

1. Definitions

“**Buyer**” means the **Motor Neurone Disease Association** (company registration number 2007023 and charity registration number 294354) or **Motor Neurone Disease (Sales) Ltd** (company registration number 1989172) as the case may be.

“**Seller**” means the person, firm, company or association who sells the Goods to the Buyer.

“**Goods**” means any goods or **services** which the Buyer agrees to buy under the Contract.

“**Purchase Order**” means a written order of the Buyer specifying the Goods required.

“**Contract**” means any Contract between Buyer and Seller for the sale and purchase of the Goods.

2. Application of terms

2.1 Subject to any variation under Condition 2.3, the Contract shall be on these Conditions to the exclusion of all other terms and conditions, including any which the Seller purports to apply in any confirmation, quotation or other document.

2.2 No terms or conditions endorsed on, delivered with or contained in the Seller's quotation or tender or other document shall form part of the Contract simply as a result of such document being referred to in the Contract or in correspondence between Buyer and Seller.

2.3 These conditions apply to all purchases of Goods made by the Buyer from the Seller. Any variation to these Conditions must be expressly agreed in writing and signed by a duly authorised representative of the Buyer.

2.4 Each Purchase Order shall constitute an offer to purchase the Goods on these Conditions which shall be accepted on these Conditions by the earlier of the Seller agreeing to supply the Goods or delivering the Goods in accordance with Condition 4.

3. Conditions and Warranties

3.1 The Goods shall be of good quality and free from defects in material or workmanship, and shall comply with all applicable statutory and regulatory requirements.

3.2 The Goods shall be fit for purpose, both (i) to the extent that the Seller is made aware either expressly or by implication of any such purpose, and (ii) for any such purpose for which goods of that kind are commonly supplied. The Goods shall conform in all respects to the specifications, drawings, descriptions and samples contained or referred to in the Contract.

3.3 If any Goods do not conform to these Conditions the Buyer shall have the right on notice in writing to the Seller to return the Goods for refund of price or to require replacement of the Goods from the Seller, regardless of whether or not the Goods have been accepted by the Buyer. Payment for the Goods shall not prejudice the Buyer's right of rejection.

3.4 Repairs and replacements shall themselves be subject to the foregoing obligations as set out in Condition 3.2. The Seller shall be liable for damages (if any) in respect of each Purchase Order up to the limit of the price of the Goods covered by that Purchase Order.

3.5 The Seller shall be responsible for and shall (where the Seller does not collect the Goods from the Buyer within agreed timescales, after a request to do so) reimburse the Buyer the costs of delivery to the Seller any Goods which the Buyer is entitled to return under Condition 3.2 or 3.3.

4. Delivery/Completion date

4.1 The date and place of delivery of the Goods shall be that specified in the Purchase Order and delivery shall only be complete in accordance with such specification, or as may otherwise be agreed in writing between the Buyer and the Seller. If no such details are specified in the Purchase Order, the Goods shall be delivered within 30 days of the Purchase Order and the place of delivery shall be the Buyer's premises.

4.2 The Seller shall provide a timetable to the Buyer with dates for manufacture and delivery of the Goods, in accordance with the date and place of delivery specified in the Purchase Order, as the Buyer may reasonably require. The Seller shall give notice to the Buyer as soon as practicable if such programmes are or are likely to be delayed.

4.3 The Buyer has the right to instruct the Seller to take such action at its own expense as is required to bring the Contract to completion or to reject the Goods, terminate the contract and claim damages where delivery is or is projected by the Seller to occur later than the date projected in accordance with Condition 4.1.

4.4 If the Goods are incorrectly delivered, the Seller will be responsible for any additional expenses incurred in delivering them to their correct destination.

4.5 The Seller shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Seller to deliver any one instalment on time or at all or any defect in any one instalment shall entitle the Buyer to the remedies set out herein.

5. Risk and Title

5.1 The property and risk in the Goods shall remain with the Seller, until the delivery is complete and, if so specified in the Purchase Order, signed for, at the address specified in the Purchase Order, when ownership of the Goods shall transfer to the Buyer.

