly refer to the Project generally and the association of Client with Pace® as a Client testing laboratory, but shall immediately retract, eliminate, and/or remove all such reference upon Pace®'s written request. Unless expressly allowed by Pace®, Client shall not use Pace®'s name or any of its registered marks.
- c) For purposes of these Terms, the Parties may use and rely upon electronic signatures and documents for the execution and delivery of these Terms and any amendments, notices, records, disclosures, or other documents of any type sent or received in accordance with these Terms.
- d) For the purposes of the Project Pace® is an independent contractor and no employer/employee relationship shall be understood to be in any effect as a result of the Project.
- e) These Terms shall be binding upon, and inure to the benefit of, the Parties and their respective successors and assigns.