

## Phase Genomics Terms of Use

**Last Updated Date: February 5th, 2024**

Welcome to Phase Genomics! Phase Genomics, Inc. (the “**Company**” or “**we**”) provides genomic researchers with the ability to extraordinarily complete genome assemblies from tissue samples via our SaaS-based Proximity-Guided Assembly technologies, Proximo™ Hi-C Genome Assembly (the “**Services**”). This Terms of Use agreement (“**Terms of Use**”) describes the rights and limitations that accompany the use of our Services, and forms a binding agreement between you and the Company. Please read these Terms of Use carefully.

**RESEARCH AND ACADEMIC PURPOSES ONLY: THE SERVICES ARE INTENDED FOR RESEARCH AND ACADEMIC PURPOSES ONLY. THE SERVICES ARE NOT DESIGNED OR APPROVED FOR CLINICAL USE.**

BY ACCESSING OR USING THIS WEBSITE OR ANY OTHER WEBSITES OF THE COMPANY, ITS AFFILIATES OR AGENTS (COLLECTIVELY, THE “**WEBSITE**”) IN ANY WAY, INCLUDING USING THE SERVICES, CLICKING ON THE “I ACCEPT” BUTTON, AND/OR COMPLETING THE REGISTRATION PROCESS, YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE TERMS OF USE, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH THE COMPANY, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE TERMS OF USE PERSONALLY OR ON BEHALF OF THE INSTITUTION OR COMPANY YOU HAVE NAMED AS THE USER, AND TO BIND THAT INSTITUTION OR COMPANY TO THE TERMS OF USE. THE TERM “**YOU**” REFERS TO THE INDIVIDUAL OR LEGAL ENTITY, AS APPLICABLE, IDENTIFIED AS THE USER WHEN YOU REGISTERED ON THE WEBSITE. **IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF USE, YOU MAY NOT ACCESS OR USE THIS WEBSITE OR THE SERVICES.**

**THE TERMS OF USE INCLUDE A CLASS ACTION WAIVER AND A WAIVER OF JURY TRIALS, AND REQUIRE BINDING ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES.**

**THE TERMS OF USE LIMIT THE REMEDIES THAT MAY BE AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.**

Your use of, and participation in, certain Services may be subject to additional terms (“**Supplemental Terms**”), which Supplemental Terms will either be included in the quote we provide to you for the Services that you request or otherwise provided by Company to you. If the Terms of Use are inconsistent with the Supplemental Terms, the Supplemental Terms shall control with respect to such Service. The Terms of Use and any applicable Supplemental Terms are referred to herein as the “**Terms.**” The Terms commence on the date when you accept them and remain in full force and effect while you use Company Properties

PLEASE NOTE THAT THE TERMS ARE SUBJECT TO CHANGE BY THE COMPANY IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, the Company will make a new copy of the Terms of Use available at the Website, indicated by the change in the “Last Updated” date at the top of the Terms of Use. The Company may require you to provide consent to the updated Terms of Use in a specified manner before further use of the Website and/or the Services is permitted. If you do not agree to any change(s) after receiving a notice of

such change(s), you shall stop using the Website and the Services. Otherwise, your continued use of the Website and/or Services constitutes your acceptance of change(s) to the Terms. PLEASE REGULARLY CHECK THE WEBSITE TO VIEW THE THEN-CURRENT TERMS OF USE.

