

General Terms and Conditions of Vivlion GmbH

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General conditions

§ 1 Scope and subject matter of the contract

(1) These General Terms and Conditions (GT&C) shall apply exclusively to all contracts a contracting party concludes as end customer with Vivlion GmbH (hereinafter called "Vivlion®") for the purchase of CRISPR/Cas reagents or for the commissioning of Vivlion® screening, analysis or consulting activities to Vivlion®. They additionally apply to other services of Vivlion®, unless more specific regulations have been agreed upon.

(2) The subject matter of the contract is the purchase of Vivlion® products for research and/or development purposes or the commissioning of Vivlion® individual screening experiments or bioinformatics analyses to Vivlion®, the results of which shall later be released to the customer, or consultation services provided to the customer for experimental planning.

With respect to Vivlion®'s products, "RUN" and "YOU" reagents need to be distinguished. "RUN" reagents are off-the-shelf reagents offered to all customers as part of the standard portfolio of libraries while "YOU" reagents are customized for the individual customer.

Some of Vivlion®'s products, in particular CRISPR/Cas products, are subject to third-party licenses. When commissioning Vivlion® the purchaser acknowledges and accepts to comply to Vivlion® these third-party licenses. Vivlion® grants the customer a non-exclusive, non-transferable, non-sublicensable right of use to these products for the purposes specified in the individual order. The products shall be labelled by Vivlion® accordingly. They are assigned an electronic identifier, which enables the customer to access the details of the licensed rights via a web-based interface. The exact licensing conditions of the third-party licensors can be found in Appendix A and B of these GT&C. The aforementioned CRISPR/Cas products are expressly provided with the understanding that other relevant third-party rights that restrict the use of CRISPR/Cas products may exist.

(3) The contract is concluded by signing a Vivlion® contract as an individual order. Further conditions, in particular general terms and conditions of the contractual partner, shall not apply, notwithstanding the fact that Vivlion® does not expressly object to them. The GT&C of Vivlion® shall apply exclusively.

(4) These GT&C do not apply to consumers.

§ 2 Terms of payment

(1) The prices for Vivlion® products are based on the specific conditions of the Vivlion® contract and the current Vivlion® price list.

(2) Payment of the remuneration shall be made in accordance with the conditions laid down in the contract. Vivlion® reserves the right to exclude certain payment methods. If payment by invoice is agreed, Vivlion® reserves the right to carry out a credit assessment. All claims are due upon X days after the invoice date and payable without deduction.

(3) The customer shall be in default without further declarations on the part of Vivlion® if payment has not been made within 30 days of the due date of the invoice.

(4) Any offsetting of payment with respect to claims arising from a different contract is hereby excluded, unless the customer's counterclaim is undisputed or has been legally established.

(5) The customer may only exercise a right of retention if his counterclaim arises from the same contractual relationship.

(6) All prices are subject to the applicable statutory value added tax.

(7) Vivlion® reserves ownership of the delivered goods until full payment has been received.

§ 3 Data security, data protection

- (1) The contractual partners shall observe the applicable data protection regulations, in particular those valid in Germany, and oblige their employees assigned to the contract and to its execution to maintain data secrecy, insofar as they are not already universally committed to do so.
- (2) Should the customer collect, process or use personal data, he is obliged to do so in accordance with the applicable regulations, in particular the data protection regulations, and shall indemnify Vivlion® against claims by third parties in case of infringement thereof.
- (3) Vivlion® shall only collect and use customer-related data to the extent required for the execution of this contract. The customer agrees to the collection and use of such data to that extent.
- (4) Vivlion® is entitled to pass the required data on to third parties in the case of commissioning them to carry out tasks relating to the customer's order.

§ 4 Secrecy

(1) Confidential information is information expressly labelled as such by the contractual partner providing the information as well as any information that is clearly confidential given the circumstances of its disclosure.

