

BARTOLINE TERMS AND CONDITIONS OF PURCHASE

(Version: June 2022)

These are the Standard Terms that apply to any Goods we purchase from you. Each of the Goods also has its own Order and may be subject to Special Terms and/or a separate SOW with more detailed terms.

1. INTERPRETATION OF WORDS AND PHRASES

- 1.1 Some of the words and phrases in these Standard Terms mean specific things. They are capitalised all the way through and explained in the Defined Terms section at the end of these Standard Terms.
- 1.2 In the Agreement, unless the context otherwise requires:
 - 1.2.1 the words 'include', 'including' or 'for example' do not limit something to just the examples that follow;
 - 1.2.2 any reference to a 'party' or one of us includes that party's personal representatives, successors and permitted assigns;
 - 1.2.3 any reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns; and
 - 1.2.4 any headings in the Agreement are included for convenience. They will not have any effect on the interpretation of the Agreement.

2. APPLICATION OF THESE TERMS AND ORDER OF DOCUMENTS

- 2.1 These Standard Terms, the Commercial Terms, the Order and any relevant Special Terms and SOW apply to and form part of the Agreement between us. They take precedence over any terms and conditions of purchase previously supplied by us. You acknowledge and agree that you have read, understood and agree to each of the sections and documents listed above that form this Agreement. We recommend that you retain a copy of all the documents that make up the Agreement.
- 2.2 No terms or conditions delivered with or contained in your quotation, sales conditions, confirmation of order, specification or other document will form part of the Agreement between us.
- 2.3 Each Order issued by us to you will be an offer to purchase the relevant Goods subject to the terms of the Agreement. We can withdraw an Order any time before it is accepted by you.
- 2.4 Acceptance of an Order by you takes place when it is expressly accepted by you or if you take any other steps which we reasonably consider consistent with acceptance of the Order.
- 2.5 If there is a conflict between any of the documents listed below, the order of priority, highest first, is:
 - 2.5.1 the Order;
 - 2.5.2 the SOW;
 - 2.5.3 the Commercial Terms;

2.5.4 the Special Terms; and

2.5.5 these Standard Terms.

3. GENERAL PRINCIPLES

- 3.1 We confirm we are a legal entity, authorised to agree the Agreement.
- 3.2 You confirm you are legally set up as a business, authorised to agree the Agreement and carry out your responsibilities under it and have all consents, licences and authorisations necessary to supply the Goods to us.

4. GOODS

Delivery

- 4.1 You agree:
 - 4.1.1 to deliver the Goods: (a) to the Location on the date(s) specified in the Order or otherwise agreed between us in writing (the **Delivery Date**); and (b) with a delivery note stating the date of the Order, the product numbers and type and quantity of the Goods in the consignment;
 - 4.1.2 that the Goods will be deemed delivered when they have been unloaded at the Location; and
 - 4.1.3 to deliver the Goods in the instalments (if any) agreed between us in writing. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately.

Inspection and Testing

- 4.2 At any time prior to the Delivery Date, we may inspect and test the Goods. You shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect your obligations under the Agreement.
- 4.3 If the inspection or testing conducted in accordance with clause 4.2 indicates that the Goods do not, or are unlikely to, conform to the Agreement, you shall rectify such non-conformity prior to the Delivery Date. No inspection or testing by us shall constitute acceptance that the Goods meet the requirements of the Agreement. We may conduct further inspections and tests after you have carried out your remedial actions or following delivery of the Goods.

Title and Risk

- 4.4 Risk in the Goods shall pass to us on delivery to the Location and when we have accepted the Goods as complying with the Agreement.
- 4.5 Title to the Goods shall pass to us on the sooner of: (i) payment by us for the Goods; or (ii) delivery of the Goods to the Location. We can still rely on our rights to reject defective Goods even if title has passed to us.
- 4.6 You warrant and represent to us that you have the full, clear and unencumbered right to sell and deliver the Goods to us.