1. **How Our Services Work.** Our Services may be accessed in one of two ways: (a) you purchase a DNA library kit from the Company (each, a “**Kit**”), run the test provided in the Kit on the tissue samples at issue, and upload the results of the test (the “**Test Results**”) to our Services; or (b) you provide the tissue samples to the Company and we run the test on the samples using the Kit and upload the Test Results to our Services.
  1. Use of the Services and Company Properties. The Website, the Services, and the information and content available on the Website and the Services (collectively, the “**Company Properties**”) are protected by copyright laws throughout the world.
  2. Access to Services. Subject to the Terms, the Company hereby grants you a non-exclusive, non-transferable, non-sublicensable, license to access and use the Services for research and academic use purposes only until such time as the Services are terminated as set forth below.
  3. Updates. You understand that Company Properties are evolving. You acknowledge and agree that Company may update Company Properties with or without notifying you. You may need to update third-party software from time to time in order to use Company Properties.
  4. Certain Restrictions. The rights granted to you in the Terms are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit Company Properties or any portion of Company Properties, (b) you shall not frame or utilize framing techniques to enclose any trademark, logo, or other properties (including images, text, page layout or form) of the Company; (c) you shall not use any metatags or other “hidden text” using the Company’s name or trademarks; (d) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of Company Properties except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages contained in the Website (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website for the sole purpose of, and solely to the extent necessary for, creating publicly available searchable indices of the materials, but not caches or archives of such materials); (f) you shall not access Company Properties in order to build a similar or competitive website, application or service; (g) except as expressly stated herein, no part of Company Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (h) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in Company Properties. Any future release, update or other addition to Company Properties shall be subject to the Terms. The Company, its suppliers and service providers reserve all rights not granted in the Terms. Any unauthorized use of Company Properties terminates the licenses granted by the Company to you pursuant to the Terms.
2. **Account Registration.**

1. Registering Your Account. In order to access certain features of Company Properties you may be required to become a Registered User. For purposes of the Terms, a “**Registered User**” is an end user who has registered an account on the Website (“**Account**”).
  2. Registration Data. In registering for the Services, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the registration form (the “**Registration Data**”); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You represent that you are (i) of legal age to form a binding contract; and (ii) not a person barred from using Company Properties under the laws of the United States, your place of residence or any other applicable jurisdiction. If you provide any information that is untrue, inaccurate, not current or incomplete, or the Company has reasonable grounds to suspect that any of the information is untrue, inaccurate, not current or incomplete, the Company has the right to suspend or terminate your Account and refuse any and all current or future use of Company Properties (or any portion thereof) by you.
  3. Responsibilities for Your Account. You are responsible for all activities that occur under your Account. You shall not share your Account or password with anyone, and you agree to (a) notify the Company immediately of any unauthorized use of your password or any other breach of security; and (b) exit from your Account at the end of each session.
3. **Responsibility for Test Results and Outputs.**
1. Test Results. In the event you purchase the Kit to develop the Test Results, you must provide all equipment and facilities necessary for such use. You agree that you, not the Company, are responsible for all of the Test Results that are transmitted, uploaded, provided, or otherwise made available on Company Properties (“**Made Available**”), regardless of whether you or the Company is the party that Made Available the Test Results.
  2. No Obligation to Pre-Screen. You acknowledge that the Company has no obligation to pre-screen, including to verify the accuracy, completeness or efficacy of, any Test Results.
  3. Storage. Unless expressly agreed to by the Company in writing, the Company has no obligation to store any of the Test Results that are Made Available. The Company has no responsibility or liability for the deletion or accuracy of any Test Results; the failure to store, transmit or receive transmission of Test Results; or the security, privacy, storage, or transmission of other communications originating with or involving use of Company Properties.
  4. Accuracy of Outputs. The Service is designed to enable you to create complete genomes from Test Results uploaded to the Services (“**Outputs**”). All Outputs provided to you are based on the Test Results. As such, you acknowledge and agree that the Outputs are wholly dependent upon the accuracy and completeness of the Test Results, whether any contaminants are/were present in the Test Results, as well as any actions, instructions or other inputs taken or provided by you on the Service. Company makes no warranty, representation, endorsement or guarantee regarding, and accepts no responsibility for, the quality, content, nature or reliability of any Outputs. COMPANY DISCLAIMS ANY AND ALL WARRANTIES OF ACCURACY RELATING TO ANY OUTPUTS.
- 4.
1. Company Properties. Except with respect to Test Results, you agree that Company and its suppliers own all rights, title and interest in Company Properties. You will not remove, alter or obscure any copyright, trademark,

service mark or other proprietary rights notices incorporated in or accompanying the Website, the Services, or Company Properties.

