



Daicel Arbor Biosciences - GENERAL TERMS AND CONDITIONS OF SALE

- 1. Acceptance of Terms and Conditions:** These General Terms and Conditions of Sale (the “Conditions”) shall govern all orders for and purchases of goods and services from Biodiscovery LLC, d/b/a Daicel Arbor Biosciences (“Daicel Arbor”). In these Conditions, the term “Purchaser” means the person, company or other legal entity that orders or buys goods or services from Daicel Arbor along with their respective successors and/or assigns. Daicel Arbor and Purchaser are collectively referred to as the Parties. Daicel Arbor’s sale of goods and services is subject to these Conditions and Daicel Arbor’s offer to sell goods and services is expressly conditioned upon Purchaser’s acceptance of these Conditions. Daicel Arbor’s failure to object to provisions contained in any purchase order or other form or document from Purchaser shall neither be construed as a waiver of these Conditions nor an acceptance of any such provision. These Conditions, including all writings incorporated herein by reference, and those specific terms of a purchase order or other document that are either consistent with these Conditions or expressly agreed upon by both Parties in writing, constitute the entire contract between the Parties relating to the subject matter hereof (the “Contract”), and supersede all prior agreements and understandings between the Parties, whether written or oral, and any of Purchaser’s additional or different terms and conditions, which are hereby rejected and shall be void.
- 2. Delivery and Inspection:** Unless specified differently in writing, Daicel Arbor shall ship all sales F.O.B. from its shipping point. Upon Purchaser’s receipt of goods shipped hereunder, Purchaser shall inspect the goods and notify Daicel Arbor in writing of any claims for shortages, defects or damages. Should Purchaser fail to notify Daicel Arbor in writing of any such visible shortages, defects or damages within five (5) days after Purchaser receives the goods, the goods shall conclusively be deemed to conform to these Conditions and to have been irrevocably accepted by Purchaser. Any products which are custom and specific to the customer or shipped to the customer site in a temperature-controlled environment (i.e. frozen or on dry-ice), cannot be returned for credit. Customer shall have no right to cancel any purchase order or to reschedule any scheduled delivery of products covered by a purchase order, except with Daicel Arbor's written permission.
- 3. Payment:** Payment terms are net 30 days from date of Daicel Arbor’s invoice. If Daicel Arbor deems Purchaser to be or to have become a credit risk, Daicel Arbor shall have the right to require alternative payment terms, including without limitation sight draft, letter of credit, or payment in advance. If payment is not received by the due date, Daicel Arbor may assess and Purchaser agrees to pay a late payment charge at the rate of 1.5% per month or the maximum legal rate, whichever is less, of the amount due from the due date to the date of payment. If Daicel Arbor retains a collection agency or attorney to collect unpaid amounts, Purchaser shall be responsible for payment of all reasonable costs of collection, including without limitation reasonable attorneys fees, incurred by Daicel Arbor.
- 4. 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 shall be the responsibility of Purchaser in addition to the prices quoted or invoiced.

5. **Warranty and Disclaimer:** Daicel Arbor warrants that the goods and services delivered pursuant to these Conditions will conform to Daicel Arbor’s internal specifications and that the products have undergone customary quality controls. OTHER THAN AS PROVIDED EXPLICITLY HEREIN, DAICEL ARBOR SUPPLIES THE GOODS AND SERVICES “AS IS” AND DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND WITH REGARD TO THE GOODS AND SERVICES SUPPLIED, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE OR WARRANTY OF NONINFRINGEMENT.