Your promises relating to the Goods

- 4.7 You warrant and represent to us that the Goods will:
- 4.7.1 conform to their Specification, and the quality, quantity, description and other particulars stated in the Order or otherwise agreed between us in writing;
 - 4.7.2 be of satisfactory quality and fit for any purpose held out by you or made known to you by us;
 - 4.7.3 be free from defects in materials and workmanship and remain so for: (i) the warranty period set out in the Specification; or (ii) (if no such warranty period is set out in the Specification) 12 months after delivery; and
 - 4.7.4 comply with all Applicable Law.

If the Goods are not delivered on time/do not conform

- 4.8 You agree that if you breach any of your obligations under this clause 4, we shall be entitled to recover any direct or indirect losses, damages, liability, costs (including legal fees) and expenses that we may incur as a result of or in connection with such breach.

5. SERVICE LEVELS

- 5.1 **If Service Levels and (where applicable) Service Credits have been agreed between us in writing as applying to a particular supply of Goods, the Special Terms set out in Annex A also apply to the Agreement. Otherwise Annex A will not form part of the Agreement.**

6. MAKING SURE GOODS ARE AS WE EXPECTED

- 6.1 We will not have accepted the Goods until the Acceptance Conditions are fulfilled.
- 6.2 The Acceptance Conditions are that:
- 6.2.1 the Goods have been delivered to or at the Location;
 - 6.2.2 where applicable, the Goods meet any acceptance test agreed between us in writing; and
 - 6.2.3 we notify you in writing that the Goods have been delivered in a way that complies with the Agreement (**Acceptance**).
- 6.3 Any Acceptance by us of defective, late or incomplete Goods or any payment made in respect of the relevant Goods shall not constitute a waiver by us of any rights and remedies available to us.

7. CHARGES

- 7.1 The price for the Goods shall be as set out in the Order or otherwise agreed between us in writing or, where that is not the case, shall be calculated in accordance with your scale of charges notified to us by you before the date the Order is made (the **Charges**). No increase in the Charges may be made after the Order is placed.
- 7.2 The Charges:

- 7.2.1 exclude VAT, at the prevailing rate, which we will pay subject to receiving a valid VAT invoice; and
- 7.2.2 includes the costs of packaging, insurance and carriage of the Goods to the Location, except to the extent that you provide us with a full breakdown of those costs in advance and we agree to them in writing.

- 7.3 You may notify us of any proposed increase in the Charges where there is an increase in the direct cost to you of supplying the relevant Goods and which is due to any factor beyond your control, provided that:

- 7.3.1 such notice is given no later than 4 weeks prior to the date of delivery of the Goods in the relevant Order; and
- 7.3.2 such increase shall be subject to the specific limitations set out in the Special Terms (if any).

- 7.4 If we do not agree with any increase in the Charges notified to us in accordance with clause 7.3, then (i) the current Charges as agreed in the relevant Order shall apply or (ii) we may terminate this Agreement by giving you not less than 30 days' notice, such notice to expire no earlier than the date on which the Charges increase was due to take effect provided always that we will accept delivery (and will, where applicable, pay the increased Charges for) any Goods in respect of which you had (at or prior to the time of receiving such notice) entered into an irrevocable commitment to purchase or manufacture from any third party.

- 7.5 Once every quarter during the term of this Agreement, the parties shall discuss, in good faith, whether any standard Charges agreed between the parties should be amended (decreased or increased). Subject to the remainder of this clause 7, if either party does not agree to the proposed amendment to the Charges, the current Charges shall prevail.