2. License to Company. By agreeing to the Terms and using the Company Properties, you grant Company a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive and fully sublicensable right and license to (a) use the Test Results and Outputs for the purposes of operating and providing the Services, and (b) use the Test Results and Outputs in perpetuity on an anonymized basis for any purpose, without any compensation to you. You represent and warrant that you own or otherwise have all rights necessary to grant this license to Company.
3. Feedback. You agree that submission of any ideas, suggestions, documents, and/or proposals to Company through its suggestion, feedback, wiki, forum or similar pages (“**Feedback**”) is at your own risk and that Company has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Company a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of Company Properties.

## 5. Fees and Purchase Terms.

1. Payment. You agree to pay all fees or charges to your Account in accordance with the fees, charges and billing terms in effect at the time a fee or charge is due and payable. You must provide Company with an appropriate payment method (via PayPal or valid credit card) (“**Payment Provider**”) or purchase order information (each, a “**Payment Method**”) as a condition to purchasing a Kit or signing up for the Services. By providing Company with your payment information (credit card number, etc.), you agree that Company is authorized to immediately charge your Payment Method for all fees and charges due and payable by you to Company hereunder and that no additional notice or consent is required. You agree to immediately notify Company of any change in your billing address or the credit card used for payment hereunder. Company reserves the right at any time to change its prices and billing methods by (a) changing these Terms, (b) communicating such changes to you via Company Properties, or (c) by e-mail to you.
2. Prices and Taxes. Kit prices are identified on the on-line order form at the time of your order placement and are in United States Dollars (US\$). Company may change prices for its Kits and its Services at any time without notice. Prices do not include charges for applicable taxes. The on-line order form or quotation provided by Company to you provides an estimate of applicable tax charges. Actual charges may vary and will be reflected on the documentation provided by your Payment Provider for Kit(s) and/or Services purchased from the Website. Unless you provide the Company with a valid tax exemption certificate applicable to the Kit ship-to location prior to Company’s acceptance of the order, you are responsible for sales and all other taxes associated with the order.
3. Order Processing. Barring problems processing your payment, orders are typically processed the same day as entered. Orders placed on the Website are not binding until accepted by the Company, via e-mail order confirmation or otherwise in writing. Orders for Kits purchased on the Website are subject to the

Company's prior review and approval of your credit card, and, if you are a business (i.e. not an individual consumer), your tax/VAT number.

4. **Service Fees.** You will be responsible for payment of the applicable fees for any Services you order at the time you select such Services. Except as set forth in the Terms, all fees for the Services are non-refundable. No contract will exist between you and Company for the Services until Company accepts your order by a confirmatory e-mail, SMS/MMS message, or other appropriate means of written communication.
  5. **Withholding Taxes.** You agree to make all payments of fees to Company free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments of fees to Company will be your sole responsibility, and you will provide Company with official receipts issued by the appropriate taxing authority, or such other evidence as we may reasonably request, to establish that such taxes have been paid.
  6. **Free Trials and Other Promotions.** Any free trial or other promotion that provides access to the Services as a Registered User must be used within the trial-specified timeframe. At the end of the trial period, your use of that Service will expire and any further use of the Service is prohibited unless you pay the applicable fees for such Service. If you are inadvertently charged for any Service fees during your trial or promotional access, please contact Company to have the charges reversed.
  7. **Disputes.** If you dispute any Company charges on your credit card statement, you must notify us in writing within seven (7) days after receiving your credit card statement or such dispute will be deemed waived. Billing disputes should be made to the following address: Phase Genomics, 1617 8<sup>th</sup> N., Seattle, WA 98109.
6. **Product Availability, Delivery Dates, Title and Risk of Loss.** The Company does not guaranty the availability, for sale or otherwise, of any Kits depicted on this Website. Kit availability may be limited, and Kits may not be available for immediate shipment at the time an order is placed. The Company may restrict or limit quantities. For all Kits, title and risk of loss for such Kits pass from the Company to you upon shipment of the Kit. The Company reserves the right, without liability or prior notice, to revise, discontinue or cease to make available certain Kits or to cancel any order. The Company may ship Kits that have the functionality and performance of the Kits ordered, but changes between what is shipped and the specifications described on the Website pages are possible.
7. You agree to indemnify and hold Company, its parents, subsidiaries, affiliates, officers, employees, agents, partners and licensors (collectively, the "**Company Parties**") harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of: (a) your Test Results; (b) your use of, or inability to use, Company Properties or Outputs; (c) your violation of the Terms; (d) your violation of any rights of another party; or (e) your violation of any applicable laws, rules or regulations. Company reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Company in asserting any available defenses. You agree that the provisions in this section will survive any termination of your Account, the Terms or your access to Company Properties.
  8. **Disclaimer of Warranties and Conditions.**
    1. **As Is.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF A KIT OR COMPANY PROPERTIES IS AT YOUR SOLE RISK, AND COMPANY PROPERTIES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS.

COMPANY PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

- THE COMPANY PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) COMPANY PROPERTIES WILL MEET YOUR REQUIREMENTS; (2) YOUR USE OF COMPANY PROPERTIES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (3) THE RESULTS THAT MAY BE OBTAINED FROM YOUR USE OF COMPANY PROPERTIES WILL BE ACCURATE OR RELIABLE; OR (4) ANY ERRORS IN COMPANY PROPERTIES WILL BE CORRECTED.
- ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH COMPANY PROPERTIES IS ACCESSED AT YOUR OWN RISK, AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY OR PERSON, INCLUDING, BUT NOT LIMITED TO, YOUR COMPUTER SYSTEM AND ANY DEVICE YOU USE TO ACCESS COMPANY PROPERTIES, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH CONTENT.
- THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. COMPANY MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES.
- NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM COMPANY OR THROUGH COMPANY PROPERTIES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.
- FROM TIME TO TIME, THE COMPANY MAY OFFER NEW “BETA” FEATURES OR TOOLS WITH WHICH ITS USERS MAY TEST THE NEW FEATURES OR TOOLS. SUCH NEW FEATURES OR TOOLS ARE OFFERED SOLELY FOR BETA-TESTING PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT COMPANY’S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

2. Not Intended For Clinical Use. The Services are designed to provide Outputs appropriate for research and academic use purposes, and are not intended or implied to be appropriate for clinical uses or as a substitute for professional medical advice, diagnosis or treatment. All Outputs are intended for research and academic purposes only. The Company makes no representation and assumes no responsibility for the accuracy of any Outputs. Your use of any such information is entirely at your own risk.

#### 9. **Limitation of Liability.**

1. Disclaimer of Certain Damages. YOU UNDERSTAND AND AGREE THAT IN NO EVENT SHALL COMPANY PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH A KIT, COMPANY PROPERTIES OR OUTPUTS, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES,

OR PERSONAL OR PROPERTY DAMAGE OR EMOTIONAL DISTRESS, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE TERMS, OR FROM ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF KITS, COMPANY PROPERTIES OR OUTPUTS, ON ANY THEORY OF LIABILITY, RESULTING FROM: (1) THE USE OR INABILITY TO USE OUTPUTS OR COMPANY PROPERTIES; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH COMPANY PROPERTIES; (3) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (4) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON COMPANY PROPERTIES; OR (5) ANY OTHER MATTER RELATED TO COMPANY PROPERTIES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY.

2. Cap on Liability. UNDER NO CIRCUMSTANCES WILL COMPANY PARTIES BE LIABLE TO YOU FOR MORE THAN THE AMOUNT RECEIVED BY COMPANY DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT(S) GIVING RISE TO LIABILITY HEREUNDER.
3. Basis of the Bargain. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN COMPANY AND YOU.