6. Loss or damage in transit

6.1 The Seller shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition.

6.2 Without prejudice to the rights of the Buyer under Condition 3, the Buyer shall advise the Seller in writing of any loss, damage or non-delivery of any part of any consignment within 14 days of delivery to the Buyer.

6.3 The Seller shall make good, free of charge to the Buyer, any loss of, damage to or non-delivery of the Goods notified to the Seller in accordance with Condition 6.1.

7. Price

7.1 The price for the Goods shall be as set out in the Purchase Order; no additional charges shall be effective unless agreed in writing and signed by the Buyer.

7.2 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax (“**VAT**”), and VAT, where applicable, shall be shown separately on all invoices and shall be payable by the Buyer only on receipt of a valid VAT invoice from the Seller.

8. Payment

8.1 The Buyer shall pay the price of the Goods [to a bank account nominated in writing by the Seller] by the end of the month following the date of the invoice, although the timing of payment by the Buyer shall not be of the essence of these Conditions.

8.2 No payment of (or on account of) the price shall constitute any admission by the Buyer of the proper performance of the Seller's obligations under the Contract.

8.3 Any payment by the Buyer, including any deposit paid, shall be recoverable by the Buyer if the Seller fails to comply with its obligations under the Contract.

8.4 The Buyer may at any time, without notice to the Seller, set off any liability of the Seller to the Buyer against any liability of the Buyer to the Seller, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. [If the liabilities to be set off are expressed in different currencies, the Buyer may convert either liability at a market Buyer of exchange for the purpose of set-off.] Any exercise by the Buyer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

9. Variations

9.1 The Seller shall not alter any of the Goods, except as directed in writing by the Buyer, but the Buyer shall have the right, from time to time during the execution of the Contract, by notice in writing to direct the Seller to add to or to omit, or otherwise vary, the Goods and the Seller shall carry out such variations and be bound by the same conditions so far as applicable as though the said variations were stated in the Contract.

9.2 Where Seller receives any directions from the Buyer under Condition 9.1 which would require an amendment to the price of the Goods, the Seller shall, at the earliest opportunity, inform the Buyer in writing of the proposed change. Any proposed change to the price shall not be effective until the Buyer agrees to the new price in writing.

9.3 The Seller shall notify the Buyer immediately upon receipt of any directions which would require an amendment to the Contract other than the price. Until the Buyer confirms the instructions in writing to amend the Contract accordingly, they shall be deemed not to be given.

10. Insurance

10.1 During the term of the Contract [and for a period of six years thereafter], the Seller shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Buyer'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.

11. Confidentiality/Intellectual property rights

11.1 The Seller will indemnify the Buyer against any claim for infringement of patent, design right, registered design, trade mark or copyright by the use or sale of the Goods and against all costs and damages (including legal fees) which Buyer may incur in any action for such infringement or for which the Buyer may become liable in any such action.

11.2 The indemnity in Condition 11.1 shall not apply to any infringement which is due to Seller having followed any instruction given by the Buyer or to the use of the Goods in a manner, or for an unusual purpose, not specified by or disclosed to the Seller, or to any infringement which is due to the use of such article or material in association or combination with any other article or material not supplied by the Seller.

11.3 The indemnity in Condition 11.1 is conditional on the Buyer promptly giving to the Seller notice in writing of any claim being made or action threatened or brought against the Buyer.

11.4 All intellectual property rights in works, Goods or materials produced for the Buyer by the Seller or specifically commissioned by the Seller from the Buyer shall vest in the Buyer and the Seller undertakes to execute all documents required to ensure such ownership.

11.5 The Seller irrevocably appoints the Buyer as its attorney to execute in its name and on its behalf all deeds or other instruments required by the Buyer to give effect to Condition 11.4.

11.6 The Seller grants to the Buyer, or shall procure the direct grant to the Buyer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use any intellectual property held by the Seller or any third party, as the case may be, which the Buyer may reasonably require for the purpose of receiving and using the Goods.

