

## GATC Biotech Limited | Terms and Conditions of Services

### THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO CONDITION 9.

#### 1. DEFINITION AND INTERPRETATION

- 1.1 The definitions and rules of interpretation in this Condition apply in these Conditions:
- Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- Conditions: the terms and conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed by the Company and the Customer in writing;
- Completion: substantial completion of the Services;
- Company: GATC Biotech Limited incorporated in England Wales with Company Number 04978125;
- Contract: the contract between the Company and the Customer for the provision of the Services in accordance with these Conditions;
- Customer: the person, firm or company who purchases the Services from the Company;
- Customer Default: has the meaning given to it in Condition 4.3;
- Customer Materials: any biological or chemical samples or material provided by the Customer in respect of which the Company is to provide the Services;
- Intellectual Property Rights: patents, copyright, registered and unregistered design rights, trademarks, service marks and all other intellectual or industrial property rights whatsoever;
- Order: the Customer's order for Services as set out in the Customer's purchase order form, the Customer's written acceptance of a quotation by the Supplier, or overleaf, as the case may be.
- Services: the services to be provided by the Company as set out in the Order.
- 1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

#### 2. GOVERNING PROVISIONS

- 2.1 Subject to any variation under Condition 2.2 the Contract shall be on these Conditions to the exclusion of all 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) or which are implied by trade, custom, practice or course of dealing.
- 2.2 These Conditions apply to all the Company's sales and any variation to these Conditions and any representations about the Services shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Customer 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. Nothing in this Condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.3 The Order shall be deemed to be an offer by the Customer to buy Services subject to these Conditions.
- 2.4 No Order placed by the Customer shall be deemed to be accepted by the Company until a written order confirmation is issued by the Company at which point and on which date the Contract shall come into existence.
- 2.5 The Company reserves the right to alter or withdraw any quotation for Services provided to the Customer at any time prior to the issue by the Company of the written order confirmation in any way it sees fit.
- 2.6 Any quotation is valid for a period of 30 days only from its date of issue, provided that the Company has not previously withdrawn or amended it in accordance with condition 2.5.

#### 3. DESCRIPTION

- 3.1 All samples, drawings, descriptive matter, specifications, images and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services described in them and shall not form part of the Contract.



#### 4. CUSTOMER RESPONSIBILITIES

- 4.1 The Customer shall:
- 4.1.1 ensure that the terms of the Order and any information it provides about the Customer Materials are complete and accurate;
  - 4.1.2 supply to the Company any Customer Material in respect of which the Services are to be performed at the Customer's expense and shall be responsible for giving the Company any necessary information relating to the Services within a sufficient time to enable the Company to perform the Contact in accordance with its terms, and shall ensure that such information is accurate in all material respects;
  - 4.1.3 comply with all applicable laws in relation to the transportation and packaging of any Customer Materials supplied to the Company;
  - 4.1.4 in relation to its use of the Services, and any results, information, data and/or analysis provided as part of the Services comply with all applicable laws and obtain and maintain all necessary consents, permissions and/or licences from anybody or authority which may be required before the date on which the Services are to start;
  - 4.1.5 co-operate with the Company in all matters relating to the Services.
- 4.2 Where in the opinion of the Company the Customer Material is for whatever reason insufficient or unsuitable for the purpose of enabling the Company to perform the Services the Company shall advise the Customer accordingly and the Customer shall submit further and/or suitable Customer Materials promptly at the Customer's expense.
- 4.3 If the Company's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligations (**Customer Default**):
- 4.3.1 the Company shall without limiting its other rights or remedies have the right to suspend the performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
  - 4.3.2 the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this Condition 4.3; and
  - 4.3.3 the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.
- 4.4 Customer Material is at the risk of the Customer until received by the Company at the premises or collection point stated in the Order and/or written order confirmation of the Company whether in the United Kingdom or Germany (as the case may be).
- 4.5 If requested in writing by the Customer at the time of the Order the Company shall (at the expense and risk of the Customer) return the requested Customer Material to the Customer. The Company shall not otherwise be obliged to return any Customer Material to the Customer.

