

ST ANDREW'S HEALTHCARE PURCHASE TERMS (GOODS AND/OR SERVICES)

1. Interpretation

1.1. In these terms, the following definitions apply:

Charity: the St Andrew's Group Company that places the Order

Contract: the contract between the Charity and the Supplier for the supply of Goods and/or Services in accordance with these terms and incorporating the Order

Charity Materials: all materials, equipment, specifications and data supplied by the Charity to the Supplier or Goods containing the Charity's Intellectual Property
Charity's Policies: the Charity's business policies, procedures, rules and codes as advised, or made available, to the Supplier from time to time (including its procedures for visitors to its premises, the Charity's Best Invoicing Practice Guidelines and the Charity's Code of Conduct for Suppliers of Goods and Services, available at <https://www.stah.org/suppliers> or on request)

Goods: the goods (or any part of them) set out in the Order

Intellectual Property: any patent, copyright, design right, registered design, trade mark, service mark, know-how, utility model, unregistered design right or where relevant, any application for any such right, or other industrial or intellectual property right subsisting anywhere in the world

Order: the order from the Charity to the Supplier for the supply of Goods and/or Services

Services: the services (or any part of them) set out in the Order

St Andrew's Group Company: St Andrew's Healthcare (co. no. 5176998), its subsidiaries or holding companies (and their subsidiaries) as defined in s1159 Companies Act 2006

Supplier: the party named in the Order.

1.2. Reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time.

1.3 These terms are the only terms upon which the Charity shall purchase Goods and Services and shall be incorporated into the Contract to the exclusion of all other terms (including any the Supplier seeks to incorporate via any quotation, order acceptance form or otherwise). Nothing in these terms shall prevent the Charity from relying on any implied terms or remedies.

2. Basis of Contract

2.1. The Charity shall not be bound by any Order unless it is issued or confirmed on the Charity's official order form.

2.2. The Charity may provide a forecast of the Goods/Services required. Such information is given in good faith but without any obligation on the Charity.

2.3. The Order constitutes an offer by the Charity to purchase Goods and/or Services from the Supplier in accordance with these terms.

2.4. An Order may be withdrawn or amended by the Charity at any time before acceptance by the Supplier. If the Supplier is unable to accept an Order, it shall notify the Charity promptly.

2.5. Acceptance of an Order by the Supplier shall take place when it is expressly accepted or by any other conduct of the Supplier which the Charity reasonably considers is consistent with acceptance of the Order.

2.6. The Supplier shall fulfil all accepted Orders and carry out its obligations with all reasonable skill and care and in accordance with good industry practice and the provisions of the Contract.

2.7. In addition to its other termination rights, the Charity may at any time and for any reason terminate an accepted Order in whole or part by giving the Supplier notice and the Charity shall pay to the Supplier fair and reasonable compensation for work-in-progress to the termination date (but not loss of anticipated profits).

3. Delivery/Performance

3.1. The Supplier shall deliver the Goods carriage paid, to the place and on the date specified in the Order (or subsequently advised by the Charity) and only between 9.00am and 4.00pm Mondays to Fridays, unless otherwise agreed by the Charity. Delivery shall be completed on completion of unloading of the Goods. A delivery note must accompany the Goods and state the appropriate PO number.

3.2. The Supplier shall provide the Services for the duration of the Contract and shall ensure such Services are provided to the Charity's requirements (as set out in the Order) and meet any performance dates set by the Charity.

- 3.3. Delivery/performance times shall be of the essence.
- 3.4. The Supplier shall not deliver the Goods in instalments unless the Charity agrees.
- 3.5. If the Goods are delivered to the Charity in excess of the quantity ordered, the Charity shall not be bound to pay for the excess, which shall remain, and be returned, at the Supplier's risk and expense.
- 3.6. If the Charity claims that an Order has not been properly fulfilled, the Supplier shall be deemed to accept the validity of the claim unless it serves written notice on the Charity disputing the claim (with reasons) within 5 days of the claim date.

4. Title and risk

- 4.1. Risk in the Goods shall pass to the Charity on delivery and when the Charity has accepted the Goods in accordance with 6.1.
- 4.2. Title to the Goods shall pass to the Charity on the earlier of: (a) payment for the Goods; or (b) delivery of the Goods to the Charity.