8. PAYMENT

- 8.1 Unless we agree otherwise in writing, you will invoice us for the Goods no sooner than completion of delivery of the Goods or, if later, our Acceptance of the Goods.
- 8.2 Unless we agree otherwise in writing, we will pay undisputed invoices within 60 days after the end of the month in which we receive your invoice.
- 8.3 If a party fails to make any undisputed payment due to the other under the Agreement by the due date for payment, then the defaulting party shall pay interest on the overdue amount from the due date until payment is made in full, both before and after any judgment, at a rate of 2% per annum above base rate of the Bank of England. The defaulting party shall pay the interest together with the overdue amount. This condition shall not apply to payments the defaulting party disputes in good faith.

9. INSURANCE

- 9.1 You shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom sufficient to cover your liabilities under the Agreement. On request, you shall supply evidence of the maintenance of the insurance.

10. OUR MATERIALS

- 10.1 You acknowledge that all materials, information, software, drawings, designs, Specifications and data supplied by us to you (**Our Materials**) and all rights in Our Materials are and shall remain our exclusive property. You shall keep Our Materials in safe custody until returned to us, and not copy, disclose, dispose or use them other than in accordance with our written instructions or authorisation.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 All Intellectual Property Rights in and to Your Retained IPR shall remain vested in you or your licensors.
- 11.2 Unless otherwise agreed between us in writing, all Intellectual Property Rights in and to the Developed IPR shall vest in us. You hereby irrevocably assign to us absolutely with full title guarantee all your right, title and interest in the Developed IPR. You warrant to us that you will procure that each and every author of any of the works assigned has waived irrevocably all moral rights which may arise anywhere in the world.
- 11.3 You agree to do all acts and things as we may reasonably require to give effect to clause 11.2 at your cost.
- 11.4 You hereby grant to us a perpetual, irrevocable, world-wide, non-exclusive, sub-licensable, royalty free license to use, adapt, change, distribute and reproduce all Your Retained IPR provided that Your Retained IPR is reasonably required to facilitate the provision, sale, production, deployment or enjoyment of the Goods (as applicable) or part of them.
- 11.5 You agree that the use and/or possession of the Developed IPR and/or Your Retained IPR shall not infringe the Intellectual Property Rights of any third party.
- 11.6 You will indemnify us from and against any Losses incurred by us as a result of or in connection with any action, demand or claim that the use or possession of any of Developed IPR or Your Retained IPR, infringes the Intellectual Property Rights of any third party (an **IPR Claim**).
- 11.7 If any IPR Claim is made or is reasonably likely to be made against us, you shall promptly and at your expense either:
- 11.7.1 procure for us the right to continue using and possessing the relevant Intellectual Property Rights; or
- 11.7.2 modify or replace the infringing part of the Intellectual Property Rights and without adversely affecting the functionality of the Intellectual Property Rights as set out in the Agreement so as to avoid the infringement or alleged infringement,
- provided that if, having used reasonable endeavours, neither of the above can be accomplished on reasonable terms, you shall (without prejudice to our other rights) refund the Charges paid by us in respect of the affected Intellectual Property Rights.
- 11.8 This clause 11 shall survive termination or expiry of the Agreement.

12. PERSONAL DATA

- 12.1 The parties agree that we are a Controller and that you are a Processor for the purposes of processing Protected Data connected with the Agreement.
- 12.2 You shall process Protected Data in a way that complies with your obligations under Data Protection Laws and the Agreement.
- 12.3 You shall only process (and shall ensure Your personnel only process) the Protected Data in accordance with the Agreement and our written instructions from time to time except to the extent:
- 12.3.1 that alternative processing instructions are agreed between us in writing; or
- 12.3.2 it is otherwise required by Applicable Law (you agree to inform us of that legal requirement before processing, unless Applicable Law prevents you doing so on important grounds of public interest); and
- 12.3.3 if you believe that any instruction received by you from us is likely to infringe the Data Protection Laws you shall promptly inform us.
- 12.4 Taking into account the state of technical development and the nature of processing, you shall implement and maintain the technical and organisational measures appropriate to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.
- 12.5 You shall:
- 12.5.1 not permit any processing of Protected Data by any agent, sub-contractor or other third party (except your or your Sub-Processor's own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without our written consent beforehand;
- 12.5.2 prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing materially the same obligations under this clause 12 that is enforceable by you and ensure that each Sub-Processor complies with all such obligations; and
- 12.5.3 remain fully liable to us under the Agreement for all the acts and omissions of each Sub-Processor as if they were your own.
- 12.6 You shall (at your cost):
- 12.6.1 assist us in ensuring compliance with our obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the processing and the information available to you; and
- 12.6.2 taking into account the nature of the processing, assist us (by appropriate technical and organisational measures)

