

TERMS AND CONDITIONS OF SUPPLY OF CLONES

This document (together with the documents referred to in it) sets out the terms and conditions on which we supply the biological material ("CLONES") listed on our website www.lifesciences.sourcebioscience.com ("the Website") to you.

These terms and conditions apply to both CLONES ordered through the Website and CLONES ordered other than through the Website.

When you place an order with us (whether through the Website or otherwise) we will provide you with an order number which, by using the order tracking facility on the Website, you may then use to track the status of your order from time to time.

Please read these terms and conditions carefully. You should understand that by ordering any of our CLONES, you agree to be bound by these terms and conditions.

You should retain a copy of these terms and conditions for future reference.

Please understand that if you refuse to accept these terms and conditions and the terms and conditions of the relevant MTA, you will not be able to order any CLONES from us.

1. INFORMATION ABOUT US

1.1 www.lifesciences.sourcebioscience.com is a site operated by Source BioScience UK Limited ("we" "us" or "our") a company registered in England and Wales under registered number 4078501 and whose registered office is 1 Orchard Place, Nottingham Business Park, Nottingham NG8 6PX.

2. INTERPRETATION

2.1 In these conditions of supply the following words will (unless the context otherwise requires) have the following meanings:

"Conditions" the conditions set out below and overleaf (which incorporate the terms of the relevant MTA);

"Contract" the contract between us and you for the supply of the CLONES comprising these Conditions and any documents referred to in them (including, for the avoidance of doubt, the provisions of the relevant MTA);

"MTA" the Materials Transfer Agreement(s) which you and your Researchers are subject to in respect of use of the CLONES supplied by us to you and which you have accepted;

"CLONES" means the biological material supplied (subject always to the relevant MTA) by us to you from time to time;

"Researcher" a person employed by you who carries out research on your behalf and who utilises the Materials;

"you" / "your" the company, academic institution, firm, body or any representative thereof or any other person who orders the CLONES.

2.2 Any reference in these Conditions to "writing" or cognate expressions includes a reference to facsimile transmission, email or comparable means of communication.

2.3. The headings are for reference only and will not affect the interpretation of these Conditions.

2.4 We reserve the right at any time without liability to correct any clerical, typographical or other similar errors or omissions made by us.

2.5 References to statutes or statutory instruments shall be deemed to be references to those statutes or statutory instruments as the same may be amended or re-enacted from time to time.

3. APPLICATION OF TERMS

3.1 Subject to clause 3.3, the Contract shall be on these Conditions and they will govern the provision of the CLONES to the exclusion of all other terms and conditions (including any terms or conditions which you purport to apply under any purchase order, confirmation of order, specification or other document). Where you are ordering the CLONES through the Website and you click on the button marked "I Accept" and thereafter submit your order, or accept (or use) the CLONES, you will be deemed to accept these Conditions.

3.2 No terms, conditions or warranties endorsed upon, delivered with, referred to or stipulated or contained in any purchase order or other similar document delivered or sent by you to us will form part of the Contract.

3.3 No variation to, waiver of or addition to these Conditions will have any effect unless it is expressly agreed in writing and contains a specific reference to these Conditions. You acknowledge that you have not relied on any statement, promise or representation made or given by, or on behalf of, us which is not set out in the Contract. Nothing in this clause shall limit or exclude our liability for fraudulent misrepresentation.

3.4 You acknowledge that we are distributing the CLONES subject to a license from the beneficial owner of the CLONES. All sales of the CLONES shall be on these Conditions which incorporate the terms of the relevant MTA. The relevant MTA is as attached or where you are placing an order through the Website can be found on our MTA page www.lifesciences.sourcebioscience.com/clone-products/material-transfer-

[agreements.aspx](#) Where you are ordering the CLONES through the Website and thereafter have submitted your order, you will be understood to have accepted the terms and conditions of the relevant MTA.

3.5 You must ensure that the content of your order for CLONES is complete and accurate and that you have provided us with a valid Purchase Order Number in the compulsory box.

4. SERVICE AVAILABILITY

The terms of some MTAs prohibit us from accepting orders from certain countries ("Non-Serviced Countries"). These restrictions can be found on our Non-Serviced Countries page www.lifesciences.sourcebioscience.com/clone-products/material-transfer-agreements/non-serviced-countries.aspx. Please review our Non-Serviced Countries page before ordering CLONES from us.

