General Terms and Conditions for Products and Services
Bio-Prodict B.V.

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Content

1. Introduction.

In these General Terms and Conditions:

a. "Bio-Prodict" means Bio-Prodict B.V., the user of general conditions (within the meaning of section 231(b) of Book 6 of the Netherlands Civil Code).

b. "Customer" means the natural person or legal entity, or his/its legal successor, on whose behalf or on whose account Bio-Prodict has entered into an agreement to supply goods or services and/or carry out work (within the meaning of section 231(c) of Book 6 of the Netherlands Civil Code).

This General Terms apply to all offers, quotations, contracts and agreements between Bio-Prodict and its contract partners and customers. Bio-Prodict may from time to time issue new or updated versions of this General Terms, identified by version date. The new version applies for all quotations, agreements or contracts sent at or after the corresponding version date.

2. Definitions.

2.1.   **3DM Client System**: the system, as specified in Appendix 1, as built for the specified Protein Family.

2.2.   **Agreement**: an agreement is concluded and these General Terms come into effect if one of the following situations applies:

- a written consent, or consent by e-mail, to the Quotation has been received in good time

- the invoice with specification sent by Bio-Prodict has been paid

- if Customer requests Bio-Prodict to start work before it has issued a Quotation or before Bio-Prodict has received your consent to the Quotation

2.3.   **Applicable Law**: all applicable rules, regulations and laws.

2.4. **Business user**: employee of Customer who is authorized by the Customer to use the 3DM Client System.

2.5. **Corona.ai Dataset**: The proprietary database as developed by Bio-Prodict containing effects of mutations, and variants and derivatives thereof, in the human genome as specified in Appendix 3

2.6. Corona.ai System: The Corona.ai System provides access to the Corona.ai Dataset in several ways.

2.7. **Customer**: company accepting the Quotation of Bio-Prodict to build and deliver a 3DM Client System, Corona.ai Dataset and other Bio-Prodict proprietary products and render related Services

2.8. **Customer Results**: Any results arising from the use of the 3DM Client System, and the specific Protein Family, Corona.ai Dataset and other Bio-Prodict proprietary products

2.9. **General Terms**: this general terms and conditions including all appendices.

2.10. **License**: the right to use the 3DM Client System, Corona.ai Dataset and other Bio-Prodict proprietary products as described in Art 4

2.11. **Protein Family**: The protein family as submitted by Customer and identified in the Quotation.

2.12. **Quotation**: The quotation as presented by Bio-Prodict to Customer with details as to Protein Family identity, Timeframe, Corona.ai Dataset, Price and Services

2.13. **Services**: among others, and not limitative, building or modifying software, performing analysis of (literature-) data, building client specific applications

2.14. **Supplier Server**: Server on which the 3DM Client System, Corona.ai System and other Bio-Prodict proprietary product is installed located at Bio-Prodict premises and linked to the internet.

2.15. **Third Party**: a party other than Customer, Bio-Prodict or their respective affiliates, officers, directors, employees, agents and representatives.

2.16. **Update**: Renewal of the following data:
  - Collection and integration of newly released sequences of the Protein Family.
  - Collection and integration of newly released data related to the Protein Family collected by 3DM literature searches.
  - Collection and integration of newly released protein structures.

2.17. **Upgrade**: any new release, version, enhancement, correction, patch, bug-fix or other modifications (regardless of how characterized) of the software components of the 3DM Client System that are distributed, designed, developed or created by or for Bio-Prodict.

2.18. **Work**: (1) Building the 3DM Client System for the Protein Family and providing access to the Supplier Server or any other Services as agreed.
(2) build and provide access to the data generated in a Corona.ai Dataset

3. General Provisions.

3.1. These General Terms are applicable to all offers of Bio-Prodict and Agreements or contracts between the Bio-Prodict and Customer under which Bio-Prodict supplies products or services and/or carries out work, even if these products, services and/or work are not specified in the Agreement. Departures from these General Terms shall apply only if they are expressly agreed by the parties in writing.

3.2. The Module 1 of the ICT-Office general terms and conditions, as filed on 14 January 2009 with the Chamber of Commerce of "Midden-Nederland" with nr. 30174840 apply to the Agreement or contracts (titled "Licentie voor programmatuur").

3.3. All offers are without obligation, unless the offer expressly indicates otherwise.

3.4. Applicability of any purchase or other conditions of the Customer is expressly rejected.

3.5. If and as soon as it is established that one or more of the provisions of these General Conditions is/are void or has/have been set aside, the remaining provisions of these terms and conditions shall remain in full force and effect and Bio-Prodict and the Customer shall consult one another in order to agree new provisions to replace the ones that are void or have been set aside; as far as possible the object and effect of the provisions that are void or have been set aside shall be taken into consideration.

