1. Interpretation

1.1 "Agreement" means the relevant agreement with the Customer which shall consist of a Contract accepted by the Customer in accordance with clause 2.1 and these standard terms and conditions;

1.2 "Customer" means the company, organisation or individual which accepts the supply of Goods and/or Services;

1.3 "Customer Materials" includes goods, samples, equipment, laboratory results, materials or information provided by the Customer to LGC in connection with the Goods and/or Services;

1.4 "Goods" means the goods, samples, equipment and materials including without limitation reference materials, certified reference materials, chemical reference materials, laboratory supplies, biological materials, American Type Culture Collection products, custom samples, custom synthesis products, analytical data, results, reports, certificates of analysis, and any data or samples to be provided to the Customer by LGC under the Agreement;

1.5 "LGC" means LGC Limited;

1.6 "Liability" means any and all liability (including the acts or omissions of Parties) for (a) negligence, omissions or defaults of any Customer Materials or (b) any misrepresentation, misstatement, or tortious act or omission, including without limitation, negligence arising under or in connection with the Agreement; (c) for any breach of statutory duty; and/or (d) otherwise resulting in connection with the performance or contemplated performance of the Agreement (including under indemnification provisions (if any));

1.7 "Price" means the price agreed for the Goods and/or Services;

1.8 "Quotation" means an estimate or quotation given by LGC to the Customer for the supply of Goods and/or Services;

1.9 "Services" means the services, including without limitation any proficiency testing services, custom synthesis services, analysis of data, interpretation of results, production of reports, certification of Goods, training, distribution of Goods, and related services to be provided to the Customer by LGC under the Agreement;

1.10 Unless the terms and conditions are expressly accepted by LGC by a specific written amendment hereto, the Agreement between the parties shall be on these standard terms and conditions and any other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document) are expressly excluded from the Agreement.

1.11 Any Quotation is given by LGC on the basis that no agreement shall come into existence until time is agreed, within a reasonable time.

2. Orders and Quotations

2.1 Any Quotation given by LGC on the basis that no agreement shall come into existence until time is agreed, within a reasonable time. Any Quotation is valid for a period of one calendar month only from the date of issue, provided that it was not previously withdrawn. Each order submitted by the Customer shall be subject to a minimum order value of £200 in sterling, Euro or US dollar terms, whichever is the lowest. A rejected Quotation is invalid and terminates all negotiations then in existence, unless otherwise agreed in the Quotation or agreed by LGC in writing for the Goods and/or Services exclusive of value added tax and other applicable costs, duties and/or charges in relation to carriage and insurance.

2.2 The Customer shall promptly supply to LGC the Customer Materials and any other materials reasonable for LGC to deliver to the Customer Materials or for the supply of Goods and/or Services and the Customer hereby acknowledges that its failure in providing the Customer Materials may preclude or delay the delivery of the Goods and/or Services. LGC reserves the absolute right to refuse orders from Customers for the supply of Goods and/or Services, including without limitation to countries or individuals where the supply of Goods and/or Services would be prohibited by applicable export control legislation, economic sanctions, or other trade embargoes or restrictions imposed by the suppliers, the EU, the UN, or the resident country of the appropriate LGC sales office which may prevent or delay the supply of Goods to the Customer.

2.3 Any liability of LGC for non-delivery of Goods shall be limited to replacing the Goods within a reasonable time. Any Goods must be stored in accordance with LGC’s instructions and no claim for refund or replacement shall be payable by LGC unless these instructions have been followed by the Customer at all times.

3. Delivery and Damage

3.1 LGC shall endeavour to supply the Goods and/or Services within the time agreed, and if no time is agreed, within a reasonable time.

3.2 Any dates specified by LGC for supply of the Goods and/or Services are intended to be an estimate only and shall not be treated as a contractual obligation. LGC shall be entitled in its absolute discretion to make changes to any dates or times for the delivery of the Goods and/or Services to the extent necessary to ensure that the delivery of the Goods and/or Services is at all times managed in safety.

3.3 Any liability of LGC for non-delivery of Goods shall be limited to replacing the Goods within a reasonable time. Any Goods must be stored in accordance with LGC’s instructions and no claim for refund or replacement shall be payable by LGC unless these instructions have been followed by the Customer at all times.

