

1. DEFINITIONS AND RELATED MATTERS

- 1.1 “Product” means any Fidabio Instrument, Licensed Software and/or Fida Consumable, listed in FIDA’s then-current price list.
- 1.2 “Fidabio Instrument” means a FIDA or Fidabio-branded instrument
- 1.3 “Fidabio Service” means any services, application support, contract research organization works offered by Fida Biosystems ApS or authorized subsuppliers.
- 1.4 “Fidabio Consumables” means FIDA or Fidabio-branded consumables, reagents and kits.
- 1.5 “Licensed Software” means the (i) Fidabio Instrument operating system software and firmware, (ii) the Fidabio Assay Development software and (iii) the Fidabio primary analysis software, provided by Fida Biosystems ApS to the Buyer pre-installed on, and/or on DVD or other media delivered with, a Fidabio Instrument, and/or made available by FIDA for download.
- 1.6 “Documentation” means the user documentation accompanying or provided by FIDA regarding or for use in connection with, a Product, Service or Consumable.

2. TERMS, CONDITIONS AND ORDERS

2.1 Terms and Conditions. These terms and conditions of sale (“Terms”) along with any Quotation(s) issued by Fida Biosystems ApS (“FIDA”) and any applicable licenses, notices, terms, conditions or use restrictions referred to in Section 3.1 below, together with any addenda to any of the foregoing provided by FIDA, any other terms and conditions expressly agreed to in writing by an authorized FIDA representative expressly referencing these Terms, and Buyer’s statement on its purchase order (if accepted by FIDA) of the name and identity of the Product(s) and/or related services purchased, quantity, bill to and ship to address, and, if accurate, price (and only such information on Buyer’s purchase order), shall govern the sale and license of any Product(s) (except for Licensed Software, which is only licensed, never sold) by FIDA to the purchaser (“Buyer”), and shall constitute the complete, exclusive and entire agreement (“Agreement”) between FIDA and Buyer with respect to purchase and/or license of the Product(s) and any related services from FIDA. FIDA’s offer to sell products and provide any related services is expressly limited to the terms of this Agreement. In the event of any conflict between the terms of the Quotation and these Terms, the terms of the Quotation shall take precedence. Buyer’s submission of a purchase order or other instrument for or regarding the purchase of Product(s) or related services from FIDA, whether or not in response to a FIDA quotation, shall be deemed an acceptance of and agreement to the terms of this Agreement to the exclusion of any other terms or conditions contained in and/or referenced by such purchase order or other instrument (except the name and identity of the Product(s) purchased, quantity, bill to and ship to address, and, if accurate, price), which are hereby deemed to be material alterations, and notice of objection to which is hereby given, notwithstanding anything to the contrary contained within such purchase order or other instrument or elsewhere. Any acceptance by FIDA of any offer of Buyer as provided in any Buyer purchase order or other instrument is expressly conditioned upon Buyer’s assent to and acceptance of the terms of this Agreement to the exclusion of any terms or conditions in Buyer’s purchase order or other instrument that are in any way inconsistent with the terms of this Agreement.

2.2 Acceptance of Orders. No purchase order shall be binding upon FIDA unless and until accepted by FIDA in writing, and FIDA shall have no liability or obligation to Buyer with respect to orders that are not accepted. No partial shipment of an order shall constitute the acceptance of the entire order, absent the written acceptance of such entire order. For Fidabio Instrument orders, FIDA may require Buyer to identify in its purchase order the individual responsible for ensuring that Buyer provides a prepared and available installation site in accordance with FIDA’s site preparation specifications. Any provision in Buyer’s Terms (if applicable) permitting Buyer at its convenience to unilaterally change or cancel its purchase order (in whole or part) once accepted by FIDA shall be void and of no effect.

2.3 Contract Documents & Order of Precedence. Notwithstanding Section 2.1 above, if a purchase order from Buyer that is accepted by FIDA contains or incorporates by reference any different or additional terms or conditions, and to the extent such different or additional terms or conditions are ultimately deemed part of the contract between Buyer and FIDA regarding such purchase order (e.g., by express written agreement of the parties, or by application of legal doctrine), then such contract shall consist of the following documents (notwithstanding any provision in such documents to the contrary): (1) the Quotation(s) (if any) issued by FIDA; (2) the following terms of Buyer’s order: name and identity of the Product(s) and/or related services purchased, quantity, bill to and ship to address, and, if accurate, price; (3) these Terms; and (4) any other terms and conditions contained in, or incorporated by reference into, Buyer’s order. Any conflict among these documents shall be resolved by giving them priority in the order listed above. Items (2) and (4) are collectively referred to herein as “Buyer’s Terms.”