Confidential information shall not include information that the contractual partner can demonstrate by competent evidence:

- was known or generally accessible to him before the receipt date;
- was known or generally accessible to the public before the receipt date;
- became known or generally accessible to the public after the receipt date, without the contractual partner receiving the information being responsible for it.

(2) The contracting parties shall maintain secrecy with regard to all confidential information which has come to their knowledge in connection with this contractual relationship and shall only disclose such information to third parties who themselves have undertaken to maintain confidentiality and only to the extent necessary for the execution and settlement of this contract.

(3) For advertising purposes, Vivlion® is entitled to inform about the cooperation by mentioning the customer's company on its homepage, in social media and other suitable media as well as in online and offline presentations. For this purpose, the customer grants Vivlion® a simple right of use of his company logo. This permission can be revoked in writing and at any time for the future by the customer.

(4) The obligations pursuant to para. 2 shall remain in force beyond the end of the contract for an indefinite period of time, as long as no exception as per para. 1 has been established.

§ 5 Force majeure

Neither party is bound to fulfil its contractual obligations in the event and for the duration of force majeure. In particular, the following circumstances shall be considered force majeure in this respect:

- Fire/explosion/flooding for which the contractual partner is not responsible,
- War, mutiny, blockade, embargo,
- Industrial action lasting more than 6 weeks and not culpably caused by the contractual partner,
- Technical problems relating to the internet which are beyond the contractual partner's control; this shall not apply if and insofar as Vivlion® also provides the telecommunications service.

Each contracting party shall notify the other party, in writing and without delay, of the occurrence of any case of force majeure.

§ 6 Other terms

(1) Exclusive place of jurisdiction for all disputes arising from and in connection with this contract is the registered office of Vivlion®. Should Vivlion® bring an action, it is also entitled to choose the registered office of the contractual partner as the place of jurisdiction. The right of both parties to apply for interim measures before the competent courts in accordance with the statutory provisions remains unaffected.

(2) Should there be any discrepancies or different interpretations between the German and the English language version, the German language version shall take precedence over the English language version.

(3) German law applies exclusively, to the exclusion of the provisions of international private law and the UN Convention on Contracts for the International Sale of Goods (CISG).

- (4) The conclusion of the contract as well as subsequent amendments and additions to the contract must be made in writing to be effective. This also applies to any amendment of this clause. There are no verbal collateral agreements.
- (5) All declarations by the parties must be in made writing to be effective.
- (6) Should one or more provisions of these General Terms and Conditions and License Terms be or become invalid, this shall not affect the validity of the remaining provisions.

Conditions relating to purchase contracts/ contracts for work and materials

§ 7 Delivery, product availability

- (1) In principle, Vivlion® makes ordered products available for pick-up. If requested by the customer, Vivlion® will coordinate the transport of products for the customer and commission a transport company on his behalf.
- (2) The customer shall bear the costs of transport.