3.6. The failure by Bio-Prodict at any time to require performance of one or more of the provisions of an Agreement shall in no way whatsoever affect the rights of Bio-Prodict to demand performance by the Customer at a later time.

3.7. The Customer shall not, otherwise than for factoring purposes, assign or in any other way transfer rights and/or obligations under the Agreement or contracts concluded between itself and Bio-Prodict, unless with the prior written consent of Bio-Prodict.

4. Modification of the General Terms and Conditions.

4.1. Bio-Prodict reserves the right to modify or add to these terms and conditions.

4.2. Modifications to these General Terms and Conditions shall also apply with respect to contracts already concluded between Bio-Prodict and the Customer, subject to a period of 30 days.

4.3. If the Other Party does not wish to accept a modification of these terms and conditions, he may terminate the Agreement up to 14 days after publication on grounds connected with that modification.

5. Licensed not sold.
(1) 3DM Client System

5.1. The 3DM Client System consists of a database as defined in article 1(1)(a) of the Dutch Database Act (Databankenwet) and is therefore protected against unauthorized use.

5.2. The 3DM Client System is owned by Bio-Prodict, and is licensed, not sold.

5.3. Subject to Customer's compliance with the terms and conditions of this General Terms, Bio-Prodict hereby grants Customer a non-exclusive, non-transferable license to use the 3DM Client System. Only Business Users are authorized to use the Client System. Customer ensures that anyone who uses the 3DM Client System does so only on Customer's behalf and complies with the terms of this General Terms.

5.4. Customer is responsible for all usage of the 3DM Client System including without limitation, any acts and omissions of any Business User. Customer shall ensure that all Business Users comply with this General Terms, and any other applicable additional terms including, but not limited to, the Agreement.

(2) Corona.ai

5.5. The Corona.ai System and Corona.ai Dataset as described in Appendix 3.

5.6. The Corona.ai Dataset is owned by Bio-Prodict and licensed to the Customer, not sold.

5.7. The license to use the Corona.ai Dataset is to Customer only and limited to the period as defined in the Agreement or Quotation, and subject to payment of the license fee.

5.8. The Corona.ai Dataset is strictly confidential and Customer will take utmost care to protect it from becoming public or accessible for third parties.

5.9. Customer is owner of the results generated in using the Corona.ai Dataset and may commercially exploit such Customer Results as defined in Appendix 3.

5.10. The license to Customer does not cover the use of the Corona.ai Dataset or parts thereof to offer services for or at the request of third parties. For such use a separate license is required.

6. Price and payment.

6.1. The costs of the 3DM Client System, Corona.ai Dataset or any other offered Services are specified in the Quotation.

6.2. All prices are exclusive of value added tax (VAT) and other levies imposed by governmental or other authorities.

6.3. Customer shall pay all invoices within 45 (forty-five) days after the date of receipt of the invoice without any right to suspension, reduction or set-off, unless otherwise agreed in the Agreement.

7. Delivery and timeframe.
(1) 3DM Client System

7.1. Customer gains access to the Supplier Server by using an internet connection. In order to use the 3DM Client System, Customer receives a password/access code. Bio-Prodict is by no means liable for loss or unauthorized use of the password/access code

7.2. An internet connection is Customer's responsibility.

7.3. Bio-Prodict shall undertake all reasonable measures to assure that no party other than mentioned in this Agreement can obtain access to the 3DM Client System built for the Customer.

7.4. Concerning the accessibility of the 3DM Client System, the Standard Level Agreement (SLA, Appendix 2) applies.

7.5. Access to the 3DM Client System is provided for a period as defined in the Quotation, Agreement or invoice.

(2) Corona.ai Dataset

7.6. Upon acceptance of the Quotation and payment of the fee by Customer a valid license in in place and Bio-Prodict will give access to the Corona.ai Dataset for use.

7.7. Access to the Corona.ai Dataset is provided for a period as defined in the Quotation, Agreement or invoice.

(3) General

7.8. Bio-Prodict may retain any items, products, proprietary rights, data, documents, software, data files and (interim) results of the service provided by Bio-Prodict received or created within the context of the Work and/ or, upon advance written notice to Customer, suspend access to the 3DM Client System, contrary to an existing obligation to deliver or transfer these, until such time as Customer has paid all amounts due to the Bio-Prodict.

