



ROCHE DIABETES CARE LIMITED GENERAL TERMS AND CONDITIONS OF SALE

In these Conditions, references to the singular include the plural, references to one gender shall include the others and references to any statute or statutory provision shall, unless the context requires otherwise, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1. DEFINITIONS In these terms and conditions, the following words shall, where the context so admits, have the following meanings:-

Applicable Law – All applicable laws, regulations and guidelines, including without limitation, the ABHI Code of Business Practice, the MedTech Europe Code of Ethical Business Practice, Good Manufacturing Practice (GMP), Good Distribution Practice (GDP) and the MHRA's Blue Book.

Buyer – The company, firm or person from whom the order for the purchase of Goods is received

Company – Roche Diabetes Care Limited, a company registered in England and Wales with number 09055599.

Conditions – These General Terms and Conditions of Sale.

Contract – Any contract between the Company and the Buyer for the sale and purchase of the Goods incorporating these terms and conditions.

Goods – Any goods supplied by the Company to the Buyer (including any part or parts of them) pursuant to the Contract which shall include the Pump Systems except where expressly excluded in these Conditions.

Pump Systems – The Accu-Chek® Insight insulin pump and handset, the Accu-Chek Combo insulin pump and handset and the Accu-Chek Solo handset (not including the insulin pump) excluding supplies and accessories, including but not limited to, cartridges, batteries, or infusion sets. **Pump System Warranty** – As defined in Condition 10.3 of these Conditions.

Pump Warranty Period – Four (4) years from the date of purchase of the Pump System by the Buyer from the Company.

Working Day – Any day that is not a Saturday, a Sunday, or a bank or public holiday in the UK and/or the Republic of Ireland.

2. APPLICATION OF TERMS

2.1 The Company submits all quotations to and accepts all orders from the Buyer subject to the Conditions and, unless otherwise expressly agreed in writing, these Conditions shall govern and form part of every Contract to the exclusion of any other terms and conditions, whether expressed or implied, of the Buyer (including any terms and conditions, which the Buyer purports to apply under any purchase order, specification or any other document whatsoever and whenever. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in these Conditions or Contract.

2.2 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions.

2.3 Notwithstanding the foregoing, if the Company and the Buyer have executed a formal, bespoke written contract signed and dated by authorised signatories of both parties which is in full force and effect, the terms and conditions of that contract will apply and govern, to the exclusion of any inconsistent Condition.

2.4 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order, which may include email or facsimile, is issued by the Company or, if earlier, the Company delivers the Goods to the Buyer. Any order shall be accepted entirely at the discretion of the Company.

2.5 Any variation, cancellation or waiver of these Conditions shall only be effective if made in writing and signed by a duly authorised representative of the Company. For the avoidance of doubt, the Company's drivers, sales representatives, warehouse and depot staff are not so authorised.

3. PRICE AND PAYMENT

3.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set in the Company's price list as at the date of the order for the Goods.

3.2 The Company's prices are subject to alteration without notice and are stated exclusive of Value Added Tax and all other taxes or levies and all costs and charges in relation to packaging, labelling, carriage and freight all of which the buyer shall bear where applicable.

3.3 Unless orders are accepted on a pre-payment basis, when payment for the goods shall be due in advance of delivery, accounts are due for payment within thirty days of the date of invoice and no accounts shall be deemed to be paid until the Company has received cleared funds. The Company reserves the right to withdraw these credit terms at any time without notice. Time for payment shall be of the essence.

3.4 UK accounts are invoiced and payable in Pounds Sterling and all other EU accounts are invoiced and payable in Euros.

3.5 The Buyer shall notify the Company of any invoice discrepancy within 14 days of receipt of the invoice after which time the invoice shall be deemed accepted by the Buyer.

3.6 The Company reserves the right to withhold delivery of subsequent orders when the Buyer's account is overdue or the Company has doubts concerning the creditworthiness of the Buyer. In such cases the Company shall have the right to release any Buyer reserved or ordered Goods.