3. LIMITED LICENSE; REGULATORY COMPLIANCE

3.1 Limited License. Buyer acknowledges and agrees that the sale by FIDA, and the purchase and/or use by Buyer, of each Product is subject to all applicable limited licenses, end user license agreements, notices, terms, conditions and/or use restrictions listed on any Product packaging, label or insert.

3.2 Regulatory Compliance. Buyer acknowledges that the Products do not have any regulatory agency approval (“Approval”). Accordingly, Buyer acknowledges that the Products are labeled and intended FOR RESEARCH USE ONLY and NOT FOR USE IN DIAGNOSTIC PROCEDURES. The Products should be used by qualified professionals in strict accordance with applicable instructions, warnings and other information in user manuals and other Documentation. Unless otherwise expressly stated by FIDA in writing, no claim or representation is made or intended by FIDA (i) as to any diagnostic or other clinical use of a Product; (ii) that any Product has any Approval for use in any diagnostic or other clinical procedure, or for any other use requiring compliance with any law, regulation or governmental policy concerning medical devices, laboratory tests or the like (collectively, “Regulatory Laws”); (iii) that any Product will satisfy the requirements of regulatory agencies; or (iv) that any Product or its performance is suitable or has been validated for clinical or diagnostic use, for safety and effectiveness, for any specific use or application, or for importation into Buyer’s jurisdiction. Buyer agrees that if it elects to use a Product for a purpose that would subject Buyer, its customers or any Product to the application of Regulatory Laws or any other law, regulation or governmental policy, Buyer shall be solely responsible for obtaining any required Approvals and otherwise ensuring that the importation of the Products into Buyer’s jurisdiction and Buyer’s use of Products complies with all such laws, regulations and policies. The burden of proof for safe use and handling of Products sold to Buyer is entirely the responsibility of Buyer. For clarity, this Section 3.2 shall not be construed as granting, by implication, estoppel, reliance or otherwise, any right, license or authorization to Buyer.

4. PRICES, TAXES AND PAYMENT

4.1 Prices. The price for any Product or related service shall be the applicable price stated in FIDA’s written Quotation to Buyer, or, if no Quotation is issued, in FIDA’s then-current price list applicable to Buyer’s jurisdiction, provided that FIDA’s Quotations are only valid for thirty (30) days from the quotation date unless otherwise stated in the Quotation.

4.2 Taxes; Shipping Charges. Unless otherwise expressly indicated in the Quotation, Buyer’s purchase price does not include VAT, or other taxes, duties, or other fiscal obligations (“Taxes”) that may be applicable to the Products, any related services or the sale thereof. Unless otherwise expressly indicated in the Quotation, Products will be shipped “FOB Emmen Netherlands”.

4.3 Payment. Unless otherwise specifically indicated in the Quotation, FIDA shall invoice Buyer for a Product and any related services ordered by Buyer upon shipment of the Product, or after acceptance or deemed acceptance by Buyer pursuant to Section 5.3 below in the case of a Fidabio Instrument, or upon FIDA’s acceptance of Buyer’s purchase order in the case of a Service Contract, and such invoice shall cover Buyer’s

purchase price for the Product and/or related services and any freight, insurance, Taxes or other applicable costs initially paid or payable by FIDA to be ultimately borne by Buyer, and Buyer shall pay all such amounts. Unless otherwise expressly indicated in the Quotation or, in the event a Quotation is not issued, in FIDA's then-current price list applicable to Buyer's jurisdiction, all invoices shall be issued and payable in EURO, and are due and payable thirty (30) days from date of invoice, subject to credit approval. Each delivery shall be considered a separate and independent transaction and payment therefor made accordingly. Amounts outstanding sixty (60) or more days from the date of invoice shall be subject to a service charge of one percent (1.0%) per month (or the maximum allowed by applicable law, if less). If Buyer fails to make any payment when due or if FIDA deems Buyer to be or to have become un-creditworthy, then, without prejudice to FIDA's rights, FIDA may, at its option, cancel and/or suspend future deliveries, and/or require prepayment, letter of credit, or other payment method(s) in FIDA's discretion. The amount of credit may be changed, or credit withdrawn by FIDA at any time. FIDA retains title to Products until FIDA receives payment in full, and where title retention is not fully valid or enforceable, FIDA may elect to retain a security interest in Products sold to Buyer to secure Buyer's payment obligations to FIDA, and Buyer will execute any documents necessary to create and perfect this interest.

