

APPENDIX H TO LICENSE AGREEMENT: SUBLICENSE AGREEMENT FOR
LICENSED PRODUCTS
[IN FIELD OF USE –END USER QC TESTING]/ATCC LICENSED DERIVATIVE®
PROGRAM

SUBLICENSE AGREEMENT

THIS AGREEMENT (the “Agreement”), effective as of the complete execution date thereof (“Effective Date”), is by and between the Remel Inc., a Wisconsin corporation having its offices at 12076 Santa Fe Drive, Lenexa, KS 66215 (hereafter referred to as ”REMEL”), and _____, having its offices at _____, (hereafter referred to as ”Sublicensee”).

WHEREAS, REMEL is engaged in the business of the production and distribution of microorganisms and related products for the microbiology quality control market worldwide; and

WHEREAS, the American Type Culture Collection, a District of Columbia not-for-profit corporation (hereafter referred to as ”ATCC”), is organized for the primary purpose of the acquisition, authentication, preservation, production, development and distribution of biological materials, information, technology, intellectual property, and standards for the support, advancement, validation, and application of scientific knowledge, research and analysis; and

WHEREAS, ATCC has authenticated, produced, preserved, and accessioned ATCC Materials and retains all interest, rights and title in and to the procedures used thereto, and to the ATCC Trademarks (as hereinafter defined) including the ATCC Licensed Derivative Emblem® and the ATCC Catalog Marks; and

WHEREAS, ATCC sells and has sold its products only to registered customers and only under the terms of a Material Transfer Agreement (“MTA” as hereinafter defined) that places and placed certain restrictions on the use of ATCC Materials purchased from ATCC; and

WHEREAS, REMEL in furtherance of its business objectives, desired to obtain (a) a non-exclusive biological material license to develop, make, use, and sell Licensed Products (as hereinafter defined) and (b) a Trademark License to use the ATCC Trademarks to identify the source of ATCC ingredients; and

WHEREAS, ATCC has granted REMEL these licenses only under the terms of a license agreement dated as of December 31, 2010 (the “License Agreement”) to ensure the quality of products sold under the ATCC marks and names until they reach the End User (as hereinafter defined); and

WHEREAS, REMEL is required under the License Agreement with ATCC to control the quality of microorganisms sold with the ATCC Catalog Marks so that any product derived therefrom and sold with ATCC Catalog Marks are developed, made, handled, stored, shipped, and disposed of under procedures that preserve health, safety and the environment according to ATCC’s

quality control standards and all other guidelines, laws and regulations applicable to their intended use; and

WHEREAS, REMEL has been authorized under the License Agreement with ATCC to grant Sublicenses for the use of ATCC Licensed Derivative Emblem and the ATCC Catalog Marks, to selected sublicensees of REMEL subject to the terms of this Sublicense Agreement; and

WHEREAS, REMEL has been authorized under the License Agreement with ATCC to grant Sublicenses only to selected Sublicensed Affiliates to develop, make and Sell Licensed Products in Field of Use – Commercial Diagnostics subject to the terms of this Sublicense Agreement; and

WHEREAS, Sublicensee, in order to Sell Licensed Products to End Users in Field of Use – End User QC Testing and/or Sublicensed Affiliate, in order to Sell Licensed Products in Field of Use – End User QC Testing Commercial Diagnostics, desires to obtain a non-exclusive, non-transferable trademark sublicense to use the ATCC Trademarks to identify the source of ATCC ingredients in those Licensed Products in End User QC Testing; and

WHEREAS, REMEL agrees to grant Sublicensee a sublicense subject to the terms of this Sublicense Agreement.

NOW THEREFORE, for good and valuable consideration and the following mutual promises, the receipt and sufficiency of which is hereby acknowledged, REMEL and Sublicensee agree to the following terms and conditions and hereby enter into this Agreement.

ARTICLE I. DEFINITIONS

- 1.1 “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with a party, and for such purpose “control” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract or otherwise .
- 1.2 ”ATCC Material(s)” means the microorganisms detailed in Appendix A and supplied by ATCC to REMEL prior to and after the Effective Date. ATCC Material does not include (a) microorganisms deposited at ATCC to comply with patent deposits requirements under the international Budapest Treaty or 37 C.F.R. (§1801- § 1809); (b) microorganisms classified by ATCC as regulated pathogens under all applicable ordinances, laws and regulations; (c) microorganisms deposited in ATCC Special Collections™. Appendix A may be amended upon written amendment of the License Agreement by ATCC and REMEL.
- 1.3 “ATCC Trademark(s)” means the designations identified in Appendix D.
- 1.4 ”Biological Materials” means the ATCC Materials, their Progeny, Unmodified Derivatives or Modifications thereof.
- 1.5 “Confidential Information” means information of the disclosing Party that has commercial value, including, without limitation, trade secrets, compounds, reagents, biological materials, techniques for the handling and use of biological materials know-how, formulas, processes,

product ideas, inventions (whether patentable or not)l improvements, traceability data, quality control data, royalty reports, , copyrightable, or patentable material, customer data (including customer identities and purchasing patterns), prices, and other technical, business, financial, and product development plans that the disclosing Party disclose to the receiving Party In order to be considered Confidential Information, information disclosed orally or in any other transitory medium must be identified to the Recipient as confidential orally at the time of disclosure and in writing within thirty (30) days after such disclosure. Confidential Information shall not include information that the receiving Party can demonstrate:

- (a) was/is at the time of disclosure in the public domain; or
- (b) has come into the public domain through no fault of the receiving Party; or
- (c) was/is known to the receiving Party prior to disclosure thereof by the disclosing Party and was not acquired directly from the disclosing Party on a confidential basis, as shown by written records in the receiving Party's possession; or
- (d) was/is lawfully disclosed to the receiving Party without obligation of confidence by a Third Party which was not under an obligation of confidence to the disclosing Party with respect thereto; or
- (e) was/is independently developed by the receiving Party without reference to or use of Confidential Information provided by the disclosing Party as shown by written records in the receiving Party's possession; or
- (f) is required by law to be disclosed, contingent upon the receiving Party informing the disclosing Party prior to any said disclosure in sufficient time to enable the disclosing Party to seek a protective order or other appropriate legal remedy to protect the disclosure.

1.6 "Distributor(s)" means a Third Party that is not a Sublicensed Affiliate, through which Licensee has sold Licensed Products in Field of Use – End User QC Testing in the Territory.

1.7 "End User(s)" means an entity who does not re-Sell or distribute Licensed Product but uses it in its own premises under an End User License within the Field of Use.

1.8 "End User License" is attached hereto as Appendix B.

1.9 "Field of Use" means the use of Licensed Products to test the quality of the End User's commercial products or processes in End User's premises ("Field of Use – End User QC Testing") and/or for certain Sublicensed Affiliates, for commercial diagnostics ("Field of Use – Commercial Diagnostics"). The Field of Use specifically excludes:

- (a) Proficiency Testing
- (b) the use or Sale or transfer of Biological Materials for any other purpose other than to Sell Licensed Products in Field of Use – End User QC Testing and/or, exclusively

with respect to certain Sublicensed Affiliates, to develop, make and Sell Licensed Products in Field of Use – Commercial Diagnostics;

- (c) other than with respect to Field of Use – Commercial Diagnostics for certain Sublicensed Affiliates, the Sale or transfer of Biological Materials thereof for Research Reagent Use (as hereinafter defined), and
 - (d) other than with respect to Field of Use – Commercial Diagnostics for certain Sublicensed Affiliates, the Sale or transfer of Biological Materials for the manufacture of (i) a product intended for Sale that contains, is based on or is made with Biological Materials, or (ii) a component or intermediate of such a product.
- 1.10 “Licensed Product(s)” means, for the purpose of this Agreement, for Field of Use – End User QC Testing, those Modifications developed, and manufactured by REMEL using REMEL’s proprietary methods, and subsequently sold by REMEL under the brands detailed in Appendix C; and for Field of Use – Commercial Diagnostics, a product containing or produced with Biological Materials and sold under the brands detailed in Appendix C.
- 1.11 “Modification” means any material created by REMEL from the ATCC Materials which contains or incorporates a portion of ATCC Materials or Progeny.
- 1.12 “Passage” means moving Biological Material from one container to another containing media for the purposes of propagation, population doubling, or growth. For the avoidance of doubt, it is confirmed that any form of subculture constitutes a Passage, but thawing a frozen vial or reconstitution of a lyophilized or otherwise dried preparation with a growth media is not considered a Passage.
- 1.13 “Proficiency Testing” and “Proficiency Testing Service(s)” means (i) a program in which multiple specimens are sent to a group of laboratories (the End User(s)) for analysis and/or identification; in which each laboratory’s results are compared with those of other laboratories in the group and/or with an assigned value and reported to the participating laboratory and others (NCCLS NRSCL8-A, 1998); or (ii) an evaluation of the ability of a laboratory to achieve a correct test result when compared with other laboratories using the same methodology. This is accomplished using laboratory’s materials, personnel, equipment, environmental conditions, and procedures through the analysis of unknown specimens distributed at periodic intervals by an external source.
- 1.14 “Progeny” means an unmodified descendant from the ATCC Materials, such as virus from virus, cell from cell, or organism from organism.
- 1.15 “Research Reagent Use” means the provision (including the manufacture, Sale, transfer, lease or exchange) of a Reagent for *in vitro* experimental use, where the provision of such Reagent for the foregoing purpose is not subject to approval by any regulatory agency.
- 1.16 “Sale” means any transaction that transfers to a Third Party purchaser, for value, title and right of physical possession to a Licensed Product. Correspondingly, “Sell” means to make or cause to be made a Sale and “Sold” to have made or caused to be made a Sale.

- 1.17 “Sublicense” means a sublicense granted by REMEL to a Sublicensee pursuant to Sublicense Agreement.
- 1.18 “Sublicensed Affiliate” means an Affiliate that sells Licensed Products on behalf of REMEL under the sublicenses granted by REMEL under Section 3.1 and is a party to a valid sublicense agreement with REMEL entered into pursuant to Article VI of the License Agreement. An entity shall automatically and immediately cease to be a Sublicensed Affiliate if (i) it ceases to be directly or indirectly controlled by, or under common control with REMEL, and for such purpose “control” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract or otherwise or (ii) it ceases to be a party to a valid, on-going sublicense agreement with REMEL entered into pursuant to Article VI of the License Agreement.
- 1.19 ‘Sublicensee(s)’ means a Distributor or a Sublicensed Affiliate.
- 1.20 ”Territory” means the world.
- 1.21 “Third Party” or “Third Parties” means any party other than REMEL, Sublicensee, or End User.
- 1.22 “Unmodified Derivative” means substances created by the Licensee that constitute unmodified functional sub-units or products naturally expressed by the ATCC Materials, such as purified fractionated subsets of the ATCC Material.

