

NICHOLS PLC (TRADING AS VIMTO INTERNATIONAL) – STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS

1	Definitions	
1.1	The following definitions and rules of interpretation apply in the Contract:	
	Buyer:	the person, firm or company submitting an Order;
	Buyer Default:	any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation, in breach of these Conditions;
	Conditions:	the terms and conditions set out in this document as amended from time to time;
	Contract:	the agreement between Nichols and the Buyer for the sale and purchase of the Goods and Services, governed in accordance with these Conditions and the relevant Order;
	Data Protection Legislation:	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications);
	Alternative Delivery Location:	has the meaning given to it in clause 8.2;
	EXW:	Ex Works Incoterms Rules 2020 as updated from time to time;
	EXW Delivery Location:	has the meaning given to it in clause 8.1;
	Force Majeure Event:	has the meaning given to it in clause 18.1;
	Goods:	the products set out in the Order;
	Insolvency Event:	the Buyer: (a) enters into liquidation or a winding up petition is presented against the Buyer or a resolution is passed for the voluntary winding up of the Buyer; (b) enters into administration or any steps are taken to place the Buyer into administration such as the filing at court of an administration application or a notice of intention to place the Buyer into administration; (c) proposes to make any voluntary arrangements with its creditors; (d) has a receiver, liquidator, administrator, nominee, supervisor, trustee or an individual with a similar role appointed over any of its assets; or (e) suffers an event which, under the law of a different country, is equivalent to any of the previously specified acts or events
	Intellectual Property Rights ("IPR"):	branding, patents, rights to inventions, copyright and related rights, trade 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, 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;
	Nichols:	Nichols plc (CRN: 00238303) of Laurel House, Woodlands Park, Ashton Road, Newton Le Willows, WA12 0HH;
	Order:	the Buyer's relevant order for the Goods and Services, as set out in the Buyer's purchase order form submitted to Nichols, which shall include the Goods, Price, Services (if applicable), Delivery Location, and applicable Incoterms;

	Price:	has the meaning given to it in clause 7.1;
	Services:	has the meaning given to it in clause 3.4; and
	Specification:	any specification for the Goods as specified in writing by Nichols.
1.2	A reference to a party includes its successors and permitted assigns.	
1.3	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.	
1.4	Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative only and shall not limit the sense of the words preceding those terms.	
1.5	A reference to writing or written includes email.	
2	Basis of Contract	
2.1	These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Conditions.	
2.2	Nichols' price lists and quotations do not constitute offers by Nichols. A quotation shall only be valid for 30 days from its date of issue.	
2.3	Any samples, drawings, descriptive matter or advertising produced by Nichols and any descriptions or illustrations contained in Nichols' catalogues or website are produced for the sole purpose of giving an approximate idea of the Goods and Services. They shall not form part of the Contract nor have any contractual force.	
3	Orders	
3.1	Each Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions, which Nichols shall be free to accept or decline at its absolute discretion.	
3.2	The Buyer shall ensure that the terms of the Order are complete and accurate.	
3.3	Unless specified otherwise in the Order, delivery of the Goods shall be made in accordance with these Conditions and on an EXW basis.	
3.4	In respect of delivery to a location outside of the United Kingdom, delivery and logistics arrangements other than EXW shall be expressly agreed in writing in the Order, EXW shall not apply, and the alternatively agreed delivery and logistics arrangements shall be considered " Services ", provided alongside the Goods.	
3.5	The parties shall agree in writing, prior to Order acceptance (in accordance with clause 3.6), any relevant documents that shall be supplied by Nichols to the Buyer.	
3.6	No Order is binding on Nichols until Nichols issues an express, written acceptance of the Order, at which point the Contract shall come into existence. Acceptance of the Order is subject to the Goods and Services being available and unsold.	
3.7	After an Order has been accepted by Nichols, the Order can only be cancelled with Nichols' express, written consent.	
4	Supply of Goods	
4.1	Nichols shall manufacture, pack and supply the Goods in accordance with all generally accepted applicable industry standards and practices.	
4.2	The Goods supplied to the Buyer by Nichols under the Contract shall, at the time of delivery and until the relevant date set out on the packaging of the Goods,:	
	4.2.1	be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended);
	4.2.2	conform in every respect with the requirements of the Food Safety Acts and of all regulations relating to foodstuffs in force from time to time in the United Kingdom; and
	4.2.3	comply with all applicable statutory and regulatory requirements
	provided that the Goods have been transported and stored at all times in accordance with good industry practice, including (but not limited to) the practice for the Goods to be segregated and separated from any waste or other material or substances liable to cause contamination.	
4.3	Nichols may amend any Specification for the Goods at any time, including if required by any applicable statutory or regulatory requirement, and Nichols shall notify the Buyer of such event.	