§ 8 Liability, warranty

- (1) A material defect shall be deemed to exist if the contractual objects do not have the agreed designated quality or are not suitable for the contractually agreed use. A defect of title shall be deemed to exist if the customer could not be effectively granted the necessary rights for the contractually agreed use.
- (2) Any defects that become known and occur must upon discovery immediately be reported by the customer, if possible in text form. These defects shall be reported to Vivlion® by the customer as comprehensibly as possible.
- (3) In the event of a defect, Vivlion® shall remedy said defect free of charge within a reasonable period of time in accordance with the following provisions.
Subsequent performance will be provided at the choice of Vivlion® either by rectification or replacement of the defect by Vivlion®. The customer is entitled to demand a specific type of subsequent performance should the other type of subsequent performance be unacceptable to him.
Vivlion® shall bear the expenses required for the purpose of subsequent performance, in particular transport, travel, labour and material costs.
Any additional expenses arising from the fact that the products have been moved by the customer to a location other than the customer's registered office shall be borne by the customer.
- (4) Should it transpire that the notification of defects was unjustified, Vivlion® may demand compensation for the incurred expenses, insofar as the customer has at least acted negligently.
- (5) Should the subsequent performance fail and the customer have set a reasonable deadline allowing for at least two attempts at subsequent performance, the customer may, at his discretion, withdraw from the contract or reduce the remuneration. The subsequent performance shall not be deemed to have failed conclusively after the second unsuccessful attempt at rectification; it is rather for Vivlion® to decide on the number of subsequent performance attempts within the deadline set by the customer, insofar as this is reasonable for the customer.
- (6) Customer shall not be required to set any deadlines, if this cannot be reasonably expected from the customer, in particular if Vivlion® has finally and seriously refused subsequent performance.
- (7) In addition, the customer may, if Vivlion® is at fault, claim damages instead of performance or reimbursement of expenses.
- (8) The right to withdraw from the contract and claims for damages instead of full performance arise only in the case of substantial defects.
- (9) In the case of a justified withdrawal on the part of the customer, Vivlion® is entitled to demand appropriate compensation for the use of the products by the customer up to the date of rescission.
- (10) In the event of fraudulent concealment of the defect or the existence of a guarantee for the quality, the statutory provisions on material defects and defects of title and their limitation period shall remain unaffected.

§ 9 Other liability

- (1) Vivlion®'s liability, that of its legal representatives and vicarious agents arising from breaches of duty and tort is limited to intent and gross negligence. In the event of breach of significant obligations (cardinal obligations) that jeopardise the purpose of the contract, Vivlion®, its legal representatives and vicarious agents shall also be liable for negligence. In any case, liability shall be limited to the foreseeable and contract-typical damage.

(2) The exclusion or limitation of liability shall not apply to liability for damages resulting from injury to life, body or health, nor to damages resulting from product liability.

§ 10 Limitation period

(1) The customer's claims for breach of duty and tort are subject to a limitation period of twelve months. This shall not apply if the law in §§ 438, paragraph 1, no. 2 and 634a, paragraph 1, no. 2 of the German Civil Code prescribes longer periods, if Vivlion® is liable due to intent or gross negligence or owes compensation due to injury to life, body or health.

(2) Should acceptance of the research and development result be agreed upon, the limitation period for claims due to defects shall commence upon acceptance, otherwise upon delivery.

(3) Negotiations between the contracting parties concerning claims or the circumstances substantiating the claims shall suspend the limitation period. The suspensive effect shall end if one of the contracting parties does not comply within four weeks with the request of the other contracting party to resume the negotiations.

Conditions relating to service contracts

§ 11 Liability/warranty

(1) Vivlion® shall carry out the research project based on generally accepted rules with the diligence it deems appropriate in the light of the at the time of performance known state-of-the-art of science and technology, and shall endeavour to achieve the project objective and the intended results without assuming any further guarantee, liability or warranty for the achievement of the project objective and the intended results or their industrial and economic exploitability. Furthermore, Vivlion® does not assume any warranty for the presence of individual sgRNAs in the products sold.

(2) The customer must immediately give notice in writing of any defects that have occurred.

(3) Should conflicting third-party rights become known, Vivlion® shall notify the customer thereof without delay, but shall not assume any guarantee that the research and development results achieved during the execution of the research work are free of third-party rights. The customer acknowledges that the contracts are subject to third-party licences.

(4) Unless otherwise contractually agreed, the warranty shall be subject to the statutory provisions.

(5) The liability of Vivlion®, its legal representatives and vicarious agents arising from breaches of duty and tort is limited to intent and gross negligence. In the event of breach of significant obligations (cardinal obligations) that jeopardise the purpose of the contract, Vivlion®, its legal representatives and vicarious agents shall also be liable for negligence. In any case, liability shall be limited to the foreseeable and contract-typical damage.

(6) In the event of a defect of title due to the infringement of third-party rights, Vivlion® shall only be liable if such rights apply in the Federal Republic of Germany, if the customer uses the research and development result as contractually agreed, if the third-party asserts a justified claim in this respect and if the customer has immediately notified Vivlion® in writing of the claims asserted by the third party.