#### 5. DELIVERY & PERFORMANCE

- 5.1 Unless otherwise agreed in writing between the parties, the Services shall be delivered in the manner that the Company in its sole discretion shall consider appropriate.
- 5.2 Any dates specified by the Company for the provision of the Services are intended to be an estimate and time for performance of the Services and/or delivery of any results shall not be of the essence and shall not be made of the essence by notice. If no dates are so specified, the Services shall be performed within a reasonable time.
- 5.3 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.
- 5.4 In the event of an agreed timeline in days, according to Condition. 5.2, the timeline begins with Customer Material passing the Company's quality check.
- 5.5 Where it considers it appropriate the Company may provide the Services in separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 5.6 A delay in delivery or defect in an instalment shall not entitle the Customer to repudiate or cancel any other instalment.
- 5.7 By entering into the Contract, the Customer acknowledges and understands that any internet transmissions are never completely private or secure and acknowledge that any message of information sent may be read or intercepted by others, even if there is a special notice that a particular transmission is secure.



## **6. PRICE**

- 6.1 Unless otherwise agreed by the Company in writing, the price for the Services shall be the price set out in the Company's written order confirmation and if ordered online will be the price indicated on the order pages when the Customer placed its order.
- 6.2 The price for the Services shall be exclusive of any value added tax, shipment and/or packaging costs and all import and export duties, charges or levies all of which amounts the Customer shall pay in addition when it is due to pay for the Services.

## **7. PAYMENT**

- 7.1 Subject to Condition 7.4, payment of the price for the Services is due in pounds sterling within 14 days from the date of the relevant invoice.
- 7.2 Time for payment shall be of the essence.
- 7.3 No payment shall be deemed to have been received until the Company has received it in cleared funds.
- 7.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 7.5 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer is required by law or has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer. The Company may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer.
- 7.6 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Lloyds TSB Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. The Customer shall pay the interest together with the overdue amount. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.7 If required by the Company in writing all payments payable to the Company under the Contract shall be secured by an irrevocable letter of credit issued by a bank acceptable to the Company. Such letter of credit shall be in a form acceptable to the Company and shall provide that payment shall be made against a certificate issued by the Company confirming that the relevant amounts are due and payable in accordance with the terms of the Contract.

## **8. QUALITY**

- 8.1 The Company warrants that (subject to the other provisions of these Conditions) the Services shall be carried out with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982 but does not warrant that any particular result will be achieved by the Services.
- 8.2 The Company shall not be liable for a breach of the warranty in Condition 8.1 unless the Customer gives written notice of the defective Services to the Company within 5 Business Days of Completion or (where the defect was not apparent on reasonable inspection) within 5 Business Days from the date when the Customer discovers or ought to have discovered the defect and if the Customer fails to notify the Company accordingly the Company shall have no liability for the defective Services concerned.
- 8.3 The Company shall not be liable for a breach of the warranty in Condition 8.1 if the Services are defective by reason of any unsuitability or insufficiency of or any defect in any Customer Materials or as a result of any information provided by the Customer in respect of the Services and/or Customer Materials.
- 8.4 Subject to Conditions 8.2 and 8.3, if any of the Services do not conform with the warranty in Condition 8.1 the Company shall (at its option) provide replacement Services to the Customer at no extra cost or shall refund to the Customer the price of the Services (or a proportion thereof).
- 8.5 If the Company complies with Condition 8.4 it shall have no further liability to the Customer in respect of such Services.



## **9. LIMITATION OF LIABILITY**

- 9.1 Subject to Condition 8, the following provisions of this Condition 9 set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer under or in connection with the Contract.
- 9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 Nothing in these Conditions excludes or limits the liability of the Company:
- 9.3.1 for death or personal injury caused by the Company's negligence or the negligence of its employees, agents or subcontractors; or
  - 9.3.2 for any matter for which it would be illegal for the Company to exclude or attempt to exclude its liability;
  - 9.3.3 for fraud or fraudulent misrepresentation; or
  - 9.3.4 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 9.4 Subject to Conditions 9.2 and 9.3, the Company's total liability in contract, tort (including negligence or breach of statutory duty), , restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price, being the price stated in the Company's written order confirmation.
- 9.5 Subject to Conditions 9.2 and 9.3, the Company shall not be liable to the Customer whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for any:
- 9.5.1 pure economic loss;
  - 9.5.2 loss of profit;
  - 9.5.3 loss of revenue;
  - 9.5.4 loss of sales or business;
  - 9.5.5 loss, damage or depletion of goodwill
  - 9.5.6 loss of use or corruption of software, data or information; or
  - 9.5.7 indirect or consequential loss.
- 9.6 The Services and/or results, information, data and/or analysis provided as part of the Services are intended for use in scientific research only. Accordingly (subject to Condition 9.3) the Company shall not be liable for any losses, damages, expenses, costs or liabilities whatsoever which arise from or in connection with any use of the same for any purpose other than scientific research.
- 9.7 The Customer acknowledges that the provisions set out in this Condition 9 are reasonable and reflected in the price payable for the Services which would be higher without these provisions and the Customer agrees to accept such risk and/or insure accordingly.
- 9.8 This clause 9 shall survive termination of the Contract.