3.4 Warranties and Indemnity

3.4.1 LGC warrants that all items in the Goods and/or Services are correctly identified and in good order, and have not to the best of its knowledge been tampered with, altered, added to or subtracted from, anything which may be construed as a sale of any Customer Materials (whether written or oral) as to the Goods supplied or Services carried out and all warranty and indemnities in any reports or other communications provided by LGC to the Customer are made in good faith and to the best of its knowledge.

3.4.2 Except where expressly accepted in these standard terms and conditions, all warranties, conditions, representations in writing, oral or implied, rights, obligations, liabilities and other terms whether express or implied by statute or common law in connection with the Goods and/or Services (including without limitation any relating to performance, care and skill or compliance with representations and warranties) are excluded.

3.4.3 Save to the extent LGC is liable for negligence in its provision of the Goods and/or Services (which shall not include any other terms), any liability for negligence, fraud, fraudulent misrepresentation, or to the extent prohibited by law.

3.4.4 Nothing in these Conditions excludes or limits the liability of LGC for death or personal injury caused by LGC’s negligence, fraud or fraudulent misrepresentation, or to the extent prohibited by law.

4. Subject to clause 4.4:

4.1 LGC’s aggregate Liability shall be limited to whichever is the lower of: (i) the value of Goods and/or Services; or (ii) £500,000; and the Customer shall have a duty to mitigate any loss suffered by it;

4.2 LGC shall have no Liability for loss of profit, loss of business or revenue, loss of anticipated savings, depletion of goodwill, any third party claims, or any indirect or consequential loss or damage, which arise out of or in connection with any Agreement.

5. Health and Safety

5.1 The Customer shall ensure that all appropriate safety measures and legislation are observed when handling any Customer Materials and LGC shall ensure that any hazardous material is clearly marked. Where the Customer knows or suspects that any substance or procedure it is providing, making available or requesting may give rise to a hazard, the Customer shall make LGC aware in writing of the nature of that hazard before arranging for the delivery to LGC (or collection by LGC) of the Customer Materials or before any LGC Personnel will be exposed to the hazard.

5.2 The Customer shall ensure that the Customer’s Personnel attending LGC’s premises in connection with the Goods and/or Services comply at all times with all health and safety measures, procedures and protocols in place on LGC’s premises and with such other directions regarding safe working as LGC may direct. LGC reserves the right at its absolute discretion to refuse to admit or to remove from its premises any of the Customer’s Personnel in whose opinion are unable to comply with this clause 5.2.

6. Customer Materials

6.1 The Customer shall ensure that the Customer Materials are tested and inspected and are suitable for use by LGC in the supply of the Goods and/or Services. The Customer shall arrange at its own expense and risk the delivery of the Customer Materials to LGC. The Customer shall be responsible for ensuring that the materials and equipment supplied to LGC comply with all relevant legislation and/or standards which may preclude or delay the supply of the Goods and/or Services.

6.2 Where applicable, the Customer may direct that LGC stores, destroys, or re-delivers to the Customer the Customer Materials (or such part thereof) after the supply of the Goods and/or Services has been completed and any obsolescence or expiry has occurred. The Customer shall be charged for storage, destruction or re-delivery at the Customer’s own cost. If no direction is received within three (3) months of completion of the supply of the Goods and/or Services the Customer Materials, and LGC shall be entitled to store, destroy or re-deliver such Customer Materials and to charge the Customer reasonable costs for the same at its discretion or to use such Customer Materials for LGC’s internal research purposes.

7. Risk and Title

7.1 In the Goods shall pass to the Customer on delivery of the same to it. However, title shall not pass to the Customer until payment in full (in cash or cleared funds) has been received by LGC.

7.2 Until such time as title in the Goods has passed to the Customer, the Customer shall have absolutely authority to re-take, sell or otherwise deal with any of the Goods which have not yet been used by the Customer; and (b) LGC shall be re-mitted by the Customer all monies paid for the Goods and/or Services which are not delivered to the Customer (under this or any other Agreement), irrespective of any purported appropriation by the Customer.

8. Price

8.1 LGC reserves the right to amend the Price to take account of any variations in the Goods and/or Services as a result of additional information from or a request in writing by the Customer. LGC shall obtain the Customer’s prior written approval before provision of any additional work or variations in the Goods and/or Services.

8.2 LGC reserves the right, at its sole discretion, to charge the Customer for any relevant export costs, economic sanctions, or other trade embargoes or restrictions imposed by its suppliers, the EU, the UN, or the resident country of the appropriate LGC sales office which may increase costs and with such other directions regarding safe working as LGC may direct. LGC reserves the right at its absolute discretion to refuse to admit or to remove from its premises any of the Customer’s Personnel in whose opinion are unable to comply with this clause 5.2.

