



## TERMS AND CONDITIONS OF SUPPLY

### 1. IMPORTANT INFORMATION ABOUT SIGNING AND ACCEPTING THE ORDER

- 1.1 The Order may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts will together constitute the one (1) Order. Transmission of the executed signature page of a counterpart of the Order by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of the Order. If either method of delivery is adopted, without prejudice to the validity of the Order made, Vita and the Buyer will provide the other with the original of such counterpart as soon as reasonably possible thereafter.
- 1.2 You should read these Conditions before submitting the Order Form or otherwise signing the Order. If you are signing the Order for an entity, such as the company you work for, you represent that you have legal authority to bind that entity.

### 2. THE ORDER BETWEEN VITA AND THE BUYER

- 2.1 The Order Form constitutes an offer by the Buyer to purchase Goods in accordance with these Conditions, which are also available on Vita's website. Vita reserves the right to amend these Conditions from time to time.
- 2.2 Where Vita accepts the Order Form in Writing, Vita shall provide the Goods set out in the Order Form and the Buyer shall take and pay for the same, on and subject to these Conditions.

### 3. DEFINITIONS AND INTERPRETATION

- 3.1 In these Conditions the following words shall have the following meanings:

<b>'Anti-Slavery Laws'</b>	has the meaning given to it in Condition 26.2.1.
<b>'Background IPR'</b>	means intellectual property rights that belong, or are licensed, to Vita or the Buyer prior to the date of the Order.
<b>'Buyer'</b>	means the person identified as such in the Order Form.
<b>'Conditions'</b>	means these standard terms and conditions of supply set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and Vita and reference to ' <b>Condition</b> ' shall be construed accordingly.
<b>'Confidential Information'</b>	means all information which is disclosed by one (1) party to the other whether before or after the date of the Order, which is designated in Writing as confidential or would appear to a reasonable person to be confidential and which relates to a party's (or any member of that party's group's) business, including its products, operations, processes, pricing, plans or intentions, developments, recipes, trade secrets, know how, design rights, market opportunities, personnel, suppliers and customers of the party disclosing it, all Vita data and all information derived from any of the above.
<b>'Data Protection Legislation'</b>	means EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council (' <b>GDPR</b> ') and any data protection laws substantially amending, replacing or superseding the GDPR following any exit by the United Kingdom from the European Union, and/or other applicable data protection or national/federal or state/provincial/emirate privacy legislation in force, including where applicable, laws, statutes, decisions, guidelines, guidance notes, codes of practice, codes of conduct and data

protection certification mechanisms issued from time to time by courts, any authority and other applicable authorities.

**'Force Majeure Event'**

means any event which is beyond the reasonable control of Vita including any but not limited to the following circumstances:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict;
- c) nuclear, chemical or biological contamination or sonic boom;
- d) fire or explosion;
- e) delays or supply failures by suppliers or materials shortages;
- f) difficulty or increased costs in obtaining workers, goods or transport or other circumstances affecting the supply of goods or services;
- g) compliance with a law;
- h) any action taken by a government or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition, or the failure to grant any necessary licence or consent;
- i) accident, lack of power, or breakdown of plant or machinery; and
- j) strike, lock out, work stoppages, slow downs or any other industrial or labour dispute.

**'Goods'**

means the goods (including any instalment of the goods or any parts for them) described in the Order Form which Vita is to supply in accordance with these Conditions.

**'Incoterms'**

means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Order is made.

**'Insolvency Event'**

shall mean in respect of either party (the **'Insolvent Party'**) where:

- a) in respect of the Insolvent Party a winding up petition is presented or a provisional liquidator or an administrator or an administrative receiver or a receiver is appointed or a scheme of arrangement or a voluntary arrangement is proposed;
- b) the Insolvent Party is declared bankrupt or has bankruptcy proceedings initiated against them, goes into compulsory or voluntary liquidation except for a voluntary liquidation for the purposes of solvent reconstruction or amalgamation;
- c) the Insolvent Party is unable to pay its debts within the meaning of

Section 123 of the Insolvency Act 1986; or

- d) the Insolvent Party becomes subject to any other similar insolvency process (whether under the laws of England or elsewhere) or those in (a) to (c) above.

<b>'Invoicing Terms'</b>	means any invoicing terms identified in the Order Form.
<b>'Order'</b>	means the relevant Order Form and these Conditions.
<b>'Order Form'</b>	means the order form sheet attached to these Conditions which contains the Order reference and specifies the parties' details.
<b>'Order IPR'</b>	means all intellectual property rights generated out of or in connection with the Order (and at all times excluding Background IPR).
<b>'Payment Terms'</b>	means any payment terms identified in the Order Form, in accordance with which the Buyer shall pay for the Goods.
<b>'Performance Dates'</b>	means any dates identified as such in the Order Form.
<b>'Price'</b>	means the price identified in the Order Form.
<b>'Receiving Party'</b>	has the meaning given to it in Condition 23.2.
<b>'Relevant Controller'</b>	has the meaning given to it in Condition 23.8.
<b>'Relevant Processor'</b>	has the meaning given to it in Condition 23.8.
<b>'Special Terms'</b>	means those terms listed as such in the Order Form.
<b>'Sub-Processor'</b>	has the meaning given to it in Condition 23.8.5.1 or Condition 23.8.5.2 as the context requires.
<b>'Tolerance Excess'</b>	has the meaning given to it in Condition 10.6.1.
<b>'VAT'</b>	value added tax as provided for in the Value Added Tax Act 1994.
<b>'Vita'</b>	means the person identified as such in the Order Form.