7.9. All delivery dates quoted by Bio-Prodict are determined to the best of its ability on the basis of the information available at the time the Agreement was concluded and will as far as possible be observed. However, Bio-Prodict will not be in default by the mere fact of its exceeding a delivery date it has quoted. Bio-Prodict is not bound by any delivery date which can no longer be met on account of circumstances beyond its control. If any time limit threatens to be exceeded, Bio-Prodict and the Customer shall consult one another as soon as possible.

7.10. All goods delivered or to be delivered to the Customer remain the property of Bio-Prodict until all amounts the Customer is liable to pay for the goods or services supplied or to be supplied or work carried out or to be carried out pursuant to the Agreement, plus legal interest and costs of recovery, have been paid in full.

7.11. Rights are at all times granted or, where appropriate, transferred to the Customer under the condition that the Customer pays the agreed compensation in full and in good time.

7.12. The risk of loss or damage to goods which are the subject of the Agreement pass to the Customer the moment they are put at the actual disposal of the Customer or a third party contracted by it.

8. Confidentiality & Intellectual or industrial property rights.

8.1. The Agreement shall not affect, or grant any rights to, patents, know-how or other intellectual property owned by the parties prior to the commencement of the Work or modifications, innovations or developments thereto arising during the Work.

8.2. All intellectual and industrial property rights to software, websites, databases, equipment or other materials developed or provided under this Agreement, such as analyses, designs, documentation, reports, offers, as well as preparatory materials in that regard, shall be held solely by the Bio-Prodict, its licensors or its suppliers. Customer shall only acquire the rights of use explicitly granted in this General Terms and by law. Any other or more extensive right of the Customer to reproduce software, websites, databases or other materials shall be excluded. A right of use to which the Customer is entitled shall be non-exclusive and non-transferable to third parties.

8.3. Foreground. If Customer has created any Foreground (Customer Results), or parts of it, within the context of using the 3DM Client System built by Bio-Prodict or using the Corona.ai Dataset (as defined in Appendix 3), the relevant IP Rights or the exclusive right to vest these will accrue to Customer. Foreground created by or on behalf of Bio-Prodict accrues to Bio-Prodict, unless provided otherwise in the General Terms or explicitly agreed with Customer in writing in any other way.

8.4. Customer and any Business User(s) are not allowed to reverse engineer, decompile or disassemble the 3DM Client System.

8.5. Customer shall not be allowed to remove or modify any designation concerning the confidential nature or concerning copyrights, trademarks, business names or other intellectual or industrial property rights from the software, websites, databases, equipment or materials.

8.6. Bio-Prodict shall be entitled to take technical measures to protect integrity of the 3DM Client System and to enforce agreed restrictions in the duration of the right to use the 3DM Client System. Customer shall not be allowed to remove or circumvent such technical measures.

9. Upgrades.

9.1. During one year after this Agreement has become effective, available Upgrades shall be installed by Bio-Prodict.

9.2. If no additional or different terms are agreed upon, this Agreement will apply to all updates and upgrades.

9.3. Bio-Prodict is by no means liable for any consequences if supporting software provided or licensed by Third Parties is no longer available or no longer updated. Bio-Prodict will do good faith efforts in advising Customers as to replacement software

10. Termination.

10.1. One party shall be entitled to terminate the Agreement if the other party, after a proper and detailed written notification of default, in which a reasonable period is set to remedy the defect, imputably fails to perform one or more essential obligations pursuant to the Agreement.

10.2. If by virtue of its nature and substance the Agreement is not terminated by the conferring of a specific benefit it may be terminated by either party after proper consultation, and stating the reasons, by means of written notice. If the parties have not agreed a period of notice, a reasonable period must be observed when notice is given. Bio-Prodict will in that case never be obliged to pay any compensation for giving notice.

10.3. If the Customer fails to fulfil any obligation arising out of the Agreement, or fails to fulfil it properly or in good time, or in the event of the protective bankruptcy, bankruptcy petition, administration order or liquidation of goods of the Customer, Bio-Prodict shall be entitled to terminate the Agreement immediately, in whole or in part, without notice of default or court order being required.

10.4. If the Agreement is terminated, the Customer agrees to promptly discontinue use of and destroy all of Customer's copies of the 3DM Client System and Corona.ai Dataset. Any terms of this Agreement that by their nature extend beyond termination of this Agreement remain in effect until fulfilled.

10.5. If at the time the Agreement is terminated the Customer has already or should already have received benefits by way of implementation of the Agreement, the termination shall not affect these benefits and the corresponding payment obligations, unless Bio-Prodict is in default in respect of these benefits. Any amounts Bio-Prodict has invoiced or would have been able to invoice in connection with whatever has already been supplied or carried out before termination will remain due in full subject to the provisions of the previous sentence and will become immediately payable at the moment of termination.

