

## 1. Definitions

In this document the following words shall have the following meanings:

- 1.1 **"Agreement"** means these Terms and Conditions together with the terms of any applicable Purchase Order;
- 1.2 **"Customer"** means Linnaeus Veterinary Limited, Friars Gate, 1011 Stratford Road, Shirley, West Midlands, B90 4BN, UK;
- 1.3 **"Intellectual Property Rights"** means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable;
- 1.4 **"Purchase Order"** means the standard Customer document which includes or is attached to a statement of work describing the goods and/or services to be provided by the Supplier and which provides a maximum value payable by the Customer to the Supplier;
- 1.5 **"Supplier"** means the organisation or person who supplies goods and/or services to the Customer;
- 1.6 **"Supplier Personnel"** means any employee or contractor supplied by the Supplier to provide services.

## 2. General

- 2.1 These Terms and Conditions shall apply to all contracts for the supply of goods and/or services by the Supplier pursuant to one or more Purchase Order.
- 2.2 Where it is agreed that the Supplier shall supply goods and/or services, the goods and/or services to be supplied, the price payable and any other special terms agreed between the parties shall be set out in the Purchase Order. All Purchase Orders shall be subject to these Terms and Conditions.
- 2.3 No changes or variations to these Terms and Conditions or any Purchase Order shall be effective unless agreed in writing between the parties.

## 3. Price and Payment Terms

- 3.1 The price and any taxes and expenses for the goods and/or services shall be as specified in the Purchase Order.
- 3.2 An invoice shall be produced by the Supplier to the Customer in accordance with the terms set out in the Purchase Order. The Customer shall pay for the undisputed amount for goods and/or services on the next payment run following 30 days from the end of the month in which the Customer receives a valid invoice for the goods and/or services supplied. In no circumstances shall the time for payment be of the essence of the Agreement.
- 3.3 The Customer shall not be responsible for any expenses, charges or price other than those set out in the Purchase Order.
- 3.4 In the event of late payment by the Customer, the Supplier shall be entitled to charge the Customer interest at the rate of 2% per annum above the base rate of the Bank of England, for any undisputed amount, from the date when payment becomes due from day to day until the date of payment.
- 3.5 If the parties agree that the Supplier is to provide goods and/or services or resources in addition to those specified in a Purchase Order, then such agreement will be reflected in a further Purchase Order, which will be deemed incorporated into this Agreement.
- 3.6 Once a Purchase Order has been agreed by the Customer the price for the goods and/or services shall be fixed.

## 4. Warranty

- 4.1 The Supplier warrants and guarantees that all goods and materials supplied under this Agreement shall be free from any defects, patent or latent, in material and workmanship, conform to applicable specifications and drawings and, to the extent that detailed designs were not provided to the Customer, will be free from design defects and in every aspect suitable for the purposes intended by the Customer, as to which the Supplier hereby acknowledges that it has had due notice. The approval by the Customer of any designs provided by the Supplier shall not relieve the Supplier of its obligations under any provision contained in this Clause.
- 4.2 The Supplier's obligations under this Clause shall extend to any defect or non-conformity arising or manifesting itself within the manufacturers' warranty period from delivery.

4.3 Where there is a breach of the warranty contained in this Clause by the Supplier, the Customer, without thereby waiving any rights or remedies otherwise provided by law and/or elsewhere in this Agreement, may require the Supplier to repair or replace the defective goods at the Supplier's risk and expense or repay the price or part of the price relating to the defect to the Customer.

4.4 Items repaired or replaced shall be subject to these Terms and Conditions in the same manner as those originally delivered under this Agreement. If the Supplier refuses or fails promptly to repair or replace items when requested under this provision, the Customer may itself, or through an agent or sub-contractor, or otherwise, repair or replace any item itself and the Supplier agrees to reimburse the Customer for any costs or expenses incurred.

## 5. Delivery

5.1 Delivery of the goods shall be made to such location as the Customer shall direct. Any time agreed between the parties for such delivery shall be of the essence of the Agreement and the Customer shall be entitled to cancel, without notice, the whole or any part of this Agreement if this Clause is not complied with by the Supplier.

5.2 Where the Customer cancels the whole or part of the contract in accordance with Clause:

- 5.2.1 All sums payable by the Customer in relation to the whole or part of the contract cancelled shall cease to become payable;
- 5.2.2 All sums paid by the Customer in relation to the whole or part of the contract cancelled shall be repaid by the Supplier immediately;
- 5.2.3 the Customer shall be entitled to recover damages from the Supplier for any loss caused as a result of the Supplier's failure to deliver the goods and/or as a result of the cancellation of the whole or part of the contract.