- 3.2 Any reference in these Conditions to a particular piece of legislation or a provision of a particular piece of legislation shall be construed as a reference to that particular piece of legislation as amended, re-enacted or extended at the relevant time and includes any subordinate legislation for the time being in force made under it.
- 3.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 3.4 A reference to person shall include bodies corporate and unincorporate.
- 3.5 Any phrase introduced by the terms **'including'**, **'include'**, **'in particular'** or any similar expression shall be construed as illustrative and the words following those terms shall not limit the sense of the words preceding those terms.
- 3.6 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

- 3.7 References to **'Writing'** and **'Written'** include email communication and comparable durable means of communication.
- 3.8 **'Data Controller'**, **'Data Processor'**, **'Data Subject'**, **'Process/Processing'**, **'Personal Data'** and **'Personal Data Breach'** will have the same meaning as given to them in the Data Protection Legislation.

#### **4. BASIS OF PURCHASE**

- 4.1 Any estimate which Vita provides to the Buyer comprises an invitation to treat which is open for a period of thirty (30) days only from the date thereof, provided that Vita has not previously withdrawn it.
- 4.2 The Order Form constitutes an offer by the Buyer to purchase the Goods subject to these Conditions.
- 4.3 The Order Form and these Conditions shall apply to the Order to the exclusion of any other terms and conditions:
- 4.3.1 that the Buyer proposes or seeks to impose or incorporate, even though such other terms and conditions may be submitted in a later document or purport to exclude or supersede any Conditions inconsistent with them; and/or
- 4.3.2 which are implied by trade, custom, practice or course of dealing.
- 4.4 The Order Form shall be subject to acceptance by Vita (at Vita's sole discretion) and an Order will only be formed when Vita has accepted the Order Form in Writing.
- 4.5 All Orders are accepted subject to Vita's then current minimum order quantities for the particular Goods.
- 4.6 If there is any conflict, ambiguity or inconsistency between the parts of these Conditions and any Special Terms in the Order Form, Vita and the Buyer agree that any Special Terms will apply to the Order between Vita and the Buyer. In all other instances, the terms of these Conditions take precedence.
- 4.7 The Buyer shall be responsible to Vita for ensuring the accuracy of the terms of any Order Form (including any applicable specification) submitted by the Buyer and for giving Vita any necessary information relating to the Goods within a sufficient time to enable Vita to perform the Order in accordance with its terms.
- 4.8 Vita may offer suggestions regarding product options available, however it is entirely the Buyer's responsibility to make the final product choice and satisfy themselves of the suitability of the product for its intended application, carrying out testing where required. Any advice or recommendation given by Vita or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by Vita is followed or acted on entirely at the Buyer's risk and accordingly Vita shall not be liable for any such advice or recommendation which is not so confirmed.
- 4.9 Vita reserves the right to make any changes in the specification of the Goods as necessary to conform with any applicable statutory or EU requirements provided always that such changes do not materially affect the quality or performance of the Goods.
- 4.10 The Buyer shall comply with all applicable laws, regulations and other legal requirements in connection with its obligations under the Order and the Buyer's receipt and use of the Goods.
- 4.11 No variation to the Order shall be binding unless agreed in Writing between authorised representatives of Vita and the Buyer.

## **5. THE ORDER**

- 5.1 Vita will provide the Goods in accordance with any Performance Dates and/or times specified in the Order Form.
- 5.2 If there are no Performance Dates and/or times specified in the Order Form, Vita will supply the Goods in the ordinary course of business.
- 5.3 The Order shall continue until Vita has delivered the Goods thereunder, unless the Order is cancelled earlier in accordance with its terms.

## **6. CANCELLATION AND RETURNS**

- 6.1 No Order which has been accepted by Vita may be cancelled by the Buyer except with the agreement in Writing of Vita and on terms that the Buyer shall indemnify Vita in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Vita as a result of cancellation.
- 6.2 Without prejudice to Vita's other rights or remedies, Goods supplied in accordance with the Order cannot be returned without the prior permission of Vita. Vita will not accept or take responsibility for such Goods returned without its prior written permission. Duly authorised returns shall be sent to Vita's premises at the Buyer's expense.