5. DELIVERY AND ACCEPTANCE OF PRODUCTS

5.1 Delivery. Unless otherwise expressly indicated in the Quotation, all deliveries are F.O.B. Emmen The Netherlands" (ICC Incoterms 2010) FIDA's shipping dock. Without limiting the generality of FIDA's rejection of Buyer's conflicting terms, any provision to the contrary in Buyer's Terms (if applicable) shall be void and of no effect. FIDA's title (except for Licensed Software, which is only licensed, never sold), and all risk of loss, passes to Buyer, and FIDA's liability as to delivery ceases, upon delivery of the Products at said F.O.B point. Unless specific shipping instructions have been agreed between FIDA and Buyer, FIDA will ship in accordance with its standard practices. Any provision in Buyer's Terms (if applicable) indicating that time is "of the essence" (or other terms of similar import) for delivery or other performance by FIDA shall be void and of no effect. Delivery of Products shall be in accordance with FIDA's then applicable manufacturing schedule and based upon a priority of 'first order accepted, first order shipped' basis. Notwithstanding the foregoing, FIDA, in its sole discretion, may reprioritize scheduling of any delivery or deliveries of any orders accepted by FIDA. FIDA may also, in its sole discretion, postpone delivery of a Fidabio Instrument due to Buyer's failure to provide a prepared and available installation site in accordance with FIDA's site preparation specifications or other factors within Buyer's reasonable control. For multiple units and/or multiple Product orders FIDA may make delivery in installments, and each installment shall be deemed to be a separate sale. FIDA may issue a separate invoice for each installment, which invoice shall be paid without regard to prior or subsequent installments. Buyer must notify FIDA of any damaged or missing Products within fifteen (15) days after receipt. Products rejected by Buyer will be held by Buyer and may be returned only upon FIDA's written authorization. FIDA shall be entitled to repair or replace damaged, missing, and/or rejected Products. These are Buyer's sole and exclusive remedies for rejected Products.

5.2 Fidabio Instrument Inspection and Installation. Without limiting the preceding section, Buyer shall promptly uncrate and visually inspect any Fidabio Instrument upon receipt and notify FIDA in writing of any damage to the Fidabio Instrument or missing parts that Buyer notes. Buyer shall ensure that a FIDA representative is present and is permitted to supervise the uncrating and inspection of the Fidabio Instrument. If Buyer fails to comply with this section, Buyer shall be deemed to have waived its rights to claim incorrect or incomplete delivery or packaging and any related warranty rights. If FIDA has agreed to install the Fidabio Instrument, it is Buyer's responsibility, at Buyer's cost, to have the installation site prepared and available for installation (including proper configuration of Buyer's computer network to which the Fidabio Instrument will be attached) in accordance with FIDA's site preparation specifications and free of hazardous or unsafe conditions and, unless otherwise agreed, to move the Fidabio Instrument from Buyer's delivery dock or receiving location to the place of installation. Buyer shall have appropriate Buyer personnel present at any such installation. Buyer shall

not assign FIDA personnel to work in biosafety level 3 or level 4 laboratories without prior written notice to FIDA and FIDA's prior written consent. Without limiting the foregoing obligations of Buyer, if FIDA has agreed to install the Fidabio Instrument and Buyer fails to properly configure Buyer's computer network to which the Fidabio Instrument will be attached in accordance with FIDA's site preparation specifications by the scheduled installation date, then FIDA may, at its option, elect to complete the installation procedure without connecting the Fidabio Instrument to Buyer's computer network. Buyer shall be deemed to have irrevocably accepted any Fidabio Instrument upon the earlier of (i) payment, without reservation, of any amounts with respect to the Fidabio Instrument; (ii) ten (10) days after Buyer's receipt of FIDA's report evidencing successful installation of the Fidabio Instrument, if FIDA has agreed to install the Fidabio Instrument and provides such report to Buyer; (iii) Buyer's use of the Fidabio Instrument; or (iv) within thirty (30) days after delivery of the Fidabio Instrument if FIDA has agreed to install the Fidabio Instrument and is unable to perform installation due to Buyer's failure to provide a prepared and available installation site (including proper configuration of Buyer's computer network to which the Fidabio Instrument will be attached) in accordance with FIDA's site preparation specifications or other factors within Buyer's reasonable control.

6. LIMITED WARRANTY. Buyer acknowledges and agrees that, by issuing a purchase order or otherwise ordering the Product(s) and/or related services, Buyer agrees (to the exclusion of any contrary terms or conditions in Buyer's Terms, if applicable) that FIDA makes only such warranty with respect to each such Product or service as is expressly identified as a "warranty".

