

TERMS AND CONDITIONS GOVERNING THE SUPPLY OF SERVICES OF MICROBESNG

These Terms apply to and govern the supply of services by MicrobesNG, (MNG) to the Customer and are to the exclusion of all other terms and conditions. By ordering services from MNG the Customer accepts and acknowledges these terms and conditions exclusively govern the supply of such services of MNG

1. Interpretation

1.1 In these Terms the following words have the following meanings:

the Contract the agreement between the Customer and MNG for the supply of the Services;

the Customer means the person, company or organisation ordering the Services from MNG under the Contract, such details as provided by the Customer to MNG when first contacting MNG for a Quotation or as otherwise provided to MNG by the Customer during the order process;

the Data Results information and data extracted and generated by MNG from the Samples as part of the Services;

Estimated Delivery Date an estimated date for delivery of the Data Results;

Excluded Samples means those Samples which MNG cannot accept for analysis as set out on the Website and/or in information provided to the Customer;

Intellectual Property Rights means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country and all pending applications for and rights to apply for or register such rights;

MNG the microbial sequencing and data analysis services run by Microbial Genomics Ltd (Co No: 11649075) with registered office 168 Church Road, Hove, East Sussex, BN3 2DL;

Payment the cost of the Services as specified in the Quotation exclusive of VAT;

QC Criteria: the criteria relating to Sample quality/quantity as specified to the Customer via its project portal and via the protocols provided to the Customer by MNG from time to time;

Quotation has the meaning set out in clause 2.2;

the Samples biological and non-biological samples (excluding human tissue samples), specimens, test items, formulated materials provided or to be provided by the Customer to MNG for the purposes of genetic analysis as specified in a Quotation and including any Samples resubmitted in accordance with clause 3.6;

the Services the genome sequencing of strains or DNA, sequencing data or data analysis services to be supplied by MNG under the Contract;

the Terms means these terms and conditions;

the Website means the website currently located at www.microbesng.com via which Customer can request MNG to provide the Services.

1.2 Any reference in these Terms to a statute or regulation is to be construed as a reference to that statute or regulation as amended or re-enacted from time to time.

1.3 The Interpretation Act 1978 applies to these Terms as if these Terms were an enactment.

1.4 The headings in these Terms are for ease of reference only; they do not affect the interpretation or construction of these Terms.

1.5 Any typographical, clerical or other error or omission in any sales literature, price list, Quotation, acceptance of offer, invoice or other document or information issued by MNG shall be subject to correction without any liability on the part of MNG.

2. Contract Formation

2.1 These Terms will govern the provision of the Services 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 order, specification or other document) unless such other terms and conditions have been expressly agreed to in writing by MNG. These Terms will prevail over those of the Website, any Quotation and/or any online shop terms in the event of inconsistency or conflict.

2.2 Following a request from a prospective Customer to provide the Services, MNG will issue a quotation ("**Quotation**") to that Customer which is open to acceptance by the prospective Customer for 60 days after its date.

2.3 The Customer is deemed to have accepted the Quotation and these Terms by: (a) accepting the Quotation via the online finance portal; (b) making a payment for any of the Services via the Website and/or any online shop; or (c) issuing a Purchase Order to MNG for the Services. Email confirmations are also acknowledged as acceptance of the Quotation and these Terms. Provided that the Customer accepts the Quotation within the 60-day period in accordance with any of the foregoing methods, the Contract between the Customer and MNG will be formed for the supply of the Services.

2.4 If a prospective Customer does not accept the Quotation within the 60-day period, but later purports to accept it, the purported acceptance will be an offer to treat. If a prospective Customer places an order with MNG without MNG first having issued a Quotation, that order will be an offer to treat. In either of those circumstances a contract will only come into existence if and when MNG accepts the Customer's offer. MNG may decline the Customer's offer as MNG sees fit.

2.5 MNG may revise these Terms at any time by publishing new or revised Terms on the Website. If a Quotation is accepted by the Customer after the new or revised Terms have been published on the Website, those new or revised Terms will apply to the supply of the Services under such Quotation. It is the Customer's responsibility to regularly review the Website accordingly.

3. Delivery Acceptance and use of the Samples

3.1 The Customer will provide MNG with the Samples and will deliver the Samples to MNG's premises at its own risk and cost (including full shipping and customs costs).

3.2 The Customer will provide the Samples together with all associated information and documentary evidence (including, without limitation, certificates of non-contamination and patient and ethical consents as appropriate) in relation to the Samples as MNG may reasonably require in order to perform the Services. The Customer must provide the Samples to MNG within 12 months of accepting the Quotation. If MNG receives the Samples outside this timeframe then Customer acknowledges that MNG's rates and/or administration costs may have changed since Customer accepted the Quotation and MNG therefore reserves the right to charge additional costs to Customer before it commences the Services.