ARTICLE II. INTERPRETATION

- 2.1 REMEL and Sublicensee are occasionally referred to as “Parties” in singular or plural usage as indicated by the context.
- 2.2 Terms in this Agreement that appear in upper case letters or all capital letters, other than the names of the Parties and article headings, have meanings as defined under Article I.
- 2.3 Article headings are inserted in this Agreement for convenience of reference only and no construction, meaning, interpretation or inference shall be derived from them.
- 2.4 Any Schedules or Appendices appropriately marked and attached to this Agreement shall form part of the Agreement.

ARTICLE III. SUBLICENSE GRANT

- 3.1 License. Subject to the terms and conditions of this Agreement, REMEL hereby grants, and Sublicensee hereby accepts, a non-exclusive, non-transferable license in the Territory as follows: a) to sell Licensed Products to End Users in Field of Use – End User QC Testing; b) to use the ATCC Trademarks to identify the source of ATCC ingredients in connection with the Sale, marketing, advertising and promotion of Licensed Products to End Users in Field of Use – End User QC Testing, and c) exclusively if Sublicensee is a Sublicensed Affiliates, to develop and make Licensed Products in Field of Use – Commercial Diagnostics.

3.2 Term. This non-exclusive sublicense will remain in effect until terminated in accordance with this Agreement.

3.3 Form of Use of ATCC Trademarks. Sublicensee may use the ATCC Trademarks on its website, in its print advertising, promotional and marketing materials exclusively to identify the source of ATCC ingredients in connection with the Sale, marketing, advertising and promotion of Licensed Products to End Users in Field of Use – End User QC Testing so long as REMEL consents in writing to such use prior to the use of the ATCC Trademarks in accordance with this Section, and Sublicensee complies with REMEL's instructions and specifications regarding the use of the ATCC Trademarks, as provided in this Agreement and ATCC's Specifications for using the ATCC Licensed Derivative Emblem[®] and Catalog Marks, detailed in Appendix E. Sublicensee may not use the ATCC Trademarks prior to receiving approval from REMEL. All requests to use the ATCC Trademarks must be presented to REMEL in writing and in the English language. Any expense associated with translation into or from English will be the responsibility of the Sublicensee. Sublicensee is solely responsible for the translation accuracy of the approved ATCC Trademark usage into the Language of choice. REMEL will provide a timely response to all requests to use the ATCC Trademarks. Sublicensee and its Distributors may not use the ATCC Trademarks, in whole or in part, in its or its employees' domain names, email addresses, as key words, or as metadata, including metatags.

3.4 Limited Sublicense.

- a) Limited Sublicense. For the avoidance of doubt, except for the rights granted to Sublicensees pursuant to Sections 3.1(a)(iii) and 5.1 of the License Agreement, Sublicensee shall not have the right to either manufacture Licensed Products, or incorporate or use Licensed Products or Biological Materials in its own products or services, except under a separate written license from ATCC.
- b) On Licensed Products. Except in accordance with Section 3.1, Sublicensee is specifically not granted the right to distribute, lend, sell, offer to sell, or otherwise transfer Licensed Products or Biological Materials to any Third Party, and Sublicensee acknowledges that such actions would constitute a material breach of this Agreement.
- c) On ATCC Trademarks. Sublicensee may not use the ATCC Trademarks in any context other than those expressly permitted by Sections 3.1 and 3.3 of this Agreement, and Sublicensee acknowledges that such actions would constitute a material breach of this Agreement.
- d) No Further Sublicense. Sublicensee shall have no right to sublicense, assign or transfer the Sublicense granted in this Agreement.
- e) Use of Names. Except as set forth in Sections 3.1 and 3.3, Sublicensee shall not use either the ATCC Trademarks or the names of any ATCC employees without prior written approval from an authorized representative of ATCC.
- f) Other Rights. Nothing herein confers, or shall confer upon the Sublicensee, and the Sublicensee expressly hereby disclaims, any right other than the sublicense granted herein,

title or interest in any of the ATCC Materials, Progeny, Unmodified Derivatives, the ATCC Trademarks, and any other intellectual property or any goodwill associated with any of the foregoing during the term of this Agreement or any time thereafter. Any right which the Sublicensee may acquire over the ATCC Materials, Progeny and Unmodified Derivatives thereof, any of the ATCC Trademarks, or any goodwill associated with any of the foregoing shall automatically vest in or, if this is not legally possible, be on request unconditionally assigned for free to ATCC.

- g) Additional trademarks of ATCC. Any rights for the Sublicensee to use any additional trademarks which ATCC may use or own (other than the ATCC Trademarks) whether separately or together with the ATCC Trademarks, are expressly excluded from this Agreement.

3.5 Acknowledgement of ATCC's and REMEL's Retained Rights.

- a) Right to use. Sublicensee acknowledges that ATCC retains an irrevocable, non-exclusive right to use the ATCC Materials, Progeny, Unmodified Derivatives, the ATCC Trademarks, as well as the goodwill attached thereto for its own purposes, and to grant additional licenses to third parties.
- b) Ownership of Biological Materials. Sublicensee acknowledges that ATCC retains ownership rights to (a) any ATCC Material, Progeny, or Unmodified Derivative; and (b) any ATCC Material, Progeny, and Unmodified Derivative contained or incorporated in Modifications which are not incorporated in or part of a Licensed Product. ATCC also retains rights to any intellectual property it owns in ATCC Material. REMEL retains physical ownership of Licensed Products, subject to the duties set forth in the License Agreement.

3.6 Acknowledgement. Sublicensee acknowledges that:

- a) THE ATCC MATERIALS ARE NOT INTENDED FOR USE IN HUMANS. SUBLICENSEE AGREES THAT ATCC MATERIALS DESIGNATED AS BIOSAFETY LEVEL 2 OR 3 CONSTITUTE KNOWN PATHOGENS AND THAT OTHER ATCC MATERIALS NOT SO DESIGNATED AND ANY PROGENY, DERIVATIVE OR MODIFICATION MAY BE PATHOGENIC UNDER CERTAIN CONDITIONS. SUBLICENSEE AGREES TO COMPLY AND TO OBLIGATE (BY REQUIRING THE END USER TO SIGN THE END USER LICENSE AGREEMENT) EACH END USER TO COMPLY WITH ALL OF THE QUALITY CONTROLS SET FORTH IN ARTICLE XI, TO UNDERTAKE ANY ACTIVITY IN CONNECTION WITH THE RECEIPT, HANDLING, STORAGE, DISPOSAL, TRANSFER, AND USE OF ATCC MATERIALS, PROGENY, UNMODIFIED DERIVATIVES OR MODIFICATIONS IN COMPLIANCE WITH ALL APPLICABLE GUIDELINES, LAWS AND REGULATIONS INCLUDING WITHOUT LIMITATION TAKING ALL APPROPRIATE SAFETY AND HANDLING PRECAUTIONS TO MINIMIZE HEALTH OR ENVIRONMENTAL RISK.
- b) ATCC is a Third Party beneficiary of the following sections of this Agreement: Sections

3.1, 3.3 through 3.7, 6.1, 7.2, 7.3, and 14.1; and Articles IV, VIII, IX, X, and XI in their entirety. So long the License Agreement between ATCC and REMEL is in force, ATCC will, prior to exercising its right to enforce a provision of the Sublicense as a Third Party beneficiary, request in writing that REMEL enforce the provision within seven (7) business days of receipt of ATCC's notice, and ATCC will exercise its right to enforce that provision of the Sublicense as a Third Party beneficiary only if REMEL fails to act to the reasonable satisfaction of ATCC.

ARTICLE IV. OBLIGATIONS OF SUBLICENSEE

- 4.1 Prestige, high quality and goodwill of ATCC Materials, Licensed Products, and the ATCC Trademarks. Sublicensee acknowledges that ATCC Materials, the Licensed Products, and the ATCC Trademarks have established prestige, high quality and good will and are well recognized in academia, industry and the public, and that it is of great importance that, during the Sale of Licensed Products bearing the ATCC Licensed Derivative Emblem and the ATCC Catalog Marks, the high standards and reputation of ATCC and REMEL be maintained. Sublicensee shall avoid any deceptive, misleading, or unethical practice that is or might be detrimental to the reputation and good name of ATCC or its products. Sublicensee shall not Sell any Licensed Product containing ATCC materials that have been cultivated beyond five (5) Passages.
- 4.2 Account Registration and End User License.
- a) Promptly after the Effective Date of this Sublicense, Sublicensee shall cause each new and existing customer of Sublicensee of Licensed Products in Field of Use – End User QC Testing to enter into an End User License, attached as Appendix B hereto.
 - b) Provision of Licensed Products by Sublicensee to End Users in Field of Use – End User QC Testing pursuant to Sections 3.1 shall be preceded by legally binding acceptance (preferably electronic or via facsimile) of the End User License by End Users, for any Licensed Product provided thereafter. Sublicensee shall be solely responsible, and shall bear the full cost and expense, for the execution of the End-User License by End Users, and for notifying any End User if Sublicensee knows or should know that such End User is in breach of the Use License. If, after notification, End Users continue to breach the End User License, Sublicensee shall cease Sale of all Licensed Products to such End User and notify REMEL and ATCC (at licensing@atcc.org) of that fact.
 - c) Sublicensee shall maintain records of End User Licenses and Sales of Licensed Products, subject to inspection and audit by REMEL as provided in Article VI. Sublicensee shall not sell Licensed Products in Field of Use – End User QC Testing to any party without first having in place a record keeping system providing ready access to the executed End User License.
 - d) Sublicensee shall promptly comply with all requests by REMEL for proof of registration of End Users and the existence of End User Licenses. Random samples

of compliance with the registration requirement and the quality assurance requirements of Sections 4.3 through 4.6 will periodically be requested by REMEL. In circumstances relating to safety, public health, protection of the environment, regulatory compliance, quality control, and possible ATCC Trademark violations, information concerning End User registration and the information, including site audits, provided for under Sections 6.1, 7.1 and 7.2 of this Agreement, must be made available to REMEL upon demand, despite the language of Section 6.2 and 7.1. Information on registration of End Users will be retained by Sublicensee, and no information on registration will be retained by REMEL after review pursuant to this Section or as otherwise permitted by Article VI.