7. FIDABIO INSTRUMENT SUPPORT; LIMITED SERVICE WARRANTY/GUARANTEE

7.1 Service and Maintenance. During the Warranty Period for a Fidabio Instrument purchased by Buyer from FIDA hereunder, FIDA will provide its standard level of service and maintenance for such Fidabio Instrument (equivalent to FIDA's "Standard" level Service Contract) at no additional charge to Buyer. After the Warranty Period, FIDA may offer to provide extended service and maintenance for such Fidabio Instrument pursuant to separate written service contracts that may be purchased by Buyer from FIDA. Extended service and maintenance for any third-party computing system must be obtained by Buyer directly from the original manufacturer.

7.2 Service Contracts. If Buyer has purchased a separate written service contract from FIDA for a Fidabio Instrument (a "Service Contract"), the Quotation and the applicable, then-current Documentation for such Service Contract describe its level and features, including minimum response times and the number of preventative maintenance visits per year. During the Service Contract term, FIDA or its designee will provide the services described in the Service Contract (the "Covered Services"). Maintenance, repairs and replacements may be affected under the Service Contract with reconditioned or refurbished Products, parts or subassemblies. Any updates or upgrades to the Licensed Software, when delivered, shall become part of the Licensed Software and shall be subject to the same end user license agreement(s), notices, terms, conditions and use restrictions unless otherwise expressly stated in writing by FIDA. Covered Services exclude hardware upgrades for feature enhancements. Service Contracts may not be transferred or assigned without FIDA's prior written consent.

7.3 Remote Support. Certain Service Contract levels and/or features may require the use of TeamViewer (as applicable) service feature, which includes remote communication software that allows a FIDA authorized agent to remotely communicate with the Fidabio Instrument purchased by Buyer through user-controlled, customizable permission settings. The TeamViewer service feature is used by FIDA for diagnostics, maintenance and repair of the Fidabio Instrument hardware and software components and may allow for faster response times if Buyer purchases a Service Contract that includes the TeamViewer service feature and abides by the configuration requirements specified by FIDA. If Buyer purchases a Service Contract with the TeamViewer service feature and

elects to also utilize the optional policy server software, Buyer agrees to configure the policy server software to enable FIDA to provide the Covered Services as specified in the Service Contract. Buyer acknowledges that any faster response times will be honored by FIDA only if proper internet connectivity has been established by Buyer and the software included with the TeamViewer service feature (including the policy server software, if applicable) is configured to, and Buyer actually does, permit FIDA throughout the term of the Service Contract (with at least the frequency, if any, specified by FIDA for each such activity) to (i) establish SS transfer of instrument performance data files to FIDA, (ii) retrieve instrument environmental data values, (iii) utilize event and alarm functionality, and (iv) effect remote software updates and software file transfers.

7.4 Service Limitations. Buyer agrees to follow the operation procedures published by FIDA, including procedures for routine maintenance. FIDA shall have no obligation to provide any service or parts required as a result of (i) failure of Buyer to maintain a software release level within one major release of the most current software release made available by FIDA to Buyer at no additional charge, (ii) improper or abnormal use, abuse, neglect, negligence, accident, including without limitation failure to properly perform routine maintenance and maintain the Fidabio Instrument site in accordance with FIDA's site requirements or the use of the Fidabio Instrument with any non-FIDA product (except as may be specifically recommended, with respect to standard laboratory reagents, tools and equipment ancillary to use of the Product, in the then-current Documentation for that Product); (iii) repairs, alterations, disassembly, reassembly or removal from Buyer's facility by persons other than FIDA or its designee, other than repair or replacement of a third-party good by an authorized service provider; or (iv) externally caused short circuits, incorrect voltages, failure or fluctuation of electrical power, lightning, static or other improper external inputs, or Force Majeure. Buyer shall reimburse FIDA at FIDA's then-current service call fees, including all labor, parts and travel charges, for all work of FIDA or its designee incurred in investigating or remedying any damage or malfunction that FIDA reasonably determines to not be part of the Covered Services.

7.5 Non-Covered Equipment. Any and all instruments, software and other products, and any parts or subassemblies of the foregoing, that are not provided by FIDA or its designee, as well as any external uninterruptible power supply (UPS), shall be deemed "Non-Covered Equipment." FIDA shall have no obligation to provide Covered Services for Non-Covered Equipment; moreover, and notwithstanding anything herein to the contrary, FIDA shall have no obligation to provide Covered Services in connection with any Fidabio Instrument, part or subassembly: (i) that has been substantially altered (other than by FIDA or its designee), including any alteration or removal of any serial numbers or other identifying markings; (ii) that does not incorporate all of FIDA's engineering improvements and other fixes that FIDA requests Buyer to implement; (iii) that incorporates Non-Covered Equipment or has Non-Covered Equipment attached; (iv) that has been operated in conditions outside of FIDA's environmental or electrical site specifications, as defined in the applicable, then-current Documentation; (v) that has been operated in hazardous environments or used to analyze hazardous materials that may cause residual contamination; or (vi) that has been repaired or maintained by anyone other than FIDA or its designee, except such routine maintenance as set forth in the applicable, then-current Documentation. Fidabio Instruments that are no longer offered for sale by FIDA ("Obsoleted Items") will be maintained and repaired on a reasonable efforts basis by FIDA while covered by a Service Contract. If FIDA determines in its discretion that support, service or maintenance of such Obsoleted Items is no longer reasonable, FIDA shall notify Buyer of such determination and such Obsoleted Item shall be deemed Non-Covered Equipment.