5. Standards

- 5.1. The Supplier warrants and undertakes that the Goods shall: (a) be accompanied with accurate and complete instructions in English for the use, handling, transportation and storage of the Goods; conform to any samples, drawings, specifications or other descriptions or requirements specified in the Contract; conform in all respects with any representations, descriptions and other standards given by the Supplier prior to the Order; comply with all applicable laws and regulations in the country of manufacture and to British and European Standards; and be of satisfactory quality, free from defects and fit for purpose.
- 5.2. In relation to any Services to be provided by the Supplier, the Supplier warrants and undertakes: (a) to use good quality materials and ensure all materials used in the Services will be free from defects in workmanship, installation and design; and (b) that any advice or instructions given by the Supplier to the Charity will be true, complete, accurate and not misleading.
- 5.3. The Supplier shall be responsible for any errors or omissions in any drawings, calculations, or other information or materials supplied by it even if approved by or on behalf of the Charity or not (unless due to inaccurate information given in writing by the Charity).
- 5.4. The Supplier shall obtain and maintain all licences, authorisations and consents which may be required and shall comply with all applicable laws, regulations, regulatory policies, guidelines and industry codes which may apply and comply with the Charity's Policies.
- 5.5. The Supplier represents that it is a competent person for the purpose of complying with health and safety legislation and acknowledges that the Charity is relying on its skills and expertise in carrying out the Services safely and in accordance with those requirements. The Supplier must (where required) supply a suitable method statement and risk assessment for the Services to the Charity prior to commencement.
- 5.6. The Supplier shall ensure that all staff who have access to or are employed on the Charity's premises comply with the Charity's Policies and instructions and complete any additional security clearance required by the Charity.
- 5.7. The Supplier shall provide all tools and equipment to provide the Services, such items to be at the sole risk of the Supplier at all times.
- 5.8. The Supplier will ensure that it and the manufacturer of its products respect the welfare of employees and of the local community and comply with all applicable laws (including all labour, environmental and health and safety laws). The Supplier must have appropriate environmental and health & safety policies and provide evidence of compliance with such policies.
- 5.9 The Supplier shall at all times comply with the Bribery Act 2010 and the Modern Slavery Act 2015 (and all associated guidance). Breach of this clause will allow the Charity to terminate for irremediable breach under 9.1.

6. Acceptance of Goods/Services

- 6.1. The Charity shall not be deemed to have accepted any Goods or Services until it has had a reasonable time to inspect them following delivery. Neither the testing nor inspection by the Charity (or its representatives) at any time nor the signing of any document acknowledging physical receipt of any Goods or completion of any Services shall constitute acceptance or approval of the Goods/Services.

6.2. If the Supplier fails to deliver the Goods and/or perform the Services in accordance with the Contract, the Charity shall, without limiting its other rights or remedies, have one or more of the following rights: to terminate the Contract with immediate effect by giving written notice to the Supplier; to reject the relevant Goods/Services (in whole or in part) and return any Goods at the Supplier's risk and expense or refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make; to recover from the Supplier the cost of obtaining substitute goods and/or services from a third party; where the Charity has paid in advance for Goods or Services to have such sums refunded by the Supplier; and to claim damages for any additional costs, losses or expenses incurred by the Charity as a result of the Supplier's failure to comply with the Contract. These terms shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

7. Charges and payment

7.1. The charges for the Goods and Services shall be as set out in the Order or otherwise agreed in writing by the Charity and shall be the only sum payable by the Charity (other than VAT) for or in connection with the Goods/Services. Where the Charity has agreed to pay the Supplier's expenses, the Charity's expenses policy shall apply.

7.2. The Supplier shall invoice the Charity within 30 days following completion of delivery of the Goods/performance of the Services. Invoices must include such supporting information as is required by the Charity to verify the accuracy of the invoice, including the relevant purchase order number. Invoices must be presented within 6 months of completion of the delivery/Services otherwise the Supplier agrees to release the Charity from its obligation to make payment.

7.3. The Charity shall pay each validly submitted invoice within 38 days of the date of receipt (unless otherwise agreed in writing by the Charity). Payment will be in Pounds Sterling, by cheque or direct payment into a UK bank account advised by the Supplier and in the Supplier's name.

7.4. If any sum is not paid when due then the party entitled to payment may charge interest on such overdue sum from the due date until payment is made in full at 2% above the Bank of England's base rate from time to time. The Supplier shall not be entitled to suspend performance of the Contract as a result of outstanding sums.

7.5. The Charity may (without limiting any of its other rights or remedies) set off any liability of the Supplier to the Charity against any liability of the Charity to the Supplier, whether under this Contract or otherwise.

8. Liability and Insurance

8.1. The extent of the parties' liability under or in connection with the Contract (whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 8.

8.2. Subject to clauses 8.3, neither party shall be liable to the other party for consequential, indirect or special losses.

8.3. Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following: death or personal injury caused by negligence; fraud or fraudulent misrepresentation; any other losses which cannot be excluded or limited by law; and/or (d) any losses caused by wilful misconduct.

The Supplier shall indemnify the Charity in full against all claims, demands, actions, proceedings and all liabilities, costs, expenses, damages and losses which are made against or suffered or incurred by the Charity arising out of or in connection with any claim 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.