- 4.3 Unique Ingredient. Sublicensee shall not use the ATCC Trademarks in connection with the Sale of products that contain or are made with microorganisms obtained from other sources than ATCC. Sublicensee shall not Sell any Biological Material that is not labeled with the ATCC Trademarks.
- 4.4 Compliance with United States Export Regulations. Sublicensee shall comply with all United States laws and regulations controlling the export and re-export of certain commodities and technical data, including without limitation all Export Administration Regulations of the United States Department of Commerce (as presently promulgated or hereinafter modified or amended). Among other things, these laws and regulations prohibit or require a license or permit for export of certain types of commodities and technical data to specified countries. Sublicensee hereby gives written assurance that it bears sole responsibility for any violation of such laws and regulations by itself, and its End Users, and that it will indemnify, defend, and hold REMEL and ATCC harmless for the consequences of any such violation.
- 4.5 Compliance with Other Regulations. Sublicensee shall obtain all authorities, consents and clearances required for the purchase, importation, exportation, transportation, distribution, demonstration, advertising and Sale of Licensed Products and, more generally, to the performance of this Agreement. Sublicensee shall comply with, and shall obligate its End Users to comply with, all applicable foreign and domestic, federal, state and local statutes, ordinances and regulations (including tax and custom duties and self-regulation codes).
- 4.6 Shipping and Handling. Sublicensee shall receive, store, handle, ship and dispose of the Licensed Products and shall obligate (by requiring the End User to enter into the End User License) each End User to receive, store, handle, ship and dispose of the Licensed Products under procedures and in adequate facilities which will ensure that there is no degradation of the quality thereof or in their packaging or appearance.

ARTICLE V. ROYALTIES AND FEES

- 5.1 Royalties on Relevant Sales. Upon the Effective Date of this Agreement, REMEL will, if it so chooses, begin to include up to a 15% fee on all Sales of Licensed Products delivered by REMEL after that date bearing the ATCC Trademarks or using ATCC Materials.
- 5.2 Penalty. In consideration for the grant of license set forth in this Sublicense Agreement, and to ensure that REMEL's and ATCC's quality standards are maintained, Sublicensee agrees

that Sales of Licensed Products to Third Parties who have not executed an End User License is a Material Breach of this Sublicense Agreement, and by itself may result in termination.

ARTICLE VI. RECORDS

- 6.1 Records of Sublicensee. Records showing the Sale and disposition of Licensed Products sold or otherwise disposed of under this Agreement will be preserved for at least five (5) years after the date of the event to which they pertain. Such records shall be complete, organized and accessible to enable site audits, and shall include:
- a) Quality Assurance Records to verify compliance with Sections 4.3, 4.4 and 4.5;
 - b) Executed End User Agreements as required by Section 4.2; and
 - c) All records required by any governing authority for which Sublicensee is subject by reason of the Sale of Licensed Products.
- 6.2 Compliance Audits. Upon at least two (2) weeks prior written request by REMEL, Sublicensee shall permit an independent agent selected by REMEL to have access during normal business hours to such records of Sublicensee as may be reasonably necessary to verify compliance with the requirements of this Agreement. Sublicensee will cooperate with requests from REMEL to provide electronic verification of compliance at reasonable times during the term of this Agreement. If requested by REMEL, Sublicensee will provide, in a form acceptable to REMEL, an affidavit of compliance with the requirements of this Agreement.

ARTICLE VII. QUALITY CONTROL

- 7.1 Site Audit. Within fifteen (15) business days of written notice by REMEL, Sublicensee shall permit REMEL or its representatives to enter, during normal business hours, any of the premises where the Sublicensee stores or sells Licensed Products, to inspect the premises and the operations carried out there, and to sample products so as to be able to determine whether the Licensed Products conform to REMEL standards. Sublicensee will cooperate with requests from REMEL to provide electronic verification of compliance with quality control standards at reasonable times during the term of this Agreement. If requested by REMEL, Sublicensee will provide, in a form acceptable to REMEL, with an affidavit verifying compliance with these quality control requirements.
- 7.2 Reporting on Quality Problem. Sublicensee shall promptly notify REMEL of any reportable complaints or quality problems related to the Sale of Licensed Products, including but not limited to all instances in which Licensed Products have been misidentified, contaminated, returned, or in which otherwise inauthentic or adulterated Licensed Products have been sold.
- 7.3 Termination of Sales for quality concerns. Upon receiving a notice from REMEL that distribution of the Licensed Products has been suspended as a result of safety, public health, protection of the environment, regulatory compliance, or quality control issues concerning the Licensed Products, Sublicensee shall immediately cease and refrain from using, or Selling

any Licensed Product until directed to resume distribution by REMEL. Licensed Products subject to removal by a government authority shall not be returned to REMEL for credit.

ARTICLE VIII. TRADEMARKS AND PATENTS

- 8.1 Form of Use. In its print advertising, promotional and marketing materials, Sublicensee shall identify a Licensed Product as having been manufactured by REMEL using ATCC Materials licensed from ATCC, so long as such identification is signified by the ATCC Licensed Derivative Emblem, is accompanied by the Registration symbol (or the TM symbol as applicable), the respective ATCC Catalog Mark and the phrase "The ATCC Licensed Derivative Emblem® and the ATCC Catalog Marks are trademarks of ATCC used under License." Sublicensee shall also comply with cooperative marketing arrangements as are agreed upon by the Parties.
- 8.2 Ownership of ATCC Trademarks. Nothing in this Agreement shall be construed to affect ATCC's rights, title and interests in and to trademarks registered or owned by the ATCC, and Sublicensee expressly acknowledges, warrants and agrees that the ATCC Trademarks, as well as the goodwill attached thereto, and the term ATCC are the exclusive property of ATCC; that Sublicensee shall not do or omit to do, anything that is likely to result in diminishing or jeopardizing the goodwill and reputation associated with the ATCC Trademarks or any other right attached thereto, nor shall it do or omit to do or cause each End User to do or to omit to do, anything that is likely to result in Sublicensee infringing, damaging, discrediting and/or directly or indirectly disputing, challenging, objecting to, or contesting the validity of the ATCC Trademarks, ATCC's ownership of the ATCC Trademarks or ATCC's exclusive right to use the ATCC Trademarks during or after the term of this Agreement. Sublicensee also agrees that all of Sublicensee's use of the ATCC Trademarks inures exclusively to ATCC's benefit.
- 8.3 Catalog Numbers of REMEL. REMEL has assigned its own catalog numbers or functionally equivalent identifiers to all Licensed Products, and those catalog numbers or identifiers shall be the primary means by which Sublicensee shall order Licensed Products from REMEL.
- 8.4 Catalog Numbers of ATCC. The use of ATCC Catalog Marks must be in accordance with the ATCC Specifications for Using the ATCC Licensed Derivative Emblem™ and Catalog Marks, attached as Appendix E
- 8.5 Allegation, claim or suit by a Third Party. Sublicensee shall notify REMEL in writing within fifteen (15) days of any allegation, claim or suit by a Third Party that the activity of Sublicensee in connection with Biological Materials infringes or may infringe the intellectual property rights of such Third Party promptly upon Sublicensee's becoming aware of such allegation, claim or suit. Upon request, Sublicensee shall assist ATCC and REMEL in the legal proceedings relating to such claims.
- 8.6 Information concerning illegal use of the ATCC Trademarks. Sublicensee shall promptly notify REMEL if it becomes aware of any circumstances where the ATCC Trademarks are being used in an illegal or improper manner in any territory or market where Sublicensee does business. Upon request, Sublicensee shall assist ATCC and REMEL in the legal proceedings relating to such claims. Other than what is expressly indicated in this Agreement, the Sublicensee shall have

no power whatsoever to, and shall not, take any action related to the ATCC Trademarks, either conciliatory or judicial without the prior written consent of ATCC.

ARTICLE IX. INDEMNIFICATION AND INSURANCE

9.1 Indemnification by Sublicensee. Sublicensee shall defend, indemnify and hold REMEL, ATCC, and each of their Affiliates, officers, directors, employees and agents, harmless from and against any and all liability, damage, loss or expense (including reasonable attorneys' fees) arising from any claim, demand, action or proceeding based upon any action or omission of Sublicensee in connection with this Agreement, including:

- (a) the use, marketing, Sale, exportation, storage, demonstration or advertising of a Licensed Product or Manufactured Product by Sublicensee;
- (b) the use of the ATCC Trademarks by Sublicensee; and
- (c) any act or omission of Sublicensee, its employees or agents in the performance of this Agreement or incurred in the settlement or avoidance of any such claim.

Sublicensee further agrees to indemnify REMEL, ATCC, and each of their officers, directors, agents and employees, and agrees to hold them harmless from and against any loss, damage, claim, expense or liability, including but not limited to attorney's fees, resulting from any property damage, personal injury or death arising out of or in connection with the acts of Sublicensee, its officers, agents, or employees, while performing duties under this Agreement.

9.2 Insurance. Sublicensee shall maintain, during the term of this Agreement, Products and Completed Operations insurance coverage, including a Time Element Pollution Endorsement, which shall be on a worldwide basis, including coverage for economic damages and losses, with reputable and financially secure insurance carrier(s) enjoying an A.M. Best rating of not less than A- VII, to cover all claims against liability arising out of the use or Sale of Licensed Products, in an amount no less than one million (\$1,000,000) dollars. Sublicensee shall name REMEL and ATCC as additional insured with rights to its interests under this Agreement. Sublicensee shall provide REMEL and ATCC a certificate of such insurance and of all renewals thereof. If either the insurance coverage or endorsements required by this Agreement and in force on the Execution Date of the License is cancelled, terminated, otherwise extinguished, or materially altered, Sublicensee shall provide immediate notice to Remel and ATCC and Sublicensee shall immediately reinstate such coverage or endorsements and obtain equivalent coverage or endorsements with respect to Remel's and ATCC's interests under this Agreement. Failure to timely reinstate or obtain equivalent coverage or endorsements shall be a material breach of this Agreement.

9.3 Indemnification by REMEL.

REMEL further agrees to indemnify Sublicensee and its officers, directors, employees and agents and agrees to hold them harmless from and against any loss, damage, claim, expense or liability, including but not limited to attorney's fees, resulting from any property damage,

personal injury or death (except to the extent any such claim is due to or arising from the gross negligence or willful misconduct of Sublicensee) arising out of or in connection with the grossly negligent acts or willful misconduct of REMEL while performing duties under this Agreement, provided, however, REMEL shall have no liability under this section 9.3 to the extent any such indemnified items mentioned herein are caused by (i) the negligence or willful misconduct of Sublicensee, its employees, agents or representatives, (ii) by any third party, (iii) use of the Product in an application or environment for which it was not designed, or (iv) modifications to the Product by anyone other than REMEL without REMEL's prior written approval. THE FOREGOING INDEMNIFICATION PROVISION STATES REMEL'S ENTIRE LIABILITY TO SELLER FOR THE CLAIMS DESCRIBED HEREIN.