insofar as this is possible, for the fulfilment of our obligations to respond to requests for exercising the Data Subject's rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.

- 12.7 You shall (at no cost to us) record and refer all requests and communications received from Data Subjects or any Data Protection Supervisory Authority to us which relate (or which may relate) to any Protected Data promptly (and in any event within three days of receipt) and shall not respond to any without our express written approval beforehand and strictly in accordance with our instructions unless and to the extent required by law.
- 12.8 You shall not (and shall ensure each Sub-Processor shall not) process and/or transfer or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the United Kingdom and/or to any International Organisation without our written consent beforehand (which may be given by us subject to certain conditions).
- 12.9 You shall, in accordance with Data Protection Laws, make available to us such information that is in your possession or control as is necessary to demonstrate your compliance with the obligations placed on you under this clause 12 and to demonstrate compliance with the obligations imposed on each of us by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28) and allow for and contribute to audits, including inspections, by us (or an audit appointed by us) for this purpose.
- 12.10 You shall notify us without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.
- 12.11 At the end of the supply of Goods relating to the processing of Protected Data, at our option you shall either return all of the Protected Data to us or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any Applicable Law requires you to store such Protected Data.
- 12.12 You will indemnify us from and against any Losses incurred by us as a result of or in connection with any breach by you of this clause 12.
- 12.13 This clause 12 shall survive termination or expiry of the Agreement.

13. KEEPING THINGS CONFIDENTIAL

- 13.1 We will both keep all Confidential Information confidential and the party receiving the Confidential Information from the other will not disclose it, unless the receiving party needs to do that:
- 13.1.1 to meet its responsibilities or to receive any benefit under the Agreement, and then only to its Affiliates, its Representatives and Representatives of its Affiliates and, for us only, our customers, who need to know about the Confidential Information; or
- 13.1.2 because Applicable Law, a government or regulatory authority, or court of competent jurisdiction says the receiving party has to and the receiving party will give the other as much notice

as reasonably possible before any disclosure.

- 13.2 The party receiving the Confidential Information in accordance with clause 13.1 will ensure that the people it discloses the information to in accordance with clause 13.1 comply with this clause 13.
- 13.3 You will create and maintain the best industry standards of security in order to ensure that our Confidential Information is secure from unauthorised access, and you shall immediately inform us if you become aware of any apparent unauthorised access.
- 13.4 You will indemnify us from and against any Losses incurred by us as a result of or in connection with any breach by you of this clause 13.
- 13.5 This clause 13 will continue without limitation of time.
- 14. ANTI-BRIBERY**
- 14.1 The expressions **adequate procedures** and **associated with** shall have the meanings set out in the Bribery Act 2010 and legislation or guidance published under it.
- 14.2 Each of us will comply with the Bribery Act 2010 including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
- 14.2.1 all of that party's personnel;
- 14.2.2 all others associated with that party; and
- 14.2.3 all of that party's sub-contractors;
- involved in performing the Agreement also comply.
- 14.3 Without limiting clause 14.2, neither of us shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 14.4 Each party shall immediately notify the other as soon as it becomes aware of a breach of any of the requirements in this clause 14.