#### **10. Termination of Services.**

1. Termination of Services by Company. (a) If we do not receive payment for any reason, (b) if you have materially breached any provision of the Terms, or (c) if Company is required to do so by law (e.g., where the provision of the Services is, or becomes, unlawful), Company has the right to, immediately and without notice, suspend or terminate any Services provided to you. You agree that all terminations for cause shall be made in Company's sole discretion and that Company shall not be liable to you or any third party for any termination of your Account.
2. Termination of Services by You. If you want to terminate the Services provided by Company, you may do so by (a) notifying Company in writing, and (b) closing your Account for all of the Services that you use. Your notice should be sent to Company's address set forth below.
3. Effect of Termination. Termination of any Service includes removal of access to such Service and barring of further use of the Service. Termination of all Services also includes deletion of your password and all related information, files and Outputs associated with or inside your Account (or any part thereof). Upon termination of any Service, your right to use or access such Service will automatically and immediately terminate. You understand that any termination of Services may involve deletion of Outputs associated therewith from our live databases. Company will not have any liability whatsoever to you for any suspension or termination, including for deletion of Outputs. All provisions of the Terms which by their nature should survive, shall survive termination of Services, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.

#### **11. General Provisions.**

1. Electronic Communications. The communications between you and Company use electronic means, whether you visit Company Properties or send Company e-mails, or whether Company posts notices on Company Properties or communicates with you via e-mail. For contractual purposes, you (a) consent to receive communications from Company in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights.
2. Assignment. The Terms, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Company's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.
3. Force Majeure. Company shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes, pandemics, or shortages of transportation facilities, fuel, energy, labor or materials.
4. Questions, Complaints, Claims. If you have any questions, complaints or claims with respect to Company Properties, please contact us at: support@phasegenomics.com. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.
5. Governing Law. The Terms and any action related thereto will be governed and interpreted by and under the laws of the State of Washington consistent with the Federal Arbitration Act, without giving effect to any principles that provide for the application of the law of another jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms.
6. Choice of Language. It is the express wish of the parties that the Terms and all related documents have been drawn up in English.
7. Headings and Captions. Headings and captions used in the Terms are to facilitate reference only and shall not in any way affect interpretation.
8. Status of Parties. The Terms are not intended to create, nor shall it be construed to be, a joint venture, association, partnership, franchise, or other form of business relationship. Neither party shall have, nor hold itself out as having, any right, power or authority to assume, create, or incur any expenses, liability, or obligation on behalf of the other party, except as expressly provided herein.
9. No Third-Party Beneficiary. There are no intended third-party beneficiaries to the Terms.
10. Use of Names. Neither party will use the name or logo of the other party for any purpose without the other party's prior written approval.
11. Notice. Where Company requires that you provide an e-mail address, you are responsible for providing Company with your most current e-mail address. In the event that the last e-mail address you provided to Company is not valid, or for any reason is not capable of delivering to you any notices required/permitted by the Terms, Company's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Company at the following address: Phase Genomics, 1617 8<sup>th</sup> N., Seattle, WA 98109. Such notice shall be deemed given when received by Company by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.



12. Waiver. Any waiver or failure to enforce any provision of the Terms on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
  13. Severability. If any provision of the Terms is, for any reason, held to be invalid or unenforceable, the other provisions of the Terms will remain enforceable, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.
  14. Consumer Complaints – FOR USERS IN CALIFORNIA. In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.
  15. Entire Agreement. The Terms are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.
12. **Dispute Resolution – Agreement to Arbitrate**. *Please read this “**Arbitration Agreement**” carefully. It is part of your contract with the Company and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.*
1. *Applicability of Arbitration Agreement*. All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms or the use of any product or service provided by Company that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this Arbitration Agreement. All arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and Company, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under the Terms.
  2. *Notice Requirement and Informal Dispute Resolution*. Before either party may seek arbitration, the party must first send to the other party a written Notice of Dispute (“**Notice**”) describing the nature and basis of the claim or dispute, and the requested relief. A Notice to Company should be sent to: Phase Genomics, 1617 8<sup>th</sup> N., Seattle, WA 98109. After the Notice is received, you and Company may attempt to resolve the claim or dispute informally. If you and Company do not resolve the claim or dispute within thirty (30) days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.
  3. *Arbitration Rules*. Arbitration shall be initiated through JAMS, an established alternative dispute resolution provider (“**ADR Provider**”). If JAMS is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider (“**Arbitration Rules**”) shall govern all aspects of the arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with the Terms. The arbitration shall be conducted by a single, neutral arbitrator. Any claims or disputes where the total amount of the award sought is less than Ten Thousand U.S. Dollars (US\$10,000.00) may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount of the award sought is Ten Thousand U.S. Dollars