3.7 The Company reserves the right to charge interest pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 (as supplemented, amended or replaced from time to time) on any sums remaining unpaid after the due date. Interest shall be calculated on a daily basis on all overdue amounts (both before and after judgment) until actual payment, at the rate of eight per cent (8%) per annum above the official dealing rate prevailing from time to time, is made in full;

3.8 The Company reserves the right at any time at its discretion to demand security for payment before continuing with, or delivering any order.

4. DELIVERY

4.1 The Company will use reasonable efforts to meet any time or date for delivery given. Notwithstanding this, any time or date for delivery given by the Company is an estimate only and the Company will not be held liable or responsible for any delay or non-delivery nor for any loss, expense or damage whatsoever resulting from any such delay or non-delivery and the Buyer shall not be entitled to treat a Contract as repudiated by reason of late delivery.

4.2 The Company reserves the right to refuse to deliver any order if the Buyer goes or threatens to go into liquidation, makes any composition or arrangement with its creditors or has appointed an administrator or an administrative receiver, provided always that title in the Goods has not already passed to the Buyer.

4.3 When signing for Goods from the carrier, the Buyer agrees to check that the number of packages received agrees with the number on the delivery note and immediately to record any numerical discrepancy or obvious external damage on the carrier's delivery note. The Company will consider claims for damages, shortages or incorrect delivery only if notified within 14 days of receipt of the Goods and claims for non-delivery only if notified within 14 days of the date of invoice. If any claim is so notified, the Company's sole responsibility will be limited to replacing or redelivering the goods in question or collecting excess deliveries at its expense and the Buyer will not be entitled to any other compensation whatsoever. The Company will accept no liability for any claims howsoever caused not notified within these periods nor will the Company have any liability in respect of damage or shortages caused by the acts or omissions of the Buyer.

4.4 The Company reserves the right to deliver in more than one instalment and to invoice each instalment separately

4.5 If delivery is by instalments a notifiable claim in one instalment will not entitle the Buyer to reject all instalments.

4.6 Any order received on a Friday which requires dry ice or other form of temperature control will be despatched the following Monday (or in the case of a bank holiday on Tuesday). In the event the Buyer requires a weekend delivery, the Buyer shall be solely responsible for receipt and shall be liable for any degradation of the Goods in the event that the Goods cannot be delivered.

4.7 The Company will not accept the return of unwanted Goods correctly delivered against an order.

5. RISK

The Goods shall be at the risk of the Buyer from the time of delivery to the Buyer's nominated premises, or from the time of collection from the Company's nominated premises by or on behalf of the Buyer, whichever is the applicable.

6. TITLE

6.1 Full legal, beneficial and equitable title in the Goods shall remain vested in the Company, notwithstanding delivery to the Buyer's nominated premises, until such time as the Company has received payment in full (in cash or cleared funds) for the Goods delivered and all other sums owed by the Buyer to the Company.

6.2 Until full legal, beneficial and equitable title in the goods passes to the Buyer:

6.2.1 the Buyer shall hold the Goods on a fiduciary basis acting as bailee for the Company;

6.2.2 the Buyer shall store the Goods at its premises in accordance with Applicable Law and in conditions which adequately protect and preserve the Goods. The buyer shall also insure the Goods, without any charge to the Company, will not tamper with any identification upon the Goods or



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their packaging and shall ensure that they are stored and are clearly identifiable as belonging to the Company. The Company shall be entitled to examine any such Goods in storage at any time during normal business hours upon giving the Buyer reasonable notice of its intention to do so;

6.2.3 the Company may at any time, on demand and without prior notice, require the Buyer to deliver the Goods up to the Company and the Company may repossess and resell the Goods if any of the events specified in Condition 14.1 occurs or if any sum due to the Company from the Buyer under the Contract or on any other account or under any other contract is not paid when due;

6.2.4 for the purposes of this Condition 6.2 the Company, its employees, agents and sub-contractors will be entitled to free and unrestricted access to any premises owned, occupied or controlled by the Buyer and/or any other location where any of the Goods are situated by giving the Buyer reasonable prior notice;

6.2.5 the Company shall be entitled to maintain an action against the Buyer for the price of the Goods notwithstanding that legal, equitable and beneficial title to and property in the Goods has not passed to the Buyer; and

6.2.6 the Company hereby authorises the Buyer to use and/or sell the Goods in the normal course of the Buyer's business and to pass good title in the Goods to its customers, if they are purchasers in good faith without notice of the Company's rights and provided that all proceeds of sale are held on trust for the Company pending payment to the Company. This right shall automatically cease on the occurrence of any event set out in Condition 14.