15. MODERN SLAVERY

- 15.1 The phrase **slavery and human trafficking** shall have the meaning given to it in Section 54 (12) of the Modern Slavery Act 2015 (the **MSA**).
- 15.2 You shall and shall procure (where relevant) that all persons who are performing services or providing goods in connection with, or which will or may be used in performing or to support the performance of the Agreement in any part of the world (collectively, your **Supply Chain**) shall at all relevant times:
- 15.2.1 comply with the provisions of the MSA and all applicable laws, regulations, codes and guidance made under it or relating to it, and ensure that all relevant personnel have received appropriate training on the same;
- 15.2.2 take all reasonable steps to ensure that slavery and human trafficking are not

	taking place in your business or your Supply Chain;		necessary for a party to keep in order to comply with Applicable Law);
15.2.3	immediately notify us if you have reason to believe that you or any member of your Supply Chain is engaged in slavery and human trafficking or is in breach, or is likely to breach, the MSA or any provision of this clause 15 (or would do so if it were a party to the Agreement), or if you receive a communication from any person alleging any of those things.	17.1.3	any part of the Agreement which expressly or by implication is intended to survive termination or expiry will do so; and
15.3	You shall ensure that each of your sub-contractors shall be bound in writing by terms equivalent in all respects to those set out in this clause 15. You shall provide evidence in writing of your compliance with this clause 15 promptly on our request.	17.1.4	you will immediately deliver to us all Developed IPR.
16.	TERMINATING THE AGREEMENT	18.	CONTINGENCY PLANS
16.1	Either of us may terminate the Agreement in whole or in part immediately by giving the other party written notice if:	18.1	You shall ensure that a Contingency Plan is in place, maintained and, where necessary, implemented throughout the duration of the Agreement so as to ensure that any adverse effects to us that might arise through a failure by you to provide the Goods in accordance with the Agreement are kept to a minimum.
16.1.1	the other party materially breaches the Agreement and such breach cannot be remedied; or	18.2	You shall ensure that the Contingency Plan is kept under constant review and that it is updated constantly to take account of any developments arising from time to time that may enhance your ability to comply with your obligations under the Agreement.
16.1.2	the other party materially breaches the Agreement and such breach can be remedied but the other party has not remedied the breach within 60 days after receiving the written notice.	19.	NOTICES
16.2	We may terminate the Agreement on giving you written notice if:	19.1	If one of us needs to give the other notice, they will do it in writing, in English and:
16.2.1	you suffer an Insolvency Event.	19.1.1	send it by email;
16.2.2	you undergo a change of Control which results in you being Controlled by one of our competitors; or	19.1.2	deliver it by hand;
16.2.3	any consent, licence or authorisation held by you is revoked or modified such that you are no longer able to comply with your obligations under the Agreement.	19.1.3	send it by first class post, recorded delivery or courier; or
16.3	Each of us may terminate the Agreement in accordance with any additional termination rights agreed between us in any Special Terms, a SOW or otherwise in writing.	19.1.4	send it by international recorded post or delivery.
16.4	Unless otherwise agreed between us in writing, we shall have the right to cancel any Order or any part of the Order which have not yet been delivered to us on giving you written notice, provided that we shall pay you for any undisputed Charges in respect of Goods delivered performed up to the date of termination.	19.2	Notices need to be sent to:
17.	WHAT HAPPENS WHEN THE AGREEMENT IS TERMINATED	19.2.1	us, at the postal and email addresses that we tell you to send notices to; or
17.1	If the Agreement is terminated or expires, for any reason:	19.2.2	you, at your primary email address or your registered office address as of the date of the notice or any other address or email address you tell us to use by giving notice to us.
17.1.1	it will not affect any rights that either of us have up to that point;	19.3	The recipient of the notice is deemed to have received the notice on the date (or if the date is not a Business Day, then on the next Business Day):
17.1.2	each of us will return or destroy any of the other's Confidential Information within a reasonable time (except for any Confidential Information which it is	19.3.1	of transmission, if it is an email;
		19.3.2	the notice is left at the address or someone signs for it on behalf of the addressee, if it is delivered by hand or sent by courier;
		19.3.3	two days after posting, if it is sent by first-class post or recorded delivery; or
		19.3.4	five days after posting, if it is sent by international recorded post or delivery.
		20.	OTHER GENERAL TERMS
		20.1	The Standard Terms, the Commercial Terms, the Order, any applicable Special Terms and/or SOW, and any other documents referenced in any of those documents set out the terms agreed between both of us and replace any previous communication