- 4.4 Subject to clause 4.5, if:
- 4.4.1 the Buyer gives notice in writing to Nichols (i) within 7 days from the date of delivery, or (ii) in the case of a latent defect, within 7 days from the latent defect becoming apparent, that some or all of the Goods do not comply with the warranty in clause 4.2;
- 4.4.2 Nichols is given a reasonable opportunity to examine such Goods; and
- 4.4.3 the Buyer (if asked to do so by Nichols) promptly returns such Goods to Nichols at Nichols' cost,
- Nichols shall, at its option, replace the defective Goods, or refund the Price of the defective Goods.
- 4.5 Nichols shall not be liable for the Goods' failure to comply with the warranty in clause 4.2 if:
- 4.5.1 the Buyer makes any further use of the Goods after giving notice in accordance with clause 4.4;
- 4.5.2 the defect arises because the Buyer failed to follow Nichols' express oral or written instructions as to the appropriate transport and / or storage and / or use of the Goods, or (if there are none) good trade practice regarding the same;
- 4.5.3 the Buyer alters such Goods without Nichols' express written consent;
- 4.5.4 the defect arises as a result of wilful damage, negligence, or abnormal storage conditions; and/or
- 4.5.5 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 4.6 Except as provided in this clause 4, Nichols shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 4.2.
- 4.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 4.8 These Conditions shall apply to any replacement Goods supplied by Nichols.
- 5 Supply of Services**
- 5.1 Notwithstanding any other provisions of the Conditions and subject to clause 13.6.1, where Nichols and/or its subcontractors provides Services, Nichols shall only insure the Goods during the provision of the Services where the relevant Order expressly includes the details of such requirement in writing (including specifying the Incoterm applicable to the provision of the Goods and Services, the amount and type of insurance cover provided, and the additional cost payable for such cover by the Buyer to Nichols (which shall be equivalent to the cost paid by Nichols in respect of the same)).
- 6 Buyer Obligations**
- 6.1 The Buyer shall co-operate with Nichols in all matters relating to the Goods and Services and shall provide Nichols with such information as Nichols may reasonably require in order to supply the Goods and Services.
- 6.2 If Nichols' performance of any of its obligations under the Contract is prevented or delayed by a Buyer Default:
- 6.2.1 without limiting or affecting any other right or remedy available to it, Nichols shall have the right to suspend delivery of the Goods and Services until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations in each case to the extent the Buyer Default prevents or delays Nichols' performance of any of its obligations under the Contract;
- 6.2.2 Nichols shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from Nichols' failure or delay in delivering the Goods and Services; and
- 6.2.3 the Buyer shall reimburse Nichols on written demand for any costs or losses sustained or incurred by Nichols arising directly or indirectly from the Buyer Default.
- 7 Prices**
- 7.1 The price of the Goods and Services shall be the price set out in the Order, or (in respect of the Goods), if no such price is quoted, the price set out in Nichols' published price list in force as at the date of delivery ("**Price**").
- 7.2 Nichols may, by giving notice to the Buyer at any time before delivery, increase the Price to reflect any increase in the cost of the Goods that is due to:
- 7.2.1 any factor beyond Nichols' control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- 7.2.2 any request by the Buyer to change the delivery date(s), quantities or types of Goods and Services ordered; and / or
- 7.2.3 any delay caused by the instructions of the Buyer, Buyer Default or failure of the Buyer to give Nichols adequate or accurate information or instructions.