9. Payment

9.1 The Price shall become payable upon the earlier of performance of the Services and delivery of the Goods. In no event shall any other amount due be set off against the amount due on the Quotation. Payment shall be made by the Customer in pounds sterling within 28 (twenty eight) days of the date of LGC’s invoice. LGC shall be entitled to payment for all instalments arising due in respect of Goods and/or Services supplied to the Customer, whether under a blanket order or otherwise.

9.2 Payment is made when monies are credited to LGC’s account. Negotiable instruments or promises to pay do not constitute payment.

9.3 The Customer shall make all payments due under the Agreement without any deduction, set-off, counterclaim, discount, abatement or otherwise.

9.4 The Customer shall pay to LGC, in addition to other amounts payable hereunder, any costs reasonably incurred by LGC (including without limitation, legal costs and fees of debt collectors) in connection with the collection of any such amounts due by the Customer under the Agreement.

9.5 LGC shall be entitled to appropriate sums received from the Customer against any debt due to LGC from the Customer (under this or any other Agreement), irrespective of any purported appropriation by the Customer.

9.6 If the Customer fails to pay LGC any sum due pursuant to the Agreement then, without limiting any other right or remedy available to LGC:

a) LGC may cancel the Agreement and all other agreements with the Customer or suspend any further deliveries to the Customer;

b) LGC may immediately demand payment of any other invoices not yet due, with liability to interest on sums due applying from the date of the demand; and
c) the Customer will be liable to pay interest to LGC on such sum from the due date for payment at the annual rate of 8% per annum above the base rate of HSBC Bank plc from time to time, accruing on a daily basis until payment is credited to LGC’s account, whether before or after any judgement.

10. Intellectual Property

10.1 Unless otherwise agreed in writing, the ownership of all and any rights and in any data, results, reports, certificates of analysis, safety data sheets, copyright, patents, designs, conceptual solutions, analyses, processes, techniques, methodologies, inventions, software,
10.2 The Customer shall not without the prior written consent of LGC use, exploit, divulge, or disclose to third parties any LGC IP which may be communicated to or gained by the Customer in connection with or as a result of providing the Goods and/or Services, save that the Customer may grant to the Customer a non-exclusive non-transferable, non-sublicensable right to use the IP in any Goods provided by LGC to the Customer in accordance with the terms of a licence granted to the Customer by LGC.

10.3 LGC in respect of the Goods and/or Services, and the Customer in respect of the Customer Materials and its use of the Goods and/or Services, shall each indemnify and keep the other party indemnified against all losses, liabilities or expenses, including costs and interest (whether express or implied) which arise out of or in connection with any claim alleging infringement or misuse of a third party’s IP.

11. Restrictions on use – LGC name, ATCC, and pharmaceutical products.

11.1 The Customer shall not use LGC’s name in any way to imply endorsement or otherwise by LGC of the Customer or any of its processes, products, or service provided, marketed or sold by the Customer.

11.2 The Customer hereby represents, warrants and agrees that it shall only use pharmaceutical active reference materials and/or impurities of the same associated with a pharmaceutical product patented by a third party for the purpose of an article or use which is reasonably related to the development and submission of information required for regulatory approval purposes in relation to the manufacture, use or sale of pharmaceuticals.

11.3 The Customer agrees that it shall only use any Goods which are American Type Culture Collection ("ATCC") products in accordance with the terms of the Material Transfer Agreement ("MTA") which is enclosed with the ATCC products and set out in the ATCC product catalogue, and in particular but without limitation for the purpose of scientific research and laboratory research purposes only, and the Customer may not distribute or sell the ATCC products to another company or third party. The Customer acknowledges that ATCC and/or LGC shall each be entitled to enforce such terms of the MTA at their absolute discretion.

11.4 The Customer represents and warrants that it will: (a) restrict access to the ATCC products to Persons who are capable of handling the products safely; and (b) exercise the utmost care, taking into account the unique characteristics of the material, to maintain the ATCC products with appropriate precautions to minimise any risk of harm to persons and property and to safeguard them from theft and/or misuse.

11.5 The Customer agrees that ATCC products designated Class III, III or IV constitute known carcinogens and that other ATCC products not designated as such are non-pathogenic under the applicable conditions.