between us. By agreeing to the Agreement, each of us acknowledges they have not relied on any representation, warranty, collateral contract or other assurance (made negligently or innocently) except for the ones in the Agreement.

- 20.2 Except as set out otherwise in the Agreement, a person who is not a party to the Agreement will not have any right under the Agreements (Rights of Third Parties) Act 1999 to enforce any its terms.
- 20.3 The Agreement is personal to you. To the fullest extent permitted by Applicable Law, if you want to assign, subcontract or transfer your rights and obligations under the Agreement (as applicable), you need to get our written permission beforehand.
- 20.4 Except where the Agreement provides otherwise, the Agreement does not create any partnership, exclusive arrangement or joint venture between us, or authorise either of us to enter any commitments for, or on the behalf of, the other.
- 20.5 If either of us does not do, or delays doing, something that the Agreement allows, they will not have waived their right to do it.
- 20.6 Except where the Agreement provides otherwise, it cannot be varied without both of us agreeing to the variation.
- 20.7 If any court of competent jurisdiction finds that any part of the Agreement is illegal, invalid or unenforceable, that part will be considered removed, but no other part of the Agreement will be affected. If any illegal, invalid or unenforceable part of the Agreement would be legal, valid or enforceable if part of it were removed, we both will negotiate in good faith to change the Agreement so it reflects what we both originally intended as much as possible.
- 20.8 The Special Terms (if any) set out in Annex B shall apply to the Agreement.
- 20.9 We may, without prejudice to our other rights or remedies, set off any amount owed by you against any amount payable to you by us.
- 20.10 No announcement or other public disclosure concerning the Agreement or any of the matters contained in it shall be made by you, or on your behalf, without our written consent beforehand.
- 20.11 Time for delivery is of the essence.
- 20.12 Without limiting any other rights and remedies, we may reject any Goods that do not comply or have not been provided in accordance with the terms of the Agreement and you shall, at our option but at your expense, promptly remedy, repair, replace, correct, re-perform or refund the Charges for the affected Goods.
- 20.13 You shall at all times comply with our Policies.
- 20.14 The laws of England and Wales will apply to the Agreement and any disputes or claims in connection with it or our relationship, including non-contractual ones.
- 20.15 We both agree the courts of England and Wales will have exclusive jurisdiction over any disputes or claims connected to the Agreement or our relationship.

21. DEFINED TERMS

This document contains definitions which are written with a capital letter. These definitions have the following meanings:

Acceptance has the meaning given in clause 6.2.3.

Acceptance Conditions has the meaning given in clause 6.2.

Affiliates means any entity that directly or indirectly Controls or is Controlled by, or is under common Control with another entity.

Agreement means the agreement between you and us for the supply and purchase of Goods incorporating the Commercial Terms, these Standard Terms, the Order, any applicable Special Terms and Statement of Work, and any other documents agreed between us.

Applicable Law means:

- i) any laws, statute, regulations or subordinate legislation, as may be amended, replace or extended from time to time, that apply to the provision or receipt of the Goods;
- ii) the common law and laws of equity as applicable to either of us from time to time;
- iii) any binding court order, judgement or decree; and
- iv) any applicable guidance, guidelines or codes of practice issued by any Supervisory Authority.

Bartoline, we, us and our means Bartoline Limited of Barmston Close, Beverley, East Yorkshire, HU17 0LW, registered in England with company number 00122306, except where it is clear from the context that references to "we" or "our" means both of us.