3.3 If the Customer wishes to submit a Sample that is an Excluded Sample then it must first obtain MNG's prior written consent to submit such Sample and follow MNG's instructions if such Sample is able to be submitted, for example to submit such Sample as DNA.

3.4 The Customer will ensure that all containers, packaging and labelling of the Samples complies with the instructions of MNG, any international shipping regulations and, in particular, MNG's instructions in respect of barcodes, concentrations, volumes, integrity and information to be provided on a sample spreadsheet. MNG reserves the right to destroy Samples received if they are not submitted in accordance with its instructions.

3.5 MNG will carry out quality control checks either on the Sample information provided by the Customer prior to shipping the Samples, or on the received Samples in order to ensure that the quality and quantity of the Samples meet the QC Criteria. If MNG in its sole discretion determines that the quality or quantity of a Sample does not meet the QC Criteria, MNG will continue to provide the Services in connection with such Sample but cannot guarantee that such Sample will be viable and produce appropriate results.

3.6 If, having performed the Services on the Sample provided and despite the Sample passing the QC Criteria process above or for any other reason, MNG requires the Customer to resubmit one or more Samples due to such Sample(s) not being viable, provided always that such non-viability is not as a direct result of any actions or omissions of MNG, it shall notify the Customer of the same asking for the Sample(s) to be resubmitted and specifying any instructions in relation to such resubmission. The Customer shall then resubmit such Sample(s) within 30 days of notification from MNG of the request for such resubmission. If MNG receives the Sample(s) outside this timeframe then Customer acknowledges that MNG's rates and/or administration costs may have changed and MNG therefore reserves the right to charge additional costs to the Customer before it commences the Services and/or refuse to perform the Services. MNG also reserves the right

to destroy Samples received if they are not submitted in accordance with its instructions. The Customer shall be charged the Payment in connection with such resubmitted Sample(s) together with an additional sum equal to 50% of such Payment, such sum being considered the sum representing the loss suffered by MNG as a result of having to carry out the Services again on such resubmitted Sample(s). The foregoing amounts shall be due and payable in accordance with these Terms.

3.7 Once MNG has received the re-submitted Sample(s) in accordance with clause 3.6 above, MNG shall perform the Services. If such Sample(s) is again non-viable, provided always that such non-viability is not as a direct result of any actions or omissions of MNG, MNG shall not be required to accept any further Sample(s). No refund shall be due to the Customer for any Payment paid in respect of all Services performed (including the additional 50% charge due in accordance with clause 3.6 above) and, if Customer has not yet paid for such Services in connection with the original Sample(s) and/or any resubmitted Sample(s), Customer shall be required to immediately, on demand, pay MNG the total Payment due in respect of such Services (including the additional 50% charge due in accordance with clause 3.6 above).

3.8 MNG may use the Samples for the purposes of performing the Services and subject to clause 3.9 below, following the provision of the Services and the delivery of the Data Results to the Customer.

3.9 MNG will not use the Samples for any purpose except to provide the Services to the Customer and will not make the Data Results publicly available (unless otherwise agreed with the Customer). Irrespective of the type of project: (a) MNG will retain the Samples for a minimum period of 2 months (unless otherwise requested by the Customer to be removed prior to the end of such 2-month period) after delivery of the Data Results, after which MNG shall be entitled to destroy all DNA, strains and DNA libraries derived from the Samples supplied to MNG; and (b) MNG will retain the Data Results for a minimum period of 12 months after delivery, after which MNG shall be entitled to destroy such Data Results.

4. The Services and Data Results

4.1 MNG will use reasonable endeavours to carry out the Services with reasonable skill and care. MNG will endeavour to complete the Services and to deliver the Data Results by any Estimated Delivery Date, but any such Estimated Delivery Date is an estimate only, and MNG will not be liable for any delay or failure to deliver or perform in accordance with an Estimated Delivery Date.

4.2 The Services are provided as scientific testing and research services only and the Customer acknowledges that the Services and Data Results are not provided by MNG to the Customer for clinical use (including, without limitation, diagnostic, prognostic or therapeutic use) without further data analysis by the Customer and/or additional terms and conditions being entered into with MNG.

4.3 Any delay by the Customer in providing Samples, or in making the Payment to MNG will give MNG the right to delay performance of the Services by a reasonable amount of time taking into account the delay by the Customer and the availability of MNG's facilities.

4.4 Once the Services have been completed, MNG will deliver the Data

Results to the Customer through or on an accessible electronic medium.

