

**IOWA STATE UNIVERSITY**  
**FEE FOR TECHNICAL SERVICES AGREEMENT**  
**GENOMIC TECHNOLOGIES FACILITY**

To obtain Technical Services from the Genomic Technologies Facility of the Iowa State University Office of Biotechnology (hereinafter "UNIVERSITY"), CUSTOMER hereby agrees to the following Terms and Conditions:

**1. Scope of Work Description** The UNIVERSITY will perform Technical Services as described in the appropriate submission form requesting certain analytical services from the Genomic Technologies Facility.

**2. Term** The UNIVERSITY will complete the Technical Services in a reasonable and timely manner.

**3. Compensation** CUSTOMER agrees to compensate UNIVERSITY according to the current Fees for Services Schedule posted on the Genomic Technologies website: <http://www.plantgenomics.iastate.edu/fees.php> to cover the cost of all direct labor, supervision, supplies, materials, and other operating and incidental expenses necessary for the satisfactory completion of the Technical Services. UNIVERSITY agrees to provide CUSTOMER with an invoice for the Technical Services completed at the request of CUSTOMER. UNIVERSITY reserves the right to require CUSTOMER to prepay, submit a deposit prior to providing Technical Services or send a monthly or periodic invoice.

**4. Payments**

- . a) Payment shall be made by CUSTOMER to UNIVERSITY promptly within thirty (30) days of receipt of an invoice.
- . b) Payment shall be submitted to UNIVERSITY at the following address: ISU Treasurer's Office 1220 Beardshear Hall Iowa State University Ames, IA 50011-2044.
- . c) Each payment must reference the CUSTOMER Account Number shown on the invoice.
- . d) Off-campus CUSTOMERS may make payment by credit card (MasterCard or Visa only) after making arrangements with the Genomic Technologies Facility.

- . e) On-Campus CUSTOMERS must use the ISU Intramural payment process.

**5. Failure to Pay** If payment is not received from CUSTOMER when due, the full account balance may be accelerated. UNIVERSITY may also impose a FINANCE CHARGE computed at a periodic monthly rate of 1% per month on the balance or an ANNUAL PERCENTAGE RATE (APR) of 12% when computed from the billing date. The unpaid account may be referred for collection, and CUSTOMER agrees to pay all collection costs and reasonable attorney's fees if UNIVERSITY must take action to recover any past due amounts owing the UNIVERSITY. UNIVERSITY reserves the right under Iowa Code Section 421.17(27) to offset any and all Iowa State Tax Refunds, Lottery Winnings or Vendor Payments.

**6. Duties of UNIVERSITY** UNIVERSITY shall provide facilities, including office, laboratory, equipment and field space, required for the Technical Services to be completed under this Agreement. The UNIVERSITY shall provide reasonable efforts to perform the Technical Services requested. In the event the services cannot be performed within a reasonable time or due to circumstances beyond the control of the UNIVERSITY, UNIVERSITY will notify CUSTOMER as soon as reasonably possible. CUSTOMER shall have the option of terminating this Agreement with reimbursement to UNIVERSITY for its reasonable costs to the date of termination or continuing the Technical Services.

**7. NO WARRANTY** The results of the Technical Services completed under this Agreement are believed to be reliable, but no representations, guarantees or warranties of any kind are made as to the accuracy, suitability for particular applications or the results to be obtained. CUSTOMER should determine independently whether results obtained from the Technical Services completed under this Agreement are suitable for the particular use intended by the CUSTOMER. UNIVERSITY DOES NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**8. Ownership Rights** All results provided to CUSTOMER by UNIVERSITY under the terms of this Agreement shall become the sole property of CUSTOMER at the conclusion of this Agreement. Any improvements of methodology, discoveries, inventions, copyrightable work, equipment, or process developed solely by UNIVERSITY during the course of this service, and which can be used independently of this service, shall be the sole property of UNIVERSITY.