## **7. PRICE OF THE GOODS**

- 7.1 The Price of the Goods shall be as set out in the Order Form. If no Price is identified in the Order Form, the price set out in Vita's published price list in force as at the date of delivery shall apply.
- 7.2 Vita reserves the right (at Vita's sole discretion) at any time prior to delivery to adjust the Price of the Goods to take account of:
  - 7.2.1 any increase in the cost of materials, labour or services;
  - 7.2.2 any currency fluctuations affecting the cost of materials; or
  - 7.2.3 any price relevant circumstances which may not reasonably be controlled by Vita.
- 7.3 Unless otherwise stated all prices quoted are net ex-works where delivery takes place at Vita's premises and in the event delivery takes place anywhere else in or outside the UK, all costs or charges in relation to packaging, loading, unloading, carriage and insurance shall be borne by the Buyer, in addition to the purchase price paid for the Goods. For the avoidance of doubt, all sums due to Vita under these Conditions are exclusive of VAT which shall be payable by the Buyer in addition, if applicable, in accordance with the relevant regulations in force at the time of making the taxable supply.
- 7.4 The cost of pallets and returnable containers will be charged to the Buyer in addition to the Price of the Goods, but full credit will be given to the Buyer provided such items are returned undamaged to Vita before the due date for payment.

## **8. ADDITIONAL COSTS**

- 8.1 The Buyer agrees to pay for any loss or extra cost incurred by Vita:
  - 8.1.1 through the Buyer's instructions or lack of instructions or through failure or delay in taking delivery;

8.1.2 caused by any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer; or

8.1.3 through any act or default on the part of the Buyer its servants, agents or employees.

## **9. TERMS OF PAYMENT**

9.1 Vita shall invoice the Buyer in accordance with the Invoicing Terms, or, if no Invoicing Terms are stated, Vita shall be entitled to invoice the Buyer at any time, as required by Vita.

9.2 Vita reserves the right to request advance payment in respect of the Buyer's Orders.

9.3 The Buyer shall pay for the Goods in accordance with the Payment Terms, or, if no Payment Terms are stated, payment for Goods becomes due and payable under these Conditions on the 20th of the month following the month of delivery of the Goods.

9.4 All payments by the Buyer to Vita shall be made to the bank account nominated in Writing by Vita to the Buyer from time to time.

9.5 Time for payment shall be of the essence.

9.6 No payment shall be deemed to have been received until Vita has received cleared funds.

9.7 Vita reserves the right to charge interest at four per cent (4%) per annum above the base lending rate of Barclays Bank plc from time to time on all overdue accounts, such interest being deemed to accrue on a day to day basis from the due date for payment until the obligation to make payment is discharged.

9.8 The Price of the Goods shall be due in full to Vita in accordance with Condition 9.3 and the Buyer shall not be entitled to exercise any set off, lien or other similar right or claim.

9.9 If the Buyer becomes subject to an Insolvency Event then it will be deemed to have repudiated the Order.

9.10 Vita reserves the right at any time at its discretion to demand security for payment before continuing with or delivering any Order (or part thereof).

9.11 If upon the terms applicable to any Order the Price shall be payable by instalments or if the Buyer has agreed to take specified quantities of Goods at specified times, a default by the Buyer of payment for any due instalment or the failure to give delivery instructions in respect of any quantity of Goods outstanding shall cause the whole of the balance of the Price to become due and payable forthwith.

## **10. DELIVERY**

10.1 Unless otherwise agreed in Writing by Vita, delivery will be deemed to have been effected:

10.1.1 at Vita's premises if the Buyer's transport is used; or

10.1.2 when the Goods are delivered to the Buyer's premises or such other premises as may be agreed by Vita and the Buyer if Vita's transport (or a third party logistics provider acting on behalf of Vita) is used.

10.2 Where delivery is to take place anywhere other than Vita's premises, the Buyer shall:

10.2.1 provide at the delivery address and at its own expense adequate and appropriate equipment and manual labour for unloading the Goods; and

10.2.2 be responsible for ensuring that the Goods are unloaded into the correct storage area.