11.7 Any specifications, plans, drawings, process information, patterns or designs supplied by the Buyer to the Seller in connection with the Contract shall remain the property of the Buyer, and any information derived from them or otherwise communicated to the Seller in connection with the Contract shall be kept confidential and made use of by the Seller solely for the purpose of implementing the Contract. Any specifications, plans, drawings, process information, patterns or designs supplied by the Buyer must be returned to the Buyer on fulfilment of the Contract.

11.8 The Seller agrees that any confidential information about the Buyer, its activities or any other aspects of its operation is confidential and the Seller will not disclose any such information to any third party during or after termination of the Contract, without the express

permission of the Buyer in writing, except where it is necessary to perform its obligations under the Contract or as may otherwise be required by law, a court of competent jurisdiction or any relevant governmental or regulatory authority.

12. Data Protection and governing law

12.1 The Seller shall comply with all relevant English law, in relation to data protection and privacy under applicable law, the General Data Protection Regulation 2016, the Data Protection Act 2018 and any amendments thereafter.

12.2 The Seller will only process data supplied by the Buyer in accordance with instructions received from the Buyer, except where such instructions conflict with the Seller's obligations under clause 11.1.

13. Force majeure

13.1 The Buyer reserves the right to defer the date of delivery, performance or payment or to cancel the Contract or reduce the volume of the Goods ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Buyer including, without limitation to, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

14. Assignment

14.1 The Seller shall not assign the Contract or any part of it or delegate or sub-contract any of its obligations under the Contract without the prior written consent of the Buyer.

14.2 Where the Buyer so consents, the Seller shall remain responsible to the Buyer for its obligations under the Contract, and all sub-contracts shall incorporate the same terms as the Contract.

15. Inspection

15.1 The Buyer shall have the right to inspect the Goods at the Seller's premises (and those of its sub-contractors) at all reasonable times and to reject Goods that do not comply fully with the terms of the Contract, or to request of the Seller any necessary remedial action. The completion of any inspection or check by the Buyer, or any apparent approval or acceptance given on behalf of the Buyer, shall not relieve the Seller or its sub-contractors from any obligation under the Contract.

16. Hazardous Goods

16.1 Hazardous Goods must be marked by the Seller with any international danger symbol(s) relevant to such Goods and display the name of the material in English. Transport and other documents must include declaration of the hazard and name of the material in English. Goods must be accompanied by emergency information in English in the form of written instructions, labels or markings. The Seller shall observe the requirements of U.K. and international laws, regulations and market standards relating to the packing, labelling and carriage of hazardous Goods.

16.2 All information held by, or reasonably available to the Seller regarding any potential hazards known or believed to exist in the transport, handling or use of the Goods supplied shall be promptly communicated to the Buyer.

17. Insolvency and Bankruptcy of the Seller

17.1 If the Seller becomes insolvent or bankrupt or makes an arrangement with its creditors or (being a Company) has an administrative receiver or administrator appointed or commences to be wound up (other than for the purposes of amalgamation or reconstruction), the Buyer may without prejudice to any other of its rights terminate the Contract forthwith by notice to the Seller or any person in whom the Contract may have become vested and shall be entitled to the immediate return of any monies paid in advance.

18. Indemnity

18.1 The Seller shall be liable for and shall indemnify the Buyer against all and any actions, claims, liabilities, losses, damages and expenses (including legal expenses) incurred by the Buyer which arise out of, or in connection with, directly or indirectly, the Seller's performance under the Contract. This Condition 18 shall survive termination of the Contract.

19. Waiver

19.1 No failure or delay by a party to exercise any right or remedy provided under this agreement 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.

20. Notices

20.1 Any notice to be sent under the Contract should be sent in writing to the addresses given, by registered or recorded delivery letter. Letters shall be deemed served 48 hours after posting.

21. Severance

21.1 In the event that any provision of the Contract shall be void or unenforceable by reason of any provision or applicable law, it shall be deleted and the remaining provisions shall continue in full force.

22. Rights of non-parties to the Contract

22.1 The Contract does not and is not intended to confer any benefit on any party pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

23. Governing law and jurisdiction

23.1 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 law of England and Wales, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales.