

Acquisition Systems Goods Terms and Conditions – December 2024

Please read these Goods Terms and Conditions carefully. All contracts that Pharmagraph may enter into from time to time for the supply of goods and installation services shall be governed by these Goods Terms and Conditions and the General Terms and Conditions.

1. Definitions

1.1 In these Goods Terms and Conditions, except to the extent expressly provided otherwise:

"**Business Day**" means any weekday other than a bank or public holiday in England;

"**Charges**" means the amounts payable in respect of the Goods and (if relevant) the Installation Services, as set out in the Quotation, subject to any variations agreed in writing by the parties or made in accordance with the Terms and Conditions;

"**Contract**" means a particular contract made under the Goods Terms and Conditions and General Terms and Conditions between Pharmagraph and the Customer;

"**Customer**" means the person or entity identified as such in the Quotation;

"**Delivery Location**" means the location set out in the Quotation or such other location as the parties may agree;

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (which may include failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars);

"**General Terms and Conditions**" means Pharmagraph's general terms and conditions which can be found at <https://www.pharmagraph.co.uk/help/terms-and-conditions.php>, including any amendments to those terms and conditions from time to time;

"**Goods**" means those goods identified in the Quotation;

"**Goods Terms and Conditions**" means these terms and conditions, including any amendments to these terms and conditions from time to time;

"**Installation Services**" means any installation services to be supplied by Pharmagraph to the Customer as set out in the Quotation;

"**Order Acceptance Date**" means the date that the Contract is formed, as set out in Clause 2.3;

"**Quotation**" means a written quotation for the Goods and (if relevant) the Installation Services accepted by or on behalf of each of the Customer then acknowledged with an order acknowledgement by or on behalf of Pharmagraph;

"**Pharmagraph**" means ACQUISITION SYSTEMS LIMITED (t/a PHARMAGRAPH), a company incorporated in England and Wales (registration number 02429137) having its registered office at 39 Ivanhoe Road, Hogwood Industrial Estate, Finchampstead, Wokingham, Berkshire RG40 4QQ; and

"**Warranty Period**" has the meaning set out in Clause 7.1.

2. Term and Contract Formation

2.1 A quotation for the Goods given by Pharmagraph shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue.

2.2 By accepting the Quotation and/or issuing a purchase order, the Customer is deemed to have made an offer to purchase the Goods and (if relevant) the Installation Services in accordance with the Goods Terms and Conditions and the General Terms and Conditions. The Customer is responsible for ensuring that the terms of the Quotation are complete and accurate.

2.3 The Quotation shall only be deemed to be accepted when Pharmagraph issues an order acknowledgement, at which point the Contract shall come into existence.

2.4 The Contract shall continue in force until all the Goods and (if relevant) Installation Services have been delivered to the Customer in accordance with the Terms and Conditions and all the Charges have been paid to Pharmagraph in cleared funds, after which delivery and payment the Contract shall terminate automatically, subject to earlier termination in accordance with Clause 9.

2.5 The only terms and conditions upon which Pharmagraph will deal with the Customer in relation to the supply of the Goods and Installation Services are set out in the General Terms and Conditions, the Goods Terms and Conditions and the Quotation, and the General Terms and Conditions, the Goods Terms and Conditions and the Quotation shall govern the Contract to the exclusion of all other terms and conditions.

2.6 The Terms and Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing and the Customer hereby waives any right it might otherwise have to rely upon its own terms and conditions.

2.7 Any samples, drawings, descriptive matter or advertising produced by Pharmagraph and any descriptions or illustrations contained in Pharmagraph's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

3. Supply of Goods

- 3.1 If the Customer desires to inspect the Goods, such inspection must be made at Pharmagraph's premises, and notification of this requirement must be given at the time of agreeing the Quotation. If upon inspection, the Goods are approved by, or on behalf of the Customer, such approval shall constitute acceptance.
- 3.2 Pharmagraph shall deliver the Goods to the Delivery Location at any time after Pharmagraph notifies the Customer that the Goods are ready.
- 3.3 Unless the parties agree otherwise in writing Pharmagraph shall be responsible for arranging loading, transport, unloading and transit insurance in respect of the Goods, and the Customer shall be responsible for paying all costs relating to such loading, transport, unloading and transit insurance, either as set out in the Quotation, or as listed in an invoice issued in accordance with Clause 6, or in accordance with its own account arrangements with a third party shipping company.
- 3.4 Unless listed in the Quotation, the price of the Goods as stated in the Quotation does not include delivery, nor any F.O.B. charges nor any special packing. Pharmagraph will endeavour to comply with any special requirements stipulated by the Customer (whether in respect of routing or the services of a forwarding agent or special packing) and any costs reasonably incurred by Pharmagraph in meeting said special requirements shall be added to the Charges and become due and payable in accordance with Clause 6.
- 3.5 Delivery is completed on the completion of unloading of the Goods at the Delivery Location. The risk in the Goods shall pass to the Customer on completion of delivery.
- 3.6 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.
- 3.7 Pharmagraph shall not be liable for any delay or failure in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Pharmagraph with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.8 Subject to Clause 3.7, if Pharmagraph fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 3.9 If the Customer fails to accept delivery of the Goods within five Business Days of Pharmagraph notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or Pharmagraph's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the fifth Business Day after the day on which Pharmagraph notified the Customer that the Goods were ready; and
 - (b) Pharmagraph shall store the Goods until actual delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 3.10 If ten Business Days after the day on which Pharmagraph notified the Customer that the Goods were ready for delivery the Customer has not accepted actual delivery of them, Pharmagraph may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Goods.
- 3.11 Pharmagraph may deliver the Goods by instalments, which may be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 3.12 The Customer may cancel their order and terminate the Contract for convenience within fifteen (15) days of the Order Acceptance Date by giving written notice to Pharmagraph. If the Customer cancels their order and terminates the Contract for convenience after the expiration of fifteen (15) days from the Order Acceptance Date, Pharmagraph shall be entitled to submit an invoice for an amount equal to 50 percent of the value of the Quotation plus an amount equal to the value of any Installation Services supplied by Pharmagraph under the Contract prior to order cancellation and shall have the right (subject always to the prior right of the Customer, to settle the claim), to rely on any security given by the Customer whether in kind or specie, in order to liquidate such damages as may have been incurred consequent upon cancellation.

4. Title

- 4.1 Legal and equitable title to the Goods will pass from Pharmagraph to the Customer upon receipt by Pharmagraph of all amounts due from the Customer under the Contract or any other contract between the parties.
- 4.2 Until title to the Goods has passed to the Customer, the Customer shall hold the Goods as the fiduciary agent and bailee of Pharmagraph.
- 4.3 Until title to the Goods has passed to the Customer, the Customer must:
- (a) store the Goods in a secure, safe, dry and clean environment separately from other products and goods;
 - (b) ensure that the Goods are easily identifiable as belonging to Pharmagraph;
 - (c) not deface, destroy, alter or obscure any identifying mark on the Goods or their packaging;
 - (d) ensure that no charge, lien or other encumbrance is created over the Goods;
 - (e) deliver up the Goods to Pharmagraph upon demand;
 - (f) insure the Goods on Pharmagraph's behalf for their full price against all risks to the reasonable satisfaction of Pharmagraph (and on request produce to Pharmagraph such policy of insurance and a receipt for the then-current premium); and
 - (g) hold all proceeds of the insurance referred to above on trust for Pharmagraph and not mix them with any other monies or pay the proceeds into any overdrawn bank account.
- 4.4 Pharmagraph shall be entitled without further notice to inspect and/or recover possession of any Goods to which it retains title; and the Customer grants to Pharmagraph and its employees and agents an irrevocable licence to enter at any time any premises where the Goods are or may be situated for the purpose of inspecting or removing any Goods the title to which has remained with Pharmagraph.

4.5 Pharmagraph may bring an action for the Charges and any other amounts due under the Contract, notwithstanding that title to the Goods has not passed to the Customer.

5. Supply of Installation Services

5.1 This Clause 5 shall only apply if the Contract includes Installation Services.

5.2 Pharmagraph shall supply the Installation Services to the Customer using reasonable skill and care and in accordance with industry best practice and all relevant policies and procedures written and maintained by Pharmagraph or the manufacturer of the Goods.

5.3 Pharmagraph shall use all reasonable endeavours to meet any performance dates for the Installation Services specified in the Quotation, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Installation Services.

5.4 Save to the extent that the parties have agreed otherwise in writing, the Customer must provide to Pharmagraph, or procure for Pharmagraph, such:

- (a) co-operation, support and advice;
 - (b) information and documentation; and
 - (c) governmental, legal and regulatory licences, consents and permits,
- as are reasonably necessary to enable Pharmagraph to perform the Installation Services.

5.5 The Customer must provide to Pharmagraph, or procure for Pharmagraph, such access to the Customer's premises, computer hardware, software, networks and systems as may be reasonably required by Pharmagraph to enable Pharmagraph to perform the Installation Services.

5.6 The Customer shall be responsible for procuring any third party co-operation reasonably required by Pharmagraph to enable Pharmagraph to perform the Installation Services.

5.7 For the avoidance of doubt, Pharmagraph may subcontract the provision of the Installation Services. In the event of a subcontractor being used by Pharmagraph, the same terms and conditions will apply to their representatives as would apply to those of Pharmagraph. Pharmagraph shall remain responsible to the Customer for the performance of any subcontracted obligations.

5.8 If Pharmagraph's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, Pharmagraph may suspend the provision of the Installation Services until the Customer remedies the Customer Default, and may rely on the Customer Default to relieve it from performance of any of its obligations in each case to the extent the Customer Default prevents or delays Pharmagraph's performance of any of its obligations; and
- (b) Pharmagraph shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Pharmagraph's failure or delay to perform any of its obligations under the Contract.

6. Charges and Payment

6.1 The price of the Goods as stated in the Quotation excludes the costs and charges of packaging, insurance and transport of the Goods. These costs will also be invoiced to the Customer and form part of the Charges.

6.2 Pharmagraph may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond Pharmagraph's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give Pharmagraph adequate or accurate information or instructions.

6.3 Pharmagraph shall issue an invoice for the Charges to the Customer promptly following the agreement of a Quotation in respect of the Goods or (if otherwise stated in the Quotation) at the intervals specified in the Quotation.

6.4 Unless otherwise stated in the Quotation, the Customer must pay the Charges to Pharmagraph within the period of 30 days following the issue of an invoice in accordance with this Clause 6 and time for payment shall be of the essence of the Contract.

6.5 The Customer must pay the Charges by bank transfer (using such payment details as are notified by Pharmagraph to the Customer from time to time).

7. Warranties

7.1 Pharmagraph warrants to the Customer that on delivery, and for a period of 12 months from the date the Goods were first despatched (**Warranty Period**), the Goods shall:

- (a) conform in all material respects with any description of such Goods supplied by Pharmagraph to the Customer;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

7.2 Pharmagraph shall not be liable for the Goods' failure to comply with the warranty set out in Clause 7.1 if:

- (a) the Customer makes any further use of such Goods after giving notice in accordance with Clause 8.1(a);

- (b) the defect arises because the Customer failed to follow Pharmagraph's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of Pharmagraph following any drawing, design or specification supplied by the Customer;
- (d) the Customer alters or repairs such Goods without the written consent of Pharmagraph;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

7.3 Pharmagraph warrants to the Customer that:

- (a) Pharmagraph has (or will have at the relevant time) the right to sell the Goods;
- (b) the Goods are free from any charge or encumbrance, subject to the express provisions of the Terms and Conditions and to any charge or encumbrance disclosed or known to the Customer before the parties entered into the Contract; and
- (c) the Customer shall enjoy quiet possession of the Goods, subject to the express provisions of the Terms and Conditions.

7.4 All of the parties' warranties and representations in respect of the subject matter of the Contract are expressly set out in the Goods Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Contract will be implied into the Contract or any related contract.

7.5 The Goods Terms and Conditions shall apply to any repaired or replacement Goods supplied by Pharmagraph.

8. Breach of warranty

8.1 If any Goods do not comply with any warranty given by Pharmagraph under the Contract, the Customer may with the prior agreement of Pharmagraph return those Goods to Pharmagraph for (at the sole option of Pharmagraph):

- (a) a full credit of the Charges paid to Pharmagraph for such Goods;
- (b) replacement Goods; or
- (c) a credit note in respect of the Charges paid to Pharmagraph for such Goods, to be offset against future purchases from Pharmagraph,

providing that:

- i. (if the Goods do not comply with the warranty given in Clause 7.1) the Customer gives notice in writing to Pharmagraph during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty;
- ii. (if the Goods do not comply with the warranty given in Clause 7.1) Pharmagraph is given a reasonable opportunity of examining such Goods; and
- iii. the original delivery costs for such Goods and return costs shall be met by the Customer (re-delivery and related costs shall be met by Pharmagraph).

8.2 Goods returned under Clause 8.1 must be properly packed and returned to the premises of Pharmagraph within 30 Business Days following receipt of the Goods by the Customer; and any Goods returned in contravention of this Clause 8.2 will not be the subject of any refunds, credits or replacements and the Customer will continue to be liable for payment of any unpaid Charges in respect of such Goods.

9. Termination

9.1 If a Force Majeure Event prevents Pharmagraph (acting reasonably) from supplying the Goods in accordance with the Contract, Pharmagraph may terminate the Contract by giving to the Customer written notice of termination, such notice to be given at any time before supply of the Goods.

9.2 Pharmagraph may suspend provision of the Installation Services or terminate the Contract immediately by giving written notice to the Customer if:

- (a) any amount due to be paid by the Customer to Pharmagraph under the Contract is unpaid by the due date; and
- (b) Pharmagraph has given to the Customer notice of its failure to pay; and
- (c) the overdue amount remains unpaid 10 days after the Customer's notice under this Clause 9.2 is given.

9.3 Upon the termination of the Contract:

- (a) all of the provisions of these Goods Terms and Conditions shall cease to have effect, save that the following provisions of these Goods Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 2.5, 2.6, 3, 4, 6.4, 8, 9.3 and 10; and
- (b) the Customer shall immediately pay to Pharmagraph all of Pharmagraph's outstanding unpaid invoices and interest and, in respect of Installation Services and Goods supplied but for which no invoice has been submitted, Pharmagraph shall submit an invoice, which shall be payable by Pharmagraph immediately on receipt.

10. Entire agreement

10.1 The Goods Terms and Conditions, the General Terms and Conditions and the Quotation shall constitute the entire agreement between the parties in relation to the subject matter of the Contract, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

10.2 Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Contract.