(7) The exclusion or limitation of liability shall not apply to liability for damages resulting from injury to life, body or health, nor to damages resulting from product liability.

§ 12 Duration of the screening experiments and bioinformatic analyses and termination

(1) The duration of the service depends on the settlement periods defined in the individual orders.

(2) Insofar as the quotation or the research and development order includes a processing time or deadlines, these shall only be deemed binding if Vivlion® has expressly confirmed their binding nature. Should Vivlion® realise that the processing time or deadline it has declared as binding cannot be met, Vivlion® shall immediately notify the customer thereof, inform him of the reasons for the delay and, in consultation with the customer, agree on an appropriate adjustment. The customer may not refuse an adjustment without good cause, in particular if Vivlion® is not at fault.

(3) Either party may terminate the contract for good cause. Good cause shall be deemed to exist for Vivlion® in particular if the customer:

- defaults on the payment of the fees in the amount of a monthly fee in the case of contracts for which a minimum duration has been agreed upon or which have been concluded for a specific period,

- is more than 20 calendar days in arrears with payment of the fees in the case of contracts concluded for an indefinite period of time,
- culpably violates contractual obligations or these GT&C,
- obviously violates the law by using the service,
- despite warning within a reasonable period of time does not amend his use of the service such that it meets the requirements set out in the GT&C, or
- culpably or negligently violates the terms of the contract.

In these cases the customer loses all his rights to the service.

(4) Notices of withdrawal and termination must be made in writing. This shall also be deemed to be complied with if made by fax and/or e-mail.

§ 13 Performance of the work, obligation to cooperate

(1) The project will be carried out in close cooperation between the contractual partners and according to the agreed work plan. Vivlion® shall inform the customer of the results and findings of the contractual research work in a suitable form. The research and development results shall be summarized in a final report.

(2) The customer is obliged to support Vivlion® in the execution of the contract and to provide Vivlion® with all necessary documents and information. This must be done in a timely manner so that Vivlion® may carry out the work without any loss of time. Any damages or additional expenses arising from inadequate or untimely cooperation on the part of the customer shall be borne by the customer.

§ 14 Research and development results

(1) Vivlion® shall provide the customer with the research and development results which are achieved during the execution of the contract and which are covered by the subject matter of the contract.

(2) The outcome of the project is a test report resulting from the performance of the agreed services.

(3) After full payment of the agreed remuneration, the customer shall receive a non-exclusive, unlimited, transferable and gratuitous right of use to the results achieved from the performance of the agreed and commissioned services for the purpose of use and the agreed types of use as specified in the customer's order. In principle, the granting of an exclusive right of use for the intended application is, possible and requires a separate, written agreement with Vivlion®. There is no obligation to grant an exclusive licence on the part of Vivlion®.

§ 15 Rights of use; joint inventions; third-party property rights

(1) Vivlion® is entitled to the rights to inventions eligible for patent or utility model protection developed by Vivlion® employees in the course of the project. Vivlion® shall immediately notify the customer of any inventions reported to Vivlion®. Vivlion® is solely entitled to decide whether to claim an invention and file an application for protection of property rights.

(2) The customer is entitled to demand that he be granted, at customary market conditions, for the purpose of use specified in his order, a non-exclusive right of use to the inventions created during performance of the order and for the respective property rights that Vivlion® has applied for and been granted. Unless otherwise agreed, the aforementioned right shall be exercised in writing towards Vivlion® within 6 months after receipt of the invention disclosure by the customer. Customary market conditions shall include, in addition to reimbursement of a customary market share of the costs for registration, maintenance and defence of the industrial property rights, payment of the statutory compensation for employee inventors, compensation for the invention value and agreement on additional future compensation should the use of the invention by the customer be unexpectedly successful from the view of the contracting parties at the time of conclusion of the contract. The granting of an exclusive right of use for the intended application requires a separate, written agreement and shall likewise only be effected against payment of a normal market remuneration.