5. YOUR STATUS

5.1 You warrant that:

5.1.1 you are legally capable of entering into binding contracts;

5.1.2 you are at least 18 years old;

5.1.3 you are not contracting as a consumer;

5.1.4 where applicable, you are not resident in one of the Non-Serviced Countries; and

5.1.5 where applicable, you are not accessing the Website from that Non-Serviced Country.

6. HOW THE CONTRACT IS FORMED BETWEEN YOU AND US

6.1 Each order by you (whether placed through the Website or placed otherwise than through the Website) shall be deemed to be a separate offer by you to purchase the CLONES subject to these Conditions, which we shall be free to accept or decline at our absolute discretion.

6.2 No order placed by you shall be deemed to be accepted by us until:

6.2.1 we amend the status of your order via the order tracking facility on the Website to Received/In Hand; or

6.2.2 (if earlier) we deliver the CLONES to you.

7. CANCELLATION

7.1 You may at any time before the CLONES are dispatched to you amend or cancel an order by providing us with written notice and if you amend or cancel an Order, your liability to us shall be limited to payment to us of all costs we reasonably incur in fulfilling the order until we receive your amendment or cancellation.

8. THE CLONES AND YOUR OBLIGATIONS

8.1 All CLONES supplied by us are for research purposes only and are supplied subject always to the terms of the relevant MTA.

8.2 You warrant that at all times you:

8.2.1 are acting on your own behalf and on no-one else's behalf;

8.2.2 shall not make the CLONES available to, or allow the use of the CLONES by (or for the benefit of), any person other than a Researcher carrying out investigation (as defined in the relevant MTA) and/or legitimate research;

8.2.3 have obtained all necessary licenses and/or permits in respect of your possession of and use of the CLONES;

8.2.4 shall comply with all applicable laws and regulations of the country (in connection with possession and/or use or otherwise) for which the CLONES are destined;

8.2.5 shall only use the CLONES for the purposes of your investigation and/or legitimate research;

8.2.6 shall not use the CLONES for diagnostic purposes; and

8.2.7 shall not procure the resale or distribution of the CLONES.

8.3 You may not use the CLONES other than as specified in clause 8.2 without our prior written consent.

8.4 We will not be liable for any breach by you of any applicable laws and regulations of the country for which the CLONES are destined.

8.5 You shall procure that each of your Researchers shall comply at all times with the obligations under the Contract. You shall immediately notify us in the event that you become aware of any breach in connection with the Contract.

8.6 You shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all

interest, penalties and legal and other professional costs and expenses) suffered or incurred by us arising out of or in connection with:

8.6.1 any breach of the warranties contained in clauses 5.1 and 8.2;

8.6.2 your (or your Researcher(s)) breach or negligent performance or non-performance of the Contract;

8.6.3 any claim made against us by a third party arising out of or in connection with the supply of the CLONES, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by you or your Researchers; and

8.6.4 any claim made against us by a third party for death, personal injury or damage to property arising out of or in connection with defective CLONES, to the extent that the defect in the CLONES is attributable to the acts or omissions of you or your Researchers.

8.7 The indemnity in clause 8.6 shall apply whether or not we have been negligent or at fault.

8.8 If any third party makes a claim, or notifies an intention to make a claim, against us which may reasonably be considered likely to give rise to a liability under clause 8.6 ("a Claim"), we shall:

8.8.1 as soon as reasonably practicable, give written notice of the Claim to you, specifying the nature of the Claim in reasonable detail;

8.8.2 not make any admission of liability, agreement or compromise in relation to the Claim without your prior written consent (such consent not to be unreasonably conditioned, withheld or delayed), provided that we may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to you, but without obtaining your consent) if we reasonably believes that failure to settle the Claim would be prejudicial to it in any material respect;

8.8.3 give you and your professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within our power or control, so as to enable your and your professional advisers to examine them and to take copies (at your expense) for the purpose of assessing the Claim; and

8.8.4 subject to you providing us security to our reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as you may reasonably request to avoid, dispute, compromise or defend the Claim.

8.5 Where there is a conflict between any of the provisions of these Conditions and the provisions of the relevant MTA, the provisions of the MTA will prevail.

9. DESCRIPTION

9.1 All samples, drawings, descriptive matter, specifications and advertising issued by us and any descriptions or illustrations contained in our catalogues or brochures or displayed on the Website are issued or published for the sole purpose of giving an approximate idea of the CLONES described in them. They shall not form part of the Contract.

