

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms and Conditions the following expressions will have the following meanings unless inconsistent with the context:

“Buyer”	the person(s), firm or company whose order for Services is accepted by the Company;
“Business Day”	any day other than a Saturday or Sunday or a public or bank holiday in Great Britain;
“Commencement Date”:	has the meaning given to that term in Condition 2.2;
“Company”	Biocatalysts Ltd (registered in England and Wales with company number 2570883);
“Company Materials”	has the meaning given to that term in Condition 4.1.6;
“Contract“	the contract between the Company and the Buyer for the supply of Services formed in accordance with Condition 2 (Formation) and comprising these Terms and Conditions and the acknowledgement of order and the Proposal;
“Confidential Information”	all information in respect of the business of the Company including, but not limited to, know-how or other matters connected with the Services, and information concerning the Company’s relationships with actual or potential clients, customers or suppliers and the needs and requirements of the Company and of such persons and any other information

which, if disclosed, will be liable to cause harm to the Company;

“Deliverables”

all documents, products and materials developed by the Company or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, Proposals and reports (including drafts);

“Force Majeure”

any cause preventing the Company from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable contemplation and control of the Company including, without limitation, strikes, lockouts or other industrial disputes (whether involving the work force of the Company or otherwise), protest, act of God, war, or national emergency, an act of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, explosion, flood, storm, epidemic or default of suppliers or subcontractors;

“Intellectual Property Rights”

all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition

and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

“Liabilities”

all costs, expenses, losses, damages, claims, proceedings, awards, fines, orders and other liabilities (including reasonable legal and other professional expenses) whenever arising or brought;

“Proposal”

means the description or specification of the Services provided in writing by the Company to the Buyer;

“Regulatory Requirements”

the applicable regulations, codes or other requirements as set out in the Proposal;

“Services”

the services described in the Proposal, including without limitation any Deliverables, to be provided by the Company under the Contract; and

“Terms and Conditions”

the standard terms and conditions of sale set out in this document together with any special terms agreed in writing between the Buyer and the Company as specified on the front of the acknowledgement of order.

1.2 In these Terms and Conditions, unless the context requires otherwise, the following rules apply:

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory

provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

- 1.2.4 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.5 The headings in these Terms and Conditions are for convenience only and will not affect their construction or interpretation.
- 1.2.6 Reference to a **Condition** is to a term of these Terms and Conditions.

2. FORMATION

- 2.1 Subject to any variation under **Condition 2.5**, the Contract incorporates these Terms and Conditions to the exclusion of all other terms and conditions and all previous oral or written representations, including any terms or conditions which the Buyer purports to apply under any quotation, confirmation of order or similar document (whether or not such document is referred to in the Contract), and any terms and conditions implied by trade, custom, practice or course of dealing.
- 2.2 Each order or acceptance of a Proposal will be deemed to be an offer by the Buyer to purchase Services upon these Terms and Conditions. Subject to the terms of this Condition 2.2 the Contract is formed when the order is accepted by the Company, by way of a written acknowledgement of order (the "**Commencement Date**"). No contract will come into existence until a written acknowledgement of the order is issued by the Company.
- 2.3 Unless otherwise specified in writing by the Company a Proposal will be valid for 90 days from its date and it may be withdrawn at any time by the Company giving notice in writing. A Proposal does not constitute an offer.
- 2.4 Subject to **Conditions 9 (Force Majeure)** and **10 (Termination)** cancellation of a Contract or part of a Contract by the Buyer will only be accepted at the discretion of the Company. The Company may cancel the Contract at any time prior to the Commencement Date.
- 2.5 Save as set out in the Contract, these Terms and Conditions may only be varied or amended in writing and signed by a director of the Company.

3. THE SERVICES AND PROPOSAL

- 3.1 The Company shall supply the Services to the Buyer in accordance with the Proposal in all material respects.
- 3.2 The Company shall use all reasonable endeavours to meet any performance dates specified in the acknowledgement of order and the Proposal but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Company shall notify the Buyer in any such event.

4. BUYER'S OBLIGATIONS

4.1 The Buyer shall:

4.1.1 ensure that the terms of the acknowledgement of order and any information it provides for inclusion in the Proposal are complete and accurate;

4.1.2 co-operate with the Company in all matters relating to the Services;

4.1.3 provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;

4.1.4 obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start; and

4.1.5 keep and maintain all materials, equipment, documents and other property of the Company (the "**Company Materials**") at the Buyer's premises in safe custody at its own risk, maintain the Company Materials in good condition until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions or authorisation.

