

## MASTER SERVICES AGREEMENT

This Master Services Agreement (“*Agreement*”) is made and entered into as of the Effective Date set forth below by and between BioMetis Technology, Inc., a Delaware corporation having an office at 3876 Bay Center Place Hayward, CA 94545 (“*BioMetis*”), and the customer in an applicable Quotation (“*Customer*”). The terms of this Agreement are effective upon the date Customer places the first order for BioMetis’ services pursuant to a Quotation (“*Effective Date*”), and, together with the terms of such Quotation, shall govern the provision of all services included in a Quotation. Customer desires to request BioMetis to perform certain services for Customer, and BioMetis is willing to perform such services, on terms set forth more fully below. In consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties agree as follows:

### 1. Services.

(a) Scope of Services. BioMetis will perform the services (“*Services*”) described in one or more quotations or proposals (each, a “*Quotation*”) and executed by both parties. Each set of Services is referred to as a “*Project*.” Quotations may identify: (i) the tasks to be performed; (ii) the materials to be provided by Customer to BioMetis under the Quotation and designated “*Customer Materials*” (“*Customer Materials*”); (iii) the materials to be provided by BioMetis to Customer under the Quotation and designated “*Delivered Materials*” (“*Delivered Materials*”), and the other items to be delivered to Customer by BioMetis under the Quotation and designated “*Other Deliverables*” (“*Other Deliverables*”, and together with Delivered Materials, the “*Deliverables*”); (iv) the targeted delivery schedule (“*Schedule*”); (v) the operational elements, features and functional design specifications of the Deliverables (“*Specifications*”); (vi) any third party deliverables and the party responsible for providing such deliverables; (vii) the schedule of estimated fees and expenses for each project (the fees and expenses will together be referred to as the “*Fees*”); (viii) cancellation fees (if any); (ix) payment terms; and (x) mutually agreed to acceptance testing procedures. Upon execution of a Quotation by both parties, the Quotation will be subject to and deemed part of this Agreement. In the event of any conflict between the provisions of this Agreement and any Quotation, the provisions of the Quotation will govern. If a Quotation indicates any dependencies or responsibilities on the part of Customer or a third party, BioMetis’ obligations related thereto will be subject to the complete and timely fulfillment of the dependencies or the performance of responsibilities by Customer or the third party.

(b) Project Contacts. For each Project, each party shall designate one or more “*Contacts*” from such party’s internal personnel, who will be responsible for implementing the Project in accordance with this Agreement and for providing timely management decisions as required or requested relating to the Services and Deliverables. The initial Contacts for each Project are listed on the applicable Quotation, and may be replaced from time to time by the designating party upon provision of written notice to the other party.

(c) Change Orders. The parties may agree in writing to any changes to the Services or Deliverables, including without limitation, any revisions to a Quotation, a Deliverable or the Specifications, which are not identified on the Quotation, or to correct or update an assumption contained in a Quotation which is inaccurate or has become inaccurate (each, a “*Change Order*”). Either party may from time to time during the performance under a particular Quotation provide the other party with a proposed Change Order for such Quotation. Each party may accept or reject in its sole discretion any proposed Change Order submitted by the other party. Upon receipt, the parties will promptly discuss in good faith what impact, if any, the proposed Change Order would have on each party’s obligations under the Quotation, including any specific adjustments to the Specifications, Schedule or Fees. No Change Order will have any contractually binding effect until such Change Order, or a writing based on such Change

Order and discussions, has been executed by an authorized representative of each party. Notwithstanding the foregoing, BioMetis shall have the right to terminate this Agreement without any liability to Customer if no agreement (in writing) is reached between BioMetis and Customer regarding the changes and adjustment of Fees within thirty (30) days of a proposed Change Order.

**2. Compensation.** Customer agrees to pay BioMetis for the Services in accordance with rates and schedules set forth in the applicable Quotation and other reasonable expenses incurred by BioMetis incidental to performance of the Services. Customer shall pay any federal, state, or local taxes that are imposed on the delivery of Services or Deliverables that BioMetis must pay or remit, excluding taxes based on BioMetis' income. BioMetis will invoice Customer for Services rendered as defined in the Quotation, and will charge interest of one and one-half percent (1.5%), or the highest rate allowed by law, if less, per month on any past due amount(s). BioMetis may cease performing any Services if an invoice is not paid in full by Customer within thirty (30) days of the invoice date, unless otherwise specified in a Quotation. Customer shall make all payments due hereunder without any right of set-off or chargeback.