Business Day means a day other than a Saturday, Sunday or bank or public holiday in England.

Charges has the meaning set out in clause 7.1.

Commercial Terms the key commercial terms as set out in Part 1 of the Agreement.

Confidential Information means any information that is confidential in nature concerning one of us, our Affiliates or, in Bartoline's case alone, our customers and including, details on its businesses, affairs, suppliers, plans, Intellectual Property Rights or strategies, no matter how it is recorded, stored or disclosed, but it does not include:

- i) information that is available to the public, or becomes available, unless it is because one of us breaches its obligations of confidentiality;
- ii) information that was already available to the one of us receiving the information on a non-confidential basis; or
- iii) information we both agree in writing is not confidential information.

Contingency Plan(s) means your plans from time to time for contingency arrangements to ensure that if, for whatever reason, you are unable during any period of time to provide the Goods or any of them in all respects in accordance with the Agreement that through the implementation of those contingency arrangements we nonetheless are provided with the Goods to that standard during that period of time.

Contract Year means each consecutive period of 12 months commencing from the date of the first Order.

Control means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the

company and **Controls** and **Controlled** shall be interpreted accordingly.

Controller shall have the meaning given to it in applicable Data Protection Laws from time to time.

Data Protection Laws means any Applicable Laws relating to the processing, privacy, and/or the use of Personal Data, as binding on either of us or the supply of the Goods including:

- i) the GDPR;
- ii) the Data Protection Act 2018;
- iii) any laws which implement any such laws;
- iv) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; and
- v) guidance, guidelines, codes of practice or rules issued by a Supervisory Authority relating to the use, access and processing of Personal Data.

Data Protection Supervisory Authority means any regulator, authority or body responsible for administering Data Protection Laws.

Data Subject shall have the meaning given in applicable Data Protection Laws from time to time.

Delivery Date has the meaning set out in clause 4.1.1.

Developed IPR means all Intellectual Property Rights in any country that are created by you and/or your sub-contractors in the course of the creation, development or provision of the Goods but excluding Your Retained IPR.

GDPR means the General Data Protection Regulation (EU) 2016/679 as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time).

Goods means the goods (or any part of them) set out in the Order or otherwise agreed between us in writing to be supplied by you to us.

Insolvency Event means if you:

- i) stop carrying on all or a significant part of your business, or indicate in any way that you intend to do so;
- ii) are unable to pay your debts either within the meaning of section 123 of the Insolvency Act 1986;
- iii) become the subject of a company voluntary arrangement under the Insolvency Act 1986;
- iv) have a receiver, manager, administrator or administrative receiver appointed over all or any part of your undertaking, assets or income;
- v) have a resolution passed for your winding up;
- vi) have a petition presented to any court for your winding up or an application is made for an administration order, or any winding-up or administration order is made against you;
- vii) are subject to any procedure for the taking control of your goods that is not withdrawn or discharged within 7 days of that procedure being commenced;
- viii) have a freezing order made against you; or

ix) are subject to any events or circumstances analogous to those in i) to viii) in any jurisdiction.

Intellectual Property Rights means any trademark, service mark, trade and business name, patent, copyright (including software), database right, design right, community design right, registered design, right in Confidential Information, internet domain name, moral right and know-how, or any similar right in any part of the world and any applications for registering any of these rights that can be registered in any part of the world are also included.

International Organisation shall have the meaning given to it in applicable Data Protection Laws from time to time.

IPR Claim has the meaning set out in clause 11.6.

Location means the address(es) for delivery of the Goods set out in the Order or otherwise agreed between us in writing.

Losses means all losses, claims, damages, liabilities, fines, interest, penalties, costs, charges, sanctions and expenses.

MSA has the meaning set out in clause 15.1.

Order means our order for the Goods.

Our Materials has the meaning set out in clause 10.1.