4.2 If the Company's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation ("**Buyer Default**"):

4.2.1 the Company shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations to the extent the Buyer Default prevents or delays the Buyer's performance of any of its obligations;

4.2.2 the Company shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this **Condition 4.2**; and

4.2.3 the Buyer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Buyer Default.

5. PRICE

- 5.1 The price for the Services will be the price specified in the Proposal (or if the Proposal does not contain a price then as previously agreed in writing by the Company) and is exclusive of any Value Added Tax or other applicable sales tax or duty which will be added to that price.
- 5.2 The Company may at any such time before the Commencement Date increase the price of the Services by notice to the Buyer. In such an event the Buyer may on receipt of such notice cancel the order for the Services. No other remedy shall be available to the Buyer in respect of such variation in price. If the Buyer does not make any such cancellation the increased price shall apply to the Contract as regards those Services not performed when the increase is made.
- 5.3 The Company will be entitled to increase the price of the Services following any changes in the Proposal made either at the request of the Buyer and agreed by the Company or to cover any extra expense as a result of the Buyer's instructions or lack of instructions, or to comply with any applicable safety or other statutory or regulatory requirements.

6. PAYMENT AND INVOICING

- 6.1 The price for the Services shall be as set out in the Proposal:
- 6.1.1 the price for the Services shall be calculated in accordance with the Company's standard daily fee rates, as set out in the Proposal;
- 6.1.2 the Company's standard daily fee rates for each individual are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days;
- 6.1.3 the Company shall be entitled to charge an overtime rate of 20 per cent of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in **Condition 6.1(b)**; and
- 6.1.4 the Company shall be entitled to charge the Buyer for any expenses reasonably incurred by the individuals whom the Company engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Company for the performance of the Services, and for the cost of any materials.
- 6.2 The Company reserves the right to increase its standard daily fee rates, provided that such charges cannot be increased more than once in any 12 month period. The Company will give the Buyer written notice of any such increase two months before the proposed date of the increase. If such increase is not acceptable to the Buyer, it shall notify the Company in writing within two weeks of the date of the Company's notice and the Company shall have the right without limiting its other rights or remedies to terminate the Contract by giving two weeks' written notice to the Buyer.

- 6.3 The Company may invoice the Buyer for the price of the Services as per the payment terms set out in the Proposal.
- 6.4 Unless otherwise agreed in writing and subject to **Condition 5.3**, payment is due (in the currency specified on the Proposal) within 30 days of the date of the invoice in cleared funds. Deposits and stage payments are payable on demand or against any payment schedule agreed by the Company.
- 6.5 All sums payable to the Company under the Contract will become due immediately upon termination of the Contract.
- 6.6 All payments to be made by the Buyer under the Contract will be made in full without any set-off, restriction or condition and without any deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature, unless the Buyer is required by law to make any such deduction or withholding.
- 6.7 The Company may appropriate any payment made by the Buyer to the Company to such of the invoices for the Services as the Company thinks fit, despite any purported appropriation by the Buyer.
- 6.8 Without prejudice to any other rights the Company may have, the Company will have the right to suspend performance of its obligations under the Contract if the Buyer does not make any payment in accordance with this **Condition 6**.
- 6.9 If any sum payable under the Contract is not paid when due then, without prejudice to the Company's other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at 5% per annum over Barclays Bank plc base lending rate and the Company will be entitled to suspend performance of the Services until the outstanding amount has been received by the Company from the Buyer.

7. WARRANTY, EXCLUSION OF LIABILITY AND INDEMNITY

Warranty

- 7.1 The Company warrants to the Buyer that the Services will be provided using reasonable care and skill and in accordance with any Regulatory Requirements.