- 7.3 In respect of the Services only, Nichols may increase the Price at any time so that is equivalent to the cost paid by Nichols to obtain and/or provide the Services.
- 7.4 In respect of delivery to a location outside of the UK in accordance with clause 3.4, the Price is exclusive of:
- 7.4.1 amounts in respect of value added tax or such other sales tax as may be applicable ("**VAT**"), which the Buyer shall additionally be liable (subject to clause 16.4) to pay to Nichols at the prevailing rate, subject to Nichols' provision of a valid VAT invoice;
- 7.4.2 any costs and charges of insuring and transporting the Goods; and
- 7.4.3 any duty or tax, present or future, levied or imposed in any country or territory in respect of the sale or delivery of the Goods, which shall be payable by the Buyer. Such duties and taxes may include customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the Goods.
- 7.5 In respect of delivery to a location outside of the United Kingdom and the associated Services:
- 7.5.1 the Price is exclusive of amounts in respect of value added tax or such other sales tax as may be applicable ("**VAT**"), which the Buyer shall additionally be liable (subject to clause 16.4) to pay to Nichols at the prevailing rate, subject to Nichols' provision of a valid VAT invoice; and
- 7.5.2 liability for the costs and charges of insuring and transporting the Goods, together with responsibility for any duty or tax (including customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the Goods and Services), present or future, levied or imposed in any country or territory in respect of the sale or delivery of the Goods and Services, shall be determined in accordance with the Incoterm specified in the Order.
- 7.6 Nichols may invoice the Buyer for the Goods and Services at any time.
- 7.7 Unless otherwise specifically agreed between the parties in writing and/or included in the invoice, the Buyer shall pay each invoice submitted by Nichols:
- 7.7.1 within 30 days from the date of the invoice; and
- 7.7.2 in full and in cleared funds to a bank account nominated in writing by Nichols.
- 7.8 Time for payment from the Buyer shall be of the essence of the Contract.
- 7.9 In addition to Nichols' other rights and remedies, if the Buyer fails to make a payment due to Nichols under the Contract by the due date, then, without limiting Nichols' other rights or remedies, the Buyer shall pay interest on the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at a rate of 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 7.10 All amounts due under the Contract from the Buyer shall be paid without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 8 Delivery of Goods**
- 8.1 Where EXW applies in accordance with clause 3.3, the Buyer shall collect the Goods from their place of manufacture or such other location as may be advised by Nichols prior to delivery ("**EXW Delivery Location**") within 3 days of Nichols notifying the Buyer that the Goods are ready. Delivery is completed once the loading of the Goods at the Delivery Location is complete.
- 8.2 Where the need for Services is expressly agreed, Nichols shall deliver the Goods to such location as advised by the Buyer ("**Alternative Delivery Location**"). Completion of delivery shall be determined in accordance with the Order / any Incoterm specified therein.
- 8.3 Notwithstanding the delivery method, any dates quoted for delivery to the applicable EXW Delivery Location or Alternative Delivery Location are approximate only, and time for delivery is not of the essence. Nichols shall not be liable for any delay in delivery that is caused by: (a) a Force Majeure Event; (b) the Buyer's failure to provide Nichols with adequate delivery instructions; (c) a Buyer Default; or (d) other instructions that are relevant to the supply of the Goods or Services. Any delay in delivery shall not entitle the Buyer to cancel the Contract, refuse to take delivery of an Order, or claim damages.