## 6. Title

- 6.1 The Supplier warrants that it has good title to the goods and that it will transfer such title as it may have in the goods to the Customer pursuant to Clause 6.2.
- 6.2 Title in the goods will pass to the Customer when the goods are unconditionally appropriated (by either party or by or with the consent of either party) to this Agreement, or on delivery to the Customer, whichever happens first.

## 7. Risk

The goods will be and shall remain at the Supplier's risk until such time as they are delivered to the Customer (or at his direction) and are found to be in accordance with the requirements of this Agreement. It shall be the duty of the Supplier at all times to maintain a contract of insurance with an FCA registered insurance company over the goods to cover any liabilities that may arise and, on request from the Customer, to assign to the Customer the benefits of such insurance.

## 8. Inspection of Goods, Acceptance and Rejection

- 8.1 All delivery of goods or performance of services shall be subject to the Customer's right of inspection. The Customer shall inspect the goods or services upon delivery where possible, but no later than 30 days following delivery. Where applicable the goods must comply with any applicable laws including but not limited to the requirements of the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation.
- 8.2 The Supplier must agree to provide free of charge any information that the Customer or any third party nominated by the Customer may reasonably request regarding the goods.
- 8.3 Where goods are damaged the Customer shall notify the Supplier. The Customer may reject the damaged goods and the following provisions shall apply:
  - 8.3.1 the Supplier shall collect the damaged goods from the Customer at the Supplier's expense;
  - 8.3.2 during the period between delivery of the goods to the Customer and collection by the Supplier, the Customer shall not be liable for any loss or further damage caused to the damaged goods;
  - 8.3.3 all sums payable by the Customer in relation to the damaged goods shall cease to become payable;
  - 8.3.4 all sums paid by the Customer in relation to the damaged goods shall be repaid by the Supplier immediately;

8.3.5 the Customer shall be entitled to claim damages from the Supplier for any losses caused to the Customer as a result of the goods being damaged.

8.4 Where there are shortages in the order the Customer shall notify the Supplier and the following provisions shall apply:

8.4.1 all sums payable by the Customer in relation to the missing goods shall cease to become payable;

8.4.2 all sums paid by the Customer in relation to the missing goods shall be repaid by the Supplier immediately;

8.4.3 the Customer shall be entitled to claim damages from the Supplier for any losses caused to the Customer as a result of the shortages.

8.5 If the Customer so requests, the Supplier shall immediately replace damaged goods or supply goods which are missing at the Supplier's expense or the Customer shall be entitled to cancel, without notice, the whole or any unexecuted part of the order and the rights referred to in Clause 5.2 shall apply.

8.6 Where there is an excess of goods in relation to the order the Customer may reject the excess goods by notice in writing to the Supplier and the following provisions shall apply:

8.6.1 the Supplier shall collect the excess goods from the Customer at the Supplier's expense;

8.6.2 during the period between delivery of the goods and collection by the Supplier, the Customer shall not be liable for any loss or damage caused to the excess goods;

8.6.3 no sum shall be due to the Supplier for the excess goods and in the event that sums are paid to the Supplier for the excess goods, the Supplier shall repay such sums to the Customer immediately.

8.7 The Customer may accept excess goods by notifying the Supplier of such acceptance and the price of the excess goods shall be payable by the Customer.

8.8 The Supplier shall repair or replace free of charge, goods damaged or lost in transit upon receiving notice to that effect from the Customer.

8.9 The Customer's signature on any delivery note of the Supplier is evidence of the number of packages received only and not evidence of the correct quantity of goods received or that the goods are in a good condition or of the correct quality.

#### **9. Supplier's Obligations**

9.1 The Supplier warrants, represents and undertakes that:

9.1.1 all services performed under this Agreement shall be performed with all due skill and care, in a good and workmanlike manner and otherwise in line with best practice within its industry ("Best Industry Practice");

9.1.2 the Supplier Personnel will possess the qualifications, professional competence and experience to carry out such services in accordance with Best Industry Practice;

9.1.3 the services will not in any way infringe or violate any Intellectual Property Rights, trade secrets or rights in proprietary information, nor any contractual, employment or property rights, duties of non-disclosure or other rights of any third parties;

9.1.4 it has full capacity and authority to enter into this Agreement and that it has or will obtain prior to the commencement of the services, any necessary licences, consents and permits required of it for the performance of the services; and

9.1.5 it will perform its duties and obligations under this Agreement in compliance:

- a) all applicable laws, rules and regulations; and
- b) with the Mars Suppliers Code of Conduct and Handbook at: <https://www.mars.com/about/policies-and-practices/supplier-code-of-conduct>

9.2 The Supplier shall provide the Customer with such progress reports, evidence or other information concerning the services as may be requested by the Customer from time to time.

