

Acquisition Systems General Terms and Conditions – August 2023

Please read these General Terms and Conditions carefully. All contracts that Pharmagraph may enter into from time to time for the supply of goods, installation services and/or support services shall be governed by the General Terms and Conditions and any other relevant service/goods specific terms as indicated in the relevant quotation/schedule of works.

1. Definitions

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

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

"**Business Hours**" means the hours of 09:00 to 17:00 GMT/BST on a Business Day;

"**Confidential Information**" means any information disclosed (whether disclosed in writing, orally or otherwise) by one party to the other that is marked or described as "confidential" or should have been reasonably understood by the other party at the time of disclosure to be confidential, and the Contract. Confidential Information shall not include:

- (a) information that is publicly known (other than through a breach of an obligation of confidence);
- (b) information that is in possession of the other party prior to disclosure without an obligation of confidence; or
- (c) information that is received by the recipient from an independent third party who has a right to disclose the relevant information;

"**Contract**" means a particular contract made between Pharmagraph and the Customer under (a) either the Goods Terms and Conditions or the Support Contract Terms and Conditions; and (b) these General Terms and Conditions;

"**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 these terms and conditions, including any amendments to these terms and conditions from time to time.

1.2 Capitalised terms in these General Terms and Conditions which are not defined in Clause 1.1 above, shall be defined in the respective relevant service/goods specific terms as indicated in the relevant quotation/schedule of works.

2. Charges and Payment

2.1 The Customer shall pay the Charges to Pharmagraph in accordance with the Contract.

2.2 All amounts stated in or in relation to the Contract are, unless the context requires otherwise, stated exclusive of any applicable value added taxes which will be added to those amounts and payable by the Customer to Pharmagraph.

2.3 If the Customer does not pay any amount properly due to Pharmagraph under the Contract, Pharmagraph may:

- (a) charge the Customer interest on the overdue amount at the rate of 4% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or
- (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

2.4 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

3. Confidentiality obligations

3.1 Each party must in respect of the Confidential Information of the other party:

- (a) keep confidential and not disclose the Confidential Information to any person without the other party's prior written consent save as expressly permitted by this Clause 3;

- (b) protect the Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care; and
 - (c) not use any of the Confidential Information for any purpose other than to perform its obligations or enforce its rights under the Agreement.
- 3.2 Confidential Information of a party may be disclosed by the other party to that other party's officers, employees, agents, insurers and professional advisers who have a need to access the Confidential Information that is disclosed for the performance of their work with respect to the Agreement, provided that the recipient is subject to binding obligations to maintain the confidentiality of the Confidential Information disclosed.
- 3.3 The restrictions in this Clause 3 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request.
- 3.4 The provisions of this Clause 3 shall continue in force indefinitely following the termination or expiry of this Agreement.
- 4. Limitations and exclusions of liability**
- 4.1 Nothing in the Contract will:
- (a) limit or exclude any liability for death or personal injury resulting from negligence;
 - (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
 - (c) limit any liabilities in any way that is not permitted under applicable law; or
 - (d) exclude any liabilities that may not be excluded under applicable law.
- 4.2 The limitations and exclusions of liability set out in this Clause 4 and elsewhere in the Contract:
- (a) are subject to Clause 4.1; and
 - (b) govern all liabilities arising under the Contract or relating to the subject matter of the Contract, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in the Contract.
- 4.3 Neither party shall be liable to the other party in respect of any losses arising out of a Force Majeure Event.
- 4.4 Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings, loss of revenue or income, loss of use or production, loss of business, contracts or opportunities, loss or corruption of any data, database or software, nor any special, indirect or consequential loss or damage.
- 4.5 Subject to Clause 4.6, the aggregate liability of each party to the other party under the Contract shall not exceed either (a) (for contracts relating to the supply of goods and (if relevant) installation services) the total amount paid and payable by the Customer to Pharmagraph under the Contract; or (b) (for contracts relating to the supply of Support Services) an amount equal to the In-Contract Charges.
- 4.6 The limitation of liability in this Clause 4 shall not apply to the Customer's obligations to pay the Charges under the Contract.
- 5. Termination**
- 5.1 Either party may, by notice to the other party, immediately terminate the Contract if the other party:
- (a) breaches any material provision of the Contract and the breach is either incapable of being remedied or not remedied within 30 days of the receipt of the notice from the first party requiring it to remedy the breach.
 - (b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, becomes subject to any form of external administration or ceases to continue business for any reason.
- 5.2 Upon the termination of the Contract all of the provisions of these General Terms and Conditions shall cease to have effect, save that the following provisions of these General Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 2.3, 3, 4, 5.2, 5.3, 9 and 10.
- 5.3 Except to the extent expressly provided otherwise in the Contract, the termination of the Contract shall not affect the accrued rights of either party.

6. Force Majeure Event

- 6.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Contract (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.
- 6.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Contract, must:
- (a) promptly notify the other; and
 - (b) inform the other of the period for which it is estimated that such failure or delay will continue.
- 6.3 A party whose performance of its obligations under the Contract is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

7. Notices

- 7.1 Any notice given under the Contract must be in writing, whether or not by one of the following methods (using the contact details set out in the Quotation or Schedule of Works (as relevant) for the Customer and Clause 7.2 for Pharmagraph):
- (a) delivered personally or sent by courier, in which case the notice shall be deemed to be received upon delivery; or
 - (b) sent by recorded signed-for post, in which case the notice shall be deemed to be received upon delivery; or
 - (c) sent by email, in which case the notice shall be deemed to be received at the time of the sending of the email (providing that the sending party retains written evidence that the email has been sent), provided that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time.
- 7.2 Pharmagraph's contact details for notices under this Clause 7 are as follows:
 39 Ivanhoe Road, Hogwood Industrial Estate, Finchampstead, Wokingham, Berkshire, RG40 4QQ
 sales@pharmagraph.co.uk
- 7.3 The addressee and contact details set out in Clause 7.2 and the Quotation or Schedule of Works (as relevant) may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 7.

8. Assignment

- 8.1 The Customer hereby agrees that Pharmagraph may assign, transfer or otherwise deal with Pharmagraph's contractual rights and obligations under the Contract.
- 8.2 Save to the extent expressly permitted by applicable law, the Customer must not assign, transfer or otherwise deal with the Customer's contractual rights and/or obligations under the Contract without the prior written consent of Pharmagraph, such consent not to be unreasonably withheld or delayed.

9. General

- 9.1 No breach of any provision of the Contract will be waived except with the express written consent of the party not in breach. No waiver of any breach of any provision of the Contract shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of the Contract.
- 9.2 If a provision of the Contract is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect. If any unlawful and/or unenforceable provision of the Contract would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.
- 9.3 The Contract is for the benefit of the parties, and is not intended to benefit or be enforceable by any third party. The exercise of the parties' rights under the Contract is not subject to the consent of any third party.
- 9.4 The Contract may not be varied except by means of a written document signed by or on behalf of each party.

10. Law and jurisdiction

- 10.1 The Contract shall be governed by and construed in accordance with English law.
- 10.2 Any disputes relating to the Contract shall be subject to the exclusive jurisdiction of the courts of England.