5. Payment

5.1 The Customer will pay the Payment either at the time of order via the Website and/or online shop (as applicable) or by issuing a purchase order. An invoice will be generated by Microbial Genomics Ltd on behalf of MNG, following the issue of the purchase order. Unless otherwise agreed in writing, payment of all invoices will be made by the Customer to Microbial Genomics Ltd in full in the currency specified in the Quotation or such other document provided by Microbial Genomics Ltd relating to any payments due hereunder as invoiced, no later than thirty (30) days from the date of an invoice.

5.2 All prices are exclusive of VAT unless otherwise stated and the Customer will pay any and all tax duties and other government charges payable in respect of the Services in accordance with UK legislation in force at the tax point and all other taxes and duties payable in connection with the supply of the Services to the Customer and its export and import into any territory.

5.3 In the event of late payment by the Customer MNG will be entitled, without limiting any other rights and remedies it may have:

5.3.1 to suspend the Services and/or cancel any of its outstanding obligations under the Contract;

5.3.2 to levy a service charge to cover administrative and other associated costs in relation to overdue accounts at the rate of 5% per month on all unpaid accounts, including to cover additional administrative charges such as resending buffer tubes or other repeat services costs; and

5.3.3 to charge interest on any outstanding amount accruing from time to time at the amount prescribed in the Late Payment of Commercial Debts (Interest) Act 1998 from the due date until the outstanding amount is paid in full.

5.4 The Customer will have no right to set off any amounts owing to it by MNG against unpaid invoices due to MNG.

5.5 Any claim or query by the Customer in respect of the invoiced price of the Services must be notified to MNG by the Customer within the period referred to in clause 5.1.

6. Intellectual Property Rights

6.1 Nothing in these Terms grants the Customer any licence to or any other rights under any Intellectual Property Rights of or used by MNG existing at the date of the Contract. The Customer will have no interest in any Intellectual Property Rights of or used by MNG including those relating to methods of analysing nucleic acids, methods of experimental design (such as sample preparation and probe design) genomic sequencing or data analysis tools.

6.2 The Intellectual Property Rights in the Data Results will be the property of the Customer and at the request and cost of the Customer MNG will execute documents and take all necessary actions to assign to the Customer the Intellectual Property Rights. Customer hereby

grants to MNG a worldwide, non-exclusive, royalty-free, fully paid up, sublicensable licence to permit MNG to use the Data Results to provide the Services, improve its services (including the Services) and for its own research and development purposes. MNG undertakes, however, that notwithstanding the foregoing it will not share such Data Results outside its organisation without the prior written consent of the Customer. MNG shall, however, be entitled to generate aggregated anonymized summary information using such Data Results and publish and use such summary information as it sees fit.

6.3 MNG grants to the Customer a non-exclusive, non-transferable licence to access and use the MNG website portal and associated software solely for the purpose of accessing and using the Data Results, and only to the extent that such access and use is necessary for the Customer to access and use the Data Results provided that:

6.3.1 the Customer will not allow anyone except its employees and named collaborators (such names as provided to MNG in writing prior to such access including via the project portal) to access and use the MNG portal and software and will not divulge details of the MNG portal and/or software to any third party.

6.3.2 the Customer may not distribute any part of the MNG portal or software to any third party, or share its access or use with any third party (whether on a commercial basis, free of charge or otherwise), and Customer may not sub-license the use of the MNG portal or software;

6.3.3 the Customer may not access and/or use the MNG portal or software on behalf of, or for the benefit of, anyone else; and

6.3.4 the Customer may not modify, adapt, reverse engineer, decompile or disassemble the whole or any part of the MNG portal or software for any purpose except for the purposes expressly permitted by and in accordance with section 50 of the Copyright, Design and Patents Act 1988 or any other directly applicable law.

7. Warranties and Indemnities

7.1 The Customer warrants that:

7.1.1 it has obtained all patient and/or ethical consents in respect of the Samples necessary to allow the Customer to submit the Samples to MNG and for MNG to comply with its obligations under the Contract;

7.1.2 that MNG's possession or use of the Samples to provide the Services or its holding of the Samples and Data Results in accordance with the Contract complies with all applicable laws and regulations (including the Data Protection Legislation (as defined in the Data Processing Terms)) and will not infringe the Intellectual Property Rights of any third party; and

7.1.3 it has provided MNG with all necessary information concerning the safe handling and storage of the Samples.

7.2 The Customer will indemnify MNG from and against any and all actions, claims, damages, losses and expenses (including, without limitation, legal and other costs and expenses) incurred by MNG as a result of or in connection with the Customer's breach of the warranties set out in clause 7.1.

7.3 The Customer warrants that it has not been induced to enter into the Contract by any representation or by any warranty (whether oral, or in writing, or in any other form) except those expressly made part of the Contract. The Customer waives all claims for breach of any warranty and all claims for any misrepresentation, (negligent or of any other kind, unless made by MNG fraudulently) which is not specifically set out in the Contract as a warranty.

7.4 The Customer acknowledges and agrees that the Services are scientific testing services and accordingly specific results or outcomes are not guaranteed or warranted.

7.5 The Data Results are supplied without any express or implied warranties, conditions or representations and all warranties, conditions, terms, undertakings and obligations on the part of MNG implied by statute, common law, custom, trade usage, course of dealing or in any other way are, to the extent permitted by law, excluded.

7.6 MNG makes no representations and gives no warranty that the use of the Data Results or the exercise of any other rights licensed under this Agreement will not infringe any Intellectual Property Rights or other rights of any third party.

8. Limitation of Liability

8.1 Nothing in these Terms limits MNG's liability for fraud, or death, or personal injury arising as a result of MNG's negligence or any other liability which may not, by law, be excluded.

8.2 Subject to clause 8.1, the maximum liability of MNG under or in connection with the Services whether caused by the negligence of MNG, its servants, agents, sub-contractors or otherwise will not exceed the amounts which have been paid by the Customer to MNG in the 12 months prior to the event giving rise to the liability. In the event of an error by MNG in providing the Services which renders the Data Results unusable by the Customer, and subject always to the Sample being viable with non-viable Samples being dealt with as set out in clause 3, the Customer's only remedy will be either:

8.2.1 the return of the amounts which have been paid to MNG by the Customer under the Contract in respect of those Services; or

8.2.2 to require MNG to repeat the whole or part of the Services at MNG's own cost, subject to MNG only being required to carry out such repeat Services a maximum of once.

8.3 Subject to clause 8.1, the Customer accepts the risk of using the Data Results and MNG will have no responsibility or liability for any use which may be made of the Data Results by the Customer or any other person or for any loss arising from that use, whether caused by the negligence of MNG, its servants, agents, sub-contractors or otherwise.

8.4 Subject to clause 8.1, MNG will not be liable to the Customer for any of the following: loss of profit, loss of revenue, loss of savings, loss of opportunity, loss of business and loss of goodwill (in each case whether direct or indirect) or for any indirect loss, damage, costs, expenses and other claims (whether caused by the negligence of MNG, its servants, agents, sub-contractors or otherwise) which arise out of or in connection with the

Services or the Contract.

9. Confidentiality and Data Protection

9.1 Except where permitted under these Terms, neither MNG or the Customer will use (except for exercising its rights and performing its obligations under the Contract), and will keep confidential and not divulge to any third party any and all confidential information of the other party (whether oral, written or recorded or disclosed in any other form, and whether disclosed on, before or after the date of the Contract) concerning any of the following: the business, affairs, plans, technology, know-how, products and services of the other party and, in particular, any samples, information and material disclosed to them by the other party for purposes of the Contract without the other party's prior written consent.

9.2 The restriction contained in clause 9.1 will not apply to any information which:

9.2.1 was already in the receiving party's possession or at its free disposal before its disclosure by the disclosing party;

9.2.2 is disclosed after the date of the Contract to the receiving party without any obligations of confidence by a third party who has not derived it directly or indirectly from the disclosing party;

9.2.3 is or becomes generally known anywhere in the world through no act or default on the part of the receiving party; or

9.2.4 is independently developed or discovered by the receiving party's personnel without use of or reliance upon information provided by the disclosing party.

9.3 Nothing in this clause 9 will prevent:

9.3.1 MNG from disclosing in confidence to any MNG Affiliate any confidential information disclosed to it by the Customer and the Data Results in order to meet MNG's obligations under the Contract; or

9.3.2 either party from making any disclosure required by law, or by the order of any court of competent jurisdiction or any regulatory authority.

9.4 Other than with respect to the Customer contact data (for which MNG is a Data Controller (as defined in Schedule 1)), if MNG processes any Personal Data (as defined in Schedule 1) on the Customer's behalf when providing the Services, the parties intend the Customer will be the Data Controller and MNG will be a Data Processor (as defined in Schedule 1) in relation to that Personal Data. MNG will, in such circumstances, process such Personal Data in accordance with the data processing terms set out at Schedule 1.

10. Force Majeure

If MNG is delayed or hindered in or prevented from performing any of its obligations under these Terms by reason of any event or circumstance beyond its reasonable control, MNG will have no liability to the Customer in respect of such non-performance and the time for performing the same will be extended until the event or circumstance has ceased.