**3. Independent Contractor.** It is the express intention of the parties that for the purposes of this Agreement each party is an independent contractor, and is classified by the other party as such for all employee benefit purposes, and is not an employee, agent, joint venturer, or partner of the other party. Nothing in this Agreement will be interpreted or construed as creating or establishing an employment relationship between the parties or between one party and the employees or contractors of the other party. BioMetis acknowledges and agrees that BioMetis is obligated to report as income all compensation received by BioMetis pursuant to this Agreement and that BioMetis is solely responsible for all taxes, withholdings, and other similar statutory obligations including, but not limited to, any self-employment taxes and workers' compensation insurance.

**4. Subcontractors and Assistants.** BioMetis will be solely responsible for the selection and management of its personnel in performance of the Services. In addition, BioMetis reserves the right to subcontract any and all of its performance obligations hereunder, but will be responsible for the performance of the subcontractors that BioMetis subcontracts to provide any Services or Deliverables under this Agreement.

**5. BioMetis' Obligations.** BioMetis warrants to Customer that, at the time of its delivery to the Customer, any Deliverables developed by BioMetis and delivered to Customer hereunder will conform to the Specifications stated in the applicable Quotation in all material respects. Notwithstanding the foregoing, BioMetis has no obligation or liability to Customer under this warranty to the extent that a defect results from: (i) Customer's use of the Services or Deliverables in a manner inconsistent with BioMetis' documentation or applicable Specifications therefore, or this Agreement; (ii) alterations or modifications made to such Services or Deliverable by Customer or by any third party; or (iii) any nonconformities caused by other services or goods not developed or provided by BioMetis to Customer under the applicable Quotation. BioMetis does not warrant that the Deliverables will be sufficient for Customer's needs, or that there is any value in the Deliverables to Customer separate from the warranty in the preceding sentence.

**6. Disclaimer.** THE EXPRESS WARRANTIES IN THIS AGREEMENT SHALL BE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. OTHER THAN AS EXPRESSLY SET FORTH HEREIN, BIOMETIS HEREBY EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND THAT BIOMETIS DOES NOT GUARANTEE ANY RESULTS OR OTHERWISE WARRANT OR

REPRESENT THE ACCURACY OR APPLICABILITY OF ANY DELIVERABLES PROVIDED BY BIOMETIS.

**7. Use of Materials and Deliverables; Limitations on the Use of the Materials and Deliverables.**

(a) Customer Materials. Except as expressly set forth in Quotation, Customer will provide to BioMetis, at Customer's cost, DDP (Incoterms 2020) the facility designated by BioMetis, all Customer Materials, as applicable, in quantities sufficient to meet the requirements of the Quotation in accordance with the timelines set forth in the Quotation. Customer shall be responsible at its expense for securing any necessary DEA, export, import, or other licenses, clearances, permits, authorizations, or certifications required by regulatory authorities in respect of such supply. BioMetis shall use Customer Materials solely for performing Services. Prior to delivery of any such items, Customer shall provide to BioMetis a copy of all associated material safety data sheets, safe handling and storage instructions, health and environmental information, and any governmental certification or authorization that may be required under applicable laws and thereafter shall provide promptly any update thereto. BioMetis shall not be liable for any defect in Customer Materials, or in Services or Deliverables as a result of defective Customer Materials. BioMetis shall follow Customer's reasonable written instructions in respect of return or disposal of defective Customer Materials, at Customer's cost and risk. Customer shall always retain title to Customer Materials and shall bear the risk of loss thereof. Customer represents and warrants that it has the appropriate right or license to the Customer Materials for the purpose of this Agreement, and that BioMetis' use of such Customer Material for performance of the Service in accordance with this Agreement shall not infringe the proprietary rights, including but not limited to the patent or trade secret rights, of any third party.

(b) Deliverables. Customer shall: (i) be solely responsible for its use of the Deliverables and be solely responsible for determining if there are any restrictions on use of Deliverables as a result of any third-party patents or other proprietary rights; (ii) not use the Deliverables in any manner inconsistent with this Agreement; and (iii) use, store and dispose of the Deliverables in compliance with all applicable laws, regulations and guidelines; (iv) use the Deliverables only for internal use and shall not sell, resell, transfer or distribute the Deliverables to any third party; (v) not reverse engineer, reverse compile, disassemble or otherwise attempt to derive the composition or underlying information, structure or ideas of any Deliverables, including, but not limited to, analyzing the Deliverables by physical, chemical or biochemical means; and (vi) not use any Deliverables in humans to treat or diagnose any condition nor for any other diagnostic or therapeutic purposes, for investigational use 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.