(US\$10,000.00) or more, the right to a hearing will be determined by the Arbitration Rules. Any hearing will be held in Seattle, Washington. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Each party shall bear its own costs (including attorneys' fees) and disbursements arising out of the arbitration and shall pay an equal share of the fees and costs of the ADR Provider.

4. *Additional Rules for Non-Appearance Based Arbitration.* If non-appearance based arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise agreed by the parties.
5. *Authority of Arbitrator.* If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and Company, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the Arbitration Rules, and the Terms. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and Company.
6. *Waiver of Jury Trial.* THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in a court and are subject to very limited review by a court. In the event any litigation should arise between you and Company in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND COMPANY WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.
7. *Waiver of Class or Consolidated Actions.* ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If, however, this waiver of class or consolidated actions is deemed invalid or unenforceable with respect to a particular claim or dispute, then notwithstanding anything to the contrary in this Arbitration Agreement or Terms, neither you nor Company is entitled to arbitration of such claim or dispute. Instead, all such claims and disputes will then be resolved in a court as set forth in subsection 15 below).
8. *Confidentiality.* All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This subsection 8 shall not prevent a party from submitting to a court of law any information necessary to enforce this Agreement, to enforce an arbitration award, or to seek injunctive or equitable relief.

9. *Severability*. If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Agreement shall continue in full force and effect.
10. *Right to Waive*. Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.
11. *Survival of Agreement*. This Arbitration Agreement will survive the termination of your relationship with Company.
12. *Small Claims Court*. Notwithstanding the foregoing, either you or Company may bring an individual action in small claims court.
13. *Emergency Equitable Relief*. Either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.
14. *Claims Not Subject to Arbitration*. Claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark or trade secrets shall not be subject to this Arbitration Agreement.
15. In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located within King County, Washington, for such purpose.

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### Phase Genomics Supplemental Terms

These Supplemental Terms ("**Supplemental Terms**") are additional terms applicable to the Services purchased by you from Phase Genomics, Inc. ("**Company**" or "**us**") pursuant to the quote ("**Quote**") to which these Supplemental Terms are included, and are in addition to the Terms of Use agreement ("**Terms of Use**") on Company's Website. Capitalized terms used in these Supplemental Terms but not defined herein shall have the meanings given in the Terms of Use. In the event of a conflict between these Supplemental Terms and the Terms of Use, these Supplemental Terms will control.

#### 1. **Scope of Services.**

1. **Services**. Company will perform the services set forth in the Quote ("**Services**"). If applicable, additional requirements for Proximo Hi-C Genome Scaffolding Services are set forth below. Requirements regarding Materials to be provided by you, Services and deliverables for which Company is responsible, and payment terms for any additional Services (such requirements, "**Additional Service Requirements**") may be mutually agreed to between you and Company.
2. **Materials**.
  - a. You will send to Company the materials specified below and/or in any Additional Service Requirements (collectively, the "**Materials**") for the Proximo Hi-C Genome Scaffolding Services, or any other Services, as applicable.