## **10. CONFIDENTIALITY**

- 10.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Company, its employees, agents or sub-contractors and any other confidential information concerning the Company's business or its products or services which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub- contractors as need to know the same for the purpose of discharging the Customer's obligations to the Company, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 10.2 The Customer may disclose the Company's confidential information as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 10.3 This clause 10 shall survive termination of the Contract, however arising.

## **11. CUSTOMER'S LIABILITY**

The Customer shall keep the Company indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including reasonable legal and other professional fees and expenses) awarded against or incurred or paid by the Company as a result of or in connection with any use by the Customer or any third party of the Services and/or any results, information, data or analysis provided as part of the Services.



## **12. ASSIGNMENT**

- 12.1 The Company may assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any person, firm or company.
- 12.2 The Customer shall not be entitled to assign transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Company.

## **13. FORCE MAJEURE**

- 13.1 The Company reserves the right to defer the date of performance of the Services or to cancel the Contract or make changes to the provision of the Services without liability to the Customer if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company (including but not limited to industrial action) provided that, if the event in question continues for a continuous period in excess of 180 days, the Customer shall be entitled to give 10 Business Days notice in writing to the Company to terminate the Contract.

## **14. INTELLECTUAL PROPERTY RIGHTS**

- 14.1 Except as expressly agreed in writing and signed by a director of the Company, all Intellectual Property Rights in the Services, including but not limited to: (i) the sequencing technology, (ii) laboratory know-how, (iii) or any improvements or modification thereof, shall be owned by the Company.
- 14.2 The Customer shall be the exclusive owner of (i) the data, (ii) the Customer Materials, (iii) any derivatives or modifications of the Customer Materials generated by Company and (iv) any inventions and/or discoveries except for Condition 14.1, directly resulting from the performance of the Services and directly related to the Customer Material.

## **15. TERMINATION**

- 15.1 Without limiting its other rights and remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 15.1.1 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or any arrangement with its creditors or being wound up (whether voluntarily or by order of the court); or
- 15.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- 15.1.3 the Customer ceases, or threatens to cease, to carry on all or a substantial part of its business; or
- 15.1.4 the Customer's financial position deteriorates to such an extent that in the Company's opinion the Customer's capability to adequately fulfill its obligations under the Contract have been placed in jeopardy.
- 15.2 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer:
- 15.2.1 if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 5 Business Days after being notified by the Company in writing to make such payment; or
- 15.2.2 if the Customer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within 5 Business Days after being notified by the Company in writing to do so.
- 15.3 Without prejudice to any other right or remedy available to the Company, the Company shall be entitled to suspend any further work under the Contract or any other contract between the Customer and the Company if the Customer becomes subject to any of the events lists in condition 15.1.1 to 15.1.4 or the Company reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 15.4 If the Contract is terminated pursuant to this Condition 15, if any Services have been provided but not yet invoiced the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.



## 16. NOTICES

- 16.1 class post or sent by fax to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified to the party giving notice.
- 16.2 Notices shall be deemed to have been received:
- 16.2.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- 16.2.2 if delivered by hand, on the day of delivery; or
- 16.2.3 if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 16.3 Nothing in this Condition 16 shall preclude the Company and the Customer from communicating by email provided that any notice given under these Conditions shall not be validly served unless given in accordance with Condition 16.1. For the avoidance of doubt order confirmations issued by the Company may be sent by email.

## 17. GENERAL

- 17.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 17.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 17.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 17.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 17.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 17.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by the laws of England and Wales.
- 17.7 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).
- 17.8 The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.