10.6. In the event that the Agreement ends in any way, the General Terms and provisions in the Agreement that are intended to continue to apply in full after the end of the Agreement – such as, but not limited to, provisions in respect of liability, rights of use, confidentiality, payment, choice of forum – will continue to apply in full.

11. Liability.

11.1. Liability of Bio-Prodict is always excluded for indirect loss or damage, including consequential damage, loss of profits, loss of savings and loss or damage resulting from interruption of business.

11.2. Apart from the cases mentioned in this clause, Bio-Prodict accepts no liability whatsoever for loss or damage, irrespective of the ground on which any action for damages might be based.

11.3. If and to the extent this is covered by its insurance, Bio-Prodict shall only accept liability for direct loss or damage suffered by the Customer which results from an imputable failure in the performance of its obligations under the Agreement or a wrongful act, up to the amount of the payment to be made by this insurance.

11.4. If the insurer should for any reason fail to pay out, or if the liability for the loss or damage is not or not sufficiently covered by any insurance, Bio-Prodict shall only accept liability for the direct loss or damage suffered by the Customer which results from an imputable failure in the performance of its obligations under the Agreement or a wrongful act, up to the amount of the price Bio-Prodict is to charge the Customer or the amount of the payment to be made by the insurance, if higher.

11.5. The Customer shall indemnify and hold Bio-Prodict harmless against any claims from third parties in respect of the use by those third parties of goods, services and/or work supplied to them or otherwise placed on the market by the Customer, which came into being wholly or partly on the basis of the goods, services and/or work supplied to the Customer or otherwise placed on the market by Bio/Prodict.

11.6. Liability on the part of Bio-Prodict on account of an imputable failure in the performance of an Agreement shall arise only if the Customer has immediately and duly notified Bio-Prodict of its default in writing, thereby setting a reasonable time limit within which to remedy the default, and Bio-Prodict remains imputably in default even after that time limit. The notice of default must contain such a detailed description of the default that Bio-Prodict is able to respond adequately.

11.7. Bio-Prodict shall not be liable if a default is caused by force majeure.

11.8. The restrictions stated in this clause shall not apply if the loss or damage is the consequence of the deliberate act or gross negligence of Bio-Prodict or its managerial staff.

12. Choice of law, jurisdiction.

12.1. The Agreement shall be governed by the laws of the Netherlands. The Vienna Convention of 1980 (CISG) shall not apply.

12.2. Any dispute rising from the Agreement will exclusively be brought before the district court in Arnhem, the Netherlands, unless Bio-Prodict decides to sue before the competent court of the domicile of the Customer.

13. Miscellaneous.

13.1. The Agreement and the appendixes hereto contain all of the terms and conditions agreed upon by the parties hereto with reference to the subject matter hereof.

13.2. Appendixes form part of the Agreement although they may be amended by Bio/Prodict unilaterally from time to time without prior notice to Customer.

13.3. This General Terms can be obtained as pdf download from the website of Bio-Prodict and will be mailed to the (potential) Customer upon request. The last version issued, identified by the version date, preceding the date of the Quotation or Invoice is applicable.

Appendix 1: Specification of the 3DM Client System

1. The "3DM Client system" contains the following elements:
   - A database with data concerning the Protein Family, *"3DM database" (2)* . The 3DM database will contain proteins that, using the 3DM tool and standard 3DM cut-offs, share a structural conserved core that consists of at least 100 structural conserved positions compared to the target protein sequence (accession codes of of target protein(s) to be included in Agreement).
   - An interactive system for analyzing data of the 3DM database, *"front end scripts" (3)*;
   - Visualization tools, *"3DM Viewer" (4)*.

2. Not included. The 3DM tool (1) and all its scripts, such as (not limitative) scripts that 1) collect data concerning the Protein Family, 2) superimpose the protein structures, 3) build the Protein Family alignment, 4) collect amino acid related data (such as mutational data from the literature), 5) generate the 3DM Client System, is not part of the 3DM Client System.
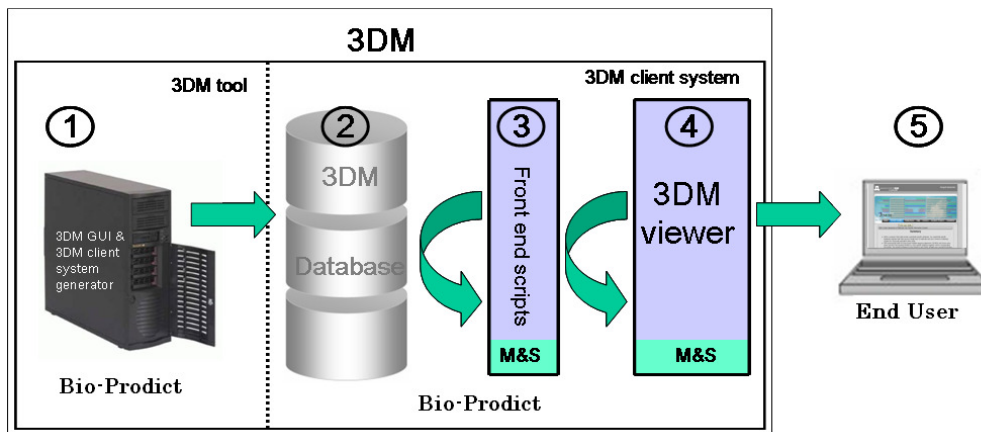