Exclusion of Liability

- 7.2 In the event of any breach of the Company's express obligations under **Condition 7.1** the remedies of the Buyer will subject to **Condition 7.3** be limited to payment of a sum equivalent to the purchase price of the Services or the reperformance of the Services as appropriate.
- 7.3 The Company does not exclude its liability (if any) to the Buyer:

- 7.3.1 for breach of the Company's obligations arising under section 2 Sale and Supply of Goods and Services Act 1982;
 - 7.3.2 for personal injury or death resulting from the Company's negligence;
 - 7.3.3 for any matter for which it would be illegal for the Company to exclude or to attempt to exclude its liability; or
 - 7.3.4 for fraud.
- 7.4 Except as provided in **Condition 7.3** the Company will be under no liability to the Buyer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill; loss of savings and similar loss) howsoever caused arising out of or in connection with:
- 7.4.1 any of the Services, or the provision of or failure to provide, the Services by the Company or on the part of the Company's employees, agents or sub-contractors;
 - 7.4.2 any breach by the Company of any of the express or implied terms of the Contract;
 - 7.4.3 any statement made or not made, or advice given or not given, by or on behalf of the Company;

or otherwise under the Contract.
- 7.5 Except as set out in **Condition 7.3** the Company hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Buyer.
- 7.6 Subject to Condition 7.3 the Company's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed one hundred per cent of the price of the Services supplied or to be supplied under the Contract (or such lesser sum as the parties have otherwise explicitly agreed in writing).
- 7.7 The Buyer agrees to indemnify, keep indemnified and hold harmless the Company from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which the Company incurs or suffers as a consequence of a direct or indirect breach or negligent performance or failure in performance by the Buyer of the terms of the Contract or in respect of the Services provided under the Contract in the event that the

damage or injury shall have been occasioned otherwise than by the negligence of the Company.

8. TECHNICAL SUPPORT

8.1 The Company, its employees and/or agents may at various times provide technical support and/or make suggestions or recommendations and /or give advice to the Buyer ("**Support**") in connection with the Services. Such Support may be in writing or verbal and may be given in response to specific questions or requests for assistance or otherwise.

8.2 Subject to **Condition 7.3** the Company does not warrant or guarantee the correctness, adequacy or suitability of the Support, and it shall be the Buyer's sole responsibility to assess the Support and whether or not to accept, act on or implement the same. If the Buyer does elect to do so the Company shall have no liability to the Buyer for any loss or damage suffered as a result, whether in contract, tort (including negligence) or otherwise and the Buyer shall hold the Company harmless against third party claims in connection with the support, if any.

9. FORCE MAJEURE

9.1 The Company will be deemed not to be in breach of the Contract or otherwise liable to the Buyer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to Force Majeure.

9.2 If the Company's performance of its obligations under the Contract is affected by Force Majeure:

9.2.1 it will give written notice to the Buyer, specifying the nature and extent of the Force Majeure, as soon as reasonably practicable after becoming aware of the Force Majeure and will at all times use all reasonable endeavours to bring the Force Majeure event to an end and, whilst the Force Majeure is continuing, mitigate its severity, without being obliged to incur any expenditure;

9.2.2 subject to the provisions of **Condition 9.3**, the date for performance of such obligation will be deemed suspended only for a period equal to the delay caused by such event; and

9.2.3 it will not be entitled to payment from the Buyer in respect of extra costs and expenses incurred by virtue of the Force Majeure.

9.3 If the Force Majeure in question continues for more than 3 months, either party in the Contract may give written notice to the other to terminate the Contract. The notice to terminate must specify the termination date, which must not be less than 30 days after the date on which the notice is given, and once such notice has been validly given, the Contract will terminate on that termination date.

10. TERMINATION

10.1 Without limiting its other rights or remedies, either party may terminate the Contract by giving the other party two months' written notice.

10.2 The Company may by notice in writing served on the Buyer terminate the Contract immediately if the Buyer:

10.2.1 is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Buyer fails to remedy such breach within 30 days service of a written notice from the Company, specifying the breach and requiring it to be remedied. Failure to pay any sums due in accordance with **Condition 6.3 and 6.4** is a material breach of the terms of the Contract which is not capable of remedy;

10.2.2 the Buyer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

10.2.3 the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Buyer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;

10.2.4 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;

10.2.5 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer;

10.2.6 (being a company) the holder of a qualifying floating charge over the Buyer's assets has become entitled to appoint or has appointed an administrative receiver;

10.2.7 a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;