11. Termination

11.1 Either party may terminate the Contract immediately by written notice to the other if the other party:

11.1.1 commits any material breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy that breach within 30 days after receipt of a written notice giving particulars of the breach and requiring it to be remedied;

11.1.2 has a receiver, administrative receiver or administrator appointed over all or any of its assets or undertaking or, except for the purposes of a solvent amalgamation or reconstruction, enters into liquidation, enters into any composition or arrangement with or for the benefit of its creditors or enters into any similar or analogous arrangement existing under the law of any country or ceases to carry on business.

11.2 The termination of the Contract, by either party in accordance with this clause 11 will be without prejudice to any other rights or remedies of that party accrued prior to termination.

11.3 On termination of the Contract for any reason the Customer will immediately pay to MNG any Payment or other amounts due under the Contract.

11.4 Clauses 1, 3.7, 4.4, 5.4, 6.2, 6.3, 7, 8, 9, 11.2, 11.3, 11.4 and 12 will survive the expiry or termination of this Agreement and will continue indefinitely.

12. General

12.1 No Partnership etc. - Nothing in these Terms creates, implies or evidences any partnership or joint venture between MNG and the Customer, or the relationship between them of principal and agent.

12.2 Third Party Rights - No third party is entitled to the benefit of this Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

12.3 Assignment and Subcontracting - The Customer may not assign or otherwise deal with the Contract or any part of it without obtaining the prior written consent of MNG. MNG may perform any of its obligations or exercise any of its rights under the Contract by itself or through an MNG Affiliate or any other agent or subcontractor, provided that any act or omission of such MNG Affiliate or subcontractor shall be deemed to be the act or omission of MNG. MNG may also assign or transfer the Contract or any part of it to any other person.

12.4 Severability - If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.

12.5 Notices - Any notice permitted or required under the Contract will be in writing and will be sent to the contact address, or e-mail address of the other party set out in the Quotation or any other address or e-mail address which that party may designate by notice given to the other party in

accordance with this clause 12. Any notice may be delivered personally, or by first class pre-paid letter or by e-mail and will be deemed to have been served: if by hand, when delivered; if by first class post, 48 hours after posting; and if by e-mail, on that e-mail being accessible by the intended recipient.

12.6 Waiver - No waiver or delay by MNG in enforcing its rights will prejudice or restrict those rights and no waiver of any right will operate as a waiver of any later right or breach.

12.7 Governing Law and Jurisdiction - The Contract shall be governed and construed in accordance with the laws of England. The English Courts will have exclusive jurisdiction to deal with any dispute which may arise out of or in connection with the Contract.

**SCHEDULE 1
DATA PROCESSING TERMS**

- 1. Definitions and interpretation**
- The following definitions and rules of interpretation apply to these Data Processing Terms.
- 1.1 Definitions:**
- 1 Business Purposes:** the Services to be provided by MNG to the Customer as described in the Master Agreement.
- 2 Commissioner:** the Information Commissioner (see Article 4(A3), UK GDPR and section 114, DPA 2018).
- 3 Controller, Processor, Data Subject, Personal Data, Personal Data Breach and Processing:** have the meanings given to them in the Data Protection Legislation.
- 4 Data Protection Legislation:**
- 4a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of Personal Data.
- 4b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Customer or MNG is subject, which relates to the protection of Personal Data.
- 5 EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).
- 6 EEA:** the European Economic Area.
- 7 Master Agreement:** means the Contract (as defined in the overarching Terms and Conditions governing the supply of the Services by MNG) as entered into by the Customer on or around the date of these Data Processing Terms.
- 8 Records:** has the meaning given to it in paragraph 12.
- 9 Standard Contractual Clauses (SCC):** the ICO's International Data Transfer Agreement for the transfer of personal data from the UK and/or the ICO's International Data Transfer Addendum to EU Commission Standard Contractual Clauses and/or the European Commission's Standard Contractual Clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 as set out in the Annex to Commission Implementing Decision (EU) 2021/914 and/or the European Commission's Standard Contractual Clauses for the transfer of Personal Data from the European Union to processors established in third countries (controller-to-processor transfers), as set out in the Annex to Commission Decision 2010/87/EU as adapted for the UK, or such alternative clauses as may be approved by the European Commission or by the UK from time to time.
- 10 Term:** the duration of these Data Processing Terms as defined in paragraph 10.
- 11 UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.
- 1.2 Interpretation:** (a) These Data Processing Terms are subject to the terms of the Master Agreement and are incorporated into the Master Agreement. Interpretations and defined terms set forth in the Master Agreement apply to the interpretation of these Data Processing Terms; (b) the Annex forms part of these Data Processing Terms and will have effect as if set out in full in the body of these Data Processing Terms. Any reference to these Data Processing Terms includes the Annex; (c) reference to writing or written includes email; (d) in the case of conflict or ambiguity between:
- (i) any provision contained in the body of these Data Processing Terms and any provision contained in the Annex, the provision in the body of these Data Processing Terms will prevail;
- (ii) the terms of any accompanying invoice or other documents annexed to these Data Processing Terms and any provision contained in the Annex, the provision contained in the Annex will prevail;
- (iii) any of the provisions of these Data Processing Terms and the provisions of the Master Agreement, the provisions of these Data Processing Terms will prevail; and
- (iv) any of the provisions of these Data Processing Terms and any executed SCC, the provisions of the executed SCC will prevail.
- 2. Personal data types and processing purposes**
- 2.1** The Customer and MNG agree and acknowledge that for the purpose of the Data Protection Legislation:
- (i) the Customer is the controller and MNG is the processor.
- (ii) the Customer retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation, including but not limited to providing any required notices and obtaining any required consents, and for the written processing instructions it gives to MNG.
- (iii) ANNEX A describes the subject matter, duration, nature and purpose of the processing and the Personal Data categories and Data Subject types in respect of which MNG may process the Personal Data to fulfil the Business Purposes.
- 3. MNG's obligations**
- 3.1** MNG will only process the Personal Data to the extent, and in such a manner, as is necessary for the Business Purposes in accordance with the Customer's written instructions. MNG will not process the Personal Data for any other purpose or in a way that does not comply with these Data Processing Terms or the

Data Protection Legislation. MNG must promptly notify the Customer if, in its opinion, the Customer's instructions do not comply with the Data Protection Legislation.

- 3.2 MNG must comply promptly with any Customer written instructions requiring MNG to amend, transfer, delete or otherwise process the Personal Data, or to stop, mitigate or remedy any unauthorised processing.
- 3.3 MNG will maintain the confidentiality of the Personal Data and will not disclose the Personal Data to third parties unless the Customer or these Data Processing Terms specifically authorises the disclosure, or as required by domestic law, court or regulator (including the Commissioner). If a domestic law, court or regulator (including the Commissioner) requires MNG to process or disclose the Personal Data to a third party, MNG must first inform the Customer of such legal or regulatory requirement and give the Customer an opportunity to object or challenge the requirement, unless the domestic law prohibits the giving of such notice.
- 3.4 MNG will reasonably assist the Customer, at the Customer's cost, with meeting the Customer's compliance obligations under the Data Protection Legislation, taking into account the nature of MNG's processing and the information available to MNG, including in relation to Data Subject rights, data protection impact assessments and reporting to and consulting with the Commissioner or other relevant regulator under the Data Protection Legislation.
- 3.5 MNG must promptly notify the Customer of any changes to the Data Protection Legislation that may reasonably be interpreted as adversely affecting MNG's performance of the Master Agreement or these Data Processing Terms.

4. Provider's employees

MNG will ensure that all of its employees:

- (i) are informed of the confidential nature of the Personal Data and are bound by confidentiality obligations and use restrictions in respect of the Personal Data;
- (ii) have undertaken training on the Data Protection Legislation relating to handling Personal Data and how it applies to their particular duties; and
- (iii) are aware both of MNG's duties and their personal duties and obligations under the Data Protection Legislation and these Data Processing Terms.

5. Security

- 5.1 MNG must at all times implement appropriate technical and organisational measures against unauthorised or unlawful processing, access, copying, modification, reproduction, display or distribution of the Personal Data, and against accidental or

unlawful loss, destruction, alteration, disclosure or damage of Personal Data.

- 5.2 MNG must implement such measures to ensure a level of security appropriate to the risk involved, including as appropriate:
- (i) the pseudonymisation and encryption of personal data;
 - (ii) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - (iii) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
 - (iv) a process for regularly testing, assessing and evaluating the effectiveness of the security measures.

6. Personal Data Breach

- 6.1 MNG will without undue delay notify the Customer if it becomes aware of:
- (i) the loss, unintended destruction or damage, corruption, or unusability of part or all of the Personal Data.
 - (ii) any accidental, unauthorised or unlawful processing of the Personal Data; or
 - (iii) any Personal Data Breach.
- 6.2 Where MNG becomes aware of (a), (b) and/or (c) above, it shall, without undue delay, also provide the Customer with the following information:
- (i) description of the nature of (a), (b) and/or (c), including the categories of in-scope Personal Data and approximate number of both Data Subjects and the Personal Data records concerned;
 - (ii) the likely consequences; and
 - (iii) a description of the measures taken or proposed to be taken to address (a), (b) and/or (c), including measures to mitigate its possible adverse effects.
- 6.3 Immediately following any accidental, unauthorised or unlawful Personal Data processing or Personal Data Breach, the parties will co-ordinate with each other to investigate the matter. Further, MNG will reasonably co-operate with the Customer at no additional cost to the Customer, in the Customer's handling of the matter, including but not limited to:
- (i) assisting with any investigation;
 - (ii) providing the Customer with physical access to any facilities and operations affected;