Figure 1: Schematic representation of 3DM.
3DM contains two parts: The first is the "3DM tool" (1).The 3DM tool contains scripts such as mentioned in paragraph 2 of this appendix, and generates the 3DM Client System which contains the following four elements (2 t/m 4):
(2) The 3DM database: Contains Protein Family specific data.
(3)The front end scripts: these scripts take care off the communication between the database and the visualization of the data (4).
(4) 3DM viewer: These mostly HTML pages visualize the data inside the database.
(5) Represents user of the 3DM Client System.

3. The 3DM Client System is installed on the Supplier Server at the premises of BioProdict. Customer gets access to the 3DM Client System via an internet connection and personal (Business User) password/access code.

Appendix 2: Service Level Agreement (SLA)

<u>3DM Client System SLA</u>. During the term of the applicable Agreement, Bio-Prodict will give his best effort to enable that the 3DM Client System will be operational and available to Customer at least 95% of the time in any calendar month.

<u>Definitions</u>. The following definitions shall apply.

- "<u>Downtime</u>" means, for a domain, if there is more than a five percent user error rate. Downtime is measured based on server side error rate.

- "<u>Downtime Period</u>" means, for a domain, a period of five consecutive minutes of Downtime. Intermittent Downtime for a period of less than five minutes will not be counted towards any Downtime Periods.

- "<u>Monthly Uptime Percentage</u>" means total number of minutes in a calendar month minus the number of minutes of Downtime suffered from all Downtime Periods in a calendar month, divided by the total number of minutes in a calendar month.

- "<u>Scheduled Downtime</u>" There will be no more than 24 hours of Scheduled Downtime per calendar year. Scheduled Downtime is not considered Downtime for purposes of this SLA, and will not be counted towards any Downtime Periods.

- In case of failure to comply with the abovementioned availability, article 10 of the General Terms applies.

Appendix 3: Corona.ai

Definitions:

(1) **Corona.ai Dataset:** The proprietary databases, based on the human genome. The dataset as developed by Bio-Prodict contains predicted effects of genetic variants, as well as, but not limited to, data describing mutations, positions and proteins, including variants and derivatives thereof.

(2) **Corona.ai System**: The Corona.ai System provides access to the Corona.ai Dataset in several ways.

(3) **Corona.ai Access**: Access to the Corona.ai Dataset is defined in the Quotation and may vary, depending on application and Customer. Examples are including, but not limited to, flat files, web applications and Application Programming Interfaces (APIs).

Proprietary Information:

Irrespective the way access to the Corona.ai Dataset is obtained, all data, selections or combinations thereof are proprietary and Confidential Information of Bio-Prodict.

Access:

Access to Corona.ai Dataset and Corona.ai System is provided as agreed in the Quotation and Agreement. Customers obtain a license for internal use and processing of the data to develop tools and applications in their internal business environment.

Product development and data processing using Corona.ai Dataset:

Results and Products (Customer Results) derived from the Corona.ai Dataset by Customer must be distinct in purpose from the Corona.ai Dataset. Products and tools (Customer Products) developed using the dataset, or derived by using the dataset, that are distinct and no longer contain (a selection of, or references to) such data, or links, may be used and exploited commercially by Customer. Such products and tools are the intellectual property of Customer.

No services to or for third parties

Except for internal generation of results and product development (above) Customer is not allowed to use the Corona.ai Dataset in whole, in parts or selections thereof, for use by or on behalf of third parties.

The license to Customer does not cover the use of the Corona.ai Dataset and Corona.ai System to offer services to third parties. The use of the Corona.ai Dataset and access to Corona.ai System for services like, but not limited to, diagnostic or predictive services is explicitly excluded.

For such applications a separate license is required, which can be discussed with Bio-Prodict.