- b. All packaging, shipping and transport costs are your sole responsibility. The Materials will be delivered promptly to Company using overnight or two-day shipping on ice or frozen to: Phase Genomics, 1617 8<sup>th</sup> N., Seattle, WA 98109, or such other address as designated by Company. If a FASTA file (the Test Results) is to be provided by you, you may deliver such file in any typical method (e.g., over the internet).
    - c. Company must receive delivery of the Material during our regular business hours, which are Monday through Friday (excluding holidays in the State of Washington) between 9 AM and 5 PM Pacific Time.
    - d. Company will use the Materials solely for performing the Services under these Supplemental Terms and for no other purpose.
    - e. When the Services are completed, and upon your written request, we will return any remaining Materials to you. Notwithstanding the foregoing, all samples will be destroyed 6 months after our receipt unless other arrangements are specifically made with us.
3. **Deliverables**. Company will provide you the deliverables (Test Results and Outputs) described below or in the Additional Service Requirements based on the type of Services.
4. **Remedies**.
  - a. If the quantity or quality of any received Material is insufficient for Company's performance of the Services and provision of the corresponding Output, the only remedy available to you is Company's re-performance of the Services on another aliquot of such Material that meets the identified quality and quantity requirements. Our re-performance obligation is limited to only one repeat of the Services per a given Material.
  - b. If, upon inspection, Company determines that a given Material has insufficient quantity or quality to perform the Services and provide the corresponding Output, Company will not commence performance of the Services and will notify you in writing of the insufficiency of such Material. In our sole discretion, we may refund a portion of the payments received from you for the Services, if re-performance of the Services for such Material is not possible or is not requested by you.
5. **Fees and Payments**.
  - a. **Fees**. You will pay us the amounts set forth in the Quote.
  - b. **Payment Schedule**. Payments for all Services are pursuant to the payment schedule in the Quote. Company may, but will not be required to, submit an invoice to you for any amounts due unless otherwise agreed to in writing by the parties. In the event an invoice is required, payment is due within 30 days of your receipt of the invoice.
  - c. **Remittance**. Payments may be made pursuant to permissible payment methods set forth in the Terms of Use or via check. Checks are to be made payable to "Phase Genomics, Inc." and sent to:

**Phase Genomics**  
**Attention: Ivan Liachko**  
**1617 8<sup>th</sup> Ave. N.**  
**Seattle, WA 98109**

4. Late Payments. Invoices paid after 30 days of issuance incur a 5% late-payment penalty.
5. Negotiated Terms. Company may, in its sole discretion, (a) offer volume discounts, pre-paid blanket order discounts, repeat customer discounts and/or other discounts; and (b) negotiate alternate payment schedules.
3. **Confidentiality**. You shall keep strictly confidential, and shall not disclose to any third party, the pricing set forth in the Quote and any negotiated payment terms.
4. **Compliance with Law**. In your delivering the Materials and our performing the Services, each party will comply with any and all laws, rules, and regulations applicable to such party.
5. **Termination of Services**. If you terminate the Services, you will pay us for all costs and any non-cancelable obligations incurred by us up to the effective date of termination. Any deposits made by you for the Services pursuant to the payment schedule are non-refundable.
6. **Disclaimer of Warranties**. In addition to the disclaimer set forth in the Terms of Use, Company DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR INFRINGEMENT OF ANY PATENT OR PATENT APPLICATION WITH REGARD TO OUTPUTS PROVIDED TO YOU.

#### **Proximo Hi-C Genome Scaffolding Services:**

1. **You will collect and deliver to Company the following Materials in the specified quantity:**
  - >0.2g of plant/animal tissue
  - A FASTA file (Test Results) containing a draft assembly associated with the sample (if applicable)
2. **Services and Outputs.**
  - Services. Company will perform proximity-guided assembly Services on the Material using a Hi-C technique and methodology, and will subsequently use that data to create chromosome-scale scaffolds of the Material to the best of our ability.
  - Deliverables. Within 60 days after receipt of a given Material, we will deliver to you the following:
    - a. Test Results: a pair of FASTQ files containing the Hi-C reads corresponding to a given Material; and
    - b. Test Results: a FASTA file containing chromosome-scale scaffolds corresponding to a given Material;
    - c. Outputs: related data, figures, and reports to provide insight to you.