**8. Confidentiality.**

(a) Scope. "**Proprietary Information**" means the all proprietary information of and about the disclosing party that is received by the receiving party, including all information which relates to the business of the disclosing party, its licensors, customers and business partners (including without limitation, business plans, financial data, customer information, and marketing plans), technology (including without limitation, technical drawings, designs, schematics, algorithms, technical data, product plans, research plans, and software), products, services, trade secrets, know-how, formulas, processes, ideas, and inventions (whether or not patentable) which should be reasonably understood by receiving party as the confidential or proprietary information of disclosing party.

(b) Protection. The receiving party will not use the disclosing party's Proprietary Information for any purpose whatsoever other than the performance of its obligations or exercise of its rights under this Agreement, or disclose the disclosing party's Proprietary Information to any third party.

The receiving party further agrees to take all reasonable precautions to prevent any unauthorized disclosure of the disclosing party's Proprietary Information including, but not limited to having each employee or subcontractor of the receiving party, if any, with access to any of disclosing party's Proprietary Information, execute a nondisclosure agreement containing provisions regarding the disclosing party's Proprietary Information no less stringent than the confidentiality provisions of this Agreement. The obligations contained in this Section 8 shall apply during the Term and for five (5) years thereafter.

(c) Exceptions. Proprietary Information does not include information that: (i) is known to receiving party prior to the time of receipt by the receiving party as evidenced by written records of receiving party; (ii) is or becomes publicly known and made generally available through no action or inaction by receiving party or any agent or affiliate of receiving party in violation of any confidentiality obligations to a third party; (iii) is independently developed by receiving party without use of or reference to the Proprietary Information of disclosing party; or (iv) has been rightfully received by receiving party from a third party who is authorized to make such disclosure without restriction or any requirement of confidentiality.

(d) Required Disclosure. Nothing in this Agreement will prevent the receiving party from disclosing Proprietary Information of the disclosing party to the extent the receiving party is legally compelled to do so by any governmental investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction; provided, however, that prior to any such disclosure, the receiving party shall: (i) assert the confidential nature of the Proprietary Information to the agency; (ii) where permitted immediately notify the disclosing party in writing of the agency's release or request to disclose; (iii) cooperate fully with the disclosing party in protecting against any such disclosure and/or obtaining a protective release narrowing the scope of the compelled disclosure and protecting its confidentiality; and (iv) in any event only disclose the exact Proprietary Information, or portion thereof, specifically requested by the agency.

(e) Return or Destruction. Upon the termination of this Agreement, or upon the disclosing party's earlier request, the receiving party will deliver to the disclosing party (and will not recreate or deliver to anyone else) all of the disclosing party's property or Proprietary Information that the receiving party may have in its possession or control; or upon the disclosing party's request, the receiving party will destroy all Proprietary Information of the disclosing party in its possession, including all copies and confirm in writing that it has complied with the obligations set forth in this paragraph; provided, that the receiving party may maintain a copy for archival purposes.

## **9. Ownership**

(a) Work Product. Subject to the terms and conditions of this Agreement, and upon Customer's payment in full of the applicable Fees under this Agreement: (i) BioMetis agrees that, excluding BioMetis IP, each Deliverable provided to Customer under this Agreement (each, an "**Invention**"), and any and all patents, patent rights, copyrights, mask work rights, trade secret rights and other intellectual property rights and other rights anywhere in the world in each such Deliverable (collectively, "**Rights**"), will be the property of Customer, and BioMetis further agrees to assign (or cause to be assigned) and does hereby assign to Customer its right, title and interest in each such Invention and Rights.

(b) BioMetis IP. Notwithstanding Section 9(a), BioMetis retains and does not assign or transfer, any rights, title or interest in and to each Deliverable or Invention, or portion thereof, or any intellectual property rights and other rights therein, that were (i) developed by BioMetis prior to the Effective Date; (ii) conceived or reduced to practice by BioMetis entirely on BioMetis' own time without using equipment, supplies, facilities, trade secrets or Proprietary Information of Customer; (iii) licensed to

BioMetis by a third party; or (iv) generally applicable to BioMetis' products and services and are not unique to the business of Customer (collectively, the "**BioMetis IP**").

(c) Further Assurances. BioMetis agrees to perform, during and within two (2) years after the term of this Agreement, all acts reasonably necessary to permit and assist Customer, at BioMetis' then-current rates, in evidencing, perfecting, obtaining, maintaining, defending and enforcing Customer's rights in the Inventions and Rights. Such acts may include, but are not limited to, execution of documents and assistance or cooperation in legal proceedings.