7.6 Billable Services. All services performed by FIDA or its designee on Buyer's Non-Covered Equipment or which are not Covered Services shall be billable to Buyer at FIDA's then-current service call fees, including all labor, parts and travel charges.

7.7 Access and Service Safety. Buyer will provide FIDA and its designees reasonable and safe access to all Fidabio Instruments for the provision of any services and for any audit of compliance with FIDA's installation and operational guidelines. If environmental or operational contamination

creates a hazard for FIDA personnel, FIDA may instead elect to supervise Buyer's performance of service procedures. Buyer is responsible for proper disposal of all contaminated material and of contaminated parts and subassemblies that, in FIDA's discretion, cannot be safely returned to FIDA. Any services that FIDA or its designee may provide in connection with the activities contemplated by this paragraph shall be deemed to not be Covered Services, and Buyer shall reimburse FIDA at FIDA's then-current service call fees, including all labor, parts and travel charges, for all such work of FIDA or its designee.

7.8 Fidabio Instrument Relocation. If any Fidabio Instrument is moved from its installation position, FIDA may, at its discretion, determine that such Fidabio Instrument has been relocated (a "Relocation"). Relocation of Fidabio Instruments may result in service charges as follows: (i) **Approved Relocation.** Relocation of Fidabio Instruments by FIDA or its designees is permitted. Fidabio Instruments may be moved with the assistance of FIDA at FIDA's service call fees, including all labor, parts and travel charges. With prior written approval of FIDA, Buyer may move specified Fidabio Instruments without incurring any charges. Buyer will contact FIDA prior to moving any Fidabio Instrument. (b) **Unapproved Relocation.** Any service contract or warranty covering a Fidabio Instrument shall be rendered void and unenforceable by Relocation of such Fidabio Instrument without the prior written approval of FIDA. At the discretion of FIDA, upon completion of a maintenance inspection and service at FIDA's then-current service call fees, including all labor, parts and travel charges, the subject service contract or warranty may be reinstated. (c) **New Site Location.** Relocation of Fidabio Instruments may result in additional service charges and modification of response times, as determined by FIDA.

7.9 Ownership. All replaced parts removed from the Fidabio Instrument in connection with any services provided by FIDA or its designee shall become the property of FIDA upon their replacement. All intellectual property rights arising from any modifications made or provided by FIDA or its designee, whether alone or with any contribution from Buyer or its employees, agents, contractors or collaborators, to the Fidabio Instrument shall be owned exclusively by FIDA. To the extent Buyer or its employees, agents, contractors or collaborators may acquire any right or interest therein by operation of law, Buyer hereby irrevocably assigns all such rights and interests exclusively to FIDA. Buyer shall maintain and enforce agreements and policies with its employees, agents, contractors and collaborators sufficient to give effect to the provisions of this section.

7.10 Limited Service Warranty. FIDA warrants that it will render the Covered Services in a professional and workmanlike manner. As FIDA's sole responsibility and Buyer's exclusive remedy in the event of any material failure to meet such standard, FIDA shall make a commercially reasonable effort to remedy any resulting discrepancies. Any claim based on the foregoing warranty must be submitted in writing in accordance with FIDA's standard procedures within thirty (30) days after delivery or the date of performance of the pertinent services at issue.

7.11 Term and Termination. The term of a Service Contract shall commence on the date FIDA receives an authorized purchase order from Buyer and continue as specified in the applicable Quotation describing the Service Contract or, if no such term is specified, the term shall be one year. Service Contracts shall not be automatically renewed. If Buyer wishes to obtain Covered Services for a Fidabio Instrument beyond the term of the Service Contract or for additional Fidabio Instruments, Buyer must submit a new order. FIDA may terminate a Service Contract immediately by giving written notice of termination to Buyer upon the occurrence of any of the following events: (i) Buyer defaults in the performance of any material requirement or obligation created by the Service Contract or any other agreement between FIDA and Buyer; (ii) Buyer fails to make any payment to FIDA within (30) days of its due date; (iii) Buyer ceases doing business; (iv) Buyer becomes the subject of any bankruptcy, insolvency, or similar proceeding, becomes insolvent, makes an assignment for the benefit of creditors, is unable to pay its debts when due, a receiver is appointed for a substantial part of Buyer's assets, or an action is taken toward the liquidation or winding up of Buyer's business; or (v) Buyer suffers a materially adverse change in its financial condition or operations. No termination of a Service Contract shall release Buyer from any obligation to pay FIDA any amount that has

accrued or become payable at or prior to the date of termination. In no event (including early termination) shall FIDA be obligated to return any payments received by FIDA under a Service Contract.