During the term of the Contract and for so long as the Supplier shall have liability pursuant to the Contract thereafter, the Supplier shall maintain in force appropriate insurances, with a reputable insurance company, to cover the liabilities that may arise under or in connection with the Contract, being not less than £1million professional indemnity, £5million product liability and £5million employer's liability cover. Evidence of such insurances shall be provided to the Charity on request.

The Supplier undertakes not to structure its business and the provision of the Goods and Services in any way that an employee of the Supplier (or agent or subcontractor) could claim to be entitled to transfer to the

employment of the Charity (or the Charity's subsequent supplier of goods and/or services) pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006. In the event that any such employee claims to be or is entitled to transfer pursuant to these Regulations, the Supplier shall indemnify the Charity in full against any costs, claims, losses or liabilities suffered as a result.

9. Termination

9.1. Without limiting its other rights or remedies, a party may terminate the Contract immediately by giving written notice to the other party if that other party: commits a material or repeated breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within seven days of receipt of notice in writing to do so; or stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so; is unable to pay its debts (s 123 Insolvency Act 1986); (d) becomes the subject of a company voluntary arrangement, a winding up petition or resolution, an application for an administrative order or a process for taking control of its goods; or any winding up, administrative or freezing order is made against it, has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income; or is subject to any events or circumstances analogous to those in clauses (b) to (e) in any jurisdiction, including attempted or actual recovery of items from suppliers retaining title to such items.

If the Supplier becomes aware of any event or circumstances which may entitle the Charity to terminate the Contract under this clause 9, it shall immediately notify the Charity in writing.

Termination of the Contract shall not affect any rights and remedies that have accrued as at termination.

Where the Charity terminates the Contract pursuant to 9.1, the Charity may (within 14 days of giving the termination notice) cancel any undelivered Orders without liability to the Supplier.

Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

10. Information

10.1. The Supplier shall supply to the Charity from time to time such information and reports as the Charity reasonably requires in relation to the provision of the Goods and/or Services.

10.2. The Supplier shall keep full and proper documentation relating to the provision of Goods and Services under the Contract and all corresponding charges and payments. The Supplier shall allow the Charity access to and the right to audit the Supplier's documentation for the term of the Contract and six years afterwards. The Supplier shall co-operate with the Charity in relation to any such audit or enquiry at its own cost.

10.3. Where the Charity supplies data to the Supplier that is covered by the Data Protection Laws (being the Data Protection Act 2018, Privacy & Electronic Communications (EC Directive) Regulations 2003 and the General Data Protection Regulations (EU) 2016/679, as supplemented, amended and reenacted), the Supplier shall act only in the capacity of Data Processor in carrying out its obligations under the Contract. The Supplier shall only process data in accordance with the Charity's instructions and in full compliance with the Data Protection Laws and all applicable guidelines and codes of practice issued by the Information Commissioner. The Supplier shall provide a copy of any data requested by the Charity within 2 days of request. The Supplier shall, on request, enter into a Data Processing Agreement with the Charity on such terms as the Charity reasonably requires.

10.4. Neither party shall disclose to any person any confidential information concerning the business of the other party (and for the Charity, its patients, staff and visitors) other than to its own employees and workers on a need to know basis and shall not use the other party's confidential information for any purpose other than as required under the Contract nor publicise its involvement with the other party without their prior written consent.

11. Intellectual property rights

11.1. All Intellectual Property rights in or arising out of or in connection with the Goods and Services (other than Intellectual Property rights in any Charity Materials) shall be owned by the Supplier.

11.2. The Supplier grants to the Charity, or shall procure the direct grant to the Charity of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Goods and Service deliverables for the purpose of receiving and using them.

11.3 All Charity Materials are the exclusive property of the Charity.

12. General

12.1. The Supplier shall not assign or subcontract all or any of its rights or obligations under the Contract.

12.2. Any notices 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) and shall be delivered personally, or sent by pre-paid first class post or other next day delivery service or commercial courier.

12.3. 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 deleted. The remainder of the Contract shall be unaffected.

12.4. A waiver of any right or remedy under the Contract or law is only effective if given in writing. 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.

12.5. Nothing in the Contract is intended to establish any partnership or joint venture or agency between the parties.

12.6. Save for a St Andrew's Group Company, a person who is not a party to the Contract shall not have any rights to enforce its terms.

12.7. No variation of the Contract shall be effective unless it is in writing and signed by the Charity.

12.8 The Contract, and any dispute or claim arising out of shall be governed by, and construed in accordance with English law and shall be subject to the exclusive jurisdiction the English courts.

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St Andrew's Healthcare, Company number: 5176998, Charity Number: 1104951 Registered Office: Billing Road, Northampton, NN1 5DG