## **10. Term and Termination.**

(a) Term. Unless earlier terminated as set forth herein, this Agreement will commence on the Effective Date and continue until twelve (12) months after the Effective Date (the "**Term**").

(b) Termination. Either party may terminate this Agreement (i) upon written notice to the other party if the other party is in material breach of any obligation under this Agreement and such breach is not remedied within sixty (60) days of written notice thereof; provided, that such cure period is fifteen (15) days for breaches of payment obligations, or (ii) any time upon written notice thereof to the other party in the event of a bankruptcy, insolvency, liquidation or similar meritorious proceedings of the other party or if such party admits in writing its inability to pay its debts when due, or makes an assignment for the benefit of its creditors.

(c) Effect of Termination. Upon expiration or termination of this Agreement all rights and duties of the parties toward each other will cease except: (i) Customer will pay, within thirty (30) days of the effective date of termination, all amounts owing to BioMetis for Services and Deliverables provided to the Customer prior to the termination date; and (ii) Sections 2, 3, 5 (with respect to the last two sentence), 6, 7, 8 (for the time period specified in Section 8(b), 9 (for the time period specified in Section 9(c), if applicable), 10(c), and 11-16 (inclusive) will survive termination or expiration of this Agreement.

**11. Limitation of Liability.** EXCEPT FOR A BREACH BY EITHER PARTY OF ITS CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT OR TO SATISFY A PARTY'S INDEMNIFICATION OBLIGATIONS, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT, UNDER ANY CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER THEORY, FOR: (A) ANY INCIDENTAL, PUNITIVE, INDIRECT, SPECIAL, EXEMPLARY, EXTRAORDINARY, RELIANCE, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS; OR (B) ANY OTHER DAMAGES THAT IN THE AGGREGATE EXCEED AMOUNTS PAID OR PAYABLE BY CUSTOMER TO BIOMETIS HEREUNDER. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ANY REMEDY OF ITS ESSENTIAL PURPOSE.

## **12. Indemnification.**

(a) Indemnification by BioMetis. BioMetis shall indemnify, defend, and hold harmless Customer, its affiliates, and their respective directors, officers, employees, agents, managers, members, and shareholders in their capacities as such (collectively, the "**Customer Indemnitees**") from and against any and all claims, losses, demands, liabilities, damages, costs, and expenses (including reasonable attorneys' fees and expenses and reasonable investigative costs) in connection with any suit, demand, or action by any third party (collectively, "**Loss**") arising out of or resulting from (i) any material breach of

BioMetis' representations, warranties, or covenants set forth in this Agreement or (ii) any gross negligence or willful misconduct by BioMetis; in each case except to the extent that any of the foregoing is in connection with, arises out of, or results from any Customer Indemnitee's gross negligence, willful misconduct, or material breach of this Agreement.

(b) Indemnification by Customer. Customer shall indemnify, defend, and hold harmless BioMetis, its affiliates, and their respective directors, officers, employees, agents, managers, members, and shareholders, in their capacities as such (collectively, the "**BioMetis Indemnitees**") from and against any and all Loss in connection with, arising out of, or resulting from (i) any material breach of Customer's representations, warranties, or covenants set forth in this Agreement, (ii) any gross negligence or willful misconduct by Customer, or (iii) Customer's use of the Deliverables, Inventions or Rights; in each case except to the extent that any of the foregoing arises out of or results from any BioMetis Indemnitee's gross negligence, willful misconduct, or material breach of this Agreement. .

(c) Indemnification Procedures. All obligations set forth in Section 12(a) and Section 12(b) are conditioned upon the person seeking the benefit of such section (i) promptly notifying the indemnifying party of any suit, action, claim, or proceeding or other liability (each, an "**Indemnified Matter**") of which the person seeking indemnification becomes aware (including a copy of any complaint, summons, notice, or other instrument related to the Indemnified Matter); provided, however, that any failure to provide such notice shall not relieve the indemnifying party of its obligations under this Section 12 except to the extent, if any, that the indemnifying party is actually prejudiced by such failure, (ii) allowing the indemnifying party, if that party so requests, to conduct and control the defense of any such Indemnified Matter and any related settlement negotiation (at the indemnifying party's expense) (except that the indemnifying party (A) must promptly provide and continuously maintain such defense and (B) may not settle such Indemnified Matter if such settlement involves the payment of any money by any indemnified person, any injunction against such indemnified person, or any admission of liability by such indemnified person), (iii) cooperating with the indemnifying party upon request in the defense of the Indemnified Matter or any related settlement negotiation (at the indemnifying party's expense), and (iv) not compromising or settling the Indemnified Matter without the prior written consent of the indemnifying party, not to be unreasonably withheld, conditioned, or delayed.