10. DELIVERY

10.1 Any times specified or agreed by us for the delivery of the CLONES are given in good faith but are intended to be an estimate only and time for delivery shall not be made of the essence by notice. If no time is specified or agreed by us delivery will take place within a reasonable time of the date your order is deemed to be accepted by us pursuant to clause 6.2. We will not be liable for any 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 similar loss) costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the CLONES (even if caused by our negligence), nor shall any delay entitle us to terminate or rescind the Contract unless such delay exceeds 180 days.

10.2 We may deliver the CLONES by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

10.3 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle you to repudiate or cancel any other Contract or instalment.

11. RISK AND TITLE

11.1 The CLONES will be at your risk from the time of delivery.

11.2 Ownership of the CLONES will only pass to you when we receive full payment of all sums due in respect of the CLONES, including delivery charges.

12. PRICE AND PAYMENT

12.1 Unless expressly agreed otherwise in writing by us, the CLONES are supplied by reference to our price list published by us on the Website from time to time, except in the case of obvious error.

12.2 Subject to this clause 12.2, all prices are exclusive of VAT, which sum shall be added to the invoice and shall be payable by you. UK VAT is applicable to transactions within the European Union including the UK. For EU based organisations, registered outside the UK, supply of a valid VAT registration number is required, if you are to avoid UK VAT.

Eligible bodies in the UK may qualify for zero rating under VATA 1994, Schedule 8, Group 15. Such organisations should check their eligibility status carefully and only supply a certificate where they are fully satisfied that zero-rating applies. We reserve the right to charge VAT to you where you do not provide a valid zero-rating certificate or where instructed to do so by HMRC.

12.3 All prices are exclusive of delivery costs, which shall be added to the total amount due as set out on the Website.

12.4 The Website contains a large number of CLONES and it is always possible that, despite our best efforts, some of the CLONES listed on the Website may be incorrectly priced. We will normally verify prices as part of our dispatch procedures so that, where a Product's correct price is less than our stated price, we will charge the lower amount when dispatching the Product to you. If a Product's correct price is higher than the price stated on the Website, we will normally, at our discretion, either contact you for instructions before dispatching the Product, or reject your order and notify you of such rejection.

12.5 We are under no obligation to provide the Product to you at the incorrect (lower) price, even after your order is deemed to be accepted by us pursuant to clause 6.2, if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mispricing.

12.6 If you order CLONES for delivery outside the United Kingdom, they may be subject to import duties and taxes which are levied when the delivery reaches the specified destination. You will be responsible for payment of any such import duties and taxes. Please note that we have no control over these charges and cannot predict their amount. Please contact your local customs office for further information before placing your order.

12.7 Payment for all CLONES will be due in pounds sterling and will be paid by you by such payment method as we shall, at our discretion, determine including without limitation payment by way of credit or debit card or upon receipt of our invoice. Where payment is made by credit or debit card we will not charge your credit or debit card until we dispatch your order.

12.8 In respect of payment:

12.8.1 where payment is made otherwise than by credit or debit card, you shall pay the prices for the CLONES within 30 days of receipt of an invoice from us;

12.8.2 no payment will be deemed to have been received until we have received the payment in full in cleared funds. Time for payment will be of the essence of the Contract;

12.8.3 all payments payable to us under the Contract will become due immediately on termination of the Contract despite any other provision of these Conditions;

12.8.4 you will make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise; and

12.8.5 if you fail to pay us any sum due pursuant to the Contract, then without prejudice to our other rights and remedies you shall pay interest at 2% over LIBOR to us on such sum

from the due date for payment at the statutory rate from time to time in force accruing on a daily basis until payment is made in full (whether before or after any judgement).

13. WARRANTIES

13.1 We warrant to you that (subject always to the other provisions of these Conditions), on delivery, the CLONES shall:

13.1.1 be of satisfactory quality; and

13.1.2 be reasonably fit for any particular purpose for which the CLONES are being bought, provided that you have made known that purpose to us and we have confirmed that it is reasonable for you to rely on our skill and judgment.

13.2 You acknowledge that there is a risk that a proportion of the CLONES supplied by us may not conform to the description provided by us to you (if any) and/or may be contaminated and you accept that this is inevitable given the nature of the CLONES. We shall have no liability of any kind where the Product(s) does not conform with any such description and/or where the Product(s) is contaminated, for whatever reason.