8. WARRANTY DISCLAIMERS

8.1 Disclaimer; No Other Warranties. THE EXPRESS WARRANTIES AND THE REMEDIES SET FORTH IN SECTION 7.10 ABOVE, AS APPLICABLE, ARE IN LIEU OF, AND FIDA HEREBY DISCLAIMS, ALL OTHER REMEDIES AND WARRANTIES, EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, OR REGARDING RESULTS OBTAINED THROUGH THE USE OF ANY PRODUCT OR SERVICE (INCLUDING, WITHOUT LIMITATION, ANY CLAIM OF INACCURATE, INVALID OR INCOMPLETE RESULTS), IN EACH CASE HOWEVER ARISING, INCLUDING WITHOUT LIMITATION FROM A COURSE OF PERFORMANCE, DEALING OR USAGE OF TRADE, OR OTHERWISE. IN NO EVENT SHALL FIDA BE LIABLE FOR COSTS OF SUBSTITUTE GOODS OR SERVICES OR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT DAMAGES FOR BREACH OF WARRANTY. ANY PRODUCT OR SERVICE PROVIDED WITHOUT A WRITTEN WARRANTY FROM FIDA IS PROVIDED "AS IS" WITHOUT (AND FIDA HEREBY DISCLAIMS) ANY WARRANTY, STATUTORY, EXPRESS, IMPLIED OR OTHERWISE.

Without limiting the generality of FIDA's general rejection of conflicting terms presented by Buyer, and for clarification purposes only, Buyer agrees that any different or additional warranty terms stated in Buyer's Terms (if applicable) shall be void and of no effect.

8.2 Third Party Disclaimers. Notwithstanding any provision to the contrary herein, and unless otherwise expressly indicated in the Quotation or Documentation, none of FIDA's suppliers or licensors of any Product or other item provided by FIDA, or any portion thereof (under this Agreement or otherwise) (each, a "Supplier") provides ANY WARRANTY WHATSOEVER, EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE TO BUYER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE DISCLAIMED. EXCEPT AS OTHERWISE EXPRESSLY INDICATED IN THE QUOTATION OR DOCUMENTATION, IN NO EVENT SHALL ANY SUPPLIER BE LIABLE TO BUYER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, DIRECT, INDIRECT OR OTHER DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR SALE OF THE PRODUCTS.

9. LIMITATION OF LIABILITY. FIDA'S LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR SALE OF THE PRODUCTS OR PROVISION OF SERVICES SHALL BE LIMITED TO THE AMOUNT PAID BY THE BUYER FOR THE PRODUCTS AND/OR SERVICES GIVING RISE TO THE LIABILITY, AND IN NO EVENT SHALL FIDA'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR SALE OF THE PRODUCTS AND SERVICES EXCEED THE TOTAL AMOUNTS RECEIVED BY FIDA FROM BUYER UNDER THIS AGREEMENT. IN NO EVENT SHALL FIDA BE LIABLE FOR COSTS OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT DAMAGES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT, WARRANTY, PURSUANT TO ANY STATUTE, OR ON ANY OTHER BASIS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR SALE OF THE PRODUCTS OR SERVICES, WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT FIDA IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES ARISING FROM OR RELATED TO LOSS OF USE, LOSS OF DATA, OR DOWNTIME, OR FOR LOSS OF REVENUE OR PROFITS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

10. INDEMNITY AND INSURANCE

10.1 Indemnification of Buyer. Subject to Sections 10.2 and 10.3 below, FIDA agrees to defend Buyer against any third-party claim, proceeding or action ("Claim") to the extent the Claim alleges that any Product sold to Buyer hereunder, as delivered to Buyer by FIDA, directly infringes any patent, copyright, or other intellectual property right. FIDA will pay all

damages awarded, and settlements approved in writing by an authorized representative of FIDA, in connection therewith, provided that (i) Buyer provides to FIDA written notice of the Claim within thirty (30) days of receipt by Buyer of such Claim, or such earlier time as required to avoid prejudice to FIDA or its ability to defend such Claim, (ii) Buyer allows FIDA to control the defense and settlement of the Claim, and (iii) Buyer provides to FIDA reasonable assistance in connection therewith, at no charge to FIDA. Buyer may employ counsel at its own expense to assist it with respect to any such Claim, provided that this shall not obligate FIDA or its counsel to consult with or advise such Buyer counsel, nor affect FIDA's control of the defense and settlement of the Claim.

