



GENERAL TERMS AND CONDITIONS FOR RESEARCH SERVICE AGREEMENT

ARTICLE 1 – General Terms and Conditions

1.1 Definitions

GTC: This term refers to the general terms and conditions as laid out in the current document.

Service: This term refers to any tangible or intellectual service, especially expertise, advice or analysis, carried out by the UM or its departments, laboratories and platforms in return for any financial compensation. Any research activities are excluded as they are subject to a separate contract drawn up by the Innovation and Partnership Department of the UM (contact details: dipa-cv@umontpellier.fr).

UM: This term refers to the University of Montpellier, acting for itself and on behalf of its components, departments, laboratories and platforms.

Partner: This term refers to any individual or legal entity acting as a business and which entrusts the UM to carry out a Service as laid out in the current GTC contract. The Partner and the UM are hereafter known individually as “Party” and collectively as “Parties”.

1.2 Acceptation

The Partner declares it has taken note of the current GTCs and has accepted them with no exception or reserve before agreeing to the order form or the price estimate supplied by the UM, signed as laid out in Article 3.

This acceptance excludes the use of any contrary conditions from the Partner which may figure on its own order forms or any other trade documents.

1.3 Totality

In the absence of any specific conditions and amendments agreed to by the Parties, the GTCs convey the totality of the agreement between the Parties and establish all the obligations concerning the present agreement.

1.4 Modifications to the GTCs

The UM reserves the right to modify the current GTCs at any given moment. The GTCs in effect at the time of the Partners signature on the order form remain applicable.

ARTICLE 2 – Purpose

The present GTCs establish the contractual relationship solely applicable to the Services offered by the UM to its Partners.

The present GTCs are applicable to the Services whose total price (excluding tax) is less than ten thousand (10 000) euros. If the price of the Service is in excess of this amount, the Service necessitates a specific contract with the Innovation and Partnership Department of the UM.

Any Service fulfilled by the UM in this framework implies the unreserved adhesion by the Partner to the present GTCs.

ARTICLE 3 – Means of Ordering

3.1 Bill of Specifications

When a bill of specifications must be established, the Partner will establish specifications for the given Service that are sufficiently accurate and will transmit these specifications to the UM.

The bill of specifications must contain all the data deemed necessary to determine the characteristics of the Services, especially the regulations, including the applicable standardisations. The Partner must inform the UM of any prior or upcoming modifications to these regulations it is aware of.

The Partner is solely responsible for the accuracy of the information in the bill of specifications.

The Parties will agree on the possibility of carrying out the Service set out in the bill of specifications before establishing a price estimate.

3.2 Price Estimate

Using the bill of specification which the Parties have agreed to, if deemed necessary, the UM will supply the Partner with a price estimate for the Service and communicate the deadline for the aforementioned Service. The present GTCs are to be supplied by the UM with the price estimate. The validation of a Service order requires the Partner to return both the price estimate and the GTCs signed by the Head of the UM laboratory that is to carry out the Service, as well as, if deemed necessary, an order form with the price estimate and the bill of specifications noted in reference.

When the price of the Service is fixed by a published price list voted for by the Board of the UM a price estimate is no longer deemed necessary. In this case the GTCs are to be conveyed to the Partner by the UM and must be returned, signed, to the UM by the Partner with the order form as specified in Article 3.3.

3.3 Order Form

The order form must state the essential characteristics of the Service, the price agreed on by the Parties, the terms of payment, the place and the deadline for the Service as well as the note “acceptation with no reservations” for the present GTCs.

The agreement is deemed finalised as of the date of the signature of the order form by the Partner.

3.4 Changes to the Order

Service orders are final and irrevocable. Any modifications to the Service requested by the Partner must be subject to acceptance by the UM.

ARTICLE 4 – Prices and Conditions of Payment

4.1 Price Calculations

The price of the Service is laid out in the price list drawn up by the UM or based on the detailed price estimate with the quantity and price of each service and product necessary as well as the hourly rate and the labour costs to undertake the Service.

The price is understood to be excluding tax and is in Euros for both the invoicing and payment.

4.2 Invoicing

An invoice must be written and provided by the UM for the Partner in Chorus Pro. If the Partner does not have a Chorus Pro login account, the invoice will be sent by mail to the postal address given by the Partner on the order form.

4.3 Means of Payment

The Partner has one (1) month from reception to pay the invoices made available by the UM in Chorus Pro or sent by mail to its postal address. Payment can be made by:

- Bank transfer to the account in the name of “Monsieur l’Agent Comptable de l’Université de Montpellier”:

Sort Code: 10071

Branch N°: 34000

Account N°: 00001004507

Key: 62

IBAN: FR76 1007 1340 0000 0010 0450 762

BIC: TRPUFRP1

- Cheque payable to: “Agent comptable de l’Université de Montpellier” and sent to :
L’Agence comptable – service recouvrement et contentieux
163 rue Auguste Broussonnet CC 422
34 090 Montpellier

The use of the monies paid by the Partner to the UM is not subject to justification.