9.3 The Supplier shall be responsible for maintaining such insurance policies with an FCA registered insurance company in connection with the provision of the services as may be appropriate or as the Customer may require from time to time to cover the liabilities that may arise under or in connection with this Agreement, being at least the following:

- a) employer's liability insurance or similar insurance(s) in accordance with any laws which may be applicable to the Supplier's employees, agents or sub-contractors engaged

directly or indirectly in the performance of this Agreement in the amount of at least £10,000,000 for any one occurrence or the amount required by applicable law, whichever is higher;

- b) public liability insurance in the amount of at least £5,000,000 for any one occurrence;
- c) product liability insurance in the amount of at least £10,000,000 for any one occurrence; and
- d) professional liability insurance in the amount of at least £5,000,000 per claim with an annual aggregate of at least £5,000,000 inclusive of legal defence costs.

Evidence of such insurances shall be provided to the Customer on request.

9.4 The Supplier shall procure that the Supplier Personnel take all reasonable steps to safeguard their own safety and the safety of any other person who may be affected by their actions, and the Supplier agrees to indemnify and keep indemnified the Customer from all and any liabilities, obligations, costs and expenses whatsoever arising from any loss, damage or injury caused to the Customer or any third party by the Supplier Personnel.

9.5 Hazardous Materials. The Supplier agrees to provide, upon and as requested by the Customer, to satisfy any applicable laws governing the use of any hazardous substances either of the following: (a) all reasonably necessary documentation to verify the material composition, on a substance by substance basis, including quantity used of each substance, of any Goods, and/or of any process used to make, assemble, use, maintain or repair any Goods; or (b) all reasonably necessary documentation to verify that any Goods and/or any process used to make, assemble, use, maintain or repair any Goods, do not contain, and the Services do not require the use of, any particular hazardous substances specified by the Customer.

#### **10. Status and Liabilities**

10.1 It is expressly understood that neither the Supplier nor the Supplier Personnel have the authority to act as agent for the Customer or to contract on the Customer's behalf.

10.2 The Supplier Personnel shall at no time be deemed to be employed or otherwise engaged by the Customer.

10.3 The Supplier shall be responsible for paying the Supplier Personnel and for making any deductions required by law in respect of income tax and National Insurance contributions or similar contributions relating to the provision of the services. The Supplier agrees to indemnify the Customer in respect of any claims that may be made by the relevant authorities against the Customer in respect of tax demands or National Insurance or similar contributions relating to the provision of the services by the Supplier.

10.4 The Supplier shall, and shall procure that the Supplier Personnel shall, comply with all applicable statutes, rules and regulations in providing the services, including all immigration and employment requirements imposed by any applicable jurisdiction, and the Supplier shall indemnify and hold harmless the Customer from damages arising out of any failure to do so.

10.5 Limitation of Liability. EXCEPT FOR SUPPLIER'S OBLIGATIONS UNDER SECTION 9, AND EXCEPT FOR DAMAGES THAT ARE THE RESULT OF THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A PARTY, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING ANY LOST PROFITS, DATA, GOODWILL, OR BUSINESS OPPORTUNITY FOR ANY MATTER RELATING TO THIS AGREEMENT.

#### **11. Data Protection**

11.1 If the Supplier Processes any Personal Data, the Supplier further represents and warrants as follows:

The following terms shall have the meanings set out below:

"Data Subject" means a living individual who is the subject of any of the Personal Data;

"Data Privacy Legislation" means all laws and regulations, in any country of the world, which protect the privacy rights of individuals, in so far as those laws and regulations apply to the Processing of personal data in connection with this Agreement, including without limitation data protection legislation enacted

by the EU and EU Member States, US federal and state laws relating to data privacy, and similar measures;

"Data Security Breach" means been (1) any unauthorized access to or acquisition of data that compromises the security, confidentiality or integrity of Personal Data, or (2) any unauthorized disclosure of, access to or use of any Personal Data, or (3) any unauthorized intrusion into systems containing Personal Data resulting in unauthorized access or access in excess of authorization