- 10.3 All times or dates given for deliveries of the Goods (including Performance Dates) are approximate only and Vita shall not be liable for any delay in delivery of the Goods however caused. Time of delivery is not of the essence. The Goods may be delivered by Vita in advance of the quoted delivery date on giving reasonable notice to the Buyer.
- 10.4 Vita reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment.
- 10.5 Where delivery is agreed to be by instalments or Vita exercises its right to deliver by instalments under Condition 10.4 hereof and there is delay in the delivery of any one (1) or more instalments for whatever reason this will not entitle the Buyer to damages or to treat the Order as repudiated.
- 10.6 Should there be any:
- 10.6.1 under delivery or over delivery in quantity of the Goods delivered (representing not more than ten per cent (10%) by value) (**Tolerance Excess**) from that stated in the Order (whether surplus or shortfall), then the Buyer must take the Goods actually supplied and pay for the same (and the Buyer shall not be entitled to reject the Goods or to claim damages). In the case of under delivery, Vita shall repay the Price of those Goods that have been ordered but not supplied where such Price has been paid or where the Price has not been paid, Vita shall issue a credit note in respect of the applicable invoice (or applicable part thereof);
  - 10.6.2 under delivery in the quantity of the Goods delivered (representing more than the Tolerance Excess), then the Buyer may (but shall not be obliged to), take those Goods actually supplied and pay for the same or shall be entitled to reject the entire Order and refuse to take delivery of the Goods. Vita shall repay the Price where such Price has been paid or where the Price has not been paid Vita shall issue a credit note in respect of the applicable invoice; or
  - 10.6.3 over delivery in the quantity of the Goods delivered (representing more than the Tolerance Excess) then the Buyer shall be entitled at its discretion to:
    - 10.6.3.1 take, and pay the Price for, the quantities supplied;
    - 10.6.3.2 reject all the over delivery quantity in excess of the Tolerance Excess and take, and pay the Price for, the quantities supplied up to the Tolerance Excess; or
    - 10.6.3.3 reject part of the quantity in excess of the Tolerance Excess but take, and pay the Price for, the remainder of the Goods supplied.
- 10.7 The quantity of any consignment of Goods as recorded by Vita upon despatch shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence to the contrary.
- 10.8 Where delivery is refused by the Buyer or is delayed, or suspended at the request of the Buyer, or where Vita is unable to deliver the Goods due to circumstances beyond its reasonable control, Vita on giving notification of its readiness to deliver shall be entitled either to:
- 10.8.1 treat the Order as fulfilled and place the Goods into storage. Delivery will be deemed to have taken place for invoicing payment and the passing of risk. The cost of storage and insurance of the Goods shall be for the Buyer's account; or

- 10.8.2 sell the Goods at the best price readily obtainable and, after deducting all storage and selling expenses, account to the Buyer for the excess over the Price under the Order or charge the Buyer for any shortfall below the Price under the Order.
- 10.9 Any liability of Vita for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Order rate against any invoice raised for such Goods.

## **11. EXPORT TERMS**

- 11.1 Where Vita agrees to supply or procure the supply of the Goods for export from the UK, the provisions of this Condition 11 shall apply (subject to any Special Terms agreed in Writing between the Buyer and Vita) notwithstanding any other provision of these Conditions.
- 11.2 The Buyer shall be solely responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- 11.3 Unless otherwise agreed in Writing between the Buyer and Vita, the Goods shall be delivered Incoterms EXW at Vita's premises and Vita shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979 should other Incoterms apply.
- 11.4 In respect of Goods supplied for export outside of the UK, payment of all amounts due to Vita shall be made by irrevocable letter of credit in a form acceptable to Vita and opened by the Buyer in favour of Vita and confirmed by a bank acceptable to Vita or, if Vita has agreed in Writing on or before acceptance of the Buyer's Order Form to waive this requirement, other documentary or equivalent payment methods that are acceptable by Vita.

## **12. INSPECTION/SHORTAGES**

- 12.1 Where delivery occurs in accordance with Condition 10.1.1 or Condition 11.3, the Buyer shall be responsible for arranging for testing and inspection of the Goods at Vita's premises before shipment. Vita shall have no liability for any claim which is made after shipment in respect of any defect in the Goods which would be apparent on inspection or in respect of any damage during transit.
- 12.2 Where delivery occurs in accordance with Condition 10.1.2, the Buyer is under a duty wherever possible to inspect the Goods on delivery.
- 12.3 No liability will attach to Vita for non-delivery, partial loss or damage to the Goods occurring prior to delivery or for any claim that the Goods are not in accordance with the Order unless claims to that effect are notified in Writing by the Buyer to Vita (and in the case of claims for non-delivery, partial loss or damage with a copy to the carrier if Vita's transport has not been used to deliver the Goods):
- 12.3.1 within seven (7) days of delivery for partial loss or damage or non-compliance with the Order; or
- 12.3.2 within fourteen (14) days of the date of the invoice for non-delivery.
- 12.4 In the event of a valid claim for non-delivery, partial loss or damage Vita undertakes at its option either to reprocess or replace the Goods at its expense but shall not be under any further or other liability to any person in connection with such non-delivery, partial loss or damage or non-compliance.
- 12.5 If the Buyer shall fail to give notice in accordance with Condition 12.3 above, the Goods shall be deemed to be in all respects in accordance with the Order and the Buyer shall be bound to accept and pay for the same accordingly.



### 13. RISK AND PROPERTY

- 13.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 13.1.1 in the case of Goods to be delivered at Vita's premises, at the time where Vita notifies the Buyer that the Goods are available for collection; or
  - 13.1.2 in the case of Goods to be delivered otherwise than at Vita's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when Vita has tendered delivery of the Goods.
- 13.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, title and property in the Goods, including full legal and beneficial ownership, shall not pass to the Buyer until Vita has received in cash or cleared funds payment in full for all Goods delivered to the Buyer under this and all other Orders between Vita and the Buyer for which payment of the full Price of the Goods thereunder has not been paid. Payment of the full Price of the Goods shall include the amount of any interest or other sum payable under the terms of this and all other Orders between Vita and the Buyer under which the Goods were delivered.
- 13.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall:
- 13.3.1 hold the Goods as Vita's fiduciary agent and bailee;
  - 13.3.2 keep the Goods separate from those of the Buyer and third parties and properly stored, protected and identified as Vita's property;
  - 13.3.3 not destroy or obscure any identifying mark or packaging on or relating to the Goods; and
  - 13.3.4 maintain the Goods in a satisfactory condition and keep them insured on Vita's behalf for their full Price against all risks to the reasonable satisfaction of Vita. On request the Buyer shall produce the policy of insurance to Vita.
- 13.4 Notwithstanding Condition 13.3 the Buyer may resell the Goods at their full market value or use the Goods in the ordinary course of its business.
- 13.5 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), Vita may at any time require the Buyer to deliver up the Goods to Vita and, if the Buyer fails to do so forthwith, the Buyer shall be deemed irrevocably to have granted authority to Vita to enter on any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 13.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of Vita, but if the Buyer does so all monies owing by the Buyer to Vita shall (without limiting any other right or remedy of Vita) immediately become due and payable.
- 13.7 Vita shall be entitled to recover payment for the Goods notwithstanding that property in the Goods has not passed to the Buyer.
- 13.8 The Buyer's right to possession of the Goods shall terminate immediately if:
- 13.8.1 the Buyer becomes subject to an Insolvency Event;
  - 13.8.2 the Buyer ceases, or threatens to cease, to trade; or

13.8.3 the Buyer encumbers or in any way charges any of the Goods.

13.9 Where Vita is unable to determine whether any Goods are goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by Vita to the Buyer in the order in which they were invoiced to the Buyer.

#### **14. STOPPAGE**

14.1 If (i) the Buyer shall fail to accept the Goods or any instalment or part instalment thereof; or (ii) the Buyer shall fail to pay any sum due to Vita; or (iii) any of the events set out in Condition 13.8 occur; or (iv) Vita reasonably apprehends that any of the events set out in Condition 13.8 is about to occur in relation to the Buyer and notifies the Buyer accordingly, Vita in its discretion and without prejudice to any other right or claim may by notice in Writing immediately determine wholly or in part any and every Order between Vita and the Buyer or may (without prejudice to Vita's right subsequently to determine the Order for the same cause should it so decide) by notice in Writing immediately suspend further deliveries of Goods without any liability to the Buyer until any default by the Buyer be remedied, and if the Goods have been delivered but not paid for, the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

14.2 For the avoidance of doubt it is hereby declared that nothing in these Conditions shall affect the rights given to Vita by Sections 38-48 of the Sale of Goods Act 1979 or any statutory amendment or re-enactment thereof.

#### **15. WARRANTIES AND CONDITIONS**

15.1 Vita warrants that, at delivery, it has title to and the unencumbered right to sell the Goods.

15.2 Every description or specification of the Goods given by Vita is given in good faith based on average results of standard tests but any conditions or warranties express or implied that the Goods shall correspond with such description or specification are hereby expressly disclaimed and the use of any such description or specification shall not constitute a sale by description.

15.3 Any conditions or warranties (whether express or implied by statute, common law or arising from conduct or a previous course of dealing or trade custom or usage) as to the quality or fitness of the Goods for any particular purpose even if that purpose is made known expressly or by implication to Vita are hereby expressly disclaimed to the maximum extent permitted by applicable laws.

15.4 Notwithstanding that a sample of the Goods may have been exhibited to and inspected by the Buyer or the results of standard tests upon a sample furnished to the Buyer it is hereby declared that such sample was so exhibited and inspected or tested solely to enable the Buyer to judge for itself the quality of the Goods and not so as to constitute a sale by sample. The Buyer shall take the Goods at its own risk as to their corresponding with the sample or as to their quality, condition and/or sufficiency for any purpose.

15.5 Without prejudice to the foregoing provisions of this Condition 15, the application, use and processing of the Goods is the absolute responsibility of the Buyer and the Buyer shall be deemed to have carried out its own tests to ensure the suitability of the Goods for their intended purpose and applications.