No discounts, reductions or rebates will be granted.

4.4 Late Payment

Any late payment depending on the conditions laid out between the Parties will incur the payment of the sum of forty (40) Euros for collection fees as well as any late payment penalties laid out in the legal and regulatory terms applicable to the Partner using the interest rate in force applied by the Central European Bank and raised by ten (10) percentage points, in accordance with Articles L441-6 and D441-5 of Commercial Law. If the Partner is a public institution, these late payment penalties will be calculated in accordance with the provisions laid out in the decree 2013-269 dated 29 March 2013. The legal interest rate applicable will be that of the day of delivery to the Partner.

If the Partner does not adhere to the terms and conditions of payment the agreement will be suspended or terminated with no prior notice necessary.

ARTICLE 5 – Receipt of Results – Property Transfer

5.1 Receipt of Results for the Service

The production time or the delivery time must be marked on the price estimate and only starts once the order form has been received.

The total payment for the Service by the Partner terminates the contractual relationship of the Parties.

The results of the Service are accepted by the Partner as soon as these have been handed over by the UM and the conformity to the requested work with regards to the bill of specifications mentioned in Article 3.1 of the present GTCs of these aforementioned results has not been contested by the Partner in the seven- (7) day-period following their receipt.

5.2 Modifications

During the Service the Partner may wish to modify this Service. These modifications must be marked in an appendix to the bill of specifications signed by the Service Provider and the Head of the UM laboratory concerned. This appendix will explain the technical and financial consequences of the

aforesaid modifications. They must be accepted by the UM and will be subject to a separate price estimate.

If the request comes from the UM, these additional services can only be undertaken once the signature has been obtained on the appendix as laid out previously.

Any modifications will be subject to an additional order form.

5.3 Delivery Costs

The amount of any delivery costs for the results of the Service is at the cost of the Partner. This amount must figure on the price estimate and the invoice from the UM.

5.4 Transfer Risks

The risks linked to the results and/or deliverables for the Service are transferred to the Partner:

- In the event of the Partner meeting the costs of the transportation for the results of the Service, once the results and/or deliverables have been removed by the Partner from the premises of the UM.
- In the event where the results and/or deliverables are delivered to the Partner by a third party, once the results and/or deliverables have been removed by the third party from the premises of the UM, the transportation is under the entire responsibility of the Partner.

5.5 Deadlines

The UM agrees to carry out the Service at the date, place and deadlines indicated in the price estimate.

5.6 Delays

The UM cannot be held responsible for any delays incurred due to the delivery of the order by the postal services or in the case of a force majeure.

In these conditions, force majeure, shall mean any unforeseeable and irresistible external event within the meaning of civil case law.

5.7 Retention of Title

The UM remains the owner of the Results and the deliverables after their delivery to the Partner until they have been paid for in full.

ARTICLE 6 – Confidentiality

6.1 Each Party agrees not to disclose in any way the scientific, technical or commercial information of the other Party and especially that pertaining to the prior knowledge of the other Party that they may be party to while carrying out the Service. This obligation shall remain in force for the five (5) years following the term or the termination of the Service.

The Parties agree to enforce this obligation by their members of staff who are party to this information. Each Party can only use the information coming from the other Party for the means of the Service and this only for the strict duration of the aforementioned Service.

6.2 However, the measures laid out in this article are not to be applied to the information that the Parties can prove:

- was publicly available by no fault of their own
- they lawfully received from a third party
- they had in their possession before the conclusion of the Service

- were independently developed in good faith by members of their staff who did not have access to this information
- were disclosed following a legal decision
- were disclosed by their own Party
- were disclosed with the written authorisation of the giving Party

6.3 The measures of the present Article do not remove

- either the obligation of each person involved in carrying out the Service, to provide an activity report to their organisation, this document is not deemed as disclosure in terms of the laws on industrial property
- or the defence of a thesis for a researcher whose scientific activity is in relation with the subject of the Service

ARTICLE 7 – Publications – Communications

7.1 Any plans of publishing or communicating on the results of the Service by the UM, must be subject to, for a duration of twelve (12) months following the end of term or the termination of the Service, the prior written agreement by the Partner.

Any publications or communications by the Partner on the results of the Service must indicate that the results were obtained by the UM or its components, departments, laboratories and platforms. The know-how of the UM or its components, departments, laboratories and platforms must in no way be disclosed in the aforementioned publications or communications.

7.2 The Partner is forbidden to append or use the names, logos and/or the brand UM and its components, departments, laboratories and platforms without the prior written authorisation of the aforementioned.

The name and the logo of the UM can in no case be used on the sales or advertising documents of the Partner.

ARTICLE 8 – Intellectual Property – Use of the Results

8.1 The results coming from the Service belong to the Partner once they have been paid for in full. Each Party can use the results for the needs of their own research.

8.2 The know-how and the knowledge implemented by the UM and its components, departments, laboratories and platforms to carry out the Service are the property of the UM and the institutional administrative bodies of the laboratories and platforms concerned. Therefore, any improvement on this know-how coming from the Service will be the property of the UM and the institutional administrative bodies of the laboratories and platforms concerned.