- (iii) facilitating interviews with MNG's employees, former employees and others involved in the matter including, but not limited to, its officers and directors;
 - (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with all Data Protection Legislation or as otherwise reasonably required by the Customer; and
 - (v) taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from the Personal Data Breach or accidental, unauthorised or unlawful Personal Data processing.
- 6.4 MNG will not inform any third party of any accidental, unauthorised or unlawful processing of all or part of the Personal Data and/or a Personal Data Breach without first obtaining the Customer's written consent, except when required to do so by domestic law.
- 6.5 MNG agrees that the Customer has the sole right to determine:
- (i) whether to provide notice of the accidental, unauthorised or unlawful processing and/or the Personal Data Breach to any Data Subjects, the Commissioner, other in-scope regulators, law enforcement agencies or others, as required by law or regulation or in the Customer's discretion, including the contents and delivery method of the notice; and
 - (ii) whether to offer any type of remedy to affected Data Subjects, including the nature and extent of such remedy.
- 6.6 MNG will cover all reasonable expenses associated with the performance of the obligations under paragraphs 6.1 to 6.3 unless the matter arose from the Customer's specific written instructions, negligence, wilful default or breach of these Data Processing Terms, in which case the Customer will cover all reasonable expenses.
- 6.7 MNG will also reimburse the Customer for actual reasonable expenses that the Customer incurs when responding to an incident of accidental, unauthorised or unlawful processing and/or a Personal Data Breach to the extent that MNG caused such, including all costs of notice and any remedy as set out in paragraph 6.5.
- 7. Cross-border transfers of personal data**
- 7.1 MNG (and any subcontractor) must not transfer or otherwise process the Personal Data outside the EEA without complying with the terms of this paragraph.
- 7.2 MNG may only process, or permit the processing, of the Personal Data outside the EEA under the following conditions:
- (i) MNG is processing the Personal Data in a territory which is subject to adequacy regulations under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals; or
 - (ii) MNG participates in a valid cross-border transfer mechanism under the Data Protection Legislation, so that MNG (and, where appropriate, the Customer) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the UK GDPR; or
 - (iii) the transfer otherwise complies with the Data Protection Legislation.
- 7.3 If any Personal Data transfer between the Customer and MNG requires execution of SCC in order to comply with the Data Protection Legislation (where the Customer is the entity exporting Personal Data to MNG outside the EEA), the parties will complete all relevant details in, and execute, the SCC and take all other actions required to legitimise the transfer.
- 8. Subcontractors**
- MNG may only authorise a third party (subcontractor) to process the Personal Data if:
- (i) MNG enters into a written contract with the subcontractor that contains terms substantially the same as those set out in these Data Processing Terms, in particular, in relation to requiring appropriate technical and organisational data security measures, and, upon the Customer's written request, provides the Customer with copies of the relevant excerpts from such contracts;
 - (ii) MNG maintains control over all of the Personal Data it entrusts to the subcontractor; and
 - (iii) the subcontractor's contract terminates automatically on termination of these Data Processing Terms for any reason.
- 8.2 Those subcontractors approved as at the commencement of these Data Processing Terms are as set out in ANNEX A.
- 8.3 Where the subcontractor fails to fulfil its obligations under the written agreement with MNG which contains terms substantially the same as those set out in these Data Processing Terms, MNG remains fully liable to the Customer for the subcontractor's performance of its agreement obligations.

8.4 The Parties agree that MNG will be deemed to control legally any Personal Data controlled practically by or in the possession of its subcontractors.

9. Complaints, data subject requests and third-party rights

9.1 MNG must take such technical and organisational measures as may be appropriate, and promptly provide such information to the Customer as the Customer may reasonably require, to enable the Customer to comply with:

- (i) the rights of Data Subjects under the Data Protection Legislation, including subject access rights, the rights to rectify, port and erase personal data, object to the processing and automated processing of personal data, and restrict the processing of personal data; and
- (ii) information or assessment notices served on the Customer by the Commissioner or other relevant regulator under the Data Protection Legislation.

9.2 MNG must notify the Customer immediately in writing if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the Data Protection Legislation.

9.3 MNG must notify the Customer within 5 business days if it receives a request from a Data Subject for access to their Personal Data or to exercise any of their other rights under the Data Protection Legislation.