7. NO RIGHT OF SET-OFF

The Buyer shall make all payments due under the Contract without any deduction to sums due under the Contract whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

8. SAFETY AND RECALL

8.1 The Buyer should satisfy itself that the persons responsible for the shipping, storage, handling and/or use of any Goods supplied by the Company have all the information required on health and safety requirements (as required by Applicable Law and conditions of storage and any health and material safety data sheets and/or summaries of product characteristics). The Company shall not be liable to the Buyer in any civil proceedings brought by the Buyer against the Company in respect of a breach of the Applicable Law, shipping, storage, handling or use instructions or any other applicable health and safety legislation or any regulations, orders or directions made pursuant to such health and safety legislation in force from time to time or under any directive, regulation, order or other instrument relating to health and safety, where such exclusion of liability is permitted by law.

8.2 Should the Buyer re-sell any Goods in accordance with these Conditions:

8.2.1 the Buyer shall at its own expense establish a system that enables it to track which Goods are delivered to which customer and as such undertakes to maintain appropriate, up-to-date and accurate records to enable the immediate recall of any individual or batches of Goods. These records shall include (but are not limited to) records of deliveries to customers (including UDI, batch numbers, serial numbers, delivery date, name and address of customer, telephone number, fax number and e-mail address);

8.2.2 if there is a risk that serious deterioration in the state of the health of a patient or user may occur in connection with any Goods, the Company may require that the re-sale of the Goods be stopped immediately upon the Buyer receiving notification thereof in writing or by e-mail; and

8.2.3 the Buyer shall take such action and give such information and assistance that the Company shall reasonably require to recall Goods or investigate a potential issue relating to the Goods including, but not limited to, acknowledging receipt of any safety, recall or other notifications sent by the Company and reporting requested information and/or confirmations back to the Company without delay. The Company shall inform the Buyer promptly about its intent to or the necessity of withdrawal of all or a part of Goods from trading.

8.3 The Buyer shall keep the Company properly informed of all customer complaints concerning the Goods and shall comply with any directions of the Company in any issues, proceedings or negotiations relating to such complaint.

8.4 The Buyer shall without delay take such action and give such information and assistance that the Company shall reasonably require to investigate any potential issue relating to the Goods.

8.5 In the event of any product recall the Buyer will cooperate with the Company to enable it to fulfil its vigilance duties, in entirety, with respect to the Medical and IVD Device Directives 92/42/EEC and 98/79 EC or any applicable legislation replacing such Directives.

9. INSPECTION, STORAGE, TRANSPORT AND USAGE CONDITIONS

9.1 All stocks of Goods shall be stored and transported by the Buyer in accordance with product temperature conditions as issued or amended by the Company from time to time.

9.2 The Company shall be entitled with the prior agreement of the Buyer (such agreement not to be unreasonably withheld) to inspect the Buyer's stocks of the Company's products at the Buyer's depots, sub-depots or other business premises.

10. LIABILITY AND CONSEQUENTIAL LOSS

10.1 Condition 4 and this condition 10 set out the entire liability of the Company (including any liability for the acts or omissions of its sub-contractors and any member of its Group) in respect of any breach of these Conditions or other contract and any representation, statement or tortuous act or omission including negligence arising under or in connection with the Contract.

10.2 If any of the Goods (excluding the Pump Systems) should prove to be not fit for their intended purpose within 12 months of the date of invoice (or within their expiry dates if earlier or later) when stored and used correctly, the Company will either replace or, at its sole option, refund the purchase price but shall have no liability to the Buyer for any other consequential loss, damage or expense.

10.3 Subject to Condition 10.4, the Company shall, at its sole option, repair or replace any defective Pump System during the Pump Warranty Period provided that the Company is notified within a reasonable time of discovery that the Pump System does not comply with its published specification and that the Company is given reasonable opportunity to examine the Pump System (the "**Pump System Warranty**"). The repair or replacement of a defective Pump System shall not extend the Pump Warranty Period. The Pump System Warranty shall be personal to the original purchaser and proof of purchase may be required. Any sale, rental, or other transfer or use of the Pump System (except for use of the Pump System by a patient of the original purchaser) or any of its components covered by the Pump System Warranty to or by a user other than the original purchaser (except by a patient of the original purchaser) shall cause this warranty to immediately terminate.

10.4 The Company shall not be liable for the failure of Pump System to comply with its published specification where:

10.4.1 the defect has arisen due to the Buyer and/or any third party's failure to follow the Company's oral or written instructions as to the storage, use or maintenance of the Pump System;

10.4.2 the Buyer and/or any third party alters, modifies, changes, services or repairs such Pump System without the prior written consent of the Company; and/or

10.4.3 the defect arises as a result of fair wear and tear, willful damage, improper use, negligence or any act or omission not caused by the Company.

10.5 Except as provided in Conditions 10.2, 10.3 and 10.4, the Company shall have no liability to the Buyer in respect of the failure of any Goods to comply with its published specification. The Company does not give any representation or warranty or undertaking in relation to the Goods other than those set out in these Conditions and accordingly any representation, warranty or condition that might be implied or incorporated into the Contract (including terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and by sections 3 to 5 of the Sale of Goods and Services Act 1982) are excluded to the fullest extent permitted by law. 10.6 The Company shall not in any circumstances whatsoever (whether by reason of negligence, breach of contract, misrepresentation or otherwise) be liable for any economic loss, damage or expense, whether direct, indirect or consequential (including, without prejudice to the generality of the foregoing, loss of profits, business interruption, loss of goodwill or reputation) arising out of or in any way connected with the delivery and/or sale and/or use of the goods whether by the Buyer or by any third party.

10.7 Nothing in this Condition 10 shall be taken to limit or restrict the Company's liability (i) for personal injury or death resulting from the negligence of the Company, its employees and agents; or (ii) for fraud or fraudulent misrepresentation or for any other matter for which it would be illegal for the Company to exclude, limit or attempt to exclude or limit its liability.

10.8 The total aggregate liability of the Company howsoever arising in connection with this Contract whether for negligence or breach of contract or otherwise shall in no event exceed the value of the Goods sold by the Company under this Contract.



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10.9 The price of the Goods has been calculated on the basis that the Company will exclude or limit its liability as set out in the Contract and the Buyer, by placing an order, agrees and warrants that the Buyer shall insure against or bear itself any loss for which the Company has excluded or limited its liability in the Contract and the Company shall have no further liability to the Buyer.

11. BUYERS WARRANTY AND INDEMNITY

11.1 The Buyer warrants that the Goods shall only be resold by the Buyer in their original form as packaged and supplied by the Company without any breaking down or repacking, without the Company's prior written approval. The Buyer will not remove, alter or add to the labels on or the leaflets within these packages prior to any such sale without the Company's prior written approval.

11.2 The Buyer acknowledges that the Goods may be perishable and may become denatured if they are stored or transported incorrectly. The Buyer warrants that, if it resells the Goods, the Buyer will:

11.2.1 ship and handle the Goods in the same manner as they were supplied by Company to the Buyer and in accordance with the marketing authorisation for the relevant Goods;

11.2.2 store the Goods in suitable conditions and supply only those of satisfactory quality (as defined by the Sale and Supply of Goods Act 1994) and, in each case, in accordance with the marketing authorisation for the relevant Goods; and

11.2.3 ensure that customers purchasing the Goods ship, store and handle the Goods in the same conditions as those specified in Conditions 11.2.1 and 11.2.2.

11.3. The Buyer agrees to indemnify and hold the Company harmless from and against any claims, costs, expenses, and damage arising out of: (i) the abnormal or improper use, misuse or neglect of the Goods or any breach of these terms and conditions or default on the part of the Buyer; or (ii) any use or sale of any goods manufactured by the Buyer and incorporating any Goods supplied by the Company to the Buyer.