(3) In the case of joint inventions by employees of Vivlion® and of the customer, the parties shall agree on the procedure for each individual case. Unless otherwise agreed, each of the parties is entitled to use such inventions for its own purposes and to grant non-exclusive licenses to third parties without the consent of the other party.

(4) Should already existing Vivlion® property rights, which are necessary for the exploitation of the research and development result by the customer, be used during the performance of the

order, the customer may, in principle, obtain a non-exclusive right of use against payment, to be agreed separately in writing, insofar as this does not conflict with any other obligations of Vivlion®. The customer must request this from Vivlion® within six months after completion of the order.

(5) Vivlion® shall immediately notify the customer of any third-party property rights of which Vivlion® becomes aware during the performance of the order and which could conflict with the contractually agreed use. The contractual partners shall decide, by common accord, in what manner these property rights shall be taken into account in the further performance of the order.

§ 16 Copyrights

(1) Should copyrightable research and development results be achieved, the customer shall receive – unless otherwise agreed in the research contract – a non-exclusive, irrevocable and transferable right of use, unlimited in time and space, limited in content to the purpose of use specified in his order. In particular, the customer has the right to exploit, lease, lend, reproduce, remodel, modify, transmit the adjustment performance in whole or in part by wire or wireless, to make it available to the public against or without payment and to publicly report on the performance. Modifications and changes require the customer's prior written consent.

(2) Otherwise, the provisions of § 13 shall apply accordingly.

Annex A: Limited License of THE BROAD INSTITUTE, INC.

As indicated in the individual offer, certain Vivlion® products are provided under a license agreement with the Broad Institute, Inc. ("Broad") that contains certain limitations and obligations ("Broad Intellectual Property"). Before placing an order or using these products, please read the terms and conditions set forth below. By purchasing these Products, the purchaser ("Limited Licensee") hereby agrees to be bound by the Limited License set forth below.

The following definitions apply to the Limited License:

"Commercial Purposes" means (a) the practice, performance or provision of any method, process or service, or (b) the manufacture, production, sale, use, distribution, disposition or importing of any product, in each case (a) or (b) for monetary or other consideration of any kind.

"Field" means use as a research tool for research purposes; provided, however, that notwithstanding the foregoing, the Field shall expressly exclude:

- any human or clinical use, including, without limitation, any administration into humans or any diagnostic or prognostic use;
- any human germline modification, including modifying the DNA of human embryos or human reproductive cells;
- any in vivo veterinary or livestock use;
- the development, manufacture, distribution, importation, exportation, transportation, sale, offer for sale, marketing, promotion or other exploitation or use of the Patent Rights or a Product for or as a therapeutic or diagnostic for humans or animals;
- products that provide nutritional benefits and are regulated by a regulatory authority as a drug or biologic pursuant to Section 505 of the Federal Food, Drug, and Cosmetic Act of 1938, as amended, Section 351 of the Public Health Service Act of 1944, as amended, or any successor laws, or equivalent laws or regulations in jurisdictions outside the United States;
- any agricultural use, including but not limited to the use or application in the cultivation, growth, manufacture, exportation, or production of any tobacco product; and
- any use or application relating to gene drive.

"HHMI" means Howard Hughes Medical Institute.

"HHMI Indemnitees" means HHMI and its trustees, officers, employees, and agents.

"Indemnitees" means the Institutions, their affiliates, and their current and former trustees, directors, officers, faculty, affiliated investigators, students, employees, medical and professional staff and agents and their respective successors, heirs and assigns.