- 10.2.8 a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 10.2.9 (being an individual) becomes bankrupt, insolvent, makes any composition with his creditors, has a receiver appointed under the Mental Health Act 1983 or dies;
 - 10.2.10 (being a company) has undergone a change in control (as defined by section 416 Income and Corporation Taxes Act 1988); or
 - 10.2.11 the equivalent of any of the above occurs to the Buyer under the jurisdiction to which the Buyer is subject.
- 10.3 Without limiting its other rights or remedies, the Company may suspend or cancel without liability the provision of any incomplete portion of the Services under the Contract if the Buyer becomes subject to any of the events listed in **Conditions 10.2.1 to Conditions 10.2.11**.
- 10.4 The Company will be entitled to suspend any performance of the Services otherwise due to occur following service of a notice specifying a breach under **Condition 10.2.1**, until either the breach is remedied or the Contract terminates, whichever occurs first.

11. CONSEQUENCES OF TERMINATION

- 11.1 On termination of the Contract for any reason:
- 11.1.1 the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Buyer immediately on receipt;
 - 11.1.2 the Buyer shall return all of the Company Materials and any Deliverables which have not been fully paid for. If the Buyer fails to do so, then the Company may enter the Buyer's premises and take possession of them. Until they have been returned, the Buyer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
 - 11.1.3 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
 - 11.1.4 Conditions which expressly or by implication survive termination shall continue in full force and effect.

12. INTELLECTUAL PROPERTY

- 12.1 The Company shall own all Intellectual Property Rights arising out of or in connection with the Services.
- 12.2 All Company Materials are the exclusive property of the Company.
- 12.3 No right or licence is granted to the Buyer in respect of the Intellectual Property Rights of the Company.
- 12.4 The Buyer acknowledges that, in respect of any third party Intellectual Property Rights, the Buyer's use of any such Intellectual Property Rights is conditional on the Company obtaining a written licence from the relevant licensor on such terms as will entitle the Company to license such rights to the Buyer.
- 12.5 No representation or warranty is given by the Company that the Services do not infringe any third party Intellectual Property Rights.
- 12.6 The Buyer's claims are excluded as far as the Buyer is responsible for the infringement of the Intellectual Property Rights.

13. CONFIDENTIALITY

- 13.1 The Buyer will keep confidential any and all Confidential Information that it may acquire.
- 13.2 The Buyer will not use the Confidential Information for any purpose other than to perform its obligations under the Contract. The Buyer will ensure that its officers and employees comply with the provisions of this **Condition 13**.
- 13.3 The obligations on the Buyer set out in **Condition 13.1** and **13.2** will not apply to any information which:
- 13.3.1 is publicly available or becomes publicly available through no act or omission of the Buyer; or
- 13.3.2 the Buyer is required to disclose by order of a court of competent jurisdiction.

14. GENERAL

- 14.1 If any clause or condition or part thereof in this Contract shall be found to be invalid, ineffective or unenforceable, that clause or condition shall not affect any other clause or condition or part condition of the Contract thereof. All other parts of the Contract shall remain in full force and effect.
- 14.2 Each right or remedy of the Company under any Contract is without prejudice to any other right or remedy of the Company under this or any other Contract.

- 14.3 If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.
- 14.4 No failure or delay by the Company to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 14.5 The Company may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.
- 14.6 The Contract is personal to the Buyer who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without the Company's prior written consent.
- 14.7 The parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 14.8 The Contract contains all the terms which the Company and the Buyer have agreed in relation to the Services and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Services. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Any variation to the contract by the parties should be made in writing.

15. COMMUNICATION

- 15.1 Any notice, demand or communication or in connection with the Contract will be in writing and may be delivered by hand first class post or by commercial courier (but not by e-mail), addressed to the recipient at its registered office (or such other address or person which the recipient has notified in writing to the sender in accordance with this **Condition 15**, to be received by the sender not less than seven Business Days before the notice is despatched).
- 15.2 A notice or other communication shall be deemed to have been received:
- 15.2.1 if delivered personally, when left at the address referred to in Condition 15.1;
 - 15.2.2 if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting;
 - 15.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

15.3 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

16. PRIORITY

In the event there is any conflict between these Terms and Conditions and the Proposal, the Proposal shall prevail.

17. JURISDICTION

The formation, existence, construction, performance, validity and all other aspects whatsoever of the Contract or of any term of the Contract will be governed by the laws of England and Wales. The Courts of England Wales will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Contract.