15.6 Vita accepts no liability of any kind in respect of Goods (parts or components) not manufactured by Vita.

#### **16. LIABILITY**

16.1 Nothing in Condition 16 shall be deemed to exclude or restrict Vita's liability for:

- 16.1.1 death or personal injury resulting its negligence or the negligence of its employees, agents or sub-contractors (as applicable);
  - 16.1.2 fraud or fraudulent misrepresentation;
  - 16.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - 16.1.4 defective products under the Consumer Protection Act 1987; or
  - 16.1.5 any matter in respect of which it would be unlawful for Vita to exclude or restrict liability.
- 16.2 Subject to Condition 16.1, the Order only covers defects caused by faulty design, manufacture, materials or workmanship. It does not impose any liability upon Vita in respect of any defect in the Goods arising out of the act, omissions, negligence or default of the Buyer, its servants or agents including in particular but without limitation any failure by the Buyer to comply with any recommendations of Vita as to storage, use or handling of the Goods.
- 16.3 Vita agrees that if any defect covered by Condition 16.2 is discovered during the twelve (12) month period commencing with the date of despatch, Vita will either: repair the Goods at its own expense, replace them, or refund the Price of the Goods pro rata. If Vita complies with this Condition 16.3 it shall have no further liability for breach of the warranty in Condition 15.
- 16.4 The Buyer cannot claim the benefit of Conditions 16.2 and 16.3 unless:
- 16.4.1 it informs Vita of the relevant defect in Writing within seven (7) working days of discovering it and gives Vita the opportunity to inspect the Goods;
  - 16.4.2 it returns the Goods to Vita;
  - 16.4.3 the total Price for the Goods has been paid by the due date for payment; and
  - 16.4.4 the Goods are unused and in an unaltered state.
- 16.5 The risk of accidental loss or damage to the Goods whilst being returned will be borne by the Buyer.
- 16.6 Where the Goods are for delivery by instalments any defect in any instalment shall not be a ground for cancellation of the remainder of the instalments and the Buyer shall be bound to accept delivery thereof.
- 16.7 Vita shall not be liable for imperfect work caused by any inaccuracies in any drawing, bills of quantities or specifications provided by or on behalf of the Buyer.
- 16.8 Vita shall not be liable in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Vita's instructions, misuse or alteration of or repair of the Goods without Vita's approval.
- 16.9 Vita shall not be liable by reason of any representation (unless fraudulent), or implied warranty, condition or other term, or any duty at common law, or under the express terms of the Order, for loss of profit or loss of business or business opportunity or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of Vita, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (including any delay in supplying or any failure to supply the Goods in accordance with the Order or at all) or their use or re-sale by the Buyer and the entire liability of Vita for any one (1) claim or for the total of all claims arising from any one (1) act or default of Vita (whether arising from

Vita's negligence or otherwise) under or in connection with the Order shall not exceed the Price or one hundred thousand pounds sterling (£100,000), whichever is greater.

## **17. FORCE MAJEURE**

- 17.1 Vita shall not be liable to the Buyer for delay or non-performance of its obligations under the Order to the extent that this is due to a Force Majeure Event.
- 17.2 As soon as reasonably possible following the end of the Force Majeure Event Vita shall notify the Buyer and the Order shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event, unless agreed otherwise by the parties.

## **18. SALES PROMOTION DOCUMENTATION**

Whilst Vita takes every precaution in the preparation of its catalogues, technical circulars, price lists and its other literature, these documents are for the Buyer's general guidance only and the particulars contained therein shall not constitute representations by Vita and shall not form part of the Order and Vita shall not be bound thereby.

## **19. INTELLECTUAL PROPERTY RIGHTS**

- 19.1 All Background IPRs (together with all copies, modifications, enhancements or adaptations to, or derivative works or materials created, in relation to it after) will vest in or remain vested in, Vita or the Buyer or each party's respective licensors (as the context requires).
- 19.2 The Buyer grants to and/or will procure for, Vita, a worldwide, royalty-free, non-exclusive, transferable, and sub-licensable licence on a perpetual and irrevocable basis, to exploit, use (and allow suppliers and/or customers to use) copy, modify, adapt, and create derivative works of Buyer Background IPRs that are provided by or on behalf of Buyer, to the extent necessary to provide the Goods.
- 19.3 Unless Vita and the Buyer expressly agree otherwise in Writing, where Order IPR is generated, the Buyer will (where relevant by way of present assignment of future rights) assign to Vita or will procure the assignment to Vita, with full title guarantee, free from any third party rights, claims or other interests, all such Order IPR (including the right to take action for any damages and other remedies in respect of any infringement). The Buyer will also obtain in favour of Vita, a waiver of all moral rights.
- 19.4 The Buyer shall indemnify Vita against all costs, claims and damages incurred or threatened arising out of any alleged infringement of patents, trade mark, copyright or other intellectual property rights occasioned by the use, manufacture or sale of the Goods made to the specification or special requirements of the Buyer. Vita does not warrant and the Buyer is responsible for ensuring that its use of the Goods will not infringe any patent or other intellectual property rights of a third party.

## **20. TOOLS**

Any tools, artwork, cutting boards and the like made or purchased for the manufacture of the Goods shall remain the property of Vita even if the Buyer has been charged for the cost of such items.

## **21. SERVICE REQUIREMENTS**

Unless expressly agreed Vita does not undertake to hold stocks of or manufacture particular products after the end of the Order period. Requests for delivery after the Order period will be treated as a new enquiry for which Vita will re-quote.

## 22. EXPIRY AND CANCELLATION

- 22.1 Expiry or cancellation of the Order, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at the date of such expiry or cancellation (as the context requires).
- 22.2 Conditions which expressly or by implication survive expiry or cancellation of the Order shall continue in full force and effect.

## 23. CONFIDENTIALITY AND DATA PROTECTION

- 23.1 Vita takes seriously the protection of privacy and confidentiality. Vita understands that all customers are entitled to know that their Personal Data will not be used for any purpose unintended by them.
- 23.2 A party ('Receiving Party') will keep in strict confidence all Confidential Information that has been disclosed to it, or otherwise obtained by it from the other party, or any person on behalf of the other party, and will not use such Confidential Information or disclose it otherwise than as may be necessary for the performance of the Order.
- 23.3 The Receiving Party will restrict disclosure of such Confidential Information to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the Receiving Party's obligations or exercising the Receiving Party's rights under the Order, and will ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which apply to the Receiving Party.
- 23.4 Conditions 23.2 and 23.3 will not apply to the extent that disclosure is a requirement of any applicable statutory or regulatory requirement.
- 23.5 Vita and the Buyer will duly observe all their respective obligations under the Data Protection Legislation which arise in connection with the provision of the Goods and/or the Order.
- 23.6 Where the Buyer provides Vita with Personal Data of any individuals (including employees, former employees or any other third party) to Process on the Buyer's behalf, the Buyer shall ensure that it has authority to do so, and that the Buyer has complied with Data Protection Legislation. The Buyer shall indemnify Vita for any loss, costs, damages, charges or expenses suffered as a result of the Buyer's breach of this Condition 23.6.
- 23.7 Details of the Processing of Personal Data pursuant to the Order are set out in the Order Form and Annex 1.
- 23.8 Insofar as Vita or the Buyer (the 'Relevant Processor') Processes Personal Data for the other (the 'Relevant Controller') as a Data Processor, the Relevant Processor will:
  - 23.8.1 Process the Personal Data solely on the documented instructions of the Relevant Controller, including the Order, for the purposes of providing or receiving the Goods (as the context requires);
  - 23.8.2 Process only the types of Personal Data, relating to the categories of Data Subjects, and in the manner required to supply or receive the Goods (as the context requires) in the manner agreed by the parties;
  - 23.8.3 take all measures required by Article 32 of the GDPR to ensure the security of the Personal Data;

- 23.8.4 take reasonable steps to ensure the reliability of any staff who may have access to the Personal Data, and their treatment of the Personal Data as confidential;
- 23.8.5 where the Relevant Processor is:
  - 23.8.5.1 Vita, be generally authorised to appoint third parties to Process the Personal Data ('**Sub-Processor**'), subject to notifying the Buyer about Vita's Sub-Processors and otherwise meeting the conditions set out in Article 28 (2) and (4) of the GDPR; or
  - 23.8.5.2 the Buyer, not to permit any third party to Process the Personal Data ('**Sub-Processor**') without the prior written consent of Vita, such consent to be conditional upon fulfilling the conditions under Article 28 (2) and (4) of the GDPR;
- 23.8.6 promptly, and in any case within five (5) days, notify the Relevant Controller of any communication from a Data Subject regarding the Processing of their Personal Data, or any other communication (including from a supervisory authority) relating to either party's obligations under the Data Protection Legislation in respect of the Personal Data;
- 23.8.7 without undue delay, notify the Relevant Controller of any Personal Data Breach, such notice to include all information reasonably required by the Relevant Controller to comply the obligations imposed on the Relevant Controller under the Data Protection Legislation;
- 23.8.8 in respect of any Processing of Personal Data outside of the European Economic Area, take such steps as are necessary to ensure the Processing is in accordance with Data Protection Legislation;
- 23.8.9 permit the Relevant Controller, on reasonable prior notice, to inspect and audit the facilities used by the Relevant Processor to Process the Personal Data, and any and all records maintained by the Relevant Processor relating to that Processing;
- 23.8.10 provide any assistance reasonably requested by the Relevant Controller in relation to: (i) any communication received under Condition 23.8.6, as well as any equivalent communication received by the Relevant Controller directly; and (ii) any Personal Data Breach, including by taking any appropriate technical and organisational measures directed by the Relevant Controller; and
- 23.8.11 cease Processing the Personal Data promptly upon the termination or expiry of the Order and at the Relevant Controller's option either return, or securely delete the Personal Data.

## **24. HEALTH AND SAFETY**

- 24.1 Vita shall be under no liability for any failure on the part of the Buyer to comply in all respects with relevant safety precautions and transportation, handling, storing or machining instructions notified by Vita to the Buyer or otherwise set out or referred to in Vita's latest trade literature (as modified by any recommendations Vita may have made to meet special circumstances or requirements) and the Buyer shall indemnify Vita against any cost, claims or demands which may be incurred by Vita as a result of any such failure on the part of the Buyer.
- 24.2 Information is available from Vita on the safe use of its Goods.
- 24.3 The Buyer shall:
  - 24.3.1 take precautions required in the Buyer's premises to ensure that the Goods are being used safely;

- 24.3.2 comply with any current national or local regulations affecting the handling and processing of the Goods; and
- 24.3.3 take effective steps to advise then Buyer's customers and end users of appropriate health precautions and re-label Goods when necessary.

## 25. ANTI-BRIBERY AND CORRUPTION

- 25.1 The Buyer shall, and shall procure that all its employees, staff, officers, and third party, contractors, workers, agents and consultants shall:
  - 25.1.1 comply with all applicable laws, statutes, regulations, directives and codes relating to anti-bribery and anti-corruption, 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; and
  - 25.1.2 comply with Vita's procurement policy as Vita may update from time to time.
- 25.2 Breach of this Condition 25 by the Buyer shall be deemed to be a repudiatory breach of the Order by the Buyer.

## 26. ANTI-SLAVERY

- 26.1 Neither party will engage in any practice that amounts to:
  - 26.1.1 slavery or servitude (each as construed in accordance with Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, as amended);
  - 26.1.2 forced or compulsory labour (as defined by the International Labour Organisation's Forced Labour Convention 1930 (No. 29) and Protocol);
  - 26.1.3 human trafficking; or
  - 26.1.4 arranging or facilitating the travel of another person with a view to that person being exploited.
- 26.2 Each party will and will procure that its officers, employees, agents, sub-contractors and any other persons who perform services for or on behalf of it in connection with the Order will:
  - 26.2.1 comply with all applicable laws relating to slavery, servitude, forced or compulsory labour or human trafficking ('**Anti-Slavery Laws**');
  - 26.2.2 not do or omit to do any act or thing which constitutes or may constitute an offence under any Anti-Slavery Law;
  - 26.2.3 not knowingly employ or engage in any practices which constitute or may constitute an offence under any Anti-Slavery Law and not knowingly appoint or order with any person who has been convicted of or prosecuted in any jurisdiction in relation to an offence or alleged offence under any Anti-Slavery Law;
  - 26.2.4 not commit any act or omission which causes or could cause the other party to breach, or commit an offence under, any Anti-Slavery Law; and

- 26.2.5 promptly notify the other party of any breach of Conditions 26.1.1 to 26.1.4 and/or this Condition 26.2.
- 26.3 Each party will provide the other with such assistance and information as it reasonably requires from time to time to:
- 26.3.1 perform any activity required by any government, regulatory entity or agency in any relevant jurisdiction for the purpose of compliance with any applicable Anti-Slavery Laws;
- 26.3.2 prepare a slavery and human trafficking statement as required by section 54 of the Modern Slavery Act 2015 and to include the matters referred to in section 54(5) of that Act; and
- 26.3.3 conduct due diligence and to measure the effectiveness of the steps it is taking or wishes to ensure that modern slavery practices are not taking place in its supply chain.
- 26.4 Breach of this Condition 26 by the Buyer shall be deemed to be a repudiatory breach of the Order by the Buyer.

## **27. WHISTLEBLOWING**

The Buyer shall ensure that it has in place (and Buyer personnel are aware of the same) a procedure whereby Buyer personnel shall notify the Buyer's authorised representative for such purposes immediately of any malpractice or wrongdoing or other adverse events occurring in connection with the provision of the Goods. The Buyer shall promptly investigate any notifications and inform Vita of any notification which would, if accurate, affect Vita, the Goods or the operation of Vita's business.

## **28. GENERAL**

- 28.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified by the relevant party pursuant to this provision and such notice shall be delivered by hand, by first class or overseas post or by fax. Notice served by hand or by facsimile shall be deemed to be served immediately, provided that in the case of notices served by fax, a successful facsimile transmission receipt is obtained. Notices served by first class post shall be deemed served two (2) days after posting if sent to a UK address or seven (7) days after posting if sent to an overseas address.
- 28.2 Vita is a member of the group of companies whose holding company is Vita Global Holdings Limited, and accordingly Vita may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of Vita. Any group company from time to time of Vita Global Holdings Limited may for its own benefit enforce in its own right any term of the Order subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999. Notwithstanding the above, any term of the Order may be varied, amended or modified or the Order may be suspended, cancelled or terminated by agreement in Writing between the parties or may be rescinded, in each case without the consent of any such group company of Vita Global Holdings Limited. Except as provided in this Condition 28.2, a person who is not a party to the Order has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Order, but this Condition 28.2 does not affect a right or remedy of a third party which exists or is available apart from that Act.
- 28.3 The Order is personal to the Buyer and the Buyer shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Order.
- 28.4 No waiver by Vita of any breach of the Order by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. Failure or delay by Vita in enforcing or partially



enforcing any provision of the Order shall not be construed as a waiver of any of its rights under the Order.

- 28.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part such provision (or part thereof) shall be deemed severable and