"Institutions" means The Broad Institute, Inc. ("Broad"), a non-profit Massachusetts corporation with a principal office at 415 Main Street, Cambridge, MA 02142, USA; the Massachusetts

Institute of Technology ("MIT"), a not-for-profit Massachusetts corporation with a principal place of business at 77 Massachusetts Avenue, Cambridge, MA 02139, USA; the President and Fellows of Harvard College ("Harvard"), an educational and charitable corporation existing under the laws of the Commonwealth of Massachusetts, having a place of business at Smith Campus Center, Suite 727E, 1350 Massachusetts Avenue, Cambridge, MA 02138, USA; the University of Iowa Research Foundation ("Iowa"), a not-for-profit corporation existing under the laws of the State of Iowa, having a place of business at 112 N. Capitol Street, 6 Gilmore Hall, Iowa City, IA 52242, USA; the University of Tokyo ("UTokyo"), a national university corporation existing under the laws of Japan, having an office at 7-3-1 Hongo, Bunkyo-ku, Tokyo, 113-0033, Japan; The Rockefeller University ("Rockefeller"), a not-for-profit New York corporation with a principal place of business at 1230 York Avenue, New York, NY 10065, USA; New York University ("NYU"), a not-for-profit corporation existing under the laws of New York with a principal place of business at 70 Washington Square South, New York, NY 10012, USA; New York Genome Center ("NYGC"), a not-for-profit corporation existing under the laws of Delaware and with a principal place of business at 101 Avenue of the Americas, New York, NY 10013, USA; Whitehead Institute of Biomedical Research ("WHI"), a Delaware corporation with a principal place of business at 455 Main Street, Cambridge MA 02142, USA

"Product" means any Vivlion® product that contains Broad Intellectual Property as indicated by Vivlion® in the individual offer and in the product label.

The purchaser ("Limited Licensee") receives the non-transferable right to use Products solely for research conducted by such Limited Licensee in accordance with all of the following requirements:

(i) the Limited Licensee shall not sell or otherwise transfer Products (including without limitation any material that contains a Product in whole or in part) to any other person or entity or use Products to perform services for the benefit of any other person or entity except, in each case, as otherwise permitted under license to Limited Licensee from Broad or as otherwise permitted by Broad for non-profit use as provided a <https://www.broadinstitute.org/partnerships/office-strategic-alliances-and-partnering/information-about-licensing-crispr-genome-edl;>

(ii) the Limited Licensee shall use Products and components of the Products only for its internal research within the Field which may include internal research within the Field in connection with product research, but not for the production, manufacture or exploitation of any product or Product or Commercial Purposes,

(iii) the Limited Licensee shall use Products in compliance with all applicable laws and regulations, including without limitation applicable human health and animal welfare laws and regulations; provided, however, with respect to any jurisdiction that does not have laws, rules or regulations that govern genetically modified crops, the Limited Licensee shall use Products in compliance with all applicable laws, rules and regulations (including any rules, regulations, guidelines or other requirements of any regulatory authorities) of the United States federal government that may be in effect from time to time to the extent applicable to genetically modified crops;

(iv) Institutions shall provide no warranties of any kind to the Limited Licensee (statutory or implied) concerning its intellectual property or Products, including without limitation, as to product quality, condition, description, merchantability, fitness for a particular purpose, noninfringement of intellectual property rights or the absence of latent or other defects, and all such warranties are hereby expressly disclaimed;

(v) Institutions shall expressly disclaim any warranty regarding results obtained through the use of the Products, including without limitation any claim of inaccurate, invalid or incomplete results,

(vi) Institutions and their directors, trustees, officers, employees, agents, faculty, affiliated investigators, and students, shall have no liability to the Limited Licensee, including, without limitation, for any loss of use or profits, business interruption or any consequential, incidental, special or other indirect damages of any kind, regardless of how caused and regardless of whether an action in contract, tort, strict product liability or otherwise,