"Personal Data" shall mean any information which relates to an identified or identifiable living individual which is processed by the Supplier for the purposes of performing the Supplier's obligations under this P.O. (and for this purpose, an identifiable individual is one who can be identified, directly or indirectly, (i) from that information or (ii) from that information and any other information which is in the possession of, or likely to come into the possession of, the entity controlling the Processing of that information);

"Processing" shall mean any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

11.2 The Supplier shall (a) comply with applicable Data Privacy Legislation, and use all reasonable endeavours to assist the Customer in its own compliance with Data Privacy Legislation; (b) not do, or cause or permit to be done, anything in relation to the information provided to or processed by them which may result in a breach by the Customer of any applicable laws, regulations, regulatory requirements, or the Data Privacy Legislation; (c) only Process the Personal Data in accordance with the Customer's documented instructions (unless otherwise required by applicable law, in which case the Supplier shall inform the Customer of that legal requirement before carrying out the required Processing, unless that law prohibits such information on important public interest grounds); (d) put in place measures to ensure that any employees who have access to Personal Data do not process Personal Data except on instructions from Buyer, unless required to do so by EU or EU Member State law and that any employees who have access to Personal Data are reliable and have committed themselves to confidentiality; (e) adopt all reasonable recommendations which the Customer may make concerning measures, programs and procedures to be adopted to ensure ongoing compliance with the data privacy provisions of their agreement(s), including any company policies which the Customer may have regarding information security which will be communicated to the Supplier; (f) neither disclose the Personal Data to any other body (including any subcontractor) nor subcontract any of their duties without the Customer's prior express agreement in writing, which must be governed by EU Member State law to the extent that the agreement relates to European Personal Data and which imposes on the subcontractor the same obligations that the Supplier is bound to herein, including obligations to allow inspection and audit of their Processing activities. Any consent the Customer gives for subcontracting will not relieve the Supplier of any liability for the performance of their obligations under any agreement in connection with services provided; (g) provide the Customer with a copy of the Personal Data or (at the Customer's option) destroy it; and (h) upon termination of the Supplier's provision of services relating to Personal Data, delete or return all the Personal Data to the Customer and delete any existing copies of the Personal Data, save where applicable law requires the Supplier to retain copies of such data.

11.3 If the Supplier receives a request from Data Subject in connection with his/her own Personal Data or any request and/or complaint regarding Buyer's obligations under the Data Privacy Legislation, the Supplier shall assist the Customer as follows: (a) promptly notify the Customer if they receive such a request from a Data Subject to have access to Personal Data or exercise any other applicable Data Subject rights, or if they receive any other complaint or request relating to the

Customer's obligations under the Data Privacy Legislation; (b) assist the Customer insofar as possible in responding to any such complaint or request; and (c) assist the Customer insofar as possible in responding to any such complaint or request, including, without limitation: (i) where authorized by the Customer, by allowing Data Subjects to have access to their Personal Data or to have that Personal Data corrected, deleted, or blocked within the relevant time frames set out by applicable law; (ii) by providing the Customer with any information the Customer requests relating to the Processing of Personal Data under this P.O.; and (iii) by providing the Customer with any Personal Data the Supplier holds in relation to a Data Subject.

11.4 The Supplier shall not transfer Personal Data from the European Economic Area or relating to residents of the European Economic Area to any location outside the European Economic Area unless the Customer has consented to such transfer and such transfer complies and continues to comply with the requirements for international data transfers under EU Data Privacy Legislation, or such transfer is required by EU or EU Member State law to which a Seller is subject. In such a case, the Supplier shall inform the Customer of that legal requirement before carrying out the required Processing, unless that law prohibits such information on important public interest grounds.

11.5 In addition, to other obligations set forth herein, if EU Personal Data is transferred from a the Customer's entity located in the United States to the Supplier, the Supplier shall (a) only process the Personal Data in accordance with the Customer's documented instructions and the consent provided by the Data Subjects whose Personal Data the Supplier is Processing; (b) provide the same level of protection as the Privacy Shield Principles over the Personal Data the Customer transfers to the Supplier and notify the Customer if the Supplier no longer meets this obligation; (c) cease Processing or take reasonable and appropriate steps to remediate any inability to meet Supplier's obligations under 11.3 of this Agreement, and (d) assist the Customer in responding to individuals whose Personal Data the Customer transferred to the Supplier when they exercise their rights under the Privacy Shield.

11.6 If the Customer is required by the Data Privacy Legislation to carry out a Privacy Impact Assessment in relation to the services provided by the Supplier, the Supplier will provide the Customer with such support and information as the Customer may reasonably require in carrying out such assessment.