ARTICLE X. TERMINATION

- 10.1 Termination without cause. REMEL has been granted a License by ATCC to use ATCC Materials and ATCC Trademarks, and to grant sublicenses for the use of the ATCC Trademarks in connection with the Sale of Licensed Products manufactured by REMEL. Because the rights of the Sublicensee to use the ATCC Trademarks are dependent on the right of REMEL to sublicense the use of the ATCC Trademarks, this Sublicense will terminate if the License Agreement or REMEL's License from ATCC expires, or is terminated, for any reason. In such an event, REMEL will provide Sublicensee with a thirty (30) day written notice of termination of this Sublicense. In the event of a termination or expiration of the Sublicense Agreement between REMEL and Sublicensee, the Sublicensee's rights under this Sublicense Agreement will terminate as of the same date.
- 10.2 Material Breach. This Agreement may be terminated by written notice to the Sublicensee if Sublicensee materially breaches a material provision of this Agreement and has failed to cure or demonstrate the nonexistence of the breach within thirty (30) days of receipt of a written notice and demand to cure such breach. The following are material breaches:
- (a) failure or refusal to pay royalty fees to REMEL according to normal invoice payment requirements; or
 - (b) if Sublicensee fails to comply with any of its obligations under Articles IV, V, VI, VII and VIII of this Agreement; or
 - (c) if Sublicensee continues to Sell Licensed Products to End Users without having first secured End User Agreements; or
 - (d) If Sublicensee knowingly Sells or knowingly offers to Sell Licensed Products to Third Parties who intend to resell Biological Materials or use the ATCC Trademarks in connection with the Sale of Biological Materials without a License from ATCC.
- 10.3 Bankruptcy. This Agreement may be terminated by written notice if:
- (a) Sublicensee becomes insolvent under local law, makes a general assignment for the benefit of creditors, is adjudicated as bankrupt or insolvent, files a voluntary petition

in bankruptcy or for a reorganization or to effect a plan or other arrangement with its creditors, files an answer to a creditor's petition or other petition against it for an adjudication in bankruptcy or thereof, or applies for or permits the appointment of a receiver, trustee, or custodian for any substantial portion of its properties or assets; or

(b) if an order is entered by any court approving an involuntary petition seeking reorganization of the other Party, or appointing a receiver, trustee or custodian for any substantial portion of its assets or business.

10.4 Change in Affiliation. If Sublicensee is a Sublicensed Affiliate, this Agreement shall terminate immediately and automatically in the event that Sublicensee shall cease to be directly or indirectly controlled by, or under common control with REMEL, and for such purpose "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract or otherwise.

ARTICLE XI. EFFECTS OF EARLY TERMINATION

11.1 Confidential Information. Upon termination of this Agreement, or at any time upon the written request of REMEL, the Sublicensee shall immediately (i) cease using the Confidential Information disclosed by REMEL, (ii) return any Confidential Information disclosed by REMEL, and (iii) destroy any notes or personal memoranda which includes or make reference to such Confidential Information, except one (1) copy for to be kept for archival purposes.

11.2 Material bearing ATCC Trademarks. Within three (3) business days after termination of this Agreement in accordance with its terms, Sublicensee shall cease and permanently refrain from the use of the ATCC Trademarks and remove the ATCC Trademarks from any website, and cease the development, use and distribution of any print advertising, promotional and marketing materials bearing the ATCC Trademarks.

11.3 Destruction of Inventory. After termination of this Agreement as provided in Article X, Sublicensee shall destroy, at Sublicensee's expense, any and all stocks of the Licensed Products and shall provide to REMEL written notification of that fact. Excess inventory cannot be returned to REMEL for destruction or credit. The destruction of Licensed Products shall be done according to accepted laboratory procedures, and all applicable guidelines, rules and regulations.

11.4 Sublicensee's Report. Promptly upon receipt of any notification of termination as provided in Article X, Sublicensee shall transmit to REMEL a report detailing; (1) the inventory of Licensed Products bearing the ATCC Trademarks, including Licensed Products held by Sublicensee and Licensed Products in transit to customers; (2) all advertising, promotional, or marketing material bearing the ATCC Trademarks and its location; (3) written verification of compliance with the requirements of Section 11.1, and 11.2; and (4) verification of compliance with the requirements of Section 11.3, including a description of the method used and the identity of the person responsible for the destruction.

- 11.5 Surviving Provisions. Termination of this Agreement for any reason shall not relieve the Sublicensee of the obligations set forth in Sections 6.1, 8.2, 9.1 and 11.1, and all definitions related thereto.

ARTICLE XII. NOTICES

- 12.1 Addresses. For purposes of mailings of notices, payments, or other communications, the addresses of the Parties are given below. A Party may change its address by giving written notice to the other Party.

In the case of REMEL:

General Manager, Microbiology Americas
Remel Inc., a part of Thermo Fisher Scientific
12076 Santa Fe Drive
P.O. Box 14428
Lenexa, KS 66215
Fax: (800) 621-8251

In the case of Sublicensee:

PLEASE INDICATE

Notices shall be deemed given as of the date of mailing by (a) certified mail, return receipt requested, or (b) facsimile with a written confirmation copy, to the above addresses (or such other addresses as may be specified in writing by a Party).

- 12.2 English Language. All communication regarding this Agreement shall be in English, with exception to foreign documents that shall be mailed in their original language accompanied by a notarized translation to English.

ARTICLE XIII. DISPUTE RESOLUTION

- 13.1 Any controversy or claim arising out of or relating to this Sublicense, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The venue for the arbitration shall be in Lenexa, Kansas. In no event shall punitive or exemplary damages be awardable. The arbitrators shall have the authority to grant specific performance and to allocate between the Parties the costs of arbitration, including but not limited to reasonable attorney's fees, in such equitable manner as they determine. The Parties irrevocably agree that a final judgment in any arbitration proceeding relating to this Agreement shall be conclusive and shall be enforceable in any court having jurisdiction thereof.

ARTICLE XIV. GENERAL PROVISIONS

- 14.1 Assignment. This Agreement is not assignable by Sublicensee.
- 14.2 Waivers. No term or provision of this Agreement shall be waived and no breach excused

unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No waiver of a breach shall be deemed to be a waiver of a different or subsequent breach. Failure by either Party to enforce, or delay in exercising, or partial exercise of any covenants or rights or remedies under this Agreement shall not be deemed or construed as a waiver of such rights, nor shall waiver by either Party in one or more instances be construed as constituting a continuing waiver or as a waiver in other or subsequent instances.

- 14.3 Amendments. This Agreement may not be modified, changed or terminated orally. No change, modification, addition or amendment shall be valid unless in writing referring expressly to this Agreement and signed by an authorized representative of each of the Parties hereto. Amendment of any provision concerning ATCC's rights as a Third Party beneficiary shall also require the written approval of ATCC.
- 14.4 Severability. In the event any term or provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- 14.5 Force Majeure. Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement (except as regards payment obligations) when such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party (hereinafter, a "Force Majeure" event), including but not limited to (i) any law, regulation, order, rule, direction, priority, seizure, allocation, requisition, or any other official action by any department, bureau, board, administration, or other instrumentality or agency of any government or political subdivision thereof having jurisdiction over such Party; or (ii) fire, floods, embargoes, war, acts of war (whether war be declared or not), insurrections, acts of terrorism, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority (including regulatory and advisory bodies) or the other Party. Upon the occurrence of any Force Majeure event, the affected Party shall give written notice of such event to the other Party, and in the event of (ii) above shall use reasonable efforts to overcome such Force Majeure event.
- 14.6 Relationship of the Parties. For the Purpose of this Agreement, the status of each Party under this Agreement is that of an independent contractor, and neither Party has the right or authority to assume or create any obligation, accept legal process, make commitments, incur any charges or otherwise bind or act on behalf of the other or limit the other in any manner whatsoever, except as expressly stated herein. Neither this Agreement nor any act hereunder shall be construed as constituting the foundation of a partnership, association, agency, joint venture or any other entity.
- 14.7 Cost of Registration of Agreement. Should REMEL or Sublicensee be obligated, according to the laws of the country of incorporation, registration, or use, to register this Agreement, the registration cost shall be borne by the registering Party.
- 14.8 Notice of Countries of Use. Within twenty (20) days of the Effective Date, and thereafter at least twenty (20) days before entering a new country, Sublicensee shall provide to the President of REMEL, for transfer to the Vice President of Licensing, Contracts and

Compliance of ATCC, a report completely and accurately listing the countries in which Sublicensee intends to use the ATCC Trademarks, and specifying those countries in which registration of this Agreement is required. Sublicensee acknowledges that failure to comply with this provision shall constitute a material breach of this Agreement.

- 14.9 Governing Law, Jurisdiction and Venue. This Agreement shall for all purposes be governed by and interpreted in accordance with the laws of the State of New York as those laws are applied to contracts entered into, and to be performed entirely in New York by New York residents.
- 14.10 Entire Agreement. This Agreement constitutes and contains the entire Agreement of the Parties respecting their subject matter and supersedes any and all prior negotiations, correspondence, understandings and agreements, whether written or oral, between the Parties respecting its subject matter.
- 14.11 Signature. This Agreement may be signed in two (2) counterparts each of which shall be deemed to be an original, and both of which taken together shall constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than the number of counterparts containing the respective signatures on behalf of the parties hereto.
- 14.12 Covenant of Further Assurances. REMEL and Sublicensee covenant and agree that, subsequent to the execution and delivery of this Agreement and without additional consideration, each Party shall execute and deliver any further legal instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement.

IN WITNESS WHEREOF, REMEL and Sublicensee have caused this Agreement to be executed in duplicate by their respective duly authorized officers.

For REMEL INC.,
A part of Thermo Fisher Scientific

For SUBLICENSEE

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

APPENDIX A TO SUBLICENSE AGREEMENT: ATCC MATERIALS
INCORPORATED INTO ATCC LICENSED
DERIVATIVE® LICENSED PRODUCTS

A

Acinetobacter baumannii ATCC® 19606™
Acinetobacter baumannii ATCC® BAA-747™
Acinetobacter lwoffii ATCC® 17925™
Acinetobacter sp. ATCC® 49137™
Acinetobacter sp. ATCC® 49139™
Acinetobacter sp. ATCC® 49466™
Acinetobacter sp. ATCC® 49468™
Acinetobacter sp. ATCC® 9957™
Actinomyces odontolyticus ATCC® 17929™
Aerococcus viridans ATCC® 11563™
Aerococcus viridans ATCC® 700406™
Aeromonas caviae ATCC® 15468™
Aeromonas hydrophila ATCC® 35654™
Aeromonas hydrophila ATCC® 49140™
Aeromonas hydrophila ATCC® 7965™
Aeromonas hydrophila ATCC® 7966™
Aeromonas veronii biogroup *sobria* ATCC® 9071™
Alcaligenes faecalis subsp. *faecalis* ATCC® 35655™
Alcaligenes faecalis subsp. *faecalis* ATCC® 8750™
Alcaligenes xylooxidans subsp. *xylooxidans* ATCC® 27061™
Alternaria alternata TX 8025™
Aneurinibacillus aneurinilyticus ATCC® 11376™
Arcanobacterium pyogenes ATCC® 19411™
Arcanobacterium pyogenes ATCC® 49698™
Aspergillus flavus ATCC® 10124™
Aspergillus fumigatus KM 8001™
Aspergillus niger ATCC® 16404™