12. FORCE MAJEURE The Company reserves the right to suspend or cancel the Contract in whole or part, including but not limited to deferring the date of delivery or reducing the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the Company's reasonable control including, but not limited to, acts of God, fire, wind, accident, pandemic, epidemic, widespread disease, industrial action, riot, war, civil commotion, flood, breakdowns of plant or machinery, the acts of a third party or the intervention of a competent authority provided that, if the event in question continues for a continuous period in excess of 180 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

13. CARRIAGE AND HANDLING CHARGES Orders below £100 or €120 shall be subject to a handling charge. The Company reserves the right to make additional charges for, including but not limited, deliveries requiring dry ice, all special and urgent deliveries and deliveries outside the United Kingdom and the Republic of Ireland.

14. EXPORT

14.1 The Company reserves to itself and shall be exclusively entitled to make sales of Goods or to appoint third parties to make sales of Goods to all customers, including but not limited to, full and short line wholesalers, exporters, primary and secondary care providers, dispensing doctors, retail pharmacies, NHS Trusts and other NHS bodies.

14.2 The Buyer shall not actively solicit orders for Goods from any person exclusively reserved to a third party or Company as set out in Condition 14.1. Company reserves the exclusive right to solicit orders for Goods from any person save where it has allocated rights to solicit to a third party.

14.3 The Buyer shall not actively solicit orders for Goods for territories outside the United Kingdom and/or the Republic of Ireland that have been exclusively reserved to the Company or any member of its corporate group or exclusively allocated by the Company or any member of its corporate group to a third party.

14.4 The Buyer shall not supply any Goods to customers outside the European Union without the prior written consent of the Company.

14.5 Nothing in these Conditions shall prevent the Buyer from meeting unsolicited orders for Goods.

14.6 In respect of any orders supplied for delivery to a destination outside of the United Kingdom and/or the Republic of Ireland, the provisions of this Condition 14 shall apply notwithstanding any other provision of these Conditions.

14.7 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of INCOTERMS 2020 shall have the same meaning in these Conditions. In the event of a

conflict between INCOTERMS 2020 and these Conditions, the latter shall prevail.

14.8 The Buyer shall be responsible for complying with any legislation, regulations, guidelines, codes of practice or directions governing the use or sale of the Goods in the country of destination.

14.9 The Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

14.10 Unless otherwise stated in the Contract any Goods being exported to the Buyer shall be delivered Duty Unpaid.

14.11 The Buyer shall not export the goods to any destination outside the territory defined below nor shall the Buyer knowingly sell the goods to any purchaser who intends to export to any such destination. In this context, the territory shall comprise the member states of the European Community for the time being and any other territory where any binding applicable laws are capable of having effect which would prevent this condition from being applied.

14.12 Any orders supplied for delivery to a destination outside of the United Kingdom and the Republic of Ireland shall be governed by INCOTERMS 2020. In the event of a conflict between INCOTERMS 2020 and these terms and conditions, the latter shall prevail.

15. DATA PROTECTION

15.1 For the purposes of these Conditions, the following terms shall have the following meanings:

- Data Protection Legislation means:

(i) unless and until the General Data Protection Regulation ((EU) 2016/679) (**GDPR**) is no longer directly applicable in the UK, the GDPR;

(ii) the Data Protection Act 2018 (the **DPA**);

(iii) until the proposed EU Regulation on Privacy and Electronic Communications (the E-Privacy Regulation) comes into force in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR);

(iv) unless and until the E-Privacy Regulation is no longer directly applicable in the UK, the E-Privacy Regulation when it comes into force;

(v) any successor legislation to the GDPR, the DPA, the E-Privacy Regulation or PECR applicable in the UK; and

(vi) any national implementing laws, regulations and secondary legislation relating to data protection and/or the legislation set out in (i) to (v) above, as amended or updated from time to time, in the UK.

Personal Data Breach: means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

- **Personal Data:** shall have the meaning given to it in the applicable Data Protection Legislation and shall include Special Categories of Personal Data.

- **Special Categories of Personal Data:** means Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and genetic data, biometric data, data concerning health or data concerning a natural person's sex life or sexual orientation. 'Genetic data', 'biometric data' and 'data concerning health' shall have the meanings given to them in the GDPR.

15.2. Both parties will comply with all applicable requirements of the Data Protection Legislation. This Condition 15 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this Condition 15, **Controller, Processor, processing and Data Subject** shall have the meanings given to them in the applicable Data Protection Legislation and process and processed shall be construed accordingly.

15.3 In order to extinguish their respective obligations under the Contract, the Company may be required to process Personal Data belonging to the Buyer. The duration of any such processing shall be equal to the term of the Contract, unless expressly stated otherwise. The parties acknowledge that for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Company is the Processor.

15.4 The Buyer confirms its general authorisation to the appointment of all sub-processors engaged by the Company to fulfil its obligation under the Contract (the "**Existing Sub-Processors**"). The Company shall inform the Buyer of any intended change(s) to the Existing Sub-Processors and the Buyer shall inform the Company in writing within seven (7) days of the date of such notice if it has any objections to the proposed Existing Sub-Processor change(s). If the Buyer does not object to the Existing Sub-Processor change(s) then the change(s) shall have effect no earlier than the eighth (8th) day after the date of the relevant notice from the Company. The parties will discuss any objection to the Existing Sub-Processor change(s) in good faith to resolve the issue.

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15.5 The Company shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under the Contract:

15.5.1 save for any specific authorisation provided under these Conditions by the Buyer, process that Personal Data only on the written instructions of the Buyer (including, but not limited to, with regard to the transfer of Personal Data to a third country or an international organisation) unless the Company is required by the applicable laws of any member of the European Union or the European Union to process Personal Data (“**Applicable Data Laws**”). Where the Company is relying on Applicable Data Laws as the basis for processing Personal Data, the Company shall, to the extent legally permissible, promptly notify the Buyer of this before performing the processing required by the Applicable Data Laws;

15.5.2 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

15.5.3 ensure that it has in place technical and organisational measures to protect against any Personal Data Breach appropriate to the harm that might result from the Personal Data Breach and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by the Company);

15.5.4 save for the authorisation provided under Condition 15.4 of these Conditions by the Buyer, not appoint any third party processor of Personal Data under this Contract (a “**Third Party Processor**”) unless:

15.5.4 (A) the prior specific written consent of the Buyer has been obtained; and

15.5.4 (B) the Third Party Processor is bound by terms which are substantially similar to those set out in this Condition 15 under (i) a written agreement between the Company and the Third Party Processor or (ii) Applicable Data Laws.

As between the Buyer and the Company, the Company shall remain fully liable for all acts or omissions of any Third Party Processor appointed pursuant to this Condition 15.5.4;

15.5.5 assist the Buyer, by appropriate technical and organisational measures, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to requests for exercising a Data Subject’s rights, security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

15.5.6 at the written direction of the Buyer, delete or return Personal Data and copies thereof to the Buyer on termination of the Contract unless required by Applicable Data Law to store the Personal Data;

15.5.7 maintain and make available to the Buyer all information necessary to demonstrate its compliance with this Condition 15 and allow for and contribute to audits by the Buyer or the Buyer’s designated auditor;

15.5.8 as soon as reasonably practical inform the Buyer if, in the Company’s opinion, an instruction infringes any Data Protection Legislation or Applicable Data Law;

15.5.9 save for any specific authorisation provided under these Conditions by the Buyer, not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Buyer has been obtained and the following conditions are fulfilled:

15.5.9 (A) the Buyer or the Company has provided appropriate safeguards in relation to the transfer;

15.5.9 (B) the Data Subject has enforceable rights and effective legal remedies;

15.5.9 (C) the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

15.5.9 (D) the Company complies with reasonable instructions notified to it in advance by the Buyer with respect to the processing of the Personal Data; and

15.5.10 notify the Buyer without undue delay on becoming aware of a Personal Data Breach with sufficient detail to enable the Buyer to identify the facts relating to the Personal Data Breach, its effects and the Company’s proposed remedial action.

15.6 The Buyer confirms that it authorises all forms of data transfer and processing as described in this Condition 15 or elsewhere in the Contract and warrants that:

15.6.1 it has received all requisite consent from the Data Subjects (or is otherwise permitted by the Data Protection Legislation) to disclose the Personal Data to the Company; and

15.6.2 its disclosure of, and the Company’s subsequent use, processing and/or transfer of, Personal Data under or in relation to this Contract is permitted under the Data Protection Legislation.

15.7 The Company may, at any time on not less than 30 days’ notice, revise this Condition 15 by replacing it with any applicable controller to processor standard Conditions or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Contract).

15.8 The Company is hereby authorised by the Buyer to download and use data which does not constitute Personal Data (such as performance data) via a secure gateway system for purposes including but not limited to optimisation of the Company service, anticipation and preparation for potential epidemics and analysis of regional testing behaviour.

15.9 The Buyer acknowledges and agrees that:

15.9.1 in order to provide technical support including, but not limited to, remote technical support, the Company will need to view, store and/or transfer data which may contain Personal Data. When the data has been evaluated and the technical support case has been closed, any data stored will be deleted; and

15.9.2 the majority of technical support will be offered from the UK and Republic of Ireland by the Company, however where second and third line escalations are required, the Company may utilise global expertise by safely and securely transferring data (which may include Personal Data), employing infrastructure that has been specially implemented for this purpose and which is fully certified against ISO27001.

15.10 The Buyer shall indemnify the Company in full against all liabilities, costs, expenses, damages or losses (including, but not limited to, any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any act or omission by or on behalf of the Buyer resulting in a breach of the Data Protection Legislation by the Company. Liability under this indemnity is unlimited.

16. ANTI-BRIBERY, ANTI-SLAVERY AND HUMAN TRAFFICKING

16.1 The Buyer will, and will procure that any of its affiliates, employees, subcontractors, permitted assigns, agents or any other persons who perform any obligations under the Contract will fully comply with, and not commit any act or omission which causes or could cause the Buyer or the Company or any of its or their affiliates to breach or commit an offence under, all laws, statutes, regulations and codes of practice relating to:

16.1.1 anti-bribery and/or anti-corruption, including the Bribery Act 2010; or

16.1.2 anti-slavery and human trafficking in the UK and elsewhere, including the Modern Slavery Act 2015.

17. INTELLECTUAL PROPERTY

17.1 All intellectual property rights in or arising out of or in connection with the Goods shall be owned by the Company.

17.2 No right or licence is granted under the Contract to the Buyer under any patent, trade mark, copyright, registered design or other intellectual property right, except the right to use or re-sell the Goods.

17.3 The Buyer shall not sub-licence, assign or otherwise transfer the rights granted under Condition 17.2.

17.4 All Goods may be sold or re-sold by the Buyer only in the packages and packaging in which the Goods were supplied by the Company and in no case may any trade mark other than the trade mark carried by the Goods at the time of delivery be marked or applied in relation to the Goods by the Buyer.

18. CONFIDENTIALITY

18.1 A party (“**Receiving Party**”) shall keep in strict confidence: (i) all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (“**Disclosing Party**”), its affiliates, employees, subcontractors, permitted assigns or agents, (ii) any other confidential information concerning the Disclosing Party’s business, its products and services which the Receiving Party may obtain as part of the Contract, (iii) any information that is marked or has been otherwise indicated to be confidential and (iv) all information in whatever form which would be regarded as confidential by a reasonable business person (together, the “**Confidential Information**”).

18.2 The Disclosing Party warrants that it has the full and unconditional right to disclose the Confidential Information to the Receiving Party.

18.3 The Receiving Party shall:



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18.3.1 only use the Confidential Information to discharge its obligations under the Contract;

18.3.2 disclose the Confidential Information only to those of its affiliates, employees, subcontractors, permitted assigns or agents who need to know it for the purpose of discharging the Receiving Party's obligations under the Contract; and

18.3.3 ensure that all affiliates, employees, subcontractors, permitted assigns or agents who receive Confidential Information under Condition 18.3.2 comply with the obligations of confidentiality set out in this Condition 18 as if they were a party to the Contract.

18.4. The obligations of confidentiality in this Condition 18 shall not extend to any information which the Receiving Party can demonstrate:

18.4.1 is publicly available or becomes publicly available through no act or omission of the Receiving Party;

18.4.2 was independently disclosed to the Receiving Party by a third party entitled to disclose the same;

18.4.3 is required to be disclosed by the Receiving Party under any applicable law, or by legal order of a court or governmental body or authority of competent jurisdiction.

18.5. Upon termination or expiration of the Contract for any reason, unless otherwise agreed in writing between the parties, the Receiving Party shall cease all use and make no further use of the Confidential Information and shall upon receipt of a written request from the Disclosing Party and at the Receiving Party's sole cost and expense promptly deliver up to the Disclosing Party or destroy (at the Disclosing Party's sole option) all Confidential Information, including any documents, materials and records in any medium containing or reflecting the Confidential Information. Notwithstanding the obligations set out in this Condition 18.5, the Receiving Party may retain one copy of the Confidential Information to the extent it is required to do so to comply with any law or regulation provided always that any retained Confidential Information is kept always in full compliance with the provisions of this Condition 18.

18.6 The provisions of this Condition 18 shall survive expiry or termination of the Contract.

18.7 The Company acknowledges that the Buyer may be subject to the Freedom of Information Act 2000 ('FOIA') and the Buyer acknowledges that any information disclosed to the Buyer which relates to financial issues or technical specifications not in the public domain should be held in the strictest of confidence. The Buyer acknowledges that such information is exempt from disclosure under the FOIA as it has been provided in confidence and disclosure would constitute an actionable breach of confidence and/or that the information provided is a trade secret and in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosure. The Buyer shall consult with the Company before disclosure of any information relating to the Company and/or the Goods or Services.

19. BREACH OF CONTRACT OR INSOLVENCY

19.1 The Company may immediately suspend performance of the Contract, cancel any outstanding delivery of the Goods, stop any Goods in transit or by notice in writing to the Buyer terminate the Contract without liability to the Company if:

19.1.1 the Buyer commits a material breach of any of its obligations under the Contract which is incapable of remedy or fails to remedy a breach of its obligations under the Contract which is capable of remedy, or persists in any breach of any of its obligations under the Contract after having been requested in writing by the Company to remedy or desist from such breach within a period of 14 days; or

19.1.2 the Buyer enters into bankruptcy, individual voluntary arrangement, liquidation, receivership, administration or into a corporate voluntary arrangement as defined by the Insolvency Act 1986;

19.1.3 the Buyer ceases, or threatens to cease to carry on business; or

19.1.4 any sum payable under the Contract is not paid within seven days of its due date for payment in accordance with this contract; or

19.1.5 the Company reasonably believes that any of the events specified in Condition 19.1.2 above is about to occur in relation to the Buyer.

19.2 Notwithstanding any such termination or suspension in accordance with Condition 19.1 the Buyer shall pay the Company for all Goods delivered up to and including the date of suspension or termination.

19.3 Termination of the Contract for any reason shall be without prejudice to the rights and remedies of either party which may have accrued up to termination.

20. SUBCONTRACTING, ASSIGNMENT AND THIRD PARTY RIGHTS

20.1 The Buyer shall not be entitled to assign, charge, subcontract or transfer the Contract or any part of it without the prior written consent of the Company. The Company may assign, charge, subcontract or transfer the Contract or any part of it to any person.

20.2 A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these terms and conditions.

21. GENERAL

21.1 For the avoidance of doubt, acceptance of the Buyer's order does not in any way entitle the Buyer to use any trademarks owned by the Company, its associates and affiliates. Any infringement of the Company's intellectual property rights, whether by substitution, passing-off, copyright or trademark infringement or any other improper use whatsoever will result in the Company taking appropriate action to safeguard its interests.

21.2 If any of these Conditions is held to be invalid, unenforceable or unlawful for whatever reason, such decision shall not affect the validity or enforceability of the remaining conditions or the Contract which will remain valid and enforceable in all respects.

21.3 The waiver by either party of any breach of the Contract shall not prevent the subsequent enforcement of that breach and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

21.4 The Contract sets out the entire agreement and understanding between the Buyer and the Company in connection with the sale of the Goods and shall supersede and replace all documentation previously issued by the Company purporting to set out its conditions of sale of the Goods. All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

22. APPLICABLE LAW AND JURISDICTION

These terms and conditions shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.

August 2020