8.3 The purpose of the Service is not research, neither is its objective to generate new intellectual property as such. However, and notwithstanding Article 8.1 of the present GTCs, if it turns out that the results of the Service can be protected by submitting an Intellectual Property title, the Partner must inform the UM at the address in Article 14 Correspondence as soon as possible. The Parties will decide together on the means of protection, the allocation and the use of the results in the framework of a specific agreement.

ARTICLE 9 – Termination

9.1 The Service can be rightfully terminated by either of the Parties if the other Party does not carry out one or several of the obligations laid out in the present GTCs. This termination will come into force one (1) month after the plaintiff sends a registered letter, to be signed for, laying out the reasons for the complaint unless the other defaulting Party in this time lapse does not fulfil its obligations or does not justify the reason why in the case of a force majeure.

The terms of this termination do not dispense the defaulting Party of fulfilling its contractual obligations until the date on which the termination will take effect and this remains subject to any possible compensation sustained by the plaintiff due to the anticipated termination of the Service.

9.2 The Service is rightfully terminated if the Partner is subject to a safeguard procedure, if it goes into receivership or in the case of the liquidation of the company by the court, after official notification by the receiver, subject to the procedures laid out in Articles L.622-13, L.631-14 and L.641-10 in the Commercial Codes.

The Service is also rightfully terminated in the case of the out of court dissolution, end or liquidation of the Partner company.

9.3 However, the procedures laid out in Articles 7 and 8 will remain in force notwithstanding the termination of the Service for their own duration or until the rights and obligations pertaining to them reach an end.

9.4 In addition, when the Partner goes into receivership or in the case of the liquidation of the company by the court, the UM reserves the right to claim for, in the framework of a collective procedure, the unpaid Service(s).

ARTICLE 10 – Responsibilities – Insurance

10.1 Each Party declares having taken out an insurance policy or being insured by the State or acting as its own insurer to guarantee the damage that may be caused in the framework of the Service.

10.2 The responsibility of the UM may be called into account for any direct damage resulting from a proven fault.

In any case the responsibility of the UM cannot be called into account for any indirect damage such as the loss of business, jobs or income.

10.3 The responsibility of the UM cannot be called into account for any damaged incurred during the transport of the results and/or deliverables of the Service, the risks being covered by the Partner as laid out in Article 3 of the present.

10.4 Under no circumstances can the responsibility of the UM, if it has been proved to be responsible, exceed the amount paid by the Partner for the Service that justified the responsibility of the UM and in the limit of 5% of the amount, excluding tax, for the amount paid by the Partner at the defined date of the aforementioned responsibility.

10.5 The Partner guarantees the UM against any intellectual property and/or confidentiality claims by third parties concerning the elements that the Partner has entrusted to the UM or that the UM has used

at the request of the Partner in the framework of the Service. The Partner agrees to take responsibility for the any possible financial consequences.

ARTICLE 11 – Guarantees

11.1 The UM agrees to supply a Service in compliance with the legal prescriptions and the contractual stipulations in force

11.2 The UM is responsible for the non-conformity of the Service with regards to the bill of specifications or the description in the conditions laid out in common law.

ARTICLE 12 – Personal Data

If the Service leads to the treatment of any personal data, this treatment will be carried out by the UM in accordance with **Law N° 78-17 from the 6 January 1978 on data processing, data files and individual liberties** modified by **Law N° 2017-55 from the 20 January 2017**, as well as the EU regulation 2016/679 from the European Parliament and Council the 27 April 2016 concerning the protection of individual liberties with regards to the processing and circulation of personal data.

In compliance with the terms laid out by the EU Regulation 2016/679, a “Data Protection Officer” has been nominated by the UM (contact: dpo@umontpellier.fr).

ARTICLE 13 – Intuitu personae – Sub-Contracting

The Parties declare that the Service will be carried out intuitu personae. Therefore, the Parties are forbidden from conceding the rights and duties of the present Service and the Service shall not be carried out by a sub-contractor without the prior written agreement of the other Party.

ARTICLE 14 – Correspondence

14.1 Each Party shall nominate, on the price estimate, the order form or in the specific conditions a Scientific Coordinator who will be the contact for any questions or scientific information concerning the Service.

14.2 Any notifications, communications, official notifications as laid out in the present GTCs are considered to have been delivered if they are addressed to:

- For the UM and its components, departments, laboratories and platforms:
Université de Montpellier
Direction de l’Innovation et des Partenariats – CC 07 003
163 Rue Auguste Broussonnet,
34 095 MONTPELLIER CEDEX 5
- For the Partner: the address specified on the order form

ARTICLE 15 – Litigations

15.1 The Service is subject to French law and regulations.

15.2 In the case of a disagreement relative to the interpretation, the execution or the termination of the Service, the Parties shall, before resorting to any legal recourse, try to find, to the best of their abilities, an out-of-court solution.

If the disagreement continues, it shall be referred to the French courts.

Montpellier, dated the

The President

Philippe Augé