6. **Limitation on Damages:** PURCHASER AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY AGAINST DAICEL ARBOR WILL BE LIMITED TO THE REPAIR AND REPLACEMENT OF NONCONFORMING OR DEFECTIVE GOODS AND/OR SERVICES, PROVIDED DAICEL ARBOR IS PROMPTLY NOTIFIED IN WRITING OF ANY DEFECT. THIS EXCLUSIVE REMEDY WILL NOT BE DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE SO LONG AS DAICEL ARBOR IS WILLING TO REPAIR OR REPLACE THE DEFECTIVE GOODS AND/OR SERVICES. NEITHER DAICEL ARBOR NOR ANY OF ITS AFFILIATES SHALL BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR LOST PROFITS, MILESTONES OR ROYALTIES, WHETHER IN CONTRACT, WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE, ARISING OUT OF THIS CONTRACT OR THE GOODS OR SERVICES SOLD HEREUNDER.

7. **Authorized Uses:**
 - 7.1 Except as otherwise agreed in writing, the purchase of goods only conveys to Purchaser a non-exclusive, non-transferable, non-sublicensable right to use the goods and/or services and components of goods and/or services purchased. Purchaser may not resell the goods to any third party without the prior written consent of Daicel Arbor.
 - 7.2 The goods and services are not to be used for in vitro diagnostic purposes, ex vivo or in vivo therapeutic purposes, in foods, drugs, devices or cosmetics of any kind, or for consumption by or use in connection with or administration or application to humans or animals.
 - 7.3 Purchaser agrees that it shall not, nor will it allow any third party to, engage in any of the following activities without the prior written consent of Daicel Arbor: (a) disassemble, reverse-engineer, reverse compile, or reverse assemble the goods; (b) separate, extract, or isolate components of the goods to subject the goods to any analysis not authorized by Daicel Arbor (c) **use DNA oligonucleotide libraries as templates to prepare RNA molecules by in vitro transcription with the intent to use them as probes or baits for targeted sequence capture**; or (d) otherwise gain access to or determine the methods of operation of the goods.

8. **Indemnity:** Purchaser shall, at its own expense, indemnify, defend, and hold Daicel Arbor harmless from and against any and all losses, damages and expenses (including reasonable attorneys’ fees and other costs of defending any action) that Daicel Arbor may incur as a result of any breach of these Conditions by Purchaser or as a result of any claim of negligence, breach of implied warranty, strict liability in tort, patent infringement, or other theory of law, by Purchaser or its officers, agents, employees, successors, assigns or customers, whether direct or indirect, in connection with the use of any goods or services sold pursuant hereto either as a standalone product or a component part or raw material of another product, or by reason of Purchaser’s breach of or failure to perform any of its obligations hereunder.

Purchaser shall notify Daicel Arbor promptly of any incident involving goods or services sold pursuant hereto-resulting losses, personal injury, or damage to property, and Purchaser shall fully cooperate with Daicel Arbor in the investigation of such incident and provide Daicel Arbor with all related statements, reports and tests available to Purchaser.

9. **Purchaser's Representations:** By submitting an order, Purchaser represents, warrants, and agrees that:
- (i) Purchaser has the right to cause any sequences that it has requested Daicel Arbor to manufacture to be manufactured by Daicel Arbor and sold to Purchaser, that such sequences and the manufacture and sale thereof to you will not infringe or result from the misappropriation of the intellectual property rights, including without limitation patent, copyright, trademark and trade secrets, of any third party anywhere in the world (provided that the foregoing shall not be deemed a representation or warranty with respect to methods of manufacture employed by us), and that any materials that Purchaser furnishes to Daicel Arbor will not infringe or result from the misappropriation of any such intellectual property rights; and
 - (ii) Purchaser will not utilize any of the goods or services provided by Daicel Arbor in any way that infringes upon any patent, copyright, or trademark rights of any third party.
10. **Intellectual Property Rights:** Purchaser expressly agrees that Daicel Arbor is not granting rights to Purchaser relating to any of Daicel Arbor's intellectual property, other than the rights relating to the specific goods and/or services obtained pursuant to these Terms and Conditions. Where Daicel Arbor provides Purchaser with custom designed probes, baits, oligonucleotide sequences and/or related data, and Purchaser makes payment in full, Purchaser becomes the owner of the intellectual property elements of this work product, which have been customized according to Purchaser's specifications. Daicel Arbor otherwise expressly retains all rights to the intellectual property, data, material, discovery, invention, know-how, trade secrets, processes, techniques, technologies, methods, products, apparatuses, cultures, biological materials and other materials and owned or controlled by Daicel Arbor relating to the goods. Any inventions (patentable or otherwise), discoveries, developments, improvements, information, data, compounds, formulae, know-how or other results that are conceived, developed, discovered, reduced to practice, or generated by or for Daicel Arbor or jointly by Purchaser and Daicel Arbor and that relate or apply to the processes and methods used or otherwise in connection with designing or manufacturing goods sold or providing services pursuant to these Conditions shall be and remain Daicel Arbor's sole and exclusive intellectual property, and Purchaser hereby transfers and assigns all of its right, title and interest in and to any to any such joint intellectual property to Daicel Arbor. Purchaser will take reasonable steps, upon Daicel Arbor's request and at Daicel Arbor's expense, to assist to secure, evidence, and record Daicel Arbor's rights in such intellectual property.
11. **Confidential Information:** Each Party undertakes, without limitation in time, not to disclose Confidential Information to any third party which the receiving party has received from the disclosing party by virtue of this Contract. "Confidential Information" is information regarding the business activities of the disclosing Party, regardless of whether the information is documented or not, which is kept confidential by the disclosing Party and which unauthorized disclosure would tend to cause harm to the disclosing party from at competitive position. Furthermore, neither Party shall use each other's trademarks or trade names without the prior written consent from the other Party.

12. **Force Majeure:** Daicel Arbor shall not be liable for any delay or failure of performance, including without limitation failure to deliver goods or perform services, where such delay or failure arises or results from any cause beyond Daicel Arbor's reasonable control, including, but not limited to, flood, fire, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war or civil war, plant breakdown, computer or other equipment failure, unusually severe weather, earthquake or other act of God, power loss or reduction, strike, lock-out, boycott or other labor disputes of any kind (whether relating to its own employees or others), embargo, governmental regulation or an inability or delay in obtaining materials. In the event of any such delay or failure of performance, Daicel Arbor shall have such additional time within which to perform its obligations hereunder as may be reasonably necessary under the circumstances; and Daicel Arbor shall also have the right, to the extent necessary in Daicel Arbor's reasonable judgment, to apportion goods then available for delivery among its various customers in such manner as Daicel Arbor, in its sole discretion, may decide.
13. **Miscellaneous:** The Contract shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to conflict of law provisions. The Parties hereby irrevocably and unconditionally consent to the exclusive jurisdiction of the State and Federal courts of the State of Michigan, United States of America, for any action, suit or proceeding arising out of or relating to the Contract. The Parties further hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of or relating to the Contract in the courts of the State of Michigan, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. Daicel Arbor's exercise of any option or failure to exercise any rights under the Contract shall not constitute a waiver of Daicel Arbor's rights to damages for breach of contract and shall not constitute a waiver of any subsequent failure, delay, or breach by Purchaser. Daicel Arbor may assign its rights and/or obligations under the Contract in whole or in part. This Contract constitutes and contains the entire agreement and understanding between the Parties. This Contract supersedes and replaces any and all prior agreements, understandings, negotiations, discussions or commitments, whether written or oral. The Contract is a fully integrated agreement. No changes, amendments, supplements, or modifications of this Contract shall be valid unless the same be in writing and signed by all Parties to this Contract.
14. **Third Party Software:** Purchaser hereby acknowledges that any software provided by Daicel Arbor might contain third party software that is subject to additional terms and conditions. To the extent that our software contains third party software provided by Curio Genomics, under the brand name "myCurio™", that software is subject to the terms and conditions found at curiogenomics.com/myCurio/terms-of-use. If there are any conflicts between these Conditions and the additional terms or conditions governing third party software, the additional terms and conditions will control in connection with the third party software.