10.2 Exceptions. FIDA shall have no liability or obligation pursuant to this Section 10 with respect to Claims resulting from (i) modification of the Product other than by FIDA or its authorized service provider; (ii) combination of the Product with any item or method not supplied or specifically recommended in writing by FIDA, (iii) use of the Product other than in accordance with the Documentation and this Agreement (including without limitation use for diagnostic or other non-research uses), or (iv) compliance with Buyer's instructions, specifications or design to the extent such instructions, specifications or design materially differ from comparable Products that FIDA makes generally available to its customers (collectively, (i)-(iv), "Excluded Causes").

10.3 Remedy. In the event there is a Claim, or FIDA believes a Claim is likely, alleging intellectual property infringement with respect to any Product sold to Buyer hereunder, FIDA shall be entitled, without obligation to do so, at its option and expense, to (i) modify the Product so that it is no longer infringing, (ii) obtain a license with respect to the applicable intellectual property rights, or (iii) accept the return of each such Product purchased by Buyer hereunder (except for contaminated Products that, in FIDA's discretion, cannot be safely returned to FIDA) and in Buyer's possession and control, and provide to Buyer a refund of the price paid by Buyer to FIDA therefor, subject to reasonable deductions for damage and amortized on a straight line basis over five (5) years from original delivery to Buyer. FIDA will have no liability or obligation with respect to any alleged infringement occurring after the date FIDA makes any such remedy available to Buyer.

10.4 Exclusive Obligation. Notwithstanding any other provision, the foregoing Sections 10.1-10.3 state FIDA's sole liability and obligation, and Buyer's exclusive remedy, arising out of any actual or alleged intellectual property infringement of any kind, or any actual or alleged breach of any representation or warranty (statutory, express or implied) regarding noninfringement, anywhere in the world. To the extent Buyer's Terms (if applicable) include any terms different from, or in addition to, those set forth above regarding indemnification by FIDA for intellectual property infringement claims, then such additional or different indemnity terms shall be void and of no effect. To the extent Buyer's Terms (if applicable) include any terms regarding any other type of indemnification by FIDA, then such other indemnity terms shall be void and of no effect.

10.5 Indemnification of FIDA. Buyer agrees to defend FIDA against any Claim (i) to the extent the Claim alleges infringement of any patent, copyright, or other intellectual property right as a result of any Excluded Cause, or (ii) that arises in connection with Buyer's use of Products (a) for any clinical purpose or application, (b) in violation of any applicable law or regulation, or (c) in the provision of services under any 'fee for service' agreement or other arrangement. Buyer will pay all damages awarded, and settlements approved by Buyer, in connection therewith, provided that (i) FIDA provides to Buyer written notice of the Claim within thirty (30) days of receipt by FIDA of such Claim, or such earlier time as required to avoid prejudice to Buyer or its ability to defend such Claim, (ii) FIDA allows Buyer to control the defense and settlement of the Claim, and (iii) FIDA provides to Buyer reasonable assistance in connection therewith, at no charge to Buyer. FIDA may employ counsel at its own expense to assist it with respect to any such Claim, provided that this shall not obligate Buyer or its counsel to consult with or advise such FIDA counsel, nor affect Buyer's control of the defense and settlement of the Claim. If Buyer is a U.S. state, city, town or other municipality, or a public university, college or other not-for-profit institution chartered under the laws of a U.S. state, this section shall apply to the maximum extent permitted by applicable law. This section shall not apply if Buyer is an agency of the U.S. Government; in such

case, Buyer's liability shall be limited by the Federal Tort Claims Act, 28 USC 2671, et seq.

10.6 Insurance. To the extent Buyer's Terms (if applicable) require FIDA to maintain insurance coverage beyond the following levels, then such additional or different insurance terms shall be void and of no effect: (i) \$1,000,000 per occurrence commercial general liability; (ii) \$1,000,000 per accident combined single limit automobile liability; and (iii) statutory workers' compensation and \$1,000,000 per accident of employers' liability insurance. If requested in writing by Buyer, FIDA shall provide Buyer with a certificate of insurance evidencing the coverage required above, naming the Buyer as an additional insured only under FIDA's commercial general liability insurance policy, and providing for thirty (30) days' prior written notice to Buyer only in the event of cancellation and non-renewal of any such policy.

