

NICHOLS PLC – STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

1.	Interpretation	
1.1	Definitions:	
	Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
	Commencement Date	has the meaning given in clause 2.4.
	Conditions	the terms and conditions set out in this document, as amended from time to time in accordance with clause 18.4.
	Confidential Information	has the meaning given in clause 13.1.
	Contract	the contract between the Customer and the Supplier for the supply of the Goods and/or Services, to be governed by these Conditions in accordance with clause 2.1.
	Customer	Nichols plc (registered in England and Wales with company number 00238303) or any member of its Group.
	Customer Materials	has the meaning given in clause 3.6.6.
	Deliverables	all documents, plans, drawings, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Goods and/or Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
	Delivery Date	the date specified for delivery of the Goods in the Order, or, if none is specified, within five (5) days of the date of the Order.
	Delivery Location	the location for delivery of the Goods, as set out in the Order.
	Goods	the goods or products (or any part of them) set out in the Order and/or the Product Specification, including any Deliverables.
	Group	in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company (and holding company and subsidiary have the respective meanings given in clause 1.2.6).
	Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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.
	Mandatory Policies	The Customer's following policies, as amended by notification to the Supplier from time to time: Nichols Manufacturing Standard; Nichols Code of Conduct; Human Rights & Modern Slavery Policy; Anti-Corruption and Bribery Policy; Anti-Facilitation of Tax Evasion Policy; Sanctions Policy; Anti-Money Laundering & Counter Terrorism Policy; Whistleblowing Policy.

Order	the Customer's order for the Goods and/or Services, as set out in the Customer's purchase order form.
Product Criteria	the Customer's criteria for acceptance of the Goods, as communicated in writing to the Supplier prior to placing the Order.
Product Specification	any specification for the Goods, including any related Deliverables, agreed in writing by the Customer and the Supplier.
Service Criteria	the Customer's criteria for acceptance of the Services, as communicated in writing to the Supplier prior to placing the Order.
Service Specification	any specification for the Services that is agreed in writing by the Customer and the Supplier.
Services	the services (or any part of them), set out in the Order and/or the Service Specification, including any Deliverables.
Specification	the Product Specification and/or the Service Specification.
Supplier	the person or firm from whom the Customer purchases the Goods and/or Services.

1.2	Interpretation:	
1.2.1	Clause, Schedule and paragraph headings shall not affect the interpretation of these Conditions.	
1.2.2	References to clauses and Schedules are to the clauses and Schedules of these Conditions; references to paragraphs are to paragraphs of the relevant Schedule.	
1.2.3	The Schedules form part of these Conditions and shall have effect as if set out in full in the body of these Conditions and any reference to these Conditions includes the Schedules.	
1.2.4	A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).	
1.2.5	A reference to a party includes its successors and permitted assigns.	
1.2.6	A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.	
1.2.7	A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.	
1.2.8	Any words following the terms including , include , in particular , for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.	
1.2.9	A reference to writing or written includes emails.	
2.	Basis of Contract	
2.1	These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.	
2.2	The Order constitutes an offer by the Customer to purchase the Goods and/or Services from the Supplier in accordance with these Conditions.	
2.3	The Supplier shall accept or reject the Order within one (1) Business Day;	
2.4	Notwithstanding clause 2.3, the Order shall be deemed to be accepted on the earlier of:	
2.4.1	the Supplier issuing a written acceptance of the Order; or	
2.4.2	the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence (the " Commencement Date ").	
2.5	Upon the Supplier taking any of the steps set out in clause 2.4.1 or 2.4.2, the Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.	
2.6	All of these Conditions shall apply to the supply of both Goods and Services, except where application of these Conditions to one or the other of Goods or Services is specified.	
3.	The Goods & Services	
3.1	The Supplier shall ensure that the Goods shall:	

