

V 1.0

## 1 INTERPRETATION

1.1 In these Terms "Contract" means the contract for the sale of the Goods and/or the provision of the Services; "Customer" means the person, firm or company with whom the Contract is made; "Fluorogenics Ltd" means "Fluorogenics LIMITED" UK Company registration number 7754376, registered office Building 227, Tetricus Science Park, Dstl Porton Down, Salisbury, Wiltshire SP4 0JQ, United Kingdom; "Goods" means the goods (including any instalment of the goods or any parts for them) which Fluorogenics Ltd is to supply under the Contract; "Services" means the technical, training, consultancy or other services which Fluorogenics Ltd is to provide under the Contract; "Terms" means the standard terms and conditions set out in this document; "Working day" means any day other than a Saturday, Sunday, bank or public holiday.

1.2 References to statutes or statutory provisions includes the same as amended, modified, consolidated or re-enacted whether before or after the date of the Contract. The headings are for ease of reference only.

## 2 ORDERS

2.1 Fluorogenics Ltd shall sell the Goods and/or supply the Services and the Customer shall purchase the same in accordance with any quotation of Fluorogenics Ltd which is accepted by the Customer, or any order of the Customer which is accepted by Fluorogenics Ltd, subject in either case to these Terms.

2.2 No order submitted by the Customer shall be deemed to be accepted by Fluorogenics Ltd unless and until acted upon by Fluorogenics Ltd or confirmed by Fluorogenics Ltd's authorised representative.

2.3 All orders placed or accepted by telephone, email, mail or facsimile shall be deemed to incorporate these Terms.

2.4 The Customer shall be responsible to Fluorogenics Ltd for ensuring the accuracy of any order and for giving Fluorogenics Ltd any necessary information relating to the Goods and/or Services in sufficient time to enable Fluorogenics Ltd to perform the Contract.

2.5 THESE TERMS SHALL GOVERN THE CONTRACT TO THE EXCLUSION OF ANY OTHER TERMS IMPLIED BY TRADE CUSTOM OR COURSE OF DEALING OR WHICH THE CUSTOMER MAY SEEK TO INTRODUCE WHEN ACCEPTING ANY QUOTATION OF FLUOROGENICS LTD OR WHEN PLACING ANY ORDER.

2.6 These Terms together with any quotation or other Contract document into which they are incorporated represent the entire agreement and understanding between the Customer and Fluorogenics Ltd with regard to the Contract.

2.7 No alterations to the Contract or any of these Terms shall be binding on Fluorogenics Ltd unless agreed in writing.

2.8 Fluorogenics Ltd considers these Terms to be fair and reasonable and its prices and insurance arrangements are based upon contracts made on these Terms. IF THE CUSTOMER CONSIDERS THESE TERMS TO BE UNREASONABLE, IT MUST INFORM FLUOROGENICS LTD IN WRITING BEFORE ANY CONTRACT IS MADE. Otherwise it will be deemed to have accepted them as fair and reasonable.

## 3 CANCELLATION

3.1 No order may be cancelled by the Customer except with the agreement in writing of

V 1.0

Fluorogenics Ltd and on terms that the Customer shall indemnify Fluorogenics Ltd in full against all loss (including loss of profit), costs (including the cost of all labour and materials), damages, re-stocking charges and expenses incurred by Fluorogenics Ltd as a result of cancellation. A re-stocking charge of 5% of the invoice value will be made for goods ordered in error, return carriage borne by the customer.

#### 4 SPECIFICATIONS OF GOODS

4.1 The quantity, quality and description of and any specification for the Goods shall be those set out in Fluorogenics Ltd's quotation (if accepted by the Customer) or the Customer's order (if accepted by Fluorogenics Ltd).

4.2 Any descriptions, illustrations and particulars contained in Fluorogenics Ltd's sales literature and any advertising media are by way of general descriptions and approximate only and shall not form part of the Contract or give rise to any liability on the part of Fluorogenics Ltd.

4.3 Fluorogenics Ltd reserves the right to make any changes in the specification of the Goods which (a) are required to conform with any applicable safety or other statutory requirements, or, (b) where the Goods are to be supplied to the Customer's specification, do not materially affect their quality or performance Provided Always that the Customer shall not be obliged to accept Goods which do not reasonably comply with the Contract.

4.4 The Goods are only suitable for the uses and applications made known to Fluorogenics Ltd at the time of the Contract. If the Customer intends to purchase the Goods for any other use or application then the Customer must use its own skill and judgement in deciding whether they are suitable.

4.5 Where Goods are adapted to the Customer's specification Fluorogenics Ltd shall have no liability in respect of their fitness for any particular purpose.

4.6 Where goods are labelled for "Research Purposes Only" then Fluorogenics Ltd accepts no liability for their application for human or veterinary diagnostic applications. This is irrespective of their marking or compliance with a regulatory authority in a given territory.

#### 5 ACKNOWLEDGEMENT

5.1 THE CUSTOMER ACKNOWLEDGES THAT IT IS NOT ENTERING INTO THE CONTRACT ON THE BASIS OF, OR IN RELIANCE UPON, ANY STATEMENT, REPRESENTATION, WARRANTY OR UNDERTAKING EXCEPT AS EXPRESSLY SET OUT IN THE CONTRACT.

#### 6 GOODS SUPPLIED FOR LOAN OR EVALUATION

6.1 Any Goods supplied to the Customer for loan or evaluation purposes must be returned in their original condition and packaging with all warranty documents and manuals, within the time specified on dispatch. Fluorogenics Ltd shall be entitled to charge for any items not so returned or damaged.

#### 7 INTELLECTUAL PROPERTY RIGHTS

Goods:

V 1.0

7.1 If any work is required to be done on or to the Goods in accordance with the requirements or specifications of the Customer, the Customer shall indemnify Fluorogenics Ltd against all loss, damages, costs and expenses awarded against, or incurred by, Fluorogenics Ltd in connection with any claim for infringement of any third party's patent, copyright, registered design, design right, know-how or service mark or trademark which results from Fluorogenics Ltd supplying the Goods or Services in accordance with the Customer's specification.

7.2 Where goods are used by a customer to perform a process that infringes the intellectual property of a third party Fluorogenics Ltd accepts no liability from the customer for damages relating to that infringement.

7.3 Where the Goods include computer software, it shall be a condition of supply that the Customer enters into such licenses as the proprietor of the copyright (or any other intellectual property rights) in the software may require. The Customer shall indemnify Fluorogenics Ltd against any claims arising from breach of this condition.  
Services:

7.4 Where Fluorogenics Ltd undertakes research and development work for customer all inventions made by its staff or sub-contractors are the property of Fluorogenics Ltd.

7.5 Where joint inventions arise between the customer and Fluorogenics staff or subcontractor then Fluorogenics Ltd has the right of assignment of those inventions.

## 8 PRICE

8.1 The price of the Goods and/or Services shall be Fluorogenics Ltd's quoted price in pounds sterling. All prices quoted are valid for 30 days or until Fluorogenics Ltd's suppliers' prices change (whichever is earlier) after which time they may be altered by Fluorogenics Ltd without notice to the Customer.

8.2 Fluorogenics Ltd reserves the right by giving notice to the Customer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to Fluorogenics Ltd due to any factor beyond its control, any change in delivery dates, delivery address, quantities, or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give Fluorogenics Ltd adequate information or instructions.

8.3 Unless otherwise stated, all prices and charges are exclusive of:

- i) carriage and insurance
- ii) any release certificates or certificates of conformity
- ii) value added tax, and any other applicable tax, duty or surcharge, which will be charged at the applicable rate and recoverable as part of the price by Fluorogenics Ltd.

8.3.1 Where a price is stated to include carriage, such carriage is on the basis of delivery on the next working day following despatch between 8:30 am and 5:30 pm, unless otherwise stated. Timed, Saturday or more expedited delivery will incur additional charges.

## 9 GENERAL PAYMENT TERMS

9.1 Except where Fluorogenics Ltd has previously agreed credit terms, payment for all Goods and Services must be made at the time of order and no delivery or performance will take place before payment.

9.2 Fluorogenics Ltd shall be entitled at any time by notice in writing to the Customer to

V 1.0

stipulate the method of payment and may withhold deliveries if the stipulated method is not used. Otherwise, payment may be made by cash, cleared cheque, bankers draft or BACS transfer. The time for payment of the price shall be of the essence of the Contract.

9.3 Payment by cheque or other negotiable instrument is ineffective until honoured and Fluorogenics Ltd's account irrevocably credited with the amount due.

9.4 If Fluorogenics Ltd is unable to deliver all the Goods or supply all the Services ordered by the Customer for reasons beyond Fluorogenics Ltd's reasonable control (including, but not limited to, those in clause 20), the Customer shall pay for such of the Goods as are delivered or the Services as are supplied.

## 10 CREDIT TERMS

10.1 Where credit terms have been agreed, the following provisions shall apply.

### Goods:

10.2 Fluorogenics Ltd shall be entitled to invoice the Customer for the price of the Goods on, or at any time after, delivery, unless the Goods are to be collected by the Customer or the Customer wrongfully fails or refuses to take delivery of the Goods, in which case Fluorogenics Ltd shall be entitled to invoice at any time after it has notified the Customer that the Goods are ready for collection or (as the case may be) Fluorogenics Ltd has indicated its readiness to deliver the Goods.

10.3 Where delivery takes place by instalments, Fluorogenics Ltd shall be entitled to invoice each instalment separately.

10.4 Where Fluorogenics Ltd has agreed, at the Customer's request, to postpone delivery of Goods which are already in stock with Fluorogenics Ltd or on order from Fluorogenics Ltd's suppliers, then Fluorogenics Ltd shall be entitled to invoice the Customer as if delivery had taken place on the date upon which they would have been delivered but for the postponement.

10.5 The Customer shall pay the price of the Goods (without any deduction or set-off) within 30 days of the date of invoice notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. Fluorogenics Ltd shall be entitled to bring an action for the price, or part thereof, whether or not the title to the Goods has passed.

### Services:

10.6 Fluorogenics Ltd shall be entitled to invoice the Customer for the Services at any time prior to (or after) supply.

10.7 Fluorogenics Ltd shall be entitled to invoice the Customer for the full Contract price of the Services where Fluorogenics Ltd is able to supply the Services notwithstanding that the Customer may decide that it no longer requires all or any part of the Services.

10.8 Where performance takes place by instalments, Fluorogenics Ltd shall be entitled to invoice each instalment separately.

10.9 The Customer shall pay the fee for the Services (without any deduction or set-off) immediately upon issue of Fluorogenics Ltd's invoice and in any event prior to the supply of the Services.

### General:

10.10 If the Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to Fluorogenics Ltd, Fluorogenics Ltd shall be entitled to:

V 1.0

- a. cancel the Contract or suspend any further deliveries or performance and, in either case, hold the Customer liable for costs incurred in respect of Goods already ordered by Fluorogenics Ltd from its suppliers and in respect of Goods ready for dispatch.
- b. appropriate any payment made by the Customer to such of the Goods or Services (or to the goods supplied under any other contract between the Customer and Fluorogenics Ltd) as Fluorogenics Ltd may think fit (notwithstanding any purported appropriation by the Customer).
- c. charge the Customer interest, calculated and accruing daily (both before and after any judgment), on the amount unpaid at the rate of 1.5% per month (or at the rate prevailing at the time) .
  - a. Any credit allowed to the Customer shall be subject to Fluorogenics Ltd being satisfied as to the Customer's continuing credit-worthiness and may be withdrawn at any time.
  - b. The Customer shall not be entitled by reason of any claim against Fluorogenics Ltd to withhold any payment.

## 11 DELIVERY OF GOODS

11.1 Delivery of the Goods shall be made by the Customer collecting the Goods at Fluorogenics Ltd's premises at any time after Fluorogenics Ltd has notified the Customer by telephone that the Goods are ready for collection. If Fluorogenics Ltd has agreed to send the Goods to the Customer, then, unless otherwise agreed, delivery shall be made by Fluorogenics Ltd's (or its carrier) delivering the Goods to the Customer at the address agreed at the time of order between the hours of 8:30 am and 5:30 pm on a working day.

11.2 The contractual address for delivery may not be varied without Fluorogenics Ltd's agreement and any variation may entail additional carriage charges to the Customer.

11.3 Delivery will normally take place on the working day following the date of receipt of the Goods from Fluorogenics Ltd's supplier. However, any dates quoted or specified for delivery are approximate only and Fluorogenics Ltd shall not be liable for any reasonable delay in delivery howsoever caused. Time for delivery shall not be of the essence.

11.4 Fluorogenics Ltd may make, and the Customer shall accept, partial deliveries of Goods. Each such delivery shall constitute a separate contract. Failure by Fluorogenics Ltd to deliver any one or more of the instalments in accordance with these Terms, or any claim by the Customer in respect of any one or more instalments, shall not entitle the Customer to treat the Contract as a whole as repudiated.

11.5 If Fluorogenics Ltd fails to deliver the Goods for any reason other than a cause beyond Fluorogenics Ltd's reasonable control or the Customer's default and, accordingly, Fluorogenics Ltd is liable to the Customer, Fluorogenics Ltd's liability shall be limited to the cost of the order placed with Fluorogenics Ltd.

11.6 Fluorogenics Ltd shall not be liable in any way for the consequences of any delay in delivery.

11.7 If the Customer fails to take delivery of the Goods, or fails to give Fluorogenics Ltd adequate delivery instructions (otherwise than by reason of a cause beyond the Customer's reasonable control or by reason of Fluorogenics Ltd's fault), then, without

V 1.0

prejudice to any other right or remedy available to Fluorogenics Ltd, Fluorogenics Ltd may:-

11.7.1 store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage, and/or

11.7.2 make further attempts to arrange delivery, in which case the Customer shall be liable for all additional delivery costs, and/or

11.8 When delivery is to take place at the Customer's premises the Customer shall be responsible for ensuring (a) that any necessary lifting equipment, power and labour is available to enable the Goods to be off-loaded quickly and safely, (b) that a duly authorised person is present to accept delivery and to sign the delivery note and (c) that any restricted delivery hours are notified to Fluorogenics Ltd in writing prior to despatch.

11.9 Where Goods are to be installed or set-up on-site, the Customer shall provide Fluorogenics Ltd's employees, agents and sub-contractors adequate access to the place of installation and free use of any necessary services or facilities.

11.10 Signature by the Customer of Fluorogenics Ltd's delivery note, or Fluorogenics Ltd's carrier's delivery sheet, or the issue by the Customer of a receipt for delivery, shall constitute conclusive proof of delivery. Any delivery receipt shall be deemed signed or issued by the Customer if signed by a person who is or appears to be an employee or agent of the Customer regardless of any subsequent allegation by the Customer that that person had no authority to sign delivery receipts.

## 12 PERFORMANCE OF SERVICES

12.1 The location for performance of the Services may not be varied without Fluorogenics Ltd's agreement and any variation may entail additional charges to the Customer. Any dates quoted for performance of the Services are approximate only and Fluorogenics Ltd shall not be liable for any reasonable delay in performance howsoever caused. Time for performance shall not be of the essence.

12.2 Fluorogenics Ltd may undertake, and the Customer shall accept, partial performance of Services. Each such performance shall constitute a separate contract. Failure by Fluorogenics Ltd to perform any one or more of the instalments in accordance with these Terms, or any claim by the Customer in respect of any one or more instalments, shall not entitle the Customer to treat the Contract as a whole as repudiated.

12.3 If Fluorogenics Ltd fails to perform the Services for any reason other than a cause beyond Fluorogenics Ltd's reasonable control or the Customer's default and, accordingly, Fluorogenics Ltd is liable to the Customer, Fluorogenics Ltd's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of procuring the provision of identical Services over the price of the Services.

12.4 Fluorogenics Ltd shall not be liable in any way for the consequences of any delay in performance.

12.5 When performance is to take place at the Customer's premises the Customer shall be responsible for ensuring that a duly authorised person is present to acknowledge performance and to sign the service delivery note and/or job sheet.

12.6 Where Services are to be performed on-site, the Customer shall provide Fluorogenics Ltd's employees, agents and sub-contractors adequate access to the place of performance and free use of any necessary services or facilities.



V 1.0

12.7 Unless otherwise agreed, where travel to or from site takes more than one hour then such travel time is included in the period agreed for performance of the Services.

12.8 Signature by the Customer of Fluorogenics Ltd's service delivery note or job sheet shall constitute acceptance of satisfactory performance of the Services.

### 13 WARRANTIES AND LIABILITY

13.1 Provided that payment has been made in accordance with the Contract, Fluorogenics Ltd shall use all reasonable endeavours to extend to the Customer the benefit of such guarantees or warranties in relation to the Goods as may be extended to Fluorogenics Ltd by the relevant manufacturers or distributors.

13.2 EXCEPT AS OTHERWISE STATED IN THESE TERMS, ALL CONDITIONS, WARRANTIES AND INNOMINATE TERMS. (WHETHER EXPRESS OR IMPLIED BY STATUTE, COMMON LAW, CONDUCT, TRADE CUSTOM OR USAGE, OR PREVIOUS COURSE OF DEALING OR OTHERWISE AS TO THE SATISFACTORY QUALITY, FITNESS FOR PURPOSE, DESCRIPTION OR OTHERWISE OF THE GOODS OR SERVICES) ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

13.3 Without prejudice to the generality of the foregoing clause, Fluorogenics Ltd shall not be liable to the Customer for:

13.3.1 failure of the Goods to conform with the Contract, unless notified within two working days of delivery;

13.3.2 partial loss or damage in transit unless (a) notified within two working days, or (b) noted on the carrier's delivery note and notified within twenty calendar days, and (c) (in either case) it can be established to the reasonable satisfaction of Fluorogenics Ltd and its carrier (upon collection and inspection of the relevant Goods and packaging) that the loss or damage occurred prior to delivery;

13.3.3 defects which could reasonably be attributed to improper use, improper storage, fair wear and tear, failure to observe anti-static and anti-virus precautions, abnormally hot, cold or humid operating conditions, failure to follow the manufacturer's instructions, fluctuation or failure of power supplies, lightning, telecommunications line failure or any other act, neglect or default of the Customer or any third party;

13.3.4 defects arising where any repair, modification, re-configuration or re-installation has been attempted in relation to the Goods by anyone other than Fluorogenics Ltd or its approved representatives;

13.3.5 other defects, unless notified within two working days of delivery;

13.3.6 effective performance of any Services unless notified within five working days of performance.

13.4 If the Customer does not notify Fluorogenics Ltd of any claim within the above time limits, the Customer shall not be entitled to reject the Goods or Services and shall be bound to pay the price as if delivery or performance had been in accordance with the Contract.

13.5 In the event of a valid claim, Fluorogenics Ltd shall, at its option:

13.5.1 make good any deficiency (whether by making up any shortfall, arranging repair or obtaining replacements) or credit the Customer for the price paid for the deficient Goods; and/or

13.5.2 re-perform any Services or credit the Customer for the price paid for them.

V 1.0

13.6 Fluorogenics Ltd shall not be liable for any loss or profit, loss of use, loss of contracts, business interruption, adverse effects on performance or operability of other computer hardware or software, or any other indirect, special or consequential loss or damage arising, or alleged to have arisen, out of any act or omission of Fluorogenics Ltd, whether negligent or otherwise.

13.7 Fluorogenics Ltd's aggregate liability to the Customer whether arising in tort, contract, misrepresentation, breach of statutory duty, or otherwise shall not exceed the net price invoiced to the Customer for the Goods and/or Services giving rise to the liability, in respect of any occurrence or series of occurrences.

13.8 Nothing in these terms shall have the effect of excluding or limiting Fluorogenics Ltd's liability for death or personal injury resulting from its negligence. Where the Goods are sold and/or the Services supplied under a consumer transaction (as defined by the Sale of Goods Act 1979), the statutory rights of the Customer are not affected by these Terms.

#### 14 DATA BACKUP

14.1 IT IS THE RESPONSIBILITY OF THE CUSTOMER TO ENSURE THAT CURRENT BACKUP

COPIES OF ALL COMPUTER SOFTWARE AND DATA ARE MAINTAINED. Fluorogenics Ltd

shall not be liable for any loss of, or damage to, software programs or data of the Customer or third parties, occurring:

14.1.1 during or as a consequence of any upgrade, installation, repair or other Services undertaken by Fluorogenics Ltd in relation to the Goods or in relation any other equipment of the Customer or third parties, or

14.1.2 in consequence of the installation or use of the Goods, or any part of them.

#### 15 PASSING OF TITLE AND RISK

15.1 Under no circumstances shall title to any computer software be transferred to the Customer.

15.2 Notwithstanding that title may not have passed, risk of damage to, or loss of, the Goods shall pass to the Customer:

15.3 In the case of Goods to be delivered at Fluorogenics Ltd's premises, at the time when Fluorogenics Ltd notifies the Customer that the Goods are available for collection, or

15.4 In the case of Goods to be delivered otherwise than at Fluorogenics Ltd's premises, at the time of delivery, or if the Customer wrongfully fails to take delivery of the Goods, the time when Fluorogenics Ltd has tendered delivery.

15.5 Notwithstanding delivery and the passing of risk in the Goods, title to the Goods shall remain with Fluorogenics Ltd until such time as Fluorogenics Ltd has received payment for the Goods in accordance with the terms of the Contract.

15.6 Fluorogenics Ltd shall be entitled to sue for the price of the Goods notwithstanding that title has not passed or shall have the right by notice in writing to the Customer at any time after the agreed delivery date to pass title to the Customer as from the date of notice.

15.7 Until such time as title to the Goods passes to the Customer, the Customer shall hold the Goods as Fluorogenics Ltd's bailee and shall keep the Goods secure, in complete



V 1.0

and saleable condition, separate from those of the Customer and third parties and clearly identified as Fluorogenics Ltd's property. The Customer shall not attach or affix the Goods to any premises without the prior written consent of Fluorogenics Ltd.

15.8 Until title passes to the Customer, Fluorogenics Ltd shall be entitled to require the Customer immediately to deliver up the Goods or any part of them to Fluorogenics Ltd. If the Customer fails to do so, then Fluorogenics Ltd (and its agents) shall be entitled to repossess the Goods and to enter upon any premises owned or controlled by the Customer where the Goods are stored, or where Fluorogenics Ltd reasonably believes that the Goods are stored, for the purpose of taking such possession. Where the Goods have been installed or attached to any other property Fluorogenics Ltd shall be entitled to detach the Goods (making good any damage thereby caused). Such redelivery or retaking of possession shall be without prejudice to the obligation of the Customer to purchase the Goods in accordance with the Contract.

15.9 If the Customer sells the Goods before Fluorogenics Ltd has received payment for them, and provided that such Goods have not been inextricably mixed with any goods belonging to or annexed to any real property of the Customer or any third party, then the Customer shall sell for the account of Fluorogenics Ltd and shall hold the proceeds of sale as trustee for Fluorogenics Ltd and shall keep all such proceeds separate from any money or property of third parties. As between the Customer and its the customer, the Customer shall sell in the Customer's own name as principal and shall have no authority to enter into any contract on behalf of Fluorogenics Ltd.

15.10 The Customer shall not be entitled to charge by way of security or otherwise pledge any of the Goods which remain the property of Fluorogenics Ltd and if the Customer shall do, or purport to do, so then (without prejudice to any other right or remedy of Fluorogenics Ltd) all sums owing by the Customer to Fluorogenics Ltd shall immediately become due and payable.

## 16 LIEN AND SET-OFF

16.1 Fluorogenics Ltd shall have a particular and general lien on all goods and property of the Customer in Fluorogenics Ltd's possession in respect of all sums due from the Customer to Fluorogenics Ltd but unpaid at any time. Fluorogenics Ltd shall be entitled, on giving 14 days' written notice to the Customer, to dispose of such goods or property and to apply the proceeds towards the reasonable and proper costs of such disposal and reduction of such debt and thereafter to account to the Customer for any remaining balance.

16.2 In the event of there being any sums due from Fluorogenics Ltd to the Customer on any account whatsoever then, notwithstanding any rule of law or course of conduct or contract to the contrary, any right which the Customer may have against Fluorogenics Ltd to set off sums so due, or claimed to be due, from Fluorogenics Ltd to the Customer against the price of the Goods or Services is hereby excluded.

## 17 RETURNS

17.1 Goods may not be returned without the prior agreement of Fluorogenics Ltd and the issue by Fluorogenics Ltd of a returns authorisation number.

V 1.0

17.2 All returns must be sent to Fluorogenics Ltd's premises at the Customer's risk and expense within 48 hours of issue of the returns authorisation.

17.3 Acceptance of delivery of Goods returned without the issue of a returns authorisation number shall not constitute acceptance of the validity of the return. Such Goods shall remain at the Customer's risk and Fluorogenics Ltd shall have no obligations in respect of them.

17.4 Goods returned following an incorrect Customer order, or due to incorrect shipment by Fluorogenics Ltd, must be returned unused and unopened, in clean and re-saleable condition, complete with all original discs, manuals, warranty documents, cables and other items supplied with them and securely packed in their original packaging. They shall remain at the Customer's risk until so returned. If they are not so returned Fluorogenics Ltd may (in its absolute discretion):

17.4.1 reject the return, in which case it shall be the responsibility to the Customer to arrange collection and the Goods shall remain at the Customer's risk, or

17.4.2 accept the return and invoice the Customer for the cost of replacing the missing items and/or the amount of any diminution in resale value.

17.5 Goods returned as faulty must be complete with all original discs, manuals, warranty documents, cables and other items supplied with them and securely packed in their original packaging. Where such Goods are not so returned and Fluorogenics Ltd incurs any charge from the manufacturer or distributor, it shall be entitled to levy an equivalent charge against the Customer. Such Goods shall remain at the Customer's risk unless or until both a replacement is obtained from, and the faulty item is accepted for return by, the manufacturer or distributor. Risk in any such replacement shall pass to the Customer on delivery. Any advance replacement goods supplied to the Customer in anticipation of acceptance of the faulty Goods by the manufacturer or distributor are supplied without obligation on a goodwill basis and, if the fault is not subsequently verified, Fluorogenics Ltd shall be entitled to invoice the Customer for the normal retail price of the replacement item. Where no fault is found, Fluorogenics Ltd shall be entitled (whether or not an advance replacement has been supplied) to reject the return and it shall be the responsibility of the Customer to arrange collection.

17.6 Where any return is rejected, notification of rejection shall be effective if communicated by fax and the original payment terms shall be unaffected.

Fluorogenics Ltd may (in its discretion) return such Goods, and Goods returned without authorisation, to the Customer and charge for carriage at its normal rates.

17.7 Where Goods are returned due to an incorrect Customer order, or where they are returned as faulty but no fault is found, Fluorogenics Ltd shall be entitled to levy a handling charge equal to 15% of the price of the Goods plus carriage charges.

## 18 EXPORT RESTRICTIONS

18.1 The Customer acknowledges that the Goods may be subject to export and re-export restrictions imposed by UK, US or other countries' laws. The Customer will not export any Goods, or resell them to a purchaser whom it knows (or has reasonable grounds to suspect ) will export them, without first obtaining all such written consents, licences, copy licences or authorisations as may be required by any applicable United Kingdom, United States, European Union or other applicable laws or regulations

V 1.0

## 19 TELECOMMUNICATIONS REQUIREMENTS

19.1 Where the Goods are to be connected to any telecommunications network, it shall be the sole responsibility of the Customer to ensure compliance with all applicable regulations of the telecommunications provider relating to data transmission speeds or otherwise.

## 20 FORCE MAJEURE

20.1 Fluorogenics Ltd shall not be liable to the Customer for any delay or failure by Fluorogenics Ltd to perform its obligations under the Contract if such delay or failure arises from any unforeseen cause beyond the reasonable control of Fluorogenics Ltd. This includes, but is not limited to, fire, flood, lightning, explosion, storm, labour disputes, shortages of materials, utility or communications failures, war, civil disturbance, restrictions or orders of any parliament, government, governmental or European Community agency or local or public authority, import or export restrictions, impossibility of the use of railways, shipping, aircraft, motor transport and failure of power supplies.

## 21 BUYER'S INSOLVENCY / DEFAULT

21.1 If the Customer is in breach of any of its obligations under the Contract, or makes any voluntary arrangement with its creditors, or becomes subject to an administration order, or becomes bankrupt or goes into liquidation (other than for the purposes of amalgamation or reconstruction), or an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Customer, or any of the assets of the Customer are subject to any levy or distraint, or the Customer ceases or threatens to cease to carry on business, or Fluorogenics Ltd reasonably apprehends that any of the events mentioned above is about to occur and notifies the Customer accordingly, then, all sums owing by the Customer to Fluorogenics Ltd shall immediately become due and payable and, without prejudice to any other right or remedy available to Fluorogenics Ltd, Fluorogenics Ltd shall be entitled to cancel the Contract and/or suspend any further deliveries without any liability to the Customer notwithstanding any previous agreement or arrangement to the contrary.

21.2 If the Customer becomes insolvent, then Fluorogenics Ltd shall have the right to stop Goods in transit and to take and retain possession of them until payment.

## 22 HEALTH & SAFETY

22.1 Where any employee, agent, or sub-contractor of Fluorogenics Ltd is admitted to the Customer's premises pursuant to the Contract, the Customer shall take all necessary measures to safeguard the health and safety of such persons and shall indemnify Fluorogenics Ltd against all claims, costs and expenses resulting from any breach of this condition.

## 23 NOTICES / SERVICE

23.1 Unless otherwise stated, any notice to be given under these Terms shall be in writing and shall be given either (a) by first class post and shall be deemed served at the

V 1.0

expiration of two working days from the date of posting or (b) by fax and shall be deemed served one hour after transmission provided that a copy of the notice is sent by first class post the same day.

23.2 Service of any legal proceedings concerning or arising out of the Contract shall be effected by delivering the same to the party to be served at its registered office (in the case of a company) or its principal place of business in the United Kingdom (in other cases) or to such other address as may from time to time be notified in writing by the party to be served or its solicitors.

## 24 SUB-CONTRACTING

24.1 Fluorogenics Ltd may assign or sub-contract the whole or any part of the Contract to any person, firm or company.

## 25 GENERAL

25.1 If any provision of the Contract is found by any court to be void or unenforceable, such provision shall be deemed to be deleted from the Contract with effect from the date of the decision and, insofar as they remain capable of having effect, the remaining parts of the provision in question, and the other provisions of the Contract, shall continue in full force and effect notwithstanding such deletion.

25.2 Any waiver, concession made or latitude allowed by Fluorogenics Ltd to the Customer shall not affect the strict rights of Fluorogenics Ltd under these Terms.

25.3 The Customer may not assign or transfer any of its rights or obligations hereunder.

25.4 The construction, validity and performance of the Contract shall be governed in all respects by English law and the parties agree to submit all disputes to the jurisdiction of the English courts.