(vii) the Limited Licensee shall indemnify, defend and hold harmless the Indemnitees and HHMI Indemnitees against any liability, damage, loss, or expense (including without limitation reasonable attorneys' fees and expenses) incurred by or imposed upon any of the Indemnitees or HHMI Indemnitees, as applicable, in connection with any claims, suits, investigations, actions, demands or judgments arising out of or related to (a) the exercise of any rights granted to the Limited Licensee under the Limited License, or (b) any breach of the Limited License by such Limited Licensee, and (c) any release, spill, emission, leaking, injection, outcross, deposit, disposal, discharge, dispersal, leaching or migration of material involving or arising from a Product (including any Product) into the atmosphere, soil, surface water, groundwater, sewer system or property, provided that, to the extent the foregoing is not permitted by law, the Limited Licensee agrees, to the extent permitted by law, that it, and not the Indemnitees or HHMI Indemnitees, as applicable, shall be responsible for any liability, damage, loss or expense arising out of or related to the exercise of any rights granted to the Limited Licensee under the Limited License or any breach of the Limited License by Limited Licensee, and

(viii) the Product and its use may be the subject of one or more issued patents and/or pending patent applications owned by one or more Institutions and the purchase of the Product does not convey a license under any claims in the foregoing patents or patent applications directed to the Product or use, production or commercialization thereof, except as expressly set forth in this Limited License.

(ix) Limited Licensee's right to use the Product will terminate immediately if he fails to comply with these terms and conditions. Limited Licensee shall, upon such termination of his rights, destroy all Products, Related Materials, and components thereof in his control, and notify Vivlion® of such in writing.

(x) (iv) to (viii) do not affect the responsibility of Vivlion® according to its General Terms and Conditions.

Annex B: Label License of ERS Genomics Limited

TERMS OF USE

BEFORE PLACING AN ORDER OR USING THIS PRODUCT, PLEASE READ THE TERMS AND CONDITIONS SET FORTH BELOW. YOUR PURCHASE OF THIS PRODUCT SHALL CONSTITUTE ACKNOWLEDGMENT AND ACCEPTANCE OF THESE TERMS AND CONDITIONS.

The purchaser receives a non-exclusive, non-transferable right to use the Product, Progeny (meaning any unmodified descendant form of the Product), Modifications (meaning any modifications of the Product) and Unmodified Derivatives (meaning any substances created by the purchaser which constitute an unmodified functional subunit or product expressed by the Product) for RESEARCH USE ONLY, which, subject to the exclusions below, includes use to discover and develop any product, including therapeutic products, which may then be sold to third parties, provided, however, that such products do not incorporate the Product, Progeny, Modifications, or Unmodified Derivatives.

No "Commercial Use" is allowed. Commercial Use means any and all uses of the Product, Progeny, Modifications or Unmodified Derivatives thereof, or any modified cells or organisms created through use of the foregoing, including but not limited to:

1. Sale, transfer or provision of a service to a third party, provided that not-for-profit customers may transfer or provide services to scientific collaborators for academic and non-commercial research purposes, including consortia that include for-profit partners;
2. Use in any diagnostic, preventative, or therapeutic application;
3. Use in any veterinary, livestock or agricultural application;
4. Use in later stage development of therapeutics, diagnostics, prophylactics (e.g., hit-to-lead, lead optimization); and
5. Manufacturing of a product for sale.

For clarity, transfer of materials or provision of services by not for profit or academic core labs to their internal clients shall not constitute a Commercial Use.

The foregoing exclusions may be waived if the purchaser has obtained a license from ERS Genomics Limited for the excluded activities, provided that the customer has confirmed in writing to Vivlion® the existence of such a license.

Except for the rights granted herein, any and all rights to the Product, Progeny, Modifications or Unmodified Derivatives thereof, shall remain in Vivlion®. No ownership rights are transferred.

The purchaser shall have no right to assign the rights granted herein to third parties. The Product, Progeny, Modifications or Unmodified Derivatives thereof, must at all times remain in the possession of the purchaser, except for a transfer to a scientific collaborator or to a service provider, to perform services, solely on behalf of the purchaser.

ERS Genomics Limited is an intended third-party beneficiary under these Terms of Use.

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