- 8.4 Notwithstanding the delivery method, Nichols may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

9 Intellectual Property Rights

- 9.1 All IPR in and to the Goods shall be and shall remain the absolute property of Nichols or its licensors, as applicable. Nothing in the Contract shall be construed as a transfer or assignment of any IPR of Nichols to the Buyer.
- 9.2 Nichols grants to the Buyer a fully paid-up, royalty-free, non-transferable, non-exclusive licence, without the right to sub-license, to use the Goods solely for the purposes agreed between the parties in writing.
- 9.3 The Buyer shall, at the request and expense of Nichols, take all such steps as Nichols may reasonably require to assist Nichols in maintaining the validity and enforceability of Nichols' IPR.
- 9.4 The Buyer shall not represent that it has any title in or right of ownership to any of Nichols' IPR or do or suffer to be done any act or thing by any employee, personnel or third-party instructed on behalf of the Buyer which may in any way impair the rights of Nichols in any of its IPR or bring into question the validity of their registration.

10 Recalls

- 10.1 If the Buyer is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods or products incorporating the Goods from the market ("Recall Notice") it shall immediately notify Nichols in writing enclosing a copy of the Recall Notice.
- 10.2 The Buyer shall give such assistance as Nichols may reasonably require to recall or withdraw any Goods or products incorporating the Goods.
- 10.3 Unless required by law, the Buyer may not undertake any recall or withdrawal without Nichols' express, written consent and only then in strict compliance with Nichols' instructions about the process of implementing the withdrawal.

11 Title and Risk

- 11.1 The risk in the Goods shall pass to the Buyer on completion of delivery (as interpreted in accordance with EXW, or any alternative Incoterm agreed in respect of any Services).
- 11.2 Title to the Goods shall not pass to the Buyer until the earlier of:
- 11.2.1 Nichols receives payment in full for the Goods (in cleared funds); or
- 11.2.2 the Buyer resells the Goods, in which case title to those Goods shall pass to the Buyer at the time specified in clause 11.4.
- 11.3 Until title to Goods has passed to the Buyer, the Buyer shall:
- 11.3.1 store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as Nichols' property;
- 11.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to those Goods;
- 11.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from delivery;
- 11.3.4 give Nichols such information as Nichols may reasonably require from time to time relating to the Goods and the ongoing financial position of the Buyer.
- 11.4 Subject to clause 11.5, the Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Nichols receives payment for the Goods. However, if the Buyer resells the Goods before that time:
- 11.4.1 it does so as principal and not as Nichols' agent; and
- 11.4.2 title to the Goods shall pass from Nichols to the Buyer immediately before the time at which resale by the Buyer occurs.
- 11.5 At any time before title to the Goods passes to the Buyer, Nichols may:
- 11.5.1 by notice in writing, terminate the Buyer's right under clause 11.4 to resell the Goods in the ordinary course of its business; and
- 11.5.2 require the Buyer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

12 Insurance

- 12.1 The Buyer shall maintain in force insurance in accordance with clause 11.3.3 with reputable insurance companies, against all risks that would normally be insured against by a prudent businessperson in connection with the risks associated with the Contract, and shall produce to Nichols on demand full particulars of that insurance and the receipt for the then current premium.

13 Liability

- 13.1 References to liability in this clause include every kind of liability arising under or in connection with the Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise, including that arising in conjunction with the performance or contemplated performance of the Contract.
- 13.2 The Buyer indemnifies, keeps indemnified and shall hold harmless, Nichols against each liability, cost, damage, loss or expense which Nichols may incur arising out of:
- 13.2.1 any use of the Goods other than their intended purpose; and / or
- 13.2.2 any use of Nichols' IPR, except insofar as any such claims may arise from (i) any invalidity or defect in the title of Nichols to the Nichols IPR not caused by any act or default of the Buyer, or (ii) the instructions given to the Buyer by Nichols provided such instructions have been properly carried out by the Buyer
- 13.3 Nothing in these Conditions excludes or limits the liability of Nichols for:
- 13.3.1 death or personal injury caused by negligence;
- 13.3.2 fraud or fraudulent misrepresentation;
- 13.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- 13.3.4 any other liability that cannot legally be excluded or limited.
- 13.4 Subject to clause 13.3, Nichols shall not be liable to the Buyer for:
- 13.4.1 loss of profit or revenue;
- 13.4.2 loss of business;
- 13.4.3 loss of agreements or contracts;
- 13.4.4 loss of anticipated savings;
- 13.4.5 wasted expenditure;
- 13.4.6 loss or damage to goodwill;
- 13.4.7 loss caused by a Buyer Default; or
- 13.4.8 indirect or consequential loss.
- 13.5 Nichols shall only be liable to the Buyer for loss or damage to the Goods and/or a delay in delivering the Goods and/or Services, provided the Buyer has complied with Nichols' complaints procedure in place from time to time.
- 13.6 Subject to clauses 13.3, 13.4 and 13.5, Nichols' total aggregate liability shall be limited, for all claims arising out of or in connection with:
- 13.6.1 transportation and / or alternative logistics arrangements in respect of Goods (including any Services), to the total amount that Nichols has successfully recovered from the relevant third parties that have provided such services, in relation to the claim; and
- 13.6.2 all matters not falling under clause 13.6.1, to an amount equal to the Price of the Goods.
- 13.7 Save as set out in these Conditions, all warranties and conditions express or implied, statutory or otherwise, are expressly excluded, including by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982.

14 Termination

- 14.1 Without limiting its other right or remedies, Nichols may terminate the Contract with immediate effect by giving written notice to the Buyer if:
- 14.1.1 the Buyer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within 14 days of it being notified to do so;
- 14.1.2 one or more of the following applies to the Buyer: (a) it ceases to trade; (b) it is unable to pay its debts; or (c) it suffers an Insolvency Event; or
- 14.1.3 the Buyer fails to pay any amount due under the Contract on the due date for payment.
- 14.2 Without affecting any other right or remedy available to it, Nichols may suspend the delivery of Goods under the Contract or any other contract between the Buyer and Nichols, on the occurrence of the

- event in clause 14.1.2, and/or if the Buyer becomes subject to any of the events listed in clause 14.1.1 or Nichols reasonably believes that the Buyer is about to become subject to any of them.
- 14.3 On termination of the Contract for any reason, the Buyer shall immediately pay to Nichols all of Nichols' outstanding unpaid invoices and interest and, in respect of Goods and Services supplied but for which no invoice has been submitted, Nichols shall submit an invoice, which shall be payable by the Buyer immediately on receipt; and, Nichols shall cease to provide the Goods and Services pursuant to the Contract unless expressly agreed otherwise in writing by the parties.
- 14.4 Termination or expiry of the Contract, howsoever 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.
- 14.5 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.

15 Legislation

- 15.1 The Buyer shall, and shall procure that persons who are performing services for or on its behalf shall,:
- 15.1.1 comply with 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 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);
- 15.1.2 comply with all laws and regulations relating to financial sanctions, trade restrictions and embargoes, and export controls, applicable to Nichols and/or the Buyer, 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; and
- 15.1.3 comply with, or hold policies equivalent to, Nichols' compliance policies set out at www.nicholsplc.co.uk/happier-future/corporate-governance/, as updated by Nichols from time to time.

16 Compliance

- 16.1 Each party shall at its own expense comply with all laws and regulations relating to its activities under the Contract, as they may change from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.
- 16.2 The Buyer shall comply with any relevant industry or governmental codes, as may be updated or replaced by the relevant industry or governmental body from time to time.
- 16.3 Where the Goods are being delivered to a location outside of the United Kingdom in accordance with clause 3.4, responsibility for:
- 16.3.1 obtaining any necessary export licences or permits necessary for the exit of the Goods and Services from the territory of delivery;
- 16.3.2 obtaining any necessary import licences or permits necessary for the entry of raw materials and the Goods and Services into the territory in which the Goods and Services are manufactured (if relevant);
- 16.3.3 obtaining any export licences or permits necessary for the entry of the Goods and Services into the territory or their delivery to the Buyer (if relevant); and
- 16.3.4 any customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the activities and actions referred to in this clause
- shall be determined in accordance with the Incoterm specified in the Order.
- 16.4 Where the Goods and Services are sold to the Buyer on a VAT zero-rated basis because the Goods will be exported from the United Kingdom, the Buyer shall provide evidence of export of the Goods as Nichols shall reasonably require, within such timescales as reasonably required, to enable Nichols to comply with its legal requirements to HMRC and the relevant authorities. Failure by the Buyer to provide such evidence within the relevant timescale shall entitle Nichols to re-invoice the Buyer for the

Goods and Services as if the Goods were remaining in the jurisdiction of the United Kingdom and therefore subject to the standard rate of VAT.

- 16.5 The Buyer is responsible for verifying any commodity codes provided to it in relation to the Goods and Services. Nichols accepts no responsibility should the commodity codes provided be incorrect.
- 16.6 Where Goods will be exported from the United Kingdom, the Buyer warrants to Nichols that it has informed Nichols of, and commissioned any services necessary to ensure compliance with, all laws and regulations affecting the manufacture, sale, packaging and labelling of Goods which are in force within the non-United Kingdom territory or any part of it ("**Local Regulations**") at the date of the Contract.
- 16.7 The Buyer shall give Nichols as much advance notice as reasonably possible of any prospective changes in the Local Regulations. In any event, the Buyer shall be solely responsible for ensuring that the Goods comply with the Local Regulations as at the date of the Contract, and shall be solely liable for any failure of the Goods to comply with the same.

17 Personal Data

- 17.1 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation. This clause 17.1 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 17.2 Any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate these Conditions and the Contract with immediate effect.

18 Other Important Terms

- 18.1 **Force Majeure.** Nichols shall not be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from any interruption in the source of supplies, holding up or delay in shipment or deliveries, any prohibition of import or export, the seizure or stoppage of or requisition of ships or vessels, act of God, outbreak of hostilities (whether or not war is declared), insurrection, riot, civil disturbance, Government act or regulation, fire, flood, explosion, accident, theft, climatic conditions, strike, lock-out or trade dispute (whether of Nichols' employees or some other parties) shortage or unavailability of Goods and Services, labour or power, or caused by or resulting from any other event or circumstances (whether or not the same or similar kind to those listed) beyond Nichols' control ("**Force Majeure Event**"). Without prejudice to the generality of this clause, Nichols may cancel or delay delivery or reduce the amount delivered (without any liability), if Nichols is unable to fulfil its contractual obligations by reason of any Force Majeure Event.
- 18.2 **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 18.1 shall not affect the validity and enforceability of the rest of the Contract.
- 18.3 **Waiver.** A waiver of any right or remedy under the Contract or by law shall only be effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. 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.
- 18.4 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 18.5 **Conflicts.** In the event of any conflict or ambiguity between these Conditions and the Order, the Order shall take precedence over these Conditions to the extent of any conflict or ambiguity.
- 18.6 **Third Party Rights.** The parties to the contract do not intend that any term of the contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 18.7 **Assignment.** The Buyer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without Nichols' express, prior written consent. Nichols may assign, transfer, mortgage, charge, subcontract, declare

a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the Buyer's consent (including in respect of third-party logistics providers).

18.8 **Notices**

18.8.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service or commercial courier.

18.8.2 A notice or other communication shall be deemed to have been received: (a) if delivered personally, when left at the proper address; (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second day after posting (where such day is not a Saturday, Sunday or public holiday in England); and (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

18.8.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

18.9 **Credit Referencing.** Nichols may monitor and record information relating to the Buyer's trade performance and such records may be made available to credit reference agencies, who will share that information with other businesses in assessing application for credit and fraud prevention.

18.10 **Confidentiality.** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except:

18.10.1 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 or in connection with the Contract (in respect of which each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information shall comply with this clause); and

18.10.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

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.

18.11 **Further Assurance.** The Buyer shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to the Contract.

18.12 **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. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

18.13 **Governing law and Jurisdiction.** 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 English Law. Each party irrevocably agree that the English Courts 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.