- 3.1.1 correspond with their description and, where applicable, conform to any Product Specification, and Product Approval Criteria;
- 3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- 3.1.3 use the best quality goods, materials, standards and techniques;
- 3.1.4 be free from defects in design, material and workmanship and remain so for 12 (twelve) months after Delivery;
- 3.1.5 where the Goods are intended (or are intended to be incorporated into finished goods / products which are intended) for human consumption, the Goods will be fit for human consumption as intended;
- 3.1.6 be delivered on the date specified by the Customer in the Order.
- 3.2 In providing the Services, the Supplier shall:
 - 3.2.1 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - 3.2.2 ensure that the Services conform with all descriptions, standards and specifications set out in the Service Specification and any Service Approval Criteria;
 - 3.2.3 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
 - 3.2.4 unless alternative dates are set out in the Order, supply the Services to the Customer from the Commencement Date, on the agreed dates, for the duration of the Contract in accordance with the terms of the Contract.
 - 3.2.5 meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier about from time to time. Time shall be of the essence in relation to any performance dates.
- 3.3 The Supplier shall, and the Goods and Services shall, comply with all applicable statutory and regulatory requirements, including (without limitation), where applicable:
 - 3.3.1 those relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods (including, without limitation, the Food Safety Act 1990, The Materials and Articles in Contact with Food (England) Regulations 2012 and any other such requirements relating to the safety or suitability of packaging materials to be used in contact with food or drinks);
 - 3.3.2 all applicable UK or EC legislation for materials used in food, including but not limited to the regulations: (EC) 1881/2006, (EC) 396/2005 and (EC) 231/2012;
 - 3.3.3 with all maximum residue levels for pesticides, herbicides or any other residues and contaminants prescribed by relevant UK or EU laws and regulations where such laws and regulations are in force at the date of delivery, or where such laws and regulations have already been adopted at the date of delivery and will come into force during the shelf life of the material;
 - 3.3.4 in relation to any packaging materials, any relevant legal requirements including but not limited to the regulations: (EC) 1935/2004, Reg. (EC) 2023/2006 and, if applicable, Reg. (EU) 10/2011; and
 - 3.3.5 where the Supplier has been made aware of the territory for which the Goods or Services are intended, with the laws and regulations of such jurisdiction which are relevant to such Goods or Services (including, without limitation the equivalent laws and regulations to those referred to in clause 3.3.1 to 3.3.4 above).
- 3.4 The Supplier shall ensure that each delivery of the Goods and/or Deliverables (where applicable) is accompanied by a certificate of compliance that the products comply with (i) all applicable requirements referred to in clause 3.3 above, and (ii) such other compliance requirements as the Customer may require from time to time in accordance with applicable law and as notified to the Supplier.

- 3.5 The Supplier shall manufacture, pack and supply the Goods and/or Deliverables in accordance with the Customer's Mandatory Policies (in particular, the Nichols Manufacturing Standard) and all generally accepted industry standards and practices that are applicable.
- 3.6 The Supplier shall:
 - 3.6.1 observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
 - 3.6.2 co-operate with the Customer in all matters relating to the Goods and/or Services, and comply with all instructions of the Customer;
 - 3.6.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
 - 3.6.4 provide all equipment, tools and vehicles and such other items as are required to supply the Goods and/or provide the Services, or which are otherwise required to carry out its obligations under the Contract;
 - 3.6.5 obtain and at all times maintain all the licences, permissions, authorisations, consents and permits which may be required for the manufacture or supply of the Goods and/or provision of the Services in accordance with the Contract;
 - 3.6.6 hold all materials (including materials in which the Customer possesses Intellectual Property Rights), equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier ("Customer Materials") in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in its provision of the Goods and/or Services and in accordance with the Customer's written instructions or authorisation;
 - 3.6.7 not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
 - 3.6.8 comply with any additional obligations as set out in the Specification;
 - 3.6.9 comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture, packing, packaging, marking, storage, handling, and Delivery of the Goods and/or the Deliverables; and
 - 3.6.10 ensure that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier.
- 3.7 The Customer shall have the right to enter the Supplier's premises to:
 - 3.7.1 inspect the manufacturing facilities and the equipment used by the Supplier in the manufacture of the Goods and/or provision of the Services;
 - 3.7.2 inspect and take samples of the raw materials, the packaging and the Goods; and
 - 3.7.3 inspect stock levels of Goods, raw materials and packaging.
- 3.8 Inspections carried out pursuant to clause 3.7 shall be carried out during business hours on reasonable notice to the Supplier, provided that, in the event of an emergency, the Supplier shall grant the Customer immediate access to its premises.
- 3.9 The Customer may inspect and test the Goods and/or Services (including any Deliverables) at any time before delivery. The Supplier shall remain fully responsible for the Goods, Services and Deliverables despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.10 If, following such inspection or testing, the Customer considers that the Goods, Services or Deliverables do not conform or are unlikely to comply with the Supplier's undertakings in this clause 3, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.11 The Customer may conduct further inspections and tests after the Supplier has carried out any remedial actions in accordance with clause 3.10.

4. **Delivery of the Goods**

- 4.1 The Supplier shall ensure that:
- 4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - 4.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - 4.1.3 if the Supplier requires the Customer to return any packaging material to the Supplier, that such fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods to the Delivery Location on the Delivery Date and during the Customer's normal business hours, or as instructed by the Customer.
- 4.3 Delivery of an Order shall be deemed to be completed:
- 4.3.1 on the completion of unloading of the Order at the Delivery Location;
 - 4.3.2 where an Order is delivered by instalments in accordance with clause 4.4 below, on the completion of unloading of the final instalment of that Order at the Delivery Location; or
 - 4.3.3 where the Customer requests collection pursuant to clause 4.5, on collection of the Goods by or on behalf of the Customer.
- 4.4 The Supplier shall deliver the quantity of Goods ordered by the Customer. If the Supplier fails to deliver the quantity of Goods ordered by the Customer, the Customer may at its discretion reject the Goods (or reject any excess Goods) and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers a quantity of Goods other than the quantity of Goods ordered, and the Customer at its absolute discretion accepts the delivery, 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 Customer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they 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 Customer to the remedies set out in clause 5.
- 4.6 If the Customer notifies the Supplier in writing prior to the Delivery Date that it wishes to collect the Goods, the Supplier shall make the Goods available for collection at the Supplier's premises on the Delivery Date.
- 4.7 If an Order is not delivered (or made available for collection, as applicable) in full on the specified Delivery Date, then, without limiting any other right or remedy the Customer may have, the Customer may:
- 4.7.1 refuse to take any subsequent attempted delivery of the Order;
 - 4.7.2 terminate the Contract to which these Conditions apply with immediate effect;
 - 4.7.3 obtain substitute goods or products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Customer in obtaining such substitute goods or products; and
 - 4.7.4 claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Order on the Delivery Date, provided that the Supplier shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by the Customer's failure to comply with its obligations under the Contract.
- 4.8 Unless otherwise expressly agreed between the parties in writing, the Supplier is responsible for obtaining, at its own cost, such import and/or export licences and other consents in relation to the Goods or Services (including any Deliverables) as are required from time to time and, if required by the Customer, the Supplier shall make those licences and consents available to the Customer prior to the relevant shipment.

5. **Customer Remedies**

- 5.1 The Supplier acknowledges that some Goods are sent directly to the customers, suppliers and/or licensees of the Customer. Therefore, the Customer has no opportunity to inspect the Goods until they arrive at the final destination.
- 5.2 Where Goods are destined:
- 5.2.1 for a UK destination, the Customer shall have 20 Business Days from the arrival of the Goods at such destination to notify the Supplier of any apparent defects;
 - 5.2.2 for a destination outside of the UK, the Customer shall have 30 Business days from the arrival of the Goods at such destination to notify the Supplier of any apparent defects, and, in the case of a latent defect in the Goods, the Customer shall have 30 Business Days following the latent defect becoming apparent to notify the Supplier of such defect.
- 5.3 If the Goods or Services are not delivered or provided on or by the Delivery Date, or do not comply with the undertakings set out in clause 3.1 - 3.3 (inclusive), or are not otherwise in conformity with the Contract then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods or Services, the Customer may exercise any one or more of the following rights and remedies to:
- 5.3.1 terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 5.3.2 reject the Goods or Services (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
 - 5.3.3 require the Supplier to repair or replace the rejected Goods or re-perform the Services at the Supplier's risk and expense within 2 (two) Business Days of being requested to do so;
 - 5.3.4 require the Supplier to provide a full refund of the Price of the rejected Goods or Services (if paid) (whether or not the Customer has previously required the Supplier to repair or replace the Goods or Services);
 - 5.3.5 refuse to accept any subsequent delivery of the Goods or performance of the Services which the Supplier attempts to make;
 - 5.3.6 obtain substitute goods or products or services from a third party, or have the rejected Goods or Services repaired or otherwise remedied by a third party;
 - 5.3.7 recover from the Supplier any additional costs incurred by the Customer in obtaining substitute products or services from a third party, or in having the rejected Goods or Services repaired or remedied by a third party; and
 - 5.3.8 claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.
- 5.4 These Conditions shall apply to any repaired or replacement Goods supplied and/or repeated Services performed by the Supplier.
- 5.5 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law including, without limitation, the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the Contract by the Sale of Goods Act 1979.
6. **Product Recall**
- 6.1 If either party becomes aware of or is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods or Deliverables (or any goods or products incorporating the Goods or Deliverables) from the market ("**Recall Notice**") it shall immediately notify the other party in writing enclosing a copy of the Recall Notice.
- 6.2 Any notification given pursuant to clause 6.1 above shall, in addition to being given in writing in accordance with clause 18.7, be made by telephone to the other party's relationship manager and/or other key contact.
- 6.3 The Supplier warrants that it has documented, and will at all times maintain and comply with, effective procedures for:
- 6.3.1 incident management;

- 6.3.2 initiating and controlling product recalls; and
 - 6.3.3 carrying out and keeping comprehensive records of internal audits to review, test and verify its incident management and product recall procedures, including carrying out simulated product recalls, at least annually,
- in each case in accordance with the Nichols Manufacturing Standard (in particular, but not limited to, paragraphs 3.10, 3.11, 3.12 and 3.14 of the Nichols Manufacturing Standard).

7. Title and Risk

7.1 Except as otherwise agreed in writing in relation to an Order:

- 7.1.1 The risk in Goods or Deliverables shall pass to the Customer on the completion of Delivery of those Goods.
- 7.1.2 Title to Goods or Deliverables shall pass to the Customer on the earlier of (i) payment for those Goods or Deliverables, or (ii) completion of Delivery of those Goods or Deliverables.

8. Charges and Payment

- 8.1 The price of the Goods and/or Services shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the Commencement Date (the "Price").
- 8.2 The Price is inclusive of the costs of packaging, insurance and carriage of the Goods and any Deliverables, and of any customs, import or other duties charged or chargeable in respect of the sale and importation of Goods or Deliverables into the country in which the Delivery Location is located.
- 8.3 The Price shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Goods or performance of the Services. Unless otherwise agreed in writing by the Customer, the Price shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the provision of the Goods or performance of the Services.
- 8.4 No extra charges shall be effective unless agreed in writing with the Customer.
- 8.5 In respect of the Goods, the Supplier may invoice the Customer for the Price plus value added tax chargeable from time to time ("VAT") at the prevailing rate (if applicable) on or at any time after the completion of delivery. In respect of Services, the Supplier shall invoice the Customer for the Price on completion of the Services.
- 8.6 The Supplier shall ensure that each invoice includes the date of the Order, the invoice number, the Order number, the type and quantity of the Goods and/or Services (including the code number of the Goods or Services, where applicable), the Price as stated on the Order, the delivery date and delivery terms, the Supplier's VAT registration number, any supporting documents that the Customer may reasonably require, and (if the Goods are being delivered or Services provided by instalments) the outstanding balance of Goods or Services remaining to be delivered or provided.
- 8.7 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay each validly raised and undisputed invoice within 60 (sixty) days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.
- 8.8 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax ("VAT") chargeable from time to time. Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 8.9 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue at 4% (four per cent) a year above the Bank of England's base rate from time to time, but at 4% (four per cent) a year for any period when the base rate is below 0% (zero per cent). Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.

- 8.10 If the Customer disputes any invoice or other statement of monies due, the Customer shall immediately notify the Supplier in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. Where only part of an invoice is disputed, the undisputed amount shall be paid in accordance with these Conditions. The Supplier's obligations to supply the Goods or Services to the Customer pursuant to the Contract to which these Conditions apply, or any other contract(s), shall not be affected by any payment dispute.

8.11 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 Customer to inspect such records at all reasonable times on request.

8.12 The Customer may at any time, without notice to the Supplier and without limiting any of its other rights or remedies under the Contract or otherwise, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this the Contract to which these Conditions apply. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off.

9. Intellectual Property Rights

- 9.1 In this clause, "Supplier Background IP" means all intellectual property rights belonging to the Supplier (or a third party) created on or before the date on which the Supplier began providing Goods or Services to the Customer, excluding any materials provided by or on behalf of the Customer.
- 9.2 The parties agree that the Supplier Background IP shall remain the property of the Supplier (or the relevant third party).
- 9.3 Subject to clause 9.2, all Intellectual Property Rights in and to the Goods and the Product Specification shall be and shall remain the absolute property of the Customer and shall vest in the Customer on creation.
- 9.4 Subject to clause 9.2, all Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Customer.
- 9.5 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Goods, Services and the Deliverables.
- 9.6 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence, without the right to sublicense, for the term of the Contract, to the extent only that the Supplier reasonably requires such licence to:
 - 9.6.1 copy any materials provided by the Customer to the Supplier;
 - 9.6.2 to use the Specification(s);
 - 9.6.3 use the Customer Materials,
 for the purposes of manufacturing and supplying the Goods or providing the Services, to the Customer.
- 9.7 The Supplier acknowledges that all rights in the Customer Materials, Specifications and any other materials provided by the Customer, are and shall remain the exclusive property of the Customer.
- 9.8 On termination or expiry of the Contract (however caused) or, if earlier, when the manufacture and supply of the Goods or the provision of the Services by the Supplier ceases, the Supplier shall return to the Customer the Specification(s), the Customer Materials (and all copies of such materials or documents that the Supplier has in its possession or control).
- 9.9 Where the Supplier acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in this Clause 9, it shall assign in writing such Intellectual Property Rights as it has acquired to the Customer on the request of the Customer (whenever made). Such rights shall be assigned with full title guarantee, free from encumbrances.
- 10. **Indemnity**
- 10.1 The Supplier shall keep the Customer 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 reasonable professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with any claim made against the Customer:
- 10.1.1 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, save where such infringement arises solely as a result of the Supplier following the Customer's instructions or adhering to the Specification(s) provided by the Customer;
 - 10.1.2 by a third party for death, personal injury or damage to property arising out of or in connection with a defect in the Goods, Services, or the Deliverables, save to the extent that such defect arises as a result of the Supplier following the Customer's instructions, or adhering to the Specification(s) provided by the Customer; and
 - 10.1.3 by a third party arising out of or in connection with the supply of the Goods and/or the Services, save to the extent that such defect arises as a result of the Supplier following the Customer's instructions, or adhering to the Specification(s) provided by the Customer.
- 10.2 This clause 10 shall survive termination of the Contract.
- 11. Limitation of Liability**
- 11.1 References to liability in this clause 11 include every kind of liability arising under or in connection with the Contract including liability:
- 11.1.1 in contract, tort (including negligence), misrepresentation, restitution, under an indemnity or otherwise;
 - 11.1.2 relating to the Goods and/or Services; and
 - 11.1.3 arising out of any use made or resale of the Goods or Deliverables by the Customer, or of any product incorporating any of the Goods or any Deliverables, or of any use of the Services by the Customer.
- 11.2 Nothing in these Conditions limits any liability which cannot legally be limited, including liability for:
- 11.2.1 death or personal injury caused by negligence;
 - 11.2.2 fraud or fraudulent misrepresentation;
 - 11.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; and
 - 11.2.4 breach of section 2 of the Consumer Protection Act 1987.
- 11.3 Nothing in these Conditions shall limit any liability under clause 10 (Indemnity) or clause 14 (Compliance) of these Conditions.
- 11.4 Subject to clause 11.2, the Customer's total liability to the Supplier under the Contract shall not exceed the price of any unpaid invoices submitted to the Customer in accordance with these Conditions.
- 11.5 Neither party may benefit from the limitations and exclusions set out in this clause 11 in respect of any liability arising from its deliberate default.
- 11.6 Nothing in this clause 11 shall limit the Customer's payment obligations under the Contract.
- 11.7 The Supplier acknowledges that its breach or default in respect of its obligations under the Contract may delay or prevent the Customer from manufacturing, marketing and selling the Customer's products (which, but for the Supplier's breach or default, would have incorporated the Goods supplied by the Supplier). Accordingly, the Supplier shall be liable, and the Customer shall be entitled to claim damages, for the loss of actual or anticipated sales, or profits from sales, of the Customer's products arising out of or in connection with the Supplier's breach or default (in particular, but without limitation, in relation to a breach of clause 3.1).
- 12. Insurance**
- 12.1 During the term of the Contract and for a period of 1 (one) year thereafter, the Supplier shall maintain in force, with a reputable insurance company, employers liability insurance, professional indemnity insurance, product liability insurance, contaminated products liability insurance, and public liability insurance to cover the liabilities that may arise under or in connection with the

- Contract, and shall, on the Customer'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.
- 12.2 The Supplier shall ensure that any subcontractors also maintain adequate insurance having regard to the obligations under the Contract which they are contracted to fulfil.
- 13. Confidentiality**
- 13.1 Each party undertakes that it shall not at any time during the Contract and nor for a period of 5 (five) years after termination or expiry of the Contract (howsoever caused), disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of its Group, including information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers ("Confidential Information"), except as permitted by clause 13.2.
- 13.2 Each party may disclose the other party's Confidential Information:
- 13.2.1 to its employees, officers, representatives contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives contractors, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 13; and
 - 13.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 Neither party shall use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 14. Compliance With Relevant Laws and Policies**
- 14.1 In performing its obligations under the Contract, the Supplier shall, and shall procure that all persons involved with the supply of Goods and/or Services in connection with the Contract shall, comply with:
- 14.1.1 all applicable laws, statutes, regulations and codes from time to time in force;
 - 14.1.2 the Mandatory Policies;
 - 14.1.3 all applicable laws, statutes, regulations directives and codes relating to anti-bribery and anti-corruption, anti-money laundering, anti-facilitation of tax evasion, tax evasion, fraud, slavery and and human trafficking, including but not limited to the Bribery Act 2010, the Foreign Corrupt Practices Act 1977 and laws enacted in accordance with the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Criminal Finances Act 2017, the Proceeds of Crime Act 2002 and the Modern Slavery Act 2015 (or equivalent in any relevant jurisdiction);
 - 14.1.4 all laws and regulations relating to financial sanctions, trade restrictions and embargoes applicable to the Customer and/or the Supplier, including but not limited to laws and regulations imposed by the governments, agencies and authorities of the United Kingdom and the United Nations, and applicable laws and regulations imposed by the European Union, and the United States, and any wider applicable local law sanctions restrictions.
- 14.2 The Customer may immediately terminate the Contract by giving written notice to the Supplier if the Supplier commits, or there is a reasonable suspicion that the Supplier has committed, a breach of clause 14.1.
- 14.3 In supplying the Goods and / or Services, the Supplier shall conduct business in compliance with Nichols' 'Happier Future Strategy', together with all applicable laws, enactments, orders, regulations and other instruments relating to environmental, sustainability and governance matters.
- 15. Data Protection**
- 15.1 In this clause:

