

ASAP Laboratory Terms and Conditions

1.1 In this document:

Contract means any agreement for the sale of Goods and/or Services entered into between ASAP Laboratory and the Purchaser.

ASAP Laboratory means ASAP Laboratory Limited and its subsidiaries, together with their agents, servants and employees.

Goods mean all products and parts thereof offered for sale by ASAP Laboratory.

GST means the goods and services tax imposed by The New Tax System (Goods and Services Tax) Act 1999 (Cth).

Order means an order placed in accordance with the Terms and Conditions by the Purchaser for the supply of Goods and Services (if accepted) by ASAP Laboratory.

Purchaser means the party entering into the Contract to purchase Goods and/or Services from ASAP Laboratory.

Services means all services offered for sale by ASAP Laboratory including, but not limited to, pathology services, point of care devices and products, genetic testing services, storage of genetic material, and research and consultancy in genetics and related fields.

Terms and Conditions means these terms and conditions of sale.

Disclaimer means the Website Disclaimer. Privacy Statement means the Website Privacy Statement.

1.2 Unless there is express written agreement to the contrary, ASAP Laboratory contracts upon terms that any contract is subject to the Terms and Conditions, the Privacy Statement and the Disclaimer (to the fullest extent applicable). Any Order

placed by the Purchaser shall be conclusively deemed to have been made subject to the Terms and Conditions in force as at the date the Order is received by ASAP Laboratory, irrespective of any contrary terms printed on or accompanying the Purchaser's order documentation, and such contrary terms shall in no circumstance prevail.

1.3 A reference in these Terms and Conditions to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Confirmation of Orders.

No Order placed by the Purchaser shall be binding on ASAP Laboratory unless and until ASAP Laboratory accepts the Order. Acceptance of any Order may be made by ASAP Laboratory taking any steps to satisfy the Order. Any Order which has been accepted by ASAP Laboratory may not be cancelled by the Purchaser except with the agreement in writing of ASAP Laboratory and, in such circumstances, only on the basis that the Purchaser shall indemnify ASAP Laboratory in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by ASAP Laboratory as a result of such cancellation.

3. Price.

3.1 All Orders will be invoiced at the prices in effect at the time of delivery of the Goods and/or Services.

3.2 Goods and Services Tax.

(a) Interpretation.

Words or expressions used in this clause 3.2 which are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the same meaning in this clause.

(b) GST inclusive amounts.

For the purposes of these Terms and Conditions where the expression 'GST inclusive' is used in relation to a price, a amount payable or other consideration to be provided for a supply under these Terms and Conditions, the amount or

consideration will not be increased on account of any GST payable on that supply.

(c) Consideration is GST exclusive.

Any consideration to be paid or provided to ASAP Laboratory for a supply made by ASAP Laboratory under or in connection with these Terms and Conditions unless specifically described in these Terms and Conditions as 'GST

Inclusive', does not include an amount on account of GST.

(d) Gross up of consideration.

Despite any other provision in these Terms and Conditions, if ASAP Laboratory makes a supply under or in connection with these Terms and Conditions on which GST is imposed (not being a supply the consideration for which is specifically described in these Terms and Conditions as 'GST inclusive'):

(i) the consideration payable or to be provided for that supply under these Terms and Conditions but for the application of this clause ('GST' exclusive consideration) is increased by, and the Purchaser must also pay to ASAP Laboratory an amount equal to the GST payable by ASAP Laboratory on that supply; and

(ii) the amount by which the GST exclusive consideration is increased must be paid to ASAP Laboratory by the Purchaser without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

(e) Reimbursements (net down).

If a payment to a party under these Terms and Conditions is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

(f) Purchaser Warranty and Indemnity.

The Purchaser warrants that where GST is imposed on a supply made by ASAP Laboratory under or in connection with these Terms and Conditions and the consideration for that supply was not increased under this clause 3.2 as the parties mistakenly regarded the supply as GST-free, the Purchaser will indemnify ASAP Laboratory for and in respect of the GST (including any interest or penalty) imposed on or in respect of that supply.

4. Payment and Default.

4.1 Unless ASAP Laboratory requests the Purchaser to pay in advance or unless alternate payment terms are expressly agreed in writing between the parties, the Purchaser shall pay the full amount specified on the invoice from ASAP Laboratory

strictly within twenty one (21) days from the date of ASAP Laboratory' invoice for the Goods and/or Services.

4.2 All payments shall be made by cheque or electronic funds transfer (wire transfer) into ASAP Laboratory' account:

ANZ Bank

BSB Number 013-304

Account Number 487507134

Account Name ASAP Laboratory Corporation Pty Ltd.

4.3 Where the purchase price is not paid in full on the due date, ASAP Laboratory has the right to charge interest on the balance outstanding calculated from the due date until the date of payment at a rate 5% higher than the rate of interest charged by ASAP Laboratory' bankers on ASAP Laboratory' overdraft from time to time. Such interest shall accrue from day to day on the amount of the purchase price remaining unpaid up to the date of payment and shall be payable on demand.

4.4 The Purchaser shall indemnify ASAP Laboratory against all costs and disbursements which ASAP Laboratory may incur in recovering any sums due to be paid by the Purchaser to ASAP Laboratory under any

Contract, including but not limited to any debt recovery agency fees, court fees or legal fees.

4.5 ASAP Laboratory has the right to cancel the remainder of the Contract or to suspend deliveries of Goods and/or Services if the Purchaser does not strictly observe the terms of payment. ASAP Laboratory also has the right to sell or otherwise dispose of Goods or the results of the Services that are the subject of the contract and to apply the proceeds of any such sale to the overdue account.

4.6 Payment of the purchase price shall become immediately due if:

- (a) the Purchaser makes default in any payments or is unable or states that it is unable to pay its debts as and when they fall due;
- (b) the Purchaser, being an individual, commits an act of bankruptcy or has a controller or trustee appointed in respect of the Purchaser's estate or any part of the Purchaser's property or assets;
- (c) the Purchaser, being a company, passes a resolution for its winding up or enters into liquidation or has an application for winding up filed against it;
- (d) a receiver, receiver and manager, controller or voluntary administrator is appointed over any part of the property or assets of the Purchaser;
- (e) ASAP Laboratory reasonably apprehends that any of the events mentioned above is about to occur in relation to the Purchaser; or
- (f) the Purchaser experiences any analogous event having substantially similar effect to any of the events specified above.

5. Delivery Times.

5.1 Subject to clause 5.2, ASAP Laboratory will use reasonable endeavours to achieve any delivery times stated by ASAP Laboratory Test and Service Directory.

5.2 Times stated by ASAP Laboratory for delivery are estimates only. ASAP Laboratory does not guarantee that the delivery of the Goods and/or Services will be within the delivery times stated by ASAP Laboratory and no liability shall attach to ASAP Laboratory in the event of delivery being delayed by any circumstances, including circumstances beyond ASAP Laboratory's control. In no circumstances shall delay amount to, or be deemed to be, a breach of the Contract and the Purchaser shall not be entitled to treat the Contract as repudiated by reason of any delay in delivery.

6. Delivery and Risk.

6.1 Unless expressly agreed otherwise in writing by ASAP Laboratory and or as advertised in the Test and Services Directory, the Purchaser is responsible for paying postage, transportation and insurance of Goods from ASAP Laboratory premises to the Purchaser. Risk but not title in such Goods shall pass to the Purchaser upon the loading of the Goods on to the nominated carrier.

6.2 The Purchaser is responsible for all local taxes and for any customs or import duties payable for Goods and/or Services sold outside Australia.

7. Title to Goods.

7.1 Subject to clause 12, irrespective of the time when risk in the Goods shall pass, passing of property in these Goods shall be determined as follows:

- (a) property in the Goods and/or Services shall remain with ASAP Laboratory until the Purchaser has made payment in full to ASAP Laboratory of the purchase price and any other indebtedness of the Purchaser to ASAP Laboratory;
- (b) pending payment in full of the purchase price, the Purchaser shall arrange for the Goods to be adequately insured against all insurable risks pending the passing of title and the Purchaser shall produce the insurance policy and latest premium receipt for inspection at the request of ASAP Laboratory;

(c) if the Purchaser defaults in payment of the purchase price in accordance with the terms of the Contract, the Goods shall be delivered to ASAP Laboratory on demand and/or ASAP Laboratory and its employees or agents shall have the right to enter upon the Purchaser's premises or any other premises where the Goods are known to be stored, to repossess the Goods and for that purpose the Purchaser shall grant all reasonable rights;

(d) if, prior to payment, the Purchaser sells the Goods and/or Services to a third party and defaults in payment of purchase price, ASAP Laboratory shall be entitled to so much of the proceeds of such sales (which shall be kept separate and identifiable) as represent the purchase price or balance thereof remaining unpaid. The Purchaser hereby assigns to ASAP Laboratory the right to receive payment from the third party for the Goods and/or Services.