**13. Governing Law.** This Agreement will be governed by the laws of the state of California without regard to conflict of laws principles. The parties hereby submit to the personal jurisdiction of, and agree that any legal proceeding with respect to or arising under this Agreement will be brought solely in the federal courts located in the Northern District of California or the state courts located in Santa Clara county, California, as appropriate. Notwithstanding the foregoing, either party will at all times have the right to commence proceedings in any other court of its choice with the appropriate jurisdiction for interim injunctive relief. Each party will comply with all laws, statutes, rules and regulations applicable to it. Each party agrees that it would be impossible or inadequate to measure and calculate the other party's damages from any breach of the confidentiality, ownership and license covenants set forth herein. Accordingly, each party agrees that if such party breaches such provisions, the other party will have available, in addition to any other right or remedy available, the right to seek from any court of competent jurisdiction an injunction restraining such breach or threatened breach and to seek specific performance of any such provision. Each party further agrees that no bond or other security will be required in obtaining such equitable relief.

**14. Force Majeure.** Except as to payments required under this Agreement, neither party shall be liable in damages for, nor shall this Agreement be terminable or cancelable by reason of, any delay or default in such party's performance if such default or delay is caused by events beyond such party's reasonable control, including acts of God, any action or failure to act of any government or agency thereof occurring after the date of this Agreement or the applicable Quotation, terrorist events, armed hostilities, factory shutdowns, embargoes, wars, or insurrection, riots, civil commotion, labor disturbances, epidemic,

destruction of production facilities or materials by earthquakes, fires, floods, or weather, or failure of or shortages due to suppliers, vendors, public utilities, or common carriers; *provided* that the party seeking relief under this Section 14 shall promptly notify the other party of such cause(s) beyond such party's reasonable control. The party that invokes this Section 14 shall use commercially reasonable efforts to reinstate its ongoing obligations to the other party as soon as practicable. If the cause(s) continue unabated for one hundred and eighty (180) days, then both parties shall meet to discuss and negotiate in good faith what modifications to this Agreement should result from such cause(s).

**15. Export Controls.** Deliverables that Customer receives from BioMetis hereunder may be subject to United States, European Union and local export control laws and regulations. Customer may not, directly or indirectly, sell, export, re-export, transfer, divert, or otherwise dispose of any such Deliverables (including products derived from or based on such Deliverables) to any destination, entity, person or end use prohibited or restricted by United States, European Union or local laws or regulations (unless the required licenses and approvals are obtained by Customer to legally do so, if available). Upon BioMetis' written request, Customer shall promptly provide BioMetis with reasonable assistance and information to which it has access as needed for completion of exportation or importation governmental processes, including licensing, with respect to BioMetis' performance under this Agreement.

**16. General Provisions.** This Agreement sets forth the entire agreement and understanding between Customer and BioMetis relating to the subject matter herein and supersedes all prior discussions between the parties. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless executed in writing and signed by both parties. Any notice to be given under this Agreement will be in writing and addressed to the party at the address stated below. Notices will be deemed given and effective: (a) if personally delivered, upon delivery; (b) if sent by an overnight service with tracking capabilities, upon receipt; (c) if sent by fax or electronic mail, at such time as the party which sent the notice receives confirmation of receipt by the applicable method of transmittal; or (d) if sent by certified or registered mail, within five days of deposit in the mail. The headings used in this Agreement are for the convenience of the parties and for reference purposes only and will not form a part or affect the interpretation of this Agreement. If any court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid, or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Neither party may assign or transfer this Agreement, any right hereunder or interest herein, without the express prior written consent of an officer of the other party; provided that either party may assign this Agreement without the consent of the other party to (i) a third party who acquires control of all or substantially all of the relevant assets of such party; or (ii) an affiliate of such party. Notwithstanding the foregoing, this Agreement will be binding upon each party's heirs, executors, administrators and other legal representatives and will be for the benefit of the non-assigning party, its successors, and its assigns. In any dispute resolution proceeding, the prevailing party will be entitled to reasonable attorneys' fees, costs, and necessary disbursements, in addition to any other relief to which the party may be entitled. This Agreement may be executed in counterparts or by facsimile, each of which will be deemed to be an original instrument enforceable in accordance with its terms and all of which will constitute but one and the same agreement of the parties.