11.6 The Customer assumes all risk and responsibility in connection with the receipt, handling, storage, disposal, use and any misuse or other wrongdoing with respect to the ATCC products supplied hereunder. The Customer agrees that any handling or other activity undertaken in its laboratory with the ATCC products will be conducted in compliance with all applicable laws and regulations. The Customer shall indemnify and keep indemnified ATCC and/or LGC against any claim arising out of or in connection with any breach of the Customer by the Customer of this Agreement and/or the MTA.

11.7 For the avoidance of doubt, any expiration date specified on shipping documentation relating to the ATCC products is an estimate of expected useful life and does not constitute a warranty.

12. Confidentiality.

12.1 Both parties shall use reasonable endeavours to keep confidential for a period of five (5) years from the acceptance date of the supply of Goods and/or Services any confidential information (oral or written) provided or disclosed by or on behalf of the other. This clause shall not apply to any information which is in the public domain or becomes or becomes or published generally or available to the public (other than as a breach of the recipient’s obligations under this clause), which at the time of disclosure was already in the possession of the receiving party (other than under an obligation to the disclosing party), which subsequently legally comes into their possession from another source, which was independently developed, or which is required to be disclosed in order to comply with a legal requirement.

12.2 Both parties shall use reasonable endeavours to keep confidential for a period of five (5) years from the acceptance date of the supply of Goods and/or Services any confidential information (oral or written) provided or disclosed by or on behalf of the other. This clause shall not apply to any information which is in the public domain or becomes or becomes or published generally or available to the public (other than as a breach of the recipient’s obligations under this clause), which at the time of disclosure was already in the possession of the receiving party (other than under an obligation to the disclosing party), which subsequently legally comes into their possession from another source, which was independently developed, or which is required to be disclosed in order to comply with a legal requirement.

13. Cancellation.

13.1 If the Customer cancels, extends or delays (or purports to cancel) the Agreement or part thereof, or fails to accept supply of the Goods and/or Services at the time agreed or if no time is agreed to at the time the Customer provides its order, then the Customer shall pay LGC for the full price of the order (or any other rights of LGC) and shall indemnify and keep indemnified LGC against any resulting loss, damage or expense or additional costs incurred by LGC in connection with the supply or failure to supply of the Goods and/or Services or any of the items associated with the supply of the Goods and/or Services, which sum shall be calculated in accordance with clause 14.2. LGC reserves the right to announce publicly that it is unable to perform or is not able to perform any obligations under this Agreement due to force majeure events, the payment terms being equivalent to those imposed on the Customer by the Seventh Principle of the DPA where LGC is a data processor, and shall process the data solely in accordance with the instructions of the Customer. ATCC and/or LGC shall each be entitled to enforce such terms of the MTA at their absolute discretion.

13.2 Where the Goods and/or Services (or any part thereof) supplied by LGC to the Customer are for the provision of custom synthesis services ("Synthesis Services") the Customer acknowledges that occasionally certain Synthesis Products can be difficult to provide in the event that LGC is unable to perform and/or complete all or any part of the Synthesis Services for any reason (including without limitation due to technical and experimental difficulties) then LGC shall have the right to cancel or rescind the Agreement and be relieved of all liabilities and obligations hereunder at any time and terminate the Agreement without liability to the Customer. Where LGC exercises its right to cancel under this clause 13.2, LGC shall notify the Customer in writing as soon as reasonably practicable, and if the quotation provides for a fixed Price and/or timeframe, then the Customer shall not be liable for payment for such Synthesis Services; (b) if the quotation provides for a fixed Price, then the Customer shall be liable only for payment of the Synthesis Services or part thereof performed by LGC as at the date of such cancellation notice.

14. Termination.

14.1 LGC may terminate the Agreement forthwith by notice in writing if the Customer is in material breach of the Agreement and such breach is not remedied within the same within 30 (thirty) days of the receipt of a written request from LGC to do so.

14.2 Each party has the right to terminate the Agreement at its discretion if the other party: (a) is insolvent or threatening to become insolvent or (b) is insolvent or threatening to become insolvent; (c) is insolvent or is threatening to become insolvent, or starts or continues or threatens to start or continue, or is or threatens to become, any insolvency office; or (d) undergoes any analogous occurrence under foreign law.

14.3 If any breach of the Agreement is material, the Breaching Party shall forthwith on being informed of the same confirm or the Breaching Party to the Breached Party the rights and duties of either party accrued prior to termination. The clauses in the Agreement which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination. The Customer shall pay the Price in respect of any Goods and/or Services (or part thereof) supplied prior to termination, regardless of the reason for the termination.