Personal Data shall have the meaning given to it in applicable Data Protection Laws from time to time.

Personal Data Breach shall have the meaning given to it in applicable Data Protection Laws from time to time.

Policies means any of our or our customer's policies, rules, codes and procedures made available by us to you in writing (as updated by us or our customers from time to time).

Processing shall have the meaning given to it in applicable Data Protection Laws from time to time (and related expressions, including process, processing, processed, and processes shall be construed accordingly).

Processor shall have the meaning given to it in applicable Data Protection Laws from time to time.

Protected Data means Personal Data received from or on our behalf in connection with the performance of your obligations under the Agreement.

Representatives means employees, officers, representatives or advisers.

Service Credits means the credits which become payable to us where a Service Level is not achieved.

Service Levels means the agreed minimum level of performance you will provide in connection with the supply of the Goods, as set out in Annex A, the Order, a SOW or otherwise agreed between us in writing from time to time.

Specification means in relation to the Goods, the specifications of those Goods as set out or referred to in the Order, a SOW or as otherwise agreed between us in writing.

Statement of Work (SOW) means a statement of work agreed between us in writing setting out details of the Goods to be supplied and any other agreed matters.

Standard Terms means our terms and conditions of purchase set out in this document (but excluding its Annexes).

Special Terms means special terms and conditions set out in the Annexes to the Standard Terms. Where we agree Service Levels and (where applicable) Service Credits will

apply to the purchase of the Goods, the Special Terms in Annex A shall apply. If any terms are set out in Annex B, those Special Terms shall apply to the Agreement.

Sub-Processor means any agent, sub-contractor or other third party (excluding its employees) engaged by you for carrying out any processing activities on your behalf in respect of the Protected Data.

Supervisory Authority means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Applicable Laws.

Supply Chain has the meaning set out in clause 15.2.

VAT means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Goods.

You, Your means the person or firm with whom we place the Order for the Goods.

Your Retained IPR means your or a third party's pre-existing Intellectual Property Rights which have not been developed for us in the course of the creation, development or provision of the Goods.

ANNEX A – SERVICE LEVELS SPECIAL TERMS

1. GENERAL

- 1.1 **These Special Terms will apply when any Service Levels and (where applicable) Service Credits have been agreed between us as applying to a particular supply of Goods.**
- 1.2 Words that are capitalised but have not been defined in these Special Terms have the meanings given to them in the Standard Terms.
- 1.1 In case of any conflict between any of the terms in these Special Terms and the Standard Terms, the terms in these Special Terms will take priority.

2. SERVICE LEVELS

- 2.1 Unless otherwise agreed between us in writing, you will monitor performance against the Service Levels and, on a monthly basis (within 5 Business Days of the end of each month), provide us with a report verifying your performance and compliance with the Service Levels for the preceding month and shall provide agreed supporting information for each such report to us (including, the applicable Service Levels, any failure to achieve any Service Level, (where applicable) a calculation of all Service Credits due as a result of any failure to achieve any Service Level, and the efforts made by you to ensure compliance with the Service Levels in the future).
- 2.2 If you fail to comply with a Service Level you will provide notice of the default to us. You agree to also:
 - 2.2.1 investigate the reason for the failure;
 - 2.2.2 advise us of the status of the remedial efforts being undertaken by you with respect to the failure; and
 - 2.2.3 take preventative measures so that the failure does not reoccur.

3. SERVICE CREDITS

- 3.1 If we have agreed in writing Service Credits will apply when you fail to meet a particular Service Level, you shall credit us the relevant Service Credit in accordance with the terms of that written agreement.
- 3.2 The payment of Service Credits is without prejudice to any other remedy available to us, whether under the Agreement, under common law, in equity or otherwise.

You will apply the Service Credits as a deduction against our next invoice for the Charges, or following the final invoice issued under the Agreement or if there are insufficient Charges to deduct from, paid to us directly.