9.4 MNG will give the Customer, at no additional cost to the Customer, its full co-operation and assistance in responding to any complaint, notice, communication or Data Subject request.

9.5 MNG must not disclose the Personal Data to any Data Subject or to a third party other than in accordance with the Customer's written instructions, or as required by domestic law.

10. Term and termination

10.1 These Data Processing Terms will remain in full force and effect so long as:

- (i) the Master Agreement remains in effect; or
- (ii) MNG retains any of the Personal Data related to the Master Agreement in its possession or control (**Term**).

10.2 Any provision of these Data Processing Terms that expressly or by implication should come into or continue in force on or after termination of the Master Agreement in order to protect the Personal Data will remain in full force and effect.

10.3 MNG's failure to comply with the terms of these Data Processing Terms is a material breach of the Master Agreement. In such

event, the Customer may terminate any part of the Master Agreement involving the processing of the Personal Data effective immediately on written notice to MNG without further liability or obligation of the Customer.

10.4 If a change in any Data Protection Legislation prevents either party from fulfilling all or part of its Master Agreement obligations, the parties may agree to suspend the processing of the Personal Data until that processing complies with the new requirements. If the parties are unable to bring the Personal Data processing into compliance with the Data Protection Legislation either party may terminate the Master Agreement with immediate effect on written notice to the other party.

11. Data return and destruction

11.1 At the Customer's request, MNG will give the Customer, or a third party nominated in writing by the Customer, a copy of or access to all or part of the Personal Data in its possession or control in the format and on the media reasonably specified by the Customer.

11.2 On termination of the Master Agreement for any reason or expiry of its term, MNG will securely delete or destroy or, if directed in writing by the Customer, return and not retain, all or any of the Personal Data related to these Data Processing Terms in its possession or control, subject to any time periods to do so as notified by MNG to Customer from time to time.

11.3 If any law, regulation, or government or regulatory body requires MNG to retain any documents or materials or Personal Data that MNG would otherwise be required to return or destroy, it will notify the Customer in writing of that retention requirement, giving details of the documents, materials or Personal Data that it must retain, the legal basis for retention, and establishing a specific timeline for deletion or destruction once the retention requirement ends.

12. Records

12.1 MNG will keep detailed, accurate and up-to-date written records regarding any processing of the Personal Data, including but not limited to, the access, control and security of the Personal Data, the processing purposes, categories of processing, any transfers of personal data to a third country and related safeguards, and a general description of the technical and organisational security measures referred to in paragraph 5.1 (**Records**).

12.2 MNG will ensure that the Records are sufficient to enable the Customer to verify MNG's compliance with its obligations under these Data Processing Terms and MNG will provide the Customer with copies of the Records upon request.

12.3 The Customer and MNG must review the information listed in the Annexes to these Data Processing Terms to confirm its current accuracy and update it when required to reflect current practices.

13. Audit

13.1 MNG will permit the Customer and its third-party representatives to audit MNG's compliance with its Agreement obligations, on at least 10 business days' notice, during the Term. MNG will give the Customer and its third-party representatives all necessary assistance to conduct such audits. The assistance may include, but is not limited to:

- (i) physical access to, remote electronic access to, and copies of the Records and any other information held at MNG's premises or on systems storing the Personal Data;
- (ii) access to and meetings with any of MNG's personnel reasonably necessary to provide all explanations and perform the audit effectively; and
- (iii) inspection of all Records and the infrastructure, electronic data or systems, facilities, equipment or application software used to store, process the Personal Data.

13.2 The notice requirements in paragraph 13.1 will not apply if the Customer reasonably believes that a Personal Data Breach occurred or is occurring, or MNG is in breach of any of its obligations under these Data Processing Terms or any Data Protection Legislation.

13.3 If a Personal Data Breach occurs or is occurring, or MNG becomes aware of a breach of any of its obligations under these Data Processing Terms or any Data Protection Legislation, MNG will:

- (i) promptly conduct its own audit to determine the cause;
- (ii) produce a written report that includes detailed plans to remedy any deficiencies identified by the audit;
- (iii) provide the Customer with a copy of the written audit report; and

remedy any deficiencies identified by the audit within 30 days

ANNEX A Personal Data processing purposes and details

Subject matter of processing: For the purposes of performing the Services under the Master Agreement.

Duration of Processing: For the duration of the Master Agreement.

Nature of Processing: For the purposes of performing the Services under the Master Agreement.

Personal Data Categories: Samples which may contain elements/traces of human DNA.

Data Subject Types: Those individuals whose DNA is included in the Samples referred to above.

Subcontractors:

- A&M Agrilife Research, a member of the Texas A&M University System, and an agency of the State of Texas.