7.2 The Purchaser acknowledges that until payment of the purchase price is made in full, the Purchaser holds the Goods and/or Services in a fiduciary capacity on behalf of ASAP Laboratory.

8. Purchaser's Representations and Acknowledgments.

8.1 The Purchaser acknowledges that it is responsible for informing ASAP Laboratory in writing of all requirements the Purchaser has relating to the use of the Goods and/or Services in the country or State of intended use, including, but not

limited to, all statutory or other like requirements relating to marking, labelling and/or packaging.

8.2 The Purchaser warrants that it has not advised ASAP Laboratory of any particular purpose for which it requires the Goods and/or Services, save for any purpose stated by the Purchaser to ASAP Laboratory in writing.

8.3 Any failure by the Purchaser to inform ASAP Laboratory in writing of any of the matters referred to in clauses 8.1 and 8.2 shall not entitle the Purchaser to refuse to accept the Goods and/or Services or pay the purchase price, nor shall ASAP Laboratory be liable in any way whatsoever if the Goods and/or Services fail to comply with any requirements not disclosed in writing to ASAP Laboratory by the Purchaser prior to the formation of the Contract. The Purchaser indemnifies ASAP Laboratory in full against any loss or damage suffered by ASAP Laboratory howsoever arising out of any failure to comply with any requirements not disclosed in writing to ASAP Laboratory by the Purchaser prior to the formation of the Contract.

8.4 The Purchaser acknowledges that:

- (a) it has selected the Goods and/or Services from a range of products and the Purchaser has satisfied itself that the Goods and/or Services meet the Purchaser's requirements;
- (b) no oral or written information, representation or advice given by or on behalf of ASAP Laboratory, other than as contained in the Terms and Conditions, creates a warranty or in any way increases the scope of the Terms and
- (c) unless expressly agreed otherwise in writing, the Purchaser has not relied on any information, representation or advice given by or on behalf of ASAP Laboratory in selecting the Goods and/or Services; and
- (d) ASAP Laboratory makes no representation that its Goods and/or Services conform to country, State or local laws, ordinances, regulations, codes or standards (except as may otherwise be agreed to in writing by ASAP Laboratory) and the Purchaser is responsible for complying with all local laws relating to use of the Goods and/or Services at its own cost and expense.

9. Use of Goods and Services.

9.1 Purchaser as end-user.

Where the Purchaser is an end-user of the Goods and/or Services, it warrants that it will use the Goods and/or Services in conformity with:

- (a) practices that are consistent with industry practice;
- (b) all applicable laws and regulations, guidelines and decisions of judicial or regulatory bodies;
- (c) any patent or other proprietary rights of third parties; and
- (d) instructions provided by ASAP Laboratory.

9.2 Purchaser as distributor.

Where the Purchaser is a distributor of the Goods and/or Services, the Purchaser must:

- (a) ensure that the end-user(s) of the Goods and/or Services will use the Goods and/or Services in conformity with paragraphs 9.1(a) to 9.1(d) above and will, in any event inform any end-user in writing of the above requirements for the use of the Goods and/or Services; and
- (b) to the extent permitted by law, comply with any additional restrictions specified by ASAP Laboratory in relation to the manner in which the Goods and/or Services may be supplied to end-users including but not limited to geographic restrictions (eg. countries or States in which end-users are located to whom the Purchaser may not supply the Good and Services).

10. Product and Service Warranty.

10.1 ASAP Laboratory warrants that, subject to clause 10.3, Goods and Services provided by ASAP Laboratory will be free from defects caused by manufacture and/or testing for a period of 12 months from the date an invoice is issued by ASAP Laboratory. Should any fault occur within that period as the result of such defect, ASAP Laboratory will make all necessary repairs, retesting or at ASAP Laboratory sole discretion, replace the Goods or Services at no charge to the Purchaser except for delivery and duties charges.

10.2 To the fullest extent permitted by the Australian Trade Practices Act 1974 and any Victorian legislation relevant to the sale and supply of Goods by ASAP Laboratory to the Purchaser, in the case of Goods not manufactured by ASAP Laboratory or Services not provided by ASAP Laboratory, ASAP Laboratory warranty in clause 10.1 shall be limited to the warranties implied by law and any further warranty contained in any manufacturer's or service provider's warranty for those Goods and Services.

10.3 The warranty contained in clause 10.1 shall not apply in the following circumstances:

- (a) in respect of loss or damage caused by the installation, configuration, commission or use of the Goods and/or Services other than strictly in accordance with the terms of use of the Goods and/or Services, including without limitation loss or damage caused as a result of a failure to service, maintain or use the Goods and/or Services in accordance with ASAP Laboratory instructions, or caused by rough or negligent handling of the Goods;
- (b) in respect of loss or damage caused by an act of God or any other cause not within ASAP Laboratory control or otherwise not related to the Goods or Services; and
- (c) the use of parts and/or processes in connection with the Goods and Services other than those supplied or specified by ASAP Laboratory.

10.4 To the fullest extent permitted by the Australian Trade Practices Act 1974 and any other Victorian legislation relevant to the sale and supply of the Goods and/or Services by ASAP Laboratory to the Purchaser, ASAP Laboratory liability for breach of a condition or warranty implied by such Acts, including any incidental or consequential loss which the Purchaser may sustain or incur shall be limited to one of the following, at the sole discretion of ASAP Laboratory :

- (a) replacement of the Goods;
- (b) repair of the Goods;
- (c) repeat the Service or component of Service found to be defective;
- (d) payment of the cost of replacing the Goods and/or Services or acquiring equivalent Goods and/or Services; or

(e) payment of the costs of having the Goods repaired or the Services re-performed.

10.5 To the extent permitted by law, ASAP Laboratory excludes all liability (including all losses, damages, costs and expenses of whatever nature and any indirect and consequential losses, economic losses or any loss of profit, loss of opportunity, loss of savings, loss of interest or otherwise) to the Purchaser regardless of the nature of the claim, whether in contract, negligence (or any other tort), breach of statutory obligation or otherwise arising from your use of the Goods and/or Services.

10.6 Subject to the other provisions of this clause 10 and to the extent permitted by law, ASAP Laboratory disclaims and will not be accountable for any and all warranties, either express or implied, including but not limited to any warranty regarding performance, the implied warranty of merchantability, fitness for a particular purpose and non-infringement of third party rights with respect to the Goods and Services. This disclaimer shall be read subject to any statutory provision which applies to supply of the Goods and Services to the Purchaser by ASAP Laboratory and any term condition, warranty and obligation which cannot be excluded or modified except to a limited extent.

10.7 Goods or Services returned under warranty for repair or re-testing will incur a charge, to be fixed by ASAP Laboratory, if no fault is found.

11. Claims.

11.1 No claims will be recognised in respect of any mistake or shortage or over supply of Goods and/or Services after thirty (30) days from the invoice date.

11.2 Unless otherwise expressly agreed in writing, ASAP Laboratory shall not accept any conditions providing for the payment by ASAP Laboratory of liquidated damages or other penalties for delayed delivery of Goods and/or Services or provision of information or for any other reason whatsoever.

11.3 All validly issued ASAP Laboratory vouchers, competition prizes, promotional materials and the like are NOT refundable or transferrable (full or partial) in any way and shall only remain valid for one year from their date of issue.

12. Return of Products & Services.

Goods and Services are not supplied on a return or refundable basis. At ASAP Laboratory sole discretion, ASAP Laboratory may accept the return of Goods or Services supplied, subject to the following conditions:

(a) In relation to animal genetic testing performed by ASAP Laboratory:

a. Specimens provided to ASAP Laboratory by the Purchaser are retained for a period of 12 months and may than be disposed of by ASAP Laboratory thereafter; and as such are not returned to the Purchaser. Purchasers wishing for genetic material to be stored for periods longer than 12 months must notify ASAP Laboratory in writing. A storage fee may be applied to samples stored beyond a 12month period.

b. ASAP Laboratory' internal laboratory records are ASAP Laboratory confidential information and as such will not be provided under any circumstances.

(b) Goods must be returned to ASAP Laboratory or a nominated agent in good order and condition, be resaleable and be returned within thirty (30) days of the date of the invoice;

(c) the Purchaser shall pay a restocking fee or an amount determined by ASAP Laboratory at its sole discretion for handling; and

(d) subject to the provision of clause 10.1 the return of Goods or Services for credit will not be accepted except upon prior written agreement from ASAP Laboratory.

13. Decontamination of Goods.

If Purchaser returns any Goods to ASAP Laboratory either under warranty (clause 10) or under clause 12 above it

must use its best efforts to decontaminate the Goods in strict compliance with accepted international guidelines.

14. Intellectual Property Rights

(a) The Purchaser acknowledges ASAP Laboratory 's licence to use or ownership of the patents, trade marks, designs and any other intellectual property rights contained within the Goods and/or Services manufactured or supplied by ASAP Laboratory and in particular agrees that neither the Purchaser, nor its servants or agents, will attempt to do anything with any of ASAP Laboratory intellectual property rights which will render the Purchaser liable to ASAP Laboratory for violation or infringement of its intellectual property rights.

(b) All rights not expressly granted are reserved.

15. Indemnity.

The Purchaser indemnifies and holds ASAP Laboratory harmless from and against any and all losses (whether actual or anticipated), costs and expenses of ASAP Laboratory, including legal fees and expenses, in any way relating to:

- (a) any use of Goods and/or Services not in compliance with these Terms and Conditions;
- (b) any failure by Purchaser to comply with practices that are consistent with industry practice, laws, guidelines or decisions in the handling or use of the Goods and/or Services;
- (c) any failure by Purchaser to decontaminate the Goods prior to returning the Goods to ASAP Laboratory;
- (d) any failure by Purchaser to correctly identify, label, pack, store and transport samples and specimens sent to ASAP Laboratory for testing;
- (e) any failure by Purchaser to provide ASAP Laboratory with correct and complete information required by ASAP Laboratory to perform Services;
- (f) any violation or infringement of any patent or other intellectual property or other proprietary rights ASAP Laboratory or other third parties by the Purchaser in the handling, distribution, promotion or use of the Goods and/or Services; or
- (g) any other use or misuse of the Goods and/or Services by the Purchaser.

16. Modifications to Goods.

16.1 Where the Purchaser provides information and/or instructions in writing to ASAP Laboratory and where ASAP Laboratory makes any modifications, alterations or adjustments to any Goods and/or Services as a result of or in reliance upon the information or instructions provided by the Purchaser, the Purchaser indemnifies ASAP Laboratory in full against any loss or damage suffered by ASAP Laboratory howsoever arising out of any reliance by ASAP Laboratory on the information or instructions provided by the Purchaser.

16.2 Where the Purchaser provides information and/or instructions to ASAP Laboratory on which modifications, alterations or amendments to the Goods and/or Services are made, the Purchaser indemnifies ASAP Laboratory in full against any loss or damage suffered by ASAP Laboratory where any such modifications, alterations or amendments are challenged by a third party as being in breach of that third party's intellectual property rights.

17. Privacy.

17.1 ASAP Laboratory and, to the extent applicable, the Purchaser agree to comply with their respective obligations under the Privacy Act 1988 and other applicable State and Territory laws in respect of personal information and health information (if any) collected, used, disclosed or stored in the course of this Agreement.

17.2 The Purchaser acknowledges and agrees that ASAP Laboratory will collect, use, disclose and store personal information and health information (if any) as specified in

the Privacy Statement as updated and amended from time to time.

18. General.

18.1 No Waiver.

Failure by ASAP Laboratory to insist upon strict performance of any term, warranty or condition of this Contract shall not be deemed a waiver of any term, warranty or condition, or of any rights ASAP Laboratory may have and no express waiver shall be deemed a waiver of any subsequent breach of any term, warranty or condition.

18.2 Severance.

If any provision of these Terms and Conditions shall become void or unenforceable for any reason, such void or unenforceable provision or part thereof shall be deleted and the remaining provision shall continue if full force and effect.

18.3 Assignment.

The Purchaser shall not be entitled to assign any of its rights or obligations under this Contract without the prior consent of ASAP Laboratory.

18.4 Notices.

Any notice to be served in respect of the Contract shall be made in writing and either delivered personally or sent by registered post to the latest notified address of the other party and shall be deemed served upon delivery where delivered personally or when recorded by the delivery agent if sent by registered post.

19. Governing Law.

These Terms and Conditions between ASAP Laboratory and the Purchaser shall be subject to the laws of the State of Victoria, Australia and the parties submit to the exclusive jurisdiction of the Courts of the State of Victoria, Australia.