13.3 We shall not be liable for a breach of any of the warranties in clause 13.1 unless:

13.3.1 you give written notice of the defect to us within three calendar months from your receipt of the Product; and

13.3.2 we are given a reasonable opportunity after receiving the notice of examining such CLONES and you (if asked to do so by us) return such CLONES to our place of business at our cost for the examination to take place there.

13.4 We shall not be liable for a breach of any of the warranties in clause 13.1 if:

13.4.1 you (or any of your Researchers) make any further use of such CLONES after giving such notice; or

13.4.2 the defect arises because you fail follow our oral or written instructions as to the storage, installation, use or maintenance of the CLONES or (if there are none) good industry practice.

13.5 Subject to clauses 13.2, 13.3 and 13.4, if any of the CLONES do not conform with any of the warranties in clause 13.1, we shall at our own option replace such CLONES or refund the price of such CLONES at the pro rata Contract rate provided that, if we so request, you shall, at our expense, return the CLONES.

13.6 We will not be liable for a breach of any of the warranties in clause 13.1 where and to the extent that a defect arises as a result of your negligence.

13.7 If we comply with clause 13.5 we shall have no further liability (in contract, tort (including, without limitation, negligence) or otherwise) for breach of any of the warranties in clause 13.1 in respect of such CLONES.

13.8 Our obligations to replace the CLONES or refund the price of such CLONES under 13.5 shall not apply to any replacement CLONES supplied by us.

14 LIMITATION OF LIABILITY

14.1 Save for the warranties given by us at clause 13.1, all warranties, conditions and other terms (whether implied by statute or otherwise) are, to the fullest extent permitted by law, excluded from the Contract.

14.2 Nothing in these Conditions excludes or limits our liability:

14.2.1 for fraud or fraudulent misrepresentation;

14.2.2 for any death or personal injury caused by our negligence; or

14.2.3 for any matter which it would be illegal for us to exclude or attempt to exclude our liability.

14.3 Subject to clause 14.2, we will not be liable to you in contract, tort (including, without limitation, negligence), misrepresentation or otherwise for any:

14.3.1 economic loss of any kind (including, without limitation, loss of use, profit, anticipated profit, business, contracts, overhead recovery, revenue or anticipated savings);

14.3.2 any damage to your reputation or goodwill: or

14.3.3 any other special, indirect or consequential loss or damage

(even if we have been advised of such loss or damage) arising out of or in connection with the Contract.

14.4 Subject to the provisions of clause 14.2, our total liability in contract, tort (including, without limitation, negligence), misrepresentation or otherwise arising out of or in connection with the Contract will be limited to the Contract price.

14.5 The provisions of this clause 14 shall survive the termination or expiry (for whatever reason) of the Contract.

15 CONFIDENTIALITY

15.1 Each of you and us shall keep strictly confidential all information concerning the business and affairs of the other obtained from the other either pursuant to the Contract or prior to and in contemplation of it, shall use the same exclusively for the purposes of the Contract, and shall disclose the same only to those of its directors and employees to whom and to the extent that such disclosure is reasonably necessary for the purposes of the Contract.

15.2 The obligations of clause 15.1 above shall survive the termination of the Contract but shall not apply to any information which:-

15.2.1 the recipient can demonstrate was already in its possession and at its free disposal prior to receipt under the circumstances mentioned at clause 15.1 above;

15.2.2 is subsequently disclosed to the recipient without any obligation of confidence by a third party who has not derived it directly or indirectly from the disclosing party; or

15.2.3 enters the public domain through no act or default of the recipient, its agents or employees.

15.3 You will keep us indemnified in full against all liability, loss, damage, claim, action, demand, expense or proceeding in respect of any breach by you of your obligations set out in the provisions of clause 15.1.

16 DATA PROTECTION

16.1 We agree that we shall only process your personal data (as defined in the Data Protection Act 1998 ("DPA"), and all regulations, codes of practice and guidance notes made thereunder and all subsequent amending or secondary legislation or orders) for the purposes of performing our obligations under the Contract and we will at all times process your personal data in accordance with the DPA and will take all reasonable security measures as are required to ensure our compliance with the DPA.

