

1 INTERPRETATION

Definitions. In these Conditions, the following definitions apply:

Company: Nexeon Limited, its registered address is at 136 Eastern Avenue, Milton Park, Abingdon, OX14 4SB, UK

Company Materials: has the meaning set out in clause 5.3.i).

Conditions: terms and conditions set out in this document as amended from time to time in accordance with clause 17.7., the provisions of the Sale of Goods Act 1979 (for order of goods) and the supply of Goods and Services Act 1982 (for order of services) which shall apply to the Orders except to the extent that they are varied by the terms of the Order.

Contract: the contract between the Company and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

Goods: the goods and materials or any part of them set out in the Order.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Company's order for the supply of Goods and/or Services, as set out in the Company's purchase order form.

Services: the services to be provided by the Supplier under the Contract as set out in the Specification.

Specification: the quantity, description or specification for the Goods, or the scope, description or specification for the Services agreed in writing by the Company and the Supplier.

Supplier: the person or firm from whom the Company purchases the Goods and/or Services.

2 BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Company to purchase Goods and/or Services from the Supplier in accordance with the following Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
 - a) the Supplier issuing written acceptance of the Order; or
 - b) any act by the Supplier consistent with fulfilling the Order,
 at which point and on which date the Contract shall come into existence.
- 2.3 These Conditions apply to the Contract to the exclusion of all other terms and conditions including any terms and conditions that the Supplier seeks to impose or incorporate, even if such document is referred to in the Contract.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3 SUPPLY OF GOODS

- 3.1 The Supplier shall ensure, unless agreed otherwise by the Company in writing, for a period of 12 months after delivery that the Goods shall:
 - a) correspond with their description and any applicable Specification;
 - b) be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by the Company, expressly or by implication, and in this respect the Company relies on the Supplier's skill and judgment;
 - c) where applicable, be free from defects in design, materials and workmanship;

- d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
- e) be accompanied by sufficient instructions and documentation to inform the Company of: (i) hazardous materials or radioactive substances comprised in the Goods; (ii) the shelf life, cycle life or usage lifespan of the Goods; (iii) the measures necessary to appropriately maintain the Goods during use, storage and transport; and (iv) any laws, regulations, safety recommendations or industry best practice applicable to the use, storage, transport and disposal of the Goods (including but not limited to health and safety regulations).

3.2 The Company shall have the right to inspect and conduct testing the Goods at any time on reasonable notice to the Supplier before delivery.

3.3 If following such inspection or testing the Company considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Company shall inform the Supplier and the Supplier shall immediately take any necessary remedial action.

4 DELIVERY OF GOODS

- 4.1 The Supplier shall ensure that:
 - a) the Goods are properly packed and secured to enable them to reach their destination in perfect condition;
 - b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods including the code number of the Goods where applicable, instructions required under 3.1. (e), and if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - c) if the Supplier requires the Company to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
 - a) on the date specified in the Order or sales acknowledgement issued by the Supplier and accepted by the Company. If no delivery date is specified, then the Supplier delivers the Goods within 14 days of the date of the Order;
 - b) to such location as is set out in the Order or as instructed by the Company before delivery (**Delivery Location**); and
 - c) during the Company's normal business hours or as instructed by the Company.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 If the Supplier delivers more or less quantity of Goods ordered, the Company may reject the Goods or the excess Goods. Any rejected Goods shall be returnable at the Supplier's risk and expense. If the Company accepts more or less than the quantity of Goods ordered, a pro rata adjustment shall be made to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without the Company's prior written consent. Instalments may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Company to the remedies set out in clause 6.1.
- 4.6 Title and risk in the Goods shall pass to the Company on completion of delivery.

5 SUPPLY OF SERVICES

- 5.1 The Supplier shall provide the Services from the date and for the duration set out in the Order.
- 5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Company.
- 5.3 In providing the Services, the Supplier shall:
 - a) co-operate with the Company in all matters relating to the Services, and comply with all reasonable instructions of the Company;

- b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- c) use sufficient number of personnel who are suitably skilled and experienced to perform tasks assigned to them;
- d) ensure that the Services will conform with the Specification, and be fit for any purpose expressly or impliedly made known to the Supplier by the Company;
- e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- f) use the best quality goods, materials, standards and techniques, and ensure that the all goods and materials used in the Services or transferred to the Company will be free from defects in workmanship, installation and design;
- g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Company's premises;
- i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Company to the Supplier (**Company Materials**) in safe custody, bear all risks of its losses or damages, maintain the Company Materials in good condition until returned to the Company, and not dispose or use the Company Materials other than in accordance with the Company's order, written instructions or authorisation; and
- j) not do or omit to do anything which may cause the Company to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business.

6 COMPANY REMEDIES

- 6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, or the Goods and/or the Services do not comply with the undertakings set out in clause 3 and 5, the Company shall, without limiting its other rights or remedies:
 - a) terminate the Contract with immediate effect by written notice to the Supplier;
 - b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
 - c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
 - d) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
 - e) to recover from the Supplier any costs incurred by the Company in obtaining substitute goods and/or services from a third party;
 - f) where the Company has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and
 - g) to claim damages for any additional costs, loss or expenses incurred by the Company which are in any way attributable to the Supplier's failure to meet its obligations.
- 6.2 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 6.3 The Company's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

7 CHARGES AND PAYMENT

- 7.1 The price for the Goods and /or Services shall be the price set out in the Order and be inclusive of every cost and expense of the Supplier directly or indirectly incurred in connection with the Order, including but not limited to the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Company. No extra charges shall be effective unless agreed in writing and signed by the Company.