B

Bacillus cereus ATCC® 11778™
Bacillus cereus ATCC® 14579™
Bacillus circulans ATCC® 61™
Bacillus licheniformis ATCC® 12759™
Bacillus sphaericus ATCC® 4525™
Bacillus stearothermophilus ATCC® 12980™
Bacillus stearothermophilus ATCC® 7953™
Bacillus stearothermophilus ATCC® 7953 105 spore population.™
Bacillus stearothermophilus ATCC® 7953 106 spore population.™
Bacillus subtilis ATCC® 6633™
Bacteroides distasonis ATCC® 8503™
Bacteroides fragilis ATCC® 23745™
Bacteroides fragilis ATCC® 25285™
Bacteroides ovatus ATCC® 8483™
Bacteroides thetaiotaomicron ATCC® 29741™

Bacteroides uniformis ATCC® 8492™
Bacteroides ureolyticus ATCC® 33387™
Bacteroides vulgatus ATCC® 8482™
Bifidobacterium breve ATCC® 15700™
Bordetella bronchiseptica ATCC® 10580™
Bordetella bronchiseptica ATCC® 4617™
Bordetella parapertussis ATCC® 15237™
Bordetella pertussis ATCC® 12742™
Bordetella pertussis ATCC® 9340™
Brevibacillus agri ATCC® 51663™
Brevibacillus laterosporus ATCC® 64™
Brevundimonas diminuta ATCC® 11568™
Brevundimonas diminuta ATCC® 19146™
Burkholderia cepacia ATCC® 17765™
Burkholderia cepacia ATCC® 25416™
Burkholderia cepacia ATCC® 25608™

C

Campylobacter jejuni subsp. jejuni ATCC® 33291™
Campylobacter jejuni subsp. jejuni ATCC® 33292™
Candida albicans ATCC® 10231™
Candida albicans ATCC® 14053™
Candida albicans ATCC® 2091™
Candida albicans ATCC® 36232™
Candida albicans ATCC® 60193™
Candida albicans ATCC® 66027™
Candida geochares ATCC® 36852™
Candida glabrata ATCC® 15126™
Candida glabrata ATCC® 2001™
Candida glabrata ATCC® 66032™
Candida glabrata ATCC® MYA-2950™
Candida guilliermondii ATCC® 6260™
Candida kefyr ATCC® 204093™
Candida kefyr ATCC® 2512™
Candida kefyr ATCC® 66028™
Candida krusei ATCC® 14243™
Candida lusitaniae ATCC® 34449™
Candida parapsilosis ATCC® 22019™
Candida parapsilosis ATCC® 34136™
Candida tropicalis ATCC® 13803™
Candida tropicalis ATCC® 201380™
Candida tropicalis ATCC® 66029™
Candida tropicalis ATCC® 750™
Candida utilis ATCC® 9950™
Cellulosimicrobium cellulans ATCC® 27402™
Chryseobacterium meningosepticum ATCC® 13253™
Citrobacter braakii ATCC® 10625™
Citrobacter freundii ATCC® 8090™

Clostridium difficile ATCC® 9689™
Clostridium histolyticum ATCC® 19401™
Clostridium novyi ATCC® 7659™
Clostridium novyi Type A ATCC® 19402™
Clostridium perfringens ATCC® 13124™
Clostridium perfringens ATCC® 3626™
Clostridium septicum ATCC® 12464™
Clostridium sordelli ATCC® 9714™
Clostridium sporogenes ATCC® 11437™
Clostridium sporogenes ATCC® 19404™
Clostridium sporogenes ATCC® 3584™
Corynebacterium diphtheriae ATCC® 13812™
Corynebacterium jeikeium ATCC® 43734™
Corynebacterium minutissimum ATCC® 23348™
Corynebacterium pseudodiphtheriticum ATCC® 10700™
Corynebacterium pseudodiphtheriticum ATCC® 10701™
Corynebacterium renale ATCC® 19412™
Corynebacterium xerosis ATCC® 373™
Cryptococcus albidus ATCC® 66030™
Cryptococcus albidus var. *albidus* ATCC® 10666™
Cryptococcus albidus var. *albidus* ATCC® 34140™
Cryptococcus humicolus ATCC® 9949™
Cryptococcus laurentii ATCC® 18803™
Cryptococcus laurentii ATCC® 66036™
Cryptococcus laurentii ATCC® 76483™
Cryptococcus neoformans ATCC® 14116™
Cryptococcus neoformans ATCC® 204092™
Cryptococcus neoformans ATCC® 32045™
Cryptococcus neoformans ATCC® 66031™
Cryptococcus neoformans ATCC® 76484™
Cryptococcus uniguttulatus ATCC® 66033™

D

.....

E

Edwardsiella tarda ATCC® 15947™
Eggerthella lenta ATCC® 43055™
Eikenella corrodens ATCC® 23834™
Enterobacter aerogenes ATCC® 13048™
Enterobacter aerogenes ATCC® 35028™
Enterobacter aerogenes ATCC® 35029™
Enterobacter cloacae ATCC® 13047™
Enterobacter cloacae ATCC® 23355™
Enterobacter cloacae ATCC® 35030™
Enterobacter cloacae ATCC® 49141™
Enterobacter cloacae ATCC® 700323™
Enterobacter gergoviae ATCC® 33028™
Enterococcus avium ATCC® 14025™

Enterococcus avium ATCC® 49464™
Enterococcus casseliflavus ATCC® 700327™
Enterococcus durans ATCC® 11576™
Enterococcus durans ATCC® 49135™
Enterococcus durans ATCC® 49479™
Enterococcus durans ATCC® 6056™
Enterococcus faecalis ATCC® 19433™
Enterococcus faecalis ATCC® 29212™
Enterococcus faecalis ATCC® 33012™
Enterococcus faecalis ATCC® 49149™
Enterococcus faecalis ATCC® 49452™
Enterococcus faecalis ATCC® 51299™
Enterococcus faecium ATCC® 35667™
Enterococcus gallinarum ATCC® 700425™
Epidermophyton floccosum ATCC® 52066™
Erysipelothrix rhusiopathiae ATCC® 19414™
Escherichia coli ATCC® 11229™
Escherichia coli ATCC® 11775™
Escherichia coli ATCC® 25922™
Escherichia coli ATCC® 29194™
Escherichia coli ATCC® 35218™
Escherichia coli ATCC® 35421™
Escherichia coli ATCC® 4157™
Escherichia coli ATCC® 51446™
Escherichia coli ATCC® 51755™
Escherichia coli ATCC® 8739™
Escherichia coli ATCC® 9339™
Escherichia coli serotype O157:H7 ATCC® 43888™
Exiguobacterium aurantiacum ATCC® 49676™
Exophiala jeanselmei ATCC® 10224™

F

Fluoribacter bozemanae ATCC® 33217™
Fonsecaea pedrosoi ATCC® 28174™
Fusarium oxysporum ATCC® 48112™
Fusobacterium mortiferum ATCC® 25557™
Fusobacterium mortiferum ATCC® 9817™
Fusobacterium necrophorum ATCC® 25286™
Fusobacterium nucleatum subsp. *nucleatum* ATCC® 25586™
Fusobacterium varium ATCC® 27725™

G

Gardnerella vaginalis ATCC® 14018™
Gardnerella vaginalis ATCC® 49145™
Gemella morbillorum ATCC® 27824™
Geobacillus stearothermophilus ATCC® 12978™
Geotrichum candidum ATCC® 34614™
Geotrichum capitatum ATCC® 10663™
Geotrichum capitatum ATCC® 28576™

H

Haemophilus aphrophilus ATCC® 19415™
Haemophilus haemoglobinophilus ATCC® 19416™
Haemophilus haemolyticus ATCC® 33390™
Haemophilus influenzae ATCC® 33930™
Haemophilus influenzae ATCC® 35056™
Haemophilus influenzae ATCC® 35540™
Haemophilus influenzae ATCC® 49144™
Haemophilus influenzae ATCC® 49247™
Haemophilus influenzae ATCC® 49766™
Haemophilus influenzae biovar III ATCC® 19418™
Haemophilus influenzae Type a ATCC® 9006™
Haemophilus influenzae Type b ATCC® 10211™
Haemophilus influenzae Type b ATCC® 33533™
Haemophilus parahaemolyticus ATCC® 10014™
Haemophilus parainfluenzae ATCC® 7901™
Haemophilus paraphrophilus ATCC® 49146™
Haemophilus paraphrophilus ATCC® 49917™

I

Issatchenkia orientalis ATCC® 6258™

K

Klebsiella oxytoca ATCC® 33496™
Klebsiella oxytoca ATCC® 43086™
Klebsiella oxytoca ATCC® 49131™
Klebsiella oxytoca ATCC® 700324™
Klebsiella oxytoca ATCC® 8724™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 10031™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 13882™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 13883™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 27736™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 33495™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 35657™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 700603™
Klebsiella pneumoniae subsp. pneumoniae ATCC® 9997™
Kloekera apis ATCC® 32857™
Kocuria kristiana ATCC® BAA-752™
Kocuria rhizophilia ATCC® 9341™
Kocuria rosea ATCC® 186™

L

Lactobacillus acidophilus ATCC® 314™
Lactobacillus acidophilus ATCC® 4356™
Lactobacillus casei subsp. casei ATCC® 393™
Lactobacillus delbrueckii subsp. lactis ATCC® 12315™
Leclercia adecarboxylata ATCC® 23216™
Leclercia adecarboxylata ATCC® 700325™
Legionella dumoffii ATCC® 33279™
Legionella pneumophila subsp. pneumophila ATCC® 33152™

Legionella pneumophila subsp. *pneumophila* ATCC® 33823™
Leuconostoc mesenteroides subsp. *mesenteroides* ATCC® 8293™
Listeria grayi ATCC® 25401™
Listeria innocua ATCC® 33090™
Listeria monocytogenes ATCC® 7644™
Listeria monocytogenes ATCC® 7646™
Listeria monocytogenes ATCC® BAA-751™

M

Microbacterium testaceum ATCC® 15829™
Micrococcus luteus ATCC® 10240™
Micrococcus luteus ATCC® 4698™
Micrococcus luteus ATCC® 49732™
Micrococcus luteus ATCC® 533™
Micrococcus lylae ATCC® 27566™
Micrococcus sp. ATCC® 700405™
Microsporum canis ATCC® 11621™
Moraxella catarrhalis ATCC® 23246™
Moraxella catarrhalis ATCC® 25238™
Moraxella catarrhalis ATCC® 25240™
Moraxella catarrhalis ATCC® 49143™
Moraxella catarrhalis ATCC® 8176™
Moraxella osloensis ATCC® 10973™
Moraxella osloensis ATCC® 19976™
Morganella morganii subsp. *morganii* ATCC® 25830™
Mycobacterium fortuitum subsp. *fortuitum* ATCC® 6841™
Mycobacterium kansasii ATCC® 12478™
Mycobacterium tuberculosis ATCC® 25177™
Mycoplasma hominis ATCC® 23114™
Mycoplasma pneumoniae ATCC® 15531™
Myroides odoratum ATCC® 4651™