17 INTELLECTUAL PROPERTY RIGHTS

17.1 You will keep us indemnified in full against all liability, loss, damage, claim, action, demand, expense or proceeding in respect of any infringement or alleged infringement of any third party intellectual property rights resulting from any compliance by us with your instructions, whether express or implied.

17.2 You understand and accept that nothing within the Contract shall operate to transfer any intellectual property rights of the beneficial owner of the CLONES to you.

18 TERMINATION

18.1 Without prejudice to the foregoing, we may terminate the Contract immediately if:

18.1.1 you fail to pay the price on the due date;

18.1.2 you are in breach of any term of the Contract and have failed to remedy such breach within 28 days of receipt of written notice specifying the breach and requiring it to be remedied;

18.1.3 there is a material change in the ownership or control of you; or

18.1.4 you are wound up or become insolvent or have a receiver or administrative receiver appointed or suffer the appointment or the presentation of a petition for the appointment of an administration or any equivalent or analogous event occurs in any other jurisdiction.

18.2 The termination of the Contract (howsoever arising) will be without prejudice to any rights and remedies which may have accrued to either party.

18.3 Any Conditions which impliedly have effect after termination or expiry will continue to be enforceable notwithstanding termination or expiry.

19 FORCE MAJEURE

We will not be liable to you, or be deemed to be in breach of these Conditions, by reason of any delay in performing or failure to perform any of our obligations under these Conditions if such delay or failure is caused by events outside of our reasonable control including, without limitation, acts of God, government actions, war or national emergency, acts of terrorism, protests, riot, fire, explosion, flood, strikes or other industrial action of whatever nature. If we are unable to perform our obligations under these Conditions we will promptly notify you of the nature and extent of the circumstances in question. Our performance under any Contract is deemed to be suspended for the period that the event in question continues, and we will have an extension of time for performance for the duration of that period.

20 GENERAL

20.1 You not without our prior written consent assign or transfer the Contract or any part of it to any other person.

20.2 We may without your prior written consent assign, transfer or subcontract the Contract or any part of it to any other person.

20.3 Each of rights or remedies under these Conditions are without prejudice to any other right or remedy which we may have under these Conditions or otherwise.

20.4 Reference to, and acknowledgement of, us will be made in any resulting publication involving information generated by us. Acknowledgements can be incorporated into the body of the paper but should use our standard text: "genomic products were provided by Source BioScience UK Limited (www.sourcebioscience.com)".

20.5 Applicable laws require that some of the information or communications we send to you should be in writing. When placing orders through the Website, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on the Website. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any

legal requirement that such communications be in writing. This condition does not affect your statutory rights.

20.6 All notices given by you to us must be given to Source BioScience UK Limited at 1 Orchard Place, Nottingham Business Park, Nottingham, NG8 6PX. We may give notice to you at either the e-mail or postal address you provide to us when placing an order, or in any of the ways specified in clause 20.5 above. Notice will be deemed received and properly served immediately when posted on the Website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

20.7 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, unenforceable or unreasonable it will, to the extent of such illegality, invalidity, voidness, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract shall continue in full force and effect to the fullest extent permitted by law.

20.8 Failure or delay by us in exercising any right or remedy provided by the Contract or by law will not be construed as a waiver of such right or remedy or a waiver of any other right or remedy.

20.9 A person who is not a party to the Contract will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

20.10 These Conditions and any document expressly referred to in them (including for the avoidance of doubt the provisions of the relevant MTA) represent the entire agreement between us in relation to the subject matter of any Contract and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.

20.11 We each acknowledge that, in entering into a Contract, neither of us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between us prior to such Contract except as expressly stated in these Conditions.

20.12 Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of any Contract (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these Conditions.

20.13 We have the right to revise and amend these Conditions from time to time. You will be subject to the policies and Conditions in force at the time that you order CLONES from us, unless any change to those policies or these Conditions is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you), or if we notify you of the change to those policies or these Conditions before we are deemed to have accepted your order pursuant to clause 6.2 (in which case we have the right to assume that you have accepted the change to the Conditions, unless you notify us to the contrary within seven working days of receipt by you of the CLONES).

20.14 The Contract and any dispute or claim arising out of or in connection with it or its subject matter of formation (including non-contractual disputes or claims) will be governed by English law. Any dispute or claim arising out of or in connection with the Contract or its formation (including non-contractual disputes or claims) shall be subject to the non-exclusive jurisdiction of the English courts.

June 2010