- 7.2 The Supplier shall invoice the Company on or at any time after completion of delivery of the Goods or completion of the Services. Each invoice shall include such supporting information required by the Company to verify the accuracy of the invoice. Where the Supplier submits an invoice in accordance with this clause the Company will consider and verify that invoice.
- 7.3 In consideration of the supply of Goods and/or Services by the Supplier, the Company shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 7.4 All amounts payable by the Company under the Contract are exclusive of valued added tax (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Company, the Company shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts of VAT at the same time as payment is due for the supply of the Goods and/or Services.
- 7.5 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Company to inspect such records on request.
- 7.6 The Company may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Company against any liability of the Company to the Supplier under the Contract.

8 INTELLECTUAL PROPERTY RIGHTS

- 8.1 The Supplier warrants that it has full clear title to the Goods, and that at the date of delivery of such items to the Company, it will have full and unrestricted rights to sell and transfer all such items to the Company.
- 8.2 The Supplier warrants that Goods and Services it provides do not infringe any third-party rights or Intellectual Property Rights.
- 8.3 The Company will own all Intellectual Property Rights of Goods and Services generated by the Supplier if the Supplier carries out development work and/or design work at the Company's request and expense.
- 8.4 All Company Materials are the exclusive property of the Company.

9 COMPLIANCE WITH LAWS AND REGULATIONS

- 9.1 The Supplier shall ensure that at all times it has and maintains all licences, permissions, authorisations, consents and permits needed to carry out its obligations under the Contract.
- 9.2 The Supplier shall be responsible for obtaining and completing any necessary export documentation in accordance with applicable law including, without limitation, valuation of shipments for customs purposes and correct commodity code.
- 9.3 The Supplier shall comply with:
 - a) all applicable laws relating to anti-bribery and anticorruption, including without limitation the Bribery Act 2010 and will not engage in any conduct which would constitute an offence under the UK's Bribery Act 2010 if carried out in the UK; and
 - b) if applicable, the Modern Slavery Act 2015 and OECD guidance on the use of conflict materials, child labour and other ethical subjects such as employment rights.

10 INDEMNITY

- 10.1 The Supplier shall keep the Company indemnified against all liabilities, costs, expenses, damages and 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 legal and professional costs and expenses suffered or incurred by the Company as a result of or in connection with:
 - a) any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions

- of the Supplier, its employees, agents or subcontractors;
- b) any claim made against the Company by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
 - c) any claim made against the Company by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 10.2 This clause 10 shall survive termination of the Contract.

11 INSURANCE

During the term of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company: product liability insurance; public liability insurance; employers liability insurance; and professional indemnity insurance, as appropriate and necessary to cover the risks and/or liabilities that may arise under or in connection with the Contract, and shall, on the Company's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

12 CONFIDENTIALITY

- 12.1 A party (**receiving party**) shall keep in strict confidence the existence of the Contract, 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 employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 12.2 The Supplier shall assist and cooperate with the Company (at the Supplier's expense) to enable the Company to comply with any information disclosure requirements, and in so doing will observe any timescales notified to it by the Company.
- 12.3 Where the Supplier has access to information about people, it shall ensure that in making the Supply the provisions of the Data Protection Act 2018 are observed (and also any of the Company's data protection requirements notified to the Supplier)
- 12.4 This clause shall survive termination of the Contract indefinitely.

13 TERMINATION

- 13.1 Without limiting its other rights or remedies, the Company may terminate the Contract by giving the Supplier 14 days' written notice. The Supplier shall discontinue all work on the Contract. The Company shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods and/or the Services at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 13.2 In any of the circumstances in these Conditions in which a party may terminate the Contract, that party may terminate the Contract in respect of any part of the Goods or Services, and the Contract shall continue in respect of the remaining supply.

- 13.3 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- a) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - b) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Supplier is a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - d) the Supplier (being an individual) is the subject of a bankruptcy petition or order;
 - e) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
 - g) the holder of a floating charge over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - h) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
 - i) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.3.c) to clause 13.3.j) inclusive;
 - j) the Supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business;
 - k) the Supplier's financial position deteriorates to such an extent that in the Company's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - l) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 13.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

14 CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason, the Supplier shall immediately deliver to the Company all Goods whether or not then complete, and return all Company Materials. If the Supplier fails to do so, the Company may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose other than this Contract.

15 FORCE MAJEURE

- 15.1 Neither party shall be liable for delay in performing, or failure to perform, any of its obligations under the Contract if such a delay or failure result from events or circumstances beyond the reasonable control of that party, and which by nature could not have been foreseen and was unavoidable, provided the Supplier shall use all reasonable endeavours to mitigate the effect of such events or circumstances on the performance of its obligations.
- 15.2 If any event or circumstances prevents the Supplier from carrying out its obligations for a continuous period of more than seven days, the Company may terminate the Contract immediately by giving written notice to the Supplier.

16 GENERAL

- 16.1 **Assignment and subcontracting.**
 - a) The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
 - b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Company.
- 16.2 **Notices.** All communication given to a party under or in connection with the Contract shall be in writing, addressed to that party specifies to the other party in writing, and shall be delivered personally, or sent by pre-paid first-class post or other next working day delivery service, commercial courier or e-mail.
- 16.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the other provision of the Contract.

- 16.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 16.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose.
- 16.6 **Third parties.** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 16.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed by both parties in writing and signed by the Company.
- 16.8 **Governing law and jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
- 16.9 **Disputes.** If any difference shall arise between the Company and the Supplier as to the interpretation or operation of these Conditions as to the rights, duties, obligations or liabilities of either party hereto which cannot be resolved amicably between the parties within a reasonable time then either party may refer the dispute to The London Court of International Arbitration.