11. BUYER IMPROVEMENT PATENTS. Buyer agrees to make available to FIDA, under commercially reasonable and non-discriminatory pricing and terms, a nonexclusive license to Product Improvement Patents. For this purpose, "Product Improvement Patents" means all patent rights (including similar rights like utility models) on inventions conceived or reduced to practice by or for Buyer that arise out of the use of Products and which relate to (a) use, development, design, manufacturing, layout or packaging of any Products, and/or the use of Products with Fidabio Consumables or other chips and/or reagents; (b) interfaces between any Products and other devices, such as optical/detection systems, and robotics for use in connection with any Products; or (c) automated analysis techniques (e.g., computers, software) relating to the extraction of data from any Products and storing such data, for example, in a computer file or other storage media (such inventions, "Product Improvement Inventions"). Product Improvement Inventions shall not include data resulting from using Products (e.g., results of assays or sequencing using Products) or discoveries derived from such data (except to the extent covered by (a), (b) or (c) above). For purposes of this section, the term "Buyer" shall include all persons that Buyer permits to use the Products, irrespective of being legal employees of Buyer, and Buyer shall have the necessary agreements in effect with all such users and their employers to enable Buyer to comply with this section.

12. MISCELLANEOUS

12.1 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by first class mail (registered or certified if available; air mail if overseas), postage prepaid, or otherwise delivered by hand, commercial courier service, messenger or teletype, addressed to the addresses listed in the Quotation (or to Buyer's address listed in its purchase order) or at such other address furnished with a notice in the manner set forth herein. Such notices shall be deemed to have been effective when delivered or, if delivery is not accomplished by reason of some fault or refusal of the addressee, when tendered (which tender, in the case of mail, shall be deemed to have occurred upon posting, and in the case of teletype (fax), shall be deemed to have occurred upon transmission). All notices shall be in English.

12.2 Governing Law and Venue. This Agreement and any disputes arising out of or relating to this Agreement (including its formation or termination) or FIDA's goods, software or related services ("Disputes")

shall be governed by and interpreted in accordance with the laws of Denmark, excluding in all cases choice of law provisions and excluding the United Nations Convention on Contracts for the International Sale of Goods. Disputes shall be resolved by final and binding arbitration under the rules and auspices of The ICC Court of Arbitration with venue in Copenhagen, in English language proceedings, provided however, that either party may seek injunctive relief (including preliminary and permanent injunctive relief) before any court of competent jurisdiction. Any specification in Buyer's Terms (if applicable) of a different legal forum or venue for resolution of disputes between the parties shall be deemed non-exclusive, notwithstanding any provision in Buyer's Terms to the contrary.

12.3 Severability. If any section, paragraph, provision or clause or any portion thereof in this Agreement shall be found or be held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, the remainder of this Agreement shall be valid and enforceable, and the parties shall negotiate, in good faith, a substitute, valid and enforceable provision which most nearly effects the parties' intent in entering into this Agreement.

12.4 Force Majeure. Except for the payment of money, neither party shall be liable to the other party for any failure or delay in the performance of any of its obligations under this Agreement for the period and to the extent such failure or delay is caused by civil unrest, threat of or actual acts of terrorism or war, embargoes, governmental actions, acts of God, earthquakes, floods, storms, fires, supplier delay, accidents, explosions, epidemics, quarantine restrictions, or other such contingencies beyond the reasonable control of the applicable party ("Force Majeure"). The party affected shall notify the other party as soon as practicable of any anticipated delay due to Force Majeure.

12.5 No Third Party Beneficiaries. This Agreement has been made and is made solely for the benefit of FIDA and Buyer and their respective permitted subsidiaries, successors and assigns. Except as set forth in Section 8.2 (with respect to Suppliers), nothing in this Agreement is intended to (i) confer any rights or remedies under or by reason of this Agreement on any persons or entity other than the parties to this Agreement and their respective permitted successors and assigns; or (ii) relieve or discharge the obligation or liability of any third persons or entities to any party to this Agreement.

12.6 General. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The English language shall govern the meaning and interpretation of this Agreement. This Agreement (including without limitation all exhibits hereto and all attachments thereto, which are incorporated herein by this reference as though fully set forth in the body of this Agreement) embodies the final and complete understanding of the parties with respect to the subject matter hereof, superseding all prior oral or written communications between them, and neither of the parties shall be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof other than as expressly provided herein. Each party acknowledges that it has not entered into this Agreement in reliance on any statement or representation not expressly set out herein. No oral explanation or oral information by either party hereto shall alter the meaning or interpretation of this Agreement.