N

Neisseria gonorrhoeae ATCC® 19424™
Neisseria gonorrhoeae ATCC® 31426™
Neisseria gonorrhoeae ATCC® 35541™
Neisseria gonorrhoeae ATCC® 43069™
Neisseria gonorrhoeae ATCC® 43070™
Neisseria gonorrhoeae ATCC® 49226™
Neisseria gonorrhoeae ATCC® 49926™
Neisseria gonorrhoeae ATCC® 49981™
Neisseria lactamica ATCC® 23970™
Neisseria lactamica ATCC® 23971™
Neisseria lactamica ATCC® 49142™
Neisseria meningitidis serogroup A ATCC® 13077™
Neisseria meningitidis serogroup B ATCC® 13090™
Neisseria meningitidis serogroup C ATCC® 13102™
Neisseria meningitidis serogroup Y ATCC® 35561™
Neisseria mucosa ATCC® 19695™

Neisseria sicca ATCC® 29256™
Neisseria sicca ATCC® 9913™
Neisseria subflava ATCC® 14799™
Nocardia asteroides ATCC® 19247™
Nocardia brasiliensis ATCC® 19296™
Nocardia brasiliensis ATCC® 19297™
Nocardia farcinica ATCC® 3308™

O

Ochrobactrum anthropi ATCC® 49187™
Ochrobactrum anthropi ATCC® 49687™
Ochrobactrum anthropi ATCC® BAA-749™
Oligella ureolytica ATCC® 43534™
Oligella urethralis ATCC® 17960™

P

Paenibacillus macerans ATCC® 8509™
Paenibacillus polymyxa ATCC® 43865™
Paenibacillus polymyxa ATCC® 7070™
Paenibacillus polymyxa ATCC® 842™
Pasteurella aerogenes ATCC® 27883™
Pasteurella multocida ATCC® 43137™
Pediococcus pentosaceus ATCC® 33314™
Penicillium chrysogenum ATCC® 10106™
Peptostreptococcus anaerobius ATCC® 27337™
Peptostreptococcus asaccharolyticus ATCC® 14963™
Peptostreptococcus asaccharolyticus ATCC® 29743™
Peptostreptococcus magnus ATCC® 29328™
Peptostreptococcus micros ATCC® 33270™
Phialophora verrucosa ATCC® 28181™
Pityrsoporum ovale ATCC® 14521™
Plesiomonas shigelloides ATCC® 14029™
Plesiomonas shigelloides ATCC® 51903™
Porphyromonas gingivalis ATCC® 33277™
Porphyromonas levii ATCC® 29147™
Prevotella melaninogenica ATCC® 25845™
Propionibacterium acnes ATCC® 11827™
Propionibacterium acnes ATCC® 6919™
Proteus hauseri ATCC® 49132™
Proteus mirabilis ATCC® 12453™
Proteus mirabilis ATCC® 25933™
Proteus mirabilis ATCC® 29245™
Proteus mirabilis ATCC® 29906™
Proteus mirabilis ATCC® 35659™
Proteus mirabilis ATCC® 43071™
Proteus mirabilis ATCC® 7002™
Proteus vulgaris ATCC® 49132™
Proteus vulgaris ATCC® 6380™
Proteus vulgaris ATCC® 8427™

Prototheca wickerhamii ATCC® 16529™
Providencia alcalifaciens ATCC® 51902™
Providencia stuartii ATCC® 33672™
Providencia stuartii ATCC® 49809™
Pseudomonas aeruginosa ATCC® 10145™
Pseudomonas aeruginosa ATCC® 15442™
Pseudomonas aeruginosa ATCC® 27853™
Pseudomonas aeruginosa ATCC® 35032™
Pseudomonas aeruginosa ATCC® 35422™
Pseudomonas aeruginosa ATCC® 9027™
Pseudomonas aeruginosa ATCC® 9721™
Pseudomonas fluorescens ATCC® 13525™
Pseudomonas putida ATCC® 49128™
Pseudomonas stutzeri ATCC® 17588™

R

Ralstonia pickettii ATCC® 49129™
Rhizopus stolonifer ATCC® 14037™
Rhodococcus equi ATCC® 6939™
Rhodotorula glutinis ATCC® 32765™

S

Saccharomyces cerevisiae ATCC® 4098™
Saccharomyces cerevisiae ATCC® 9763™
Saccharomyces pastorianus ATCC® 2366™
Salmonella enterica subsp. enterica serovar Anatum ATCC® 9270™
Salmonella enterica subsp. enterica serovar Choleraesuis ATCC® 1070™
Salmonella enterica subsp. enterica serovar Enteritidis ATCC® 13076™
Salmonella enterica subsp. enterica serovar Montevideo ATCC® 8387™
Salmonella enterica subsp. enterica serovar Newport ATCC® 6962™
Salmonella enterica subsp. enterica serovar Paratyphi A ATCC® 11511™
Salmonella enterica subsp. enterica serovar Paratyphi B ATCC® 8759™
Salmonella enterica subsp. enterica serovar Typhi ATCC® 6539™
Salmonella enterica subsp. enterica serovar Typhimurium ATCC® 14028™
Salmonella enterica subsp. enterica serovar Typhimurium ATCC® 13311™
Salmonella sp. ATCC® 35664™
Salmonella sp. serovar Abony ATCC® 6017™
Scopulariopsis acremonium ATCC® 58636™
Serratia liquefaciens ATCC® 27592™
Serratia marcescens ATCC® 13880™
Serratia marcescens ATCC® 14756™
Serratia marcescens ATCC® 8100™
Serratia odorifera ATCC® 33077™
Shewanella putrefaciens ATCC® 49138™
Shewanella putrefaciens ATCC® 8071™
Shigella boydii serovar 1 group C ATCC® 9207™
Shigella dysenteriae group A ATCC® 11835™
Shigella dysenteriae group A ATCC® 13313™
Shigella flexneri serovar 2b group B ATCC® 12022™

Shigella sonnei group D ATCC® 11060™
Shigella sonnei group D ATCC® 25931™
Shigella sonnei group D ATCC® 9290™
Sphingobacterium multivorum ATCC® 35656™
Sphingobacterium spiritivorum ATCC® 33861™
Sporothrix schenckii ATCC® 10212™
Staphylococcus aureus subsp. aureus ATCC® 12598™
Staphylococcus aureus subsp. aureus ATCC® 12600™
Staphylococcus aureus subsp. aureus ATCC® 25178™
Staphylococcus aureus subsp. aureus ATCC® 25904™
Staphylococcus aureus subsp. aureus ATCC® 25923™
Staphylococcus aureus subsp. aureus ATCC® 29213™
Staphylococcus aureus subsp. aureus ATCC® 29247™
Staphylococcus aureus subsp. aureus ATCC® 29737™
Staphylococcus aureus subsp. aureus ATCC® 33591™
Staphylococcus aureus subsp. aureus ATCC® 33592™
Staphylococcus aureus subsp. aureus ATCC® 33862™
Staphylococcus aureus subsp. aureus ATCC® 43300™
Staphylococcus aureus subsp. aureus ATCC® 49444™
Staphylococcus aureus subsp. aureus ATCC® 49476™
Staphylococcus aureus subsp. aureus ATCC® 51153™
Staphylococcus aureus subsp. aureus ATCC® 6538™
Staphylococcus aureus subsp. aureus ATCC® 6538P™
Staphylococcus aureus subsp. aureus ATCC® BAA-977™
Staphylococcus capitis subsp. capitis ATCC® 35661™
Staphylococcus cohnii subsp. cohnii ATCC® 35662™
Staphylococcus epidermidis ATCC® 12228™
Staphylococcus epidermidis ATCC® 14990™
Staphylococcus epidermidis ATCC® 29887™
Staphylococcus epidermidis ATCC® 49134™
Staphylococcus epidermidis ATCC® 49461™
Staphylococcus haemolyticus ATCC® 29970™
Staphylococcus hominis ATCC® 27844™
Staphylococcus lentus ATCC® 700403™
Staphylococcus lugdunensis ATCC® 700328™
Staphylococcus saprophyticus ATCC® 15305™
Staphylococcus saprophyticus ATCC® 35552™
Staphylococcus saprophyticus ATCC® 43867™
Staphylococcus saprophyticus ATCC® 49453™
Staphylococcus saprophyticus ATCC® 49907™
Staphylococcus saprophyticus ATCC® BAA-750™
Staphylococcus sciuri subsp. sciuri ATCC® 29060™
Staphylococcus sciuri subsp. sciuri ATCC® 29061™
Staphylococcus simulans ATCC® 27851™
Staphylococcus xylosus ATCC® 29971™
Staphylococcus xylosus ATCC® 35663™
Staphylococcus xylosus ATCC® 49148™
Staphylococcus xylosus ATCC® 700404™

Stenotrophomonas maltophilia ATCC® 13637™
Stenotrophomonas maltophilia ATCC® 17666™
Stenotrophomonas maltophilia ATCC® 49130™
Stenotrophomonas maltophilia ATCC® 51331™
Streptococcus agalactiae ATCC® 12386™
Streptococcus agalactiae ATCC® 13813™
Streptococcus bovis ATCC® 35034™
Streptococcus bovis ATCC® 49133™
Streptococcus bovis ATCC® 49475™
Streptococcus cricetus ATCC® 19642™
Streptococcus dysgalactiae subsp. *equisimilis* ATCC® 9542™
Streptococcus equi subsp. *equi* ATCC® 9528™
Streptococcus equi subsp. *zooepidemicus* ATCC® 43079™
Streptococcus equi subsp. *zooepidemicus* group C ATCC® 700400™
Streptococcus equisimilis ATCC® 12388™
Streptococcus equisimilis ATCC® 35666™
Streptococcus gallolyticus ATCC® 49147™
Streptococcus gallolyticus ATCC® 9809™
Streptococcus mutans ATCC® 35668™
Streptococcus oralis ATCC® 9811™
Streptococcus pneumoniae ATCC® 27336™
Streptococcus pneumoniae ATCC® 49136™
Streptococcus pneumoniae ATCC® 49150™
Streptococcus pneumoniae ATCC® 49619™
Streptococcus pneumoniae ATCC® 6301™
Streptococcus pneumoniae ATCC® 6303™
Streptococcus pneumoniae ATCC® 6305™
Streptococcus pyogenes ATCC® 12384™
Streptococcus pyogenes ATCC® 19615™
Streptococcus pyogenes ATCC® 21547™
Streptococcus salivarius serotype II ATCC® 13419™
Streptococcus sanguis Type 1 ATCC® 10556™
Streptococcus thermophilus ATCC® 19258™
Streptococcus uberis ATCC® 700407™
Streptococcus uberis ATCC® 9927™
Streptococcus sp. group D ATCC® 27284™
Streptococcus sp. group G ATCC® 12394™
Streptococcus sp. Type 2 group F ATCC® 12392™
Streptococcus sp. Type 4 group F ATCC® 9328™
Streptomyces albus ATCC® 17900™
Streptomyces griseus subsp. *griseus* ATCC® 10137™