**9. Liability** Each party agrees to accept the responsibility for claims for injury or damage to any person or persons or property that arise solely out of that party's negligent acts or omissions in connection with this service. Each party further agrees that the other party shall not be liable for damages arising solely from injuries or damages sustained by any person or persons or property resulting from its own negligent performance or omission under this Agreement.

**10. Nature of Relationship** UNIVERSITY is an independent contractor and shall not act as an agent for CUSTOMER, nor shall UNIVERSITY be deemed to be an employee of CUSTOMER for any purposes whatsoever. UNIVERSITY shall not enter into any agreement or incur any obligations on CUSTOMER'S behalf, or commit CUSTOMER in any manner without CUSTOMER'S prior written consent.

**11. No Expert Testimony** CUSTOMER warrants that services are not sought for the purposes of admitting the results as evidence in litigation. CUSTOMER acknowledges that Iowa State University does not provide expert witness services. CUSTOMER agrees not to call any Iowa State University employee as an expert witness as a result of the Technical Services rendered under this Agreement.

**12. Confidential Material** "CONFIDENTIAL MATERIAL" will include CUSTOMER's trade secrets, pending patent applications, invention disclosures, blue prints, documents, spreadsheets, engineering specification, models, customers, suppliers, distributors, licensees, marketing studies, profits, costs, pricing, tooling, process descriptions, manufacturing processes, and all other material, CUSTOMER provides to UNIVERSITY and labels as "CONFIDENTIAL" in writing at the time of disclosure, or if given orally and disclosed as CONFIDENTIAL and reduced to writing and labeled as "CONFIDENTIAL" within 30 days of disclosure.

The obligations set forth in this Agreement apply to all or any part of any Confidential Material provided after the effective date of this Agreement, and shall exist for a period not to exceed three (3) years from the date of providing your submission form, except to the extent that the UNIVERSITY can show that the Confidential Information:

- A. Was rightfully possessed by the UNIVERSITY prior to its receipt from CUSTOMER;
- B. Was already available in the public domain through no fault of UNIVERSITY;

- C. Was subsequently disclosed to UNIVERSITY by a third party that has the right to disclose it to UNIVERSITY free of any obligations of confidentiality;
- D. Was independently developed and legally obtained from third parties, and is not obtained, developed or disclosed in violation of this Agreement or applicable law.

**13. Publicity and Use of Name** The CUSTOMER agrees it will not use, directly or by implication, the name or trademarks of the Iowa State University or the name of any of its employees in any statements, information, publicity or advertising of any nature including endorsements, without the prior written consent of the UNIVERSITY.

**14. Force Majeure** UNIVERSITY shall not be liable for damages if its performance of any obligation under this Agreement is prevented or delayed by causes beyond its reasonable control such as: lightning, fire, explosion, pest damage, strikes or labor disputes, floods, acts of God, war, terrorism, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel, or energy shortages, acts or omissions of communications carriers, unauthorized use of the products, or other causes beyond the UNIVERSITY'S reasonable control whether or not similar to the foregoing.

**15. Termination** Either party may terminate this Agreement provided the other party receives written notification thirty (30) days prior to the proposed termination date. In the event of termination, UNIVERSITY shall be paid for all services completed and non-cancelable obligations incurred prior to the date of termination.

**16. Assignment** This Agreement may not be assigned or transferred by either party without the prior written consent of the other party.

**17. Severability** If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein.

**18. Entirety of Agreement** This document, together with attachments, constitutes the entire agreement between UNIVERSITY and the CUSTOMER with respect to this Agreement. Any modification of this Agreement shall be in writing and shall be signed by both parties.

CUSTOMER agrees that any terms and conditions contained in any purchase order or other documents submitted by CUSTOMER are invalid and unenforceable.

19. **Governing Law** This Agreement shall be governed by the laws of the State of Iowa and any disputes arising under it shall be instituted in the appropriate courts in the State of Iowa.