11.7 The Supplier shall (a) implement and maintain appropriate technical and organizational measures to ensure the security and protection of Personal Data, taking into account the nature and sensitivity of the information to be protected, the risk presented by Processing, the state of the art, and the costs of implementation, in compliance with applicable Data Privacy Legislation; (b) permit Buyer to inspect to inspect and audit the Supplier's Processing activities under this P.O.; (c) comply with all reasonable requests or directions by the Customer to enable the Customer to verify and/or procure that they are in full compliance with their obligations in connection with services provided by them to the Customer; (d) immediately inform the Customer if in the Supplier's opinion one of the Customer's instructions infringes data protection provisions of the European Union or an EU Member State; (e) keep in force the security measures described in the Supplier's answers to the Customer's online vendor security assessment questionnaire ("Supplier Security Assessment"). The Supplier warrants that such answers are true and accurate and understand that it might have to re-attest to its responses on an annual basis. Where European Personal Data is Processed, such security measures shall meet the requirements of the applicable Data Privacy Legislation; and (f) promptly notify the Customer of any reason why they cannot or are not likely to be able to comply with the security provisions in this paragraph, in which case the Customer shall, at its sole discretion, be entitled to suspend or terminate the provision of any services provided by the Supplier.

11.8 The Supplier shall immediately notify the Customer if the Supplier knows, discover or reasonably believes that Data Security Breach has occurred; and in the event of a Data Security Breach, (a) immediately investigate, correct, mitigate,

remediate and otherwise handle the Data Security Breach; (b) provide information and assistance needed to enable the Customer to evaluate the Data Security Breach and, as applicable, to provide timely notices and information to relevant regulators; and (c) reimburse the Customer for the reasonable expenses that the Customer may incur as a result of such Data Breach caused by the Supplier's acts or omissions or those of any of the Supplier's authorized subcontractors.

#### **12. Termination**

12.1 The Customer may terminate this Agreement for any reason by providing 15 days prior written notice to the Supplier.

12.2 The Customer may terminate this Agreement with immediate effect by providing written notice to the Supplier if:

12.2.1 the Supplier or the Supplier Personnel commit any material or persistent breach of this Agreement;

12.2.2 the Supplier fails to or refuses after written warning to procure that the Supplier Personnel provide the services properly required of them in accordance with this Agreement;

12.2.3 the Supplier passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;

12.2.4 the Supplier ceases to carry on its business or substantially the whole of its business; or

12.2.5 the Supplier is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

#### **13. Indemnity**

The Supplier agrees to indemnify the Customer against all claims, costs and expenses which the Customer may incur and which arise, directly or indirectly, from the Supplier's breach of any of its obligations under this Agreement.

#### **14. Intellectual Property Rights**

All Intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall, so far as not already vested, become the absolute property of the Customer, and the Supplier shall do all that is reasonably necessary to ensure that such rights vest in the Customer by the execution of appropriate instruments or the making of agreements with third parties.

#### **15. Confidentiality**

Supplier shall safeguard and keep confidential any and all information relating to Customer obtained by it or provided to it by the Customer in connection with this Agreement and shall use such information only for the purposes of carrying out its obligations under this Agreement.

#### **16. Force Majeure**

The Customer shall not be liable for any delay or failure to perform any of its obligations under this Agreement if the delay or failure results from events or circumstances beyond its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, flood or industrial disputes, and the Customer shall be entitled to a reasonable extension of its obligations.

#### **17. Relationship of Parties**

17.1 Nothing in this Agreement shall be construed as establishing or implying any partnership or joint venture between the parties and nothing in this Agreement shall be deemed to construe either of the parties as the agent of the other.

17.2 The Supplier will perform its obligations under the Agreement as an independent contractor and in no way will Supplier or its employees be considered employees, agents, partners, fiduciaries, or joint ventures of the Customer. The Supplier and its employees will have no authority to represent the Customer or its Affiliates or bind the Customer or its Affiliates in any way, and neither the Supplier nor its employees will hold themselves out as having authority to act for Buyer or its Affiliates. The Supplier must get prior written authority from the Customer to use any 3rd parties to carry out works on the Supplier's behalf.

#### **18. Assignment**

The Supplier shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Customer.

#### **19. Severability**

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

#### **20. Waiver**

No failure by the Customer to enforce any of these Terms and Conditions shall constitute a waiver of its rights hereunder.

#### **21. Notices**

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Purchase Order or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

#### **22. No third parties**

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

#### **23. Entire Agreement**

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

#### **24. Governing Law and Jurisdiction**

This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.