T

Tatlockia micdadei ATCC® 33204™
Trichophyton mentagrophytes ATCC® 9533™
Trichophyton rubrum ATCC® 28188™
Trichophyton tonsurans ATCC® 28942™
Trichophyton verrucosum ATCC® 42898™

Trichosporon cutaneum ATCC® 28592™
Trichosporon mucoides ATCC® 204094™

U

Ureaplasma urealyticum ATCC® 27618™

V

Veillonella parvula ATCC® 10790™
Vibrio alginolyticus ATCC® 17749™
Vibrio cholerae serotype Inaba ATCC® 9459™
Vibrio parahaemolyticus ATCC® 17802™
Vibrio vulnificus ATCC® 27562™
Virgibacillus pantothenicus ATCC® 14576™

Y

Yarrowia lipolytica ATCC® 9773™
Yersinia enterocolitica ATCC® 23715™
Yersinia enterocolitica ATCC® 9610™
Yersinia kristensenii ATCC® 33639™

APPENDIX B TO SUBLICENSE AGREEMENT: END USER LICENSE
FOR LICENSED PRODUCTS IN FIELD OF USE – END USER QC TESTING

**ATCC® LICENSED DERIVATIVE PROGRAM
END USER AGREEMENT**

PLEASE READ THIS AGREEMENT.

THIS END USER AGREEMENT ("AGREEMENT") IS BETWEEN REMEL INC. (THE "COMPANY" OR "REMEL"), AND AN INDIVIDUAL, CORPORATION OR OTHER ENTITY (THE "END USER" OR "YOU"). THIS AGREEMENT GOVERNS THE TERMS UNDER WHICH THE END USER MAY PURCHASE REMEL'S LICENSED PRODUCTS ("PRODUCTS") FROM THE COMPANY, ITS DISTRIBUTORS (THE "SUBLICENSEES") OR RESELLERS PURSUANT TO A SUBLICENSE AGREEMENT. THE PRODUCTS INCLUDE MATERIALS AND TRADEMARKS OWNED BY THE AMERICAN TYPE CULTURE COLLECTION ("ATCC") WHICH HAS GRANTED A LICENSE TO THE COMPANY FOR THIS PURPOSE. THE COMPANY IS WILLING TO GRANT END USERS THE RIGHT TO PURCHASE AND USE THE COMPANY'S PRODUCTS ONLY IF THE END USER ACCEPTS ALL OF THE TERMS OF THIS AGREEMENT.

IF YOU ARE ACTING ON BEHALF OF AN ENTITY, THEN YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. BY CLICKING THE "I AGREE" BUTTON BELOW OR SENDING A SIGNED COPY OF THIS AGREEMENT VIA FAX TO REMEL CUSTOMER SERVICE AT 800-447-5761 AND ACCESSING AND USING THE PRODUCTS, THE END USER ACKNOWLEDGES THAT THE END USER HAS READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY IT. IF THE END USER DOES NOT AGREE TO ANY OF THE TERMS IN THIS AGREEMENT, THE END USER SHOULD NOT UTILIZE THE PRODUCTS.

1. **SCOPE OF USE.** *You may only use the Products provided to you for quality control in your laboratory.* The Products are not intended for use in humans. End User agrees that Products designated as Biosafety Level 2 or 3 constitute known pathogens and that other Products not so designated and Replicates or Derivatives may be pathogenic under certain conditions. End User assumes all risk and responsibility in connection with the receipt, handling, storage, disposal, transfer and use of the Products including without limitation taking all appropriate safety and handling precautions to minimize health or environmental risk. End User agrees that any activity undertaken with the Products and Replicates or Derivatives will be conducted in compliance with all applicable guidelines, laws and regulations.

"Replicate" means any biological or chemical material that represents a substantially unmodified copy of the Products such as, but not limited to, material produced by growth of microorganisms. "Derivative" means any material created from the Products that constitutes an unmodified functional sub-unit from the Products or is substantially modified to have new properties.

2. **RESTRICTIONS.** End User may not use, copy, modify or transfer the Products, Replicates or Derivatives to others in whole or in part except as expressly provided in this Agreement. The Products contain trade secrets and intellectual property of ATCC and REMEL, and the End User may not reverse engineer, replicate, alter, or tamper with the Products, their Replicates or Derivatives, or authorize any Third Party to do any of the foregoing. The rights granted hereunder to the End User are personal to the End User, and any attempt by the End User to transfer any of the rights, duties, or obligations hereunder is void and shall terminate this Agreement. An End User may not rent, lease, loan, resell for profit, or distribute the Products, Replicates or Derivatives or any part thereof in any way.

3. **OWNERSHIP.** ATCC organisms contained in the Products are the property of ATCC, and may be protected by patent, copyright, trade secret, trademark and other laws. The Products are provided to the End User for use only under the terms of this Agreement, and the Company and ATCC reserve all rights not expressly granted to the End User.

4. **TERMINATION.** This Agreement will terminate immediately without notice to the End User if the End User breaches a term of this Agreement, or if the End User does not pay the Company, its distributor or sublicensee, the full purchase price in accordance with the purchase contract. Further, in the event of a termination or expiration of any agreement between the Company and ATCC of all or a part of the Products, the End User's right to access and use the Products may also terminate or expire.

5. **WARRANTY DISCLAIMER.** REMEL warrants that any Products shall meet the specifications on the Product information sheet, Certificate of Analysis, and/or catalog description until the expiration date on the Product label. The exclusive remedy for breach of this warranty is, at REMEL's option, (a) refund of the fee paid by End User for such Product (exclusive of shipping and handling charges), or (b) replacement of the Product. The exclusive remedy applies under the condition that End User handles and stores Products as described in the Product insert. To obtain the exclusive remedy, End User must report the lack of viability to REMEL's Technical Service Department within the warranty period. EXCEPT AS EXPRESSLY PROVIDED ABOVE, THE PRODUCTS AND ANY TECHNICAL INFORMATION AND ASSISTANCE PROVIDED BY REMEL ARE PROVIDED AS IS, WITHOUT WARRANTIES BY REMEL OR ATCC OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TYPICALITY, SAFETY, ACCURACY, AND NON-INFRINGEMENT.

6. **COMPLIANCE WITH LAW.** END USER IS SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE FOREIGN AND DOMESTIC, FEDERAL, STATE, AND LOCAL STATUTES, ORDINANCES, AND REGULATIONS.

7. **EXPORT LAW.** The Company's Products are subject to U.S. export control laws and may be subject to export or import regulations in other countries. Unless specifically authorized in writing by the Company prior to any access, the End User agrees not to export the Products under any circumstances whatsoever. In any case, the End User will indemnify and hold, Sublicensee, the Company and ATCC harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including attorney fees) arising from, or relating to, any breach by the End User of the End User's obligations under this section.

8. **LABORATORY QUALIFICATION ASSURANCE.** The microorganisms and subsequent growth on culture media deriving from the Products, Replicates or Derivatives are considered to be bio-hazardous. Government agencies do regulate the disposal of these materials. By entering into this End User Agreement, End User confirms that its laboratory procedures comply with the handling and disposal of these bio-hazardous materials, and that End User's laboratory staff is qualified and properly trained to receive, process and store lyophilized microorganisms. End User acknowledges that the lyophilized microorganisms are for in-vitro use only and are to be used according to their intended use.

9. **INDEMNIFICATION.** To the extent permitted under United States Federal or State law, End User hereby agrees to indemnify, defend and hold Sublicensee, REMEL and ATCC harmless against any Third Party claims, losses, expenses, and damages (including reasonable attorney's fees) arising out of or relating to the use, receipt, handling, storage, transfer, disposal and other activities related to the Products. Any resolution of a claim subject to this indemnification agreement will be subject to written consent by REMEL and ATCC.

10. **LIMITATION OF LIABILITY.** IN NO EVENT WILL REMEL, OR ATCC BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR PRODUCTS (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTE OR OTHERWISE) EVEN IF REMEL OR ATCC HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL REMEL'S AND ATCC'S CUMULATIVE LIABILITY EXCEED THE FEES PAID BY END USER UNDER THIS AGREEMENT FOR THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE EVENT GIVING RISE TO THE CLAIM. End User agrees that the limitations of liability set forth in this Agreement shall apply even if a limited remedy provided hereunder fails of its essential purpose.

11. **INTELLECTUAL PROPERTY.** ATCC shall retain ownership of all right, title and interest in ATCC organisms contained in the Products. The Products are subject to the restrictions noted in the "Scope of Use" section above. End User expressly acknowledges that REMEL retains all right, title and interest in any trademarks registered or owned by REMEL, and the REMEL trade name. End User also expressly acknowledges that ATCC retains all right, title and interest in the ATCC trademark, the ATCC trade name, and the ATCC catalog marks and any trademarks registered or owned by the ATCC. End user expressly agrees not to use any of REMEL's trademarks, the ATCC trademark, the ATCC trade name or the ATCC catalog marks in any way in connection with the offering, marketing, promotion, or Sale of any Products, Replicates or Derivatives without REMEL's or ATCC's prior written agreement.

12. **GOVERNING LAW, JURISDICTION AND VENUE.** This Agreement shall for all purposes be governed by and interpreted in accordance with the laws of the State of Kansas without reference to Kansas's choice of law rules as those laws are applied to contracts entered into, and to be performed entirely in Kansas by Kansas residents. Any legal suit, action or proceeding arising out of, or relating to this Agreement, shall be commenced in the federal court in Kansas or the state court in Johnson County, Kansas, and each party hereto irrevocably submits to the personal

and exclusive jurisdiction and venue of any such court in any such suit, action or proceeding and waives any right which it may have to transfer or change the venue of any such suit, action or proceeding, except that in connection with any suit, action or proceeding commenced in a state court, each party retains whatever right it may have to remove such suit, action or proceeding to federal court in the district of Kansas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

13. **WAIVER.** No failure to enforce any term of this Agreement shall constitute a waiver of such term in the future.

14. **ASSIGNMENT.** Neither this Agreement nor any of the End User's rights or obligations hereunder may be assigned by the End User in whole or in part without the prior written approval of the Company and ATCC. Any other attempted assignment shall be null and void.

15. **SEVERABILITY.** If any part of this Agreement is for any reason found to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected.