- 15.1.1 **“Data Protection Legislation”** means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
- 15.1.2 **“Personal Data”** is as defined in the Data Protection Legislation.
- 15.2 If in the supply of Goods and/or Services under an Order, the Supplier is required to process Personal Data on behalf of the Customer, then the following provisions shall apply.
- 15.3 The Supplier will comply with all applicable requirements of the Data Protection Legislation. This clause 15 is in addition to, and does not relieve, remove or replace, the Supplier’s obligations or rights under the Data Protection Legislation.
16. **Termination**
- 16.1 The Customer may terminate the Contract in whole or in part at any time before delivery of the Goods or performance of the Services with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods or part-performance of the Services at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 16.2 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- 16.2.1 the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 (thirty) days of the Supplier being notified in writing to do so;
- 16.2.2 the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 16.2.3 the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with its creditors, having a receiver appointed to any of its assets, or ceasing to carry on business or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 16.2.4 the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- 16.2.5 the Supplier’s financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy;
- 16.2.6 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- 16.2.7 the Supplier applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- 16.2.8 an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the Supplier;
- 16.2.9 a person becomes entitled to appoint a receiver over all or any of the assets of the Supplier or a receiver is appointed over all or any of the assets of the other Supplier;

- 16.2.10 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 (fourteen) days;
- 16.2.11 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 16.2.2 to clause 16.2.10 (inclusive); or
- 16.2.12 the Supplier ceases, or threatens to cease, to carry on all or substantially the whole of its business.
- 16.3 Termination or expiry of the Contract, however arising, shall not affect any of the parties’ rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 16.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 16.5 On termination or expiry of the Contract (however caused), the Supplier shall promptly return all equipment, materials, documents, Customer Materials, Confidential Information (including any copies) and property belonging to the Customer; and erase such items from its computer systems (to the extent possible).
17. **Force Majeure**
- Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable contemplation and control (“**Force Majeure Event**”). Upon the occurrence of a Force Majeure Event, and provided the affected party has first notified the other party in writing of the Force Majeure Event and its impact, an affected party shall be entitled to a reasonable extension of time for performing such obligations. If the period of delay or non-performance resulting from a Force Majeure Event continues for a period of more than 3 (three) months, the party not affected may terminate the Contract immediately by giving written notice to the affected party.
18. **General**
- 18.1 **Assignment and other dealings.**
- 18.1.1 The Customer may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- 18.1.2 The Supplier may not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.
- 18.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 18.3 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 18.4 **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 in writing and signed by the Customer.
- 18.5 **Waiver.** Except as set out in clause 2.5, 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 prevent or restrict the further exercise of that or any other right or remedy.

- 18.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 18.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 18.7 **Notices.**
- 18.7.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
- 18.7.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 18.7.1.2 sent by email to the address detailed in the Order.
- 18.7.2 Any notice or communication shall be deemed to have been received:
- 18.7.2.1 if delivered by hand, at the time the notice is left at the proper address;
- 18.7.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; and
- 18.7.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 18.7.2.3, business hours means 9.00am to 5.00pm on a Business Day.
- 18.7.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 18.8 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 18.9 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the laws of England and Wales.
- 18.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.