16. **COMPLETE AGREEMENT.** This Agreement, together with the Company's Product information sheet, Certificate of Analysis, and/or catalog description, is the complete and exclusive statement of the agreement between the Company and the End User, and supersedes any proposal or prior agreement, oral or written, and any other communications between the parties in relation to the subject matter of this Agreement. No waiver, alteration or modification of this Agreement shall be valid unless made in writing and signed by a corporate officer of the Company. Amendment of any provision concerning ATCC's rights as a Third Party beneficiary shall also require the written approval of ATCC.

17. **END USER'S AFFILIATES AND SUBSIDIARIES.** End User guarantees the compliance of its subsidiaries at any level in accordance with the terms of this Agreement, and will indemnify and hold ATCC and Remel harmless from any failure of any such subsidiary to so comply in each and every respect.

To accept the agreement, type your e-mail address and click **I Accept**.

By typing your e-mail address and clicking **I Accept**, you are accepting the agreement, agreeing to the royalty fees associated with the ATCC Licensed Derivative Program, and consenting to receive information from Remel electronically. If you do not accept the agreement as written, click the **Cancel** button to discontinue registration.

APPENDIX C TO SUBLICENSE AGREEMENT: LIST OF LICENSED PRODUCTS

For Field of Use – End User QC Testing/ATCC Licensed Derivative® Program:

All products carrying the following brand names with, or including, an ATCC® strain number:

- BactiBug™^{a,b}
- BactiDisk®^a
- CFUrine Kit®^a
- Culti-Loops®^{a,c}
- Mycobacti-Loops®^a
- MycoDisks®^a
- Quanti-Cult®^{a,c}
- Quanti-Cult Plus®^{a,c}
- Water Bugs™^a
- WKITS™^a
- CGC-ProbeSwabQC™^a
- TCG-ProbeSwabQC™^a

^a Sold under the Remel® label

^b Product line actively being discontinued.

^c Sold under the Oxoid® label

For Field of Use – Commercial Diagnostics:

- Streptex® Test Kit
- Streptex® Rapid Test Kit
- Streptex® Positive Control
- Dryspot™ E. Coli
- Dryspot™ Legionella species kit
- Dryspot™ Legionella pneumophila serogroup 1
- Dryspot™ Legionella pneumophila serogroup 2-14
- Dryspot™ Strep pneumo
- Oxoid Escherichia coli 0157 Latex
- Oxoid Legionella Latex Test
- Oxoid Streptococcal Grouping Kit
- Oxoid Strep Plus Kit
- Oxoid Streptococcal Grouping Positive Control
- PathoDx® Strep Grouping Kit
- PathoDx® Strep D Grouping Kit
- PathoDx® Strep Universal Grouping Kit
- PathoDx® Control Antigen Step A, B, C
- PathoDx® Control Antigen Strep D
- PathoDx® Control Antigen Strep F, G
- PathoDextra™ Strep Grouping Kit
- PathoDextra™ Control Strep

APPENDIX D TO SUBLICENSE AGREEMENT: ATCC TRADEMARKS

1. ATCC Licensed Derivative Emblem



2. Non-stylized ATCC Licensed Derivative® mark
3. ATCC Catalog Marks designating ATCC Materials

APPENDIX E TO SUBLICENSE AGREEMENT:

**Specifications for Using
The ATCC Licensed Derivative® Emblem and Catalog Marks
(the “Specifications”) for Field of Use End User QC Testing
(Last Updated: May 4, 2007)**

The ATCC Licensed Derivative® Emblem (the “Emblem”) will be provided to you upon execution of a license agreement (the “License”) under the ATCC Licensed Derivative® Program to market Licensed Products derived from ATCC Materials (as defined in the License). The Emblem indicates the quality of the product and correct use of the Emblem will add value to your and ATCC’s reputation in the marketplace. The following specifications describe how the Emblem, the ATCC Licensed Derivative word mark, the ATCC Catalog Marks, and related descriptors must be used by your company (the “Licensee”) and your distributors (the “Sublicensees”).

I USE OF THE ATCC LICENSED DERIVATIVE EMBLEM



1. Any references to ATCC or use of the ATCC Licensed Derivative Emblem or taglines must be complete, accurate, and limited to the scope of the License granted by ATCC to the Licensee company.
2. The Emblem must be used when describing specific Licensed Products on the following:
 - Web site
 - Product catalog
 - Electronic media
 - Product detail sheets
 - Direct mail pieces
 - Promotional graphics, including those displayed at exhibits, meetings and tradeshows
 - Advertising
 - Product inserts
 - C. of A.'s (certificates of assay and certificates of analysis)
3. The Emblem must be used when describing specific Licensed Products on the following only if compliance with the minimum size requirement described in Specification 6 is possible:
 - Primary labels
 - Secondary labels
4. The Emblem may be used only in conjunction with a specific Licensed Product.
5. In a list or catalog of products, each Licensed Product under the ATCC Licensed Derivative Program must be individually denoted either by the Emblem itself or a symbol that refers to the Emblem. Refer to Appendix 1 for examples.
6. The ATCC Licensed Derivative Emblem and ATCC Licensed Derivative® word mark should never be displayed more prominently in any advertising or packaging than the most prominent name, mark or Emblem of the Licensee. The width of the Emblem must never be wider than

- 70% of the width of the Licensee's Emblem and must never be smaller than 0.5 inches wide. The Emblem must be placed so as to be subordinate in position to the Licensee's Emblem.
7. No other ATCC trademarks or Emblems may be used without permission from ATCC.
 8. No other trademark, service mark, or any other designation that is confusingly similar to the Emblem, the ATCC Licensed Derivative word mark or ATCC Catalog Marks may be used.
 9. The word mark or text describing the License may be used on marketing pieces and promotional products that are not specific to a Licensed Product only if accompanied by the following tagline: **“Look for the ATCC Licensed Derivative® Emblem for products derived from ATCC® cultures.”**
 10. If some of the products appearing in a marketing piece are entitled to bear the ATCC Licensed Derivative Emblem but others are not, you must ensure that the wording and placement of the Emblem make it clear which products are Licensed Products and which products are not.
 11. All uses of the Emblem, the ATCC Licensed Derivative, the Catalog Marks and descriptors must be submitted to ATCC's VP of Quality Systems for review and approval. Please allow fourteen (14) business days for this review. Templates may be submitted for approval instead of individual pieces if use of the template is regular and consistent. Templates previously submitted and approved by ATCC which only need to be revised due to the registration of the Emblem and the ATCC Licensed Derivative work mark trademarks do not require resubmission to ATCC. Approval by ATCC will be documented in writing or by fax and will not be unreasonably withheld.
 12. ATCC reserves the right to amend these Specifications during the term and within the scope of the License. The Licensee will receive thirty (30) days notice of any changes, which will not apply to documents and marketing pieces that have already been produced.

II MECHANICAL REQUIREMENTS

1. Do not attempt to recreate the Emblem. Use only an authorized Emblem that ATCC provides in an electronic file.
2. Do not change or modify the Emblem in any way, such as but not limited to, by adding shapes or text, rotating, or adding drop shadows. Do not change the proportions of the Emblem.
3. Do not place design elements too close to the Emblem. Appropriate white space around the Emblem is half the height of the Emblem.
4. You may render the Emblem only in black or white (reverse). The Emblem must be placed on a background that provides sufficient contrast.
5. The Emblem must never be wider than 70% the width of the Licensee's Emblem and must never be smaller than 0.5 inches wide. The Emblem must be placed so as to be subordinate in position to the Licensee's Emblem.

III ATCC CATALOG MARKS

ATCC Catalog Marks are trademarks given by ATCC to distinguish its brand of strains from those sold by others. By using this proprietary number to designate the ATCC ingredient in your product, you are identifying the ingredient as a culture owned or controlled by ATCC, whose source is ATCC and whose trademark is owned by ATCC. The catalog mark consists of ATCC® before the ATCC number and a superscript TM after.

ATCC microorganisms that are an ingredient of any Licensed Product must be clearly designated as ATCC strains. The trademark designations should appear every time an ATCC microorganism or strain is mentioned in a document. In a list of strains, ATCC[®] must appear in the column header (see [Appendix E-1](#) for examples).

IV. DESCRIPTORS

There are only two authorized descriptors used under the ATCC Licensed Derivative program:

Trademark Statement. “The ATCC Licensed Derivative Emblem, the ATCC Licensed Derivative word mark, and the ATCC catalog marks are trademarks of ATCC. [Company ABCD], Inc. is licensed to use these trademarks and to sell products derived from ATCC[®] cultures.” This statement clarifies that ATCC remains the owner of the trademarks and describes the business arrangement between the Licensee and ATCC.

The Trademark Statement must be used with the Emblem. It must appear at the bottom or last page of a printed piece or at the bottom of a Web page and may not be smaller than the Licensee’s own trademark or copyright statements, intended use statements, or other disclaimers.




Marketing Tagline. “Look for the ATCC Licensed Derivative[®] Emblem for products derived from ATCC[®] cultures.” This statement promotes the Licensing agreement when individual Licensed Products are not specified.

The Marketing Tagline must be used in marketing and promotional pieces when individual Licensed Products are not specified or when some products within a marketing piece are Licensed Products and some are not. The height of the lettering must be 50% or less than the height of the Licensee’s and Sublicensee’s most prominent name, mark or Emblem and the text must be placed so as to be always subordinate in position to the Licensee’s name, mark or Emblem.

APPENDIX E-1 TO SUBLICENSE AGREEMENT:
EXAMPLES OF EMBLEM AND CATALOG MARK USE

The examples below indicate that all strains are ATCC ingredients of Licensed Products under the ATCC Licensed Derivative Program, except for 6789 and 1011.

Option A. Each ATCC strain in a Licensed Product is designated with the Emblem.

Name	Catalog No.	ATCC [®] No.
<i>Bacillus cereus</i> subsp. <i>spizizenii</i>	1234	6633 TM 
<i>Escherichia coli</i>	4567	25922 TM 
<i>Peptostreptococcus anaerobius</i>	6789	
<i>Staphylococcus aureus</i> subsp. <i>aureus</i>	8910	25923 TM 
<i>Streptomyces verne</i>	1011	

Option B. Each ATCC strain in a Licensed Product is designated with a symbol whose meaning is explained at the bottom of the page.

Name	Catalog No.	ATCC [®] No.
<i>Bacillus cereus</i> subsp. <i>spizizenii</i>	1234	6633 ^{TM*}
<i>Escherichia coli</i>	4567	25922 ^{TM*}
<i>Peptostreptococcus anaerobius</i>	6789	
<i>Staphylococcus aureus</i> subsp. <i>aureus</i>	8910	25923 ^{TM*}
<i>Streptomyces verne</i>	1011	

* 

For both options the Trademark Statement must be displayed at the bottom of the page.

END OF APPENDICES TO SUBLICENSE AGREEMENT

[Note: Next Appendix is Appendix I to the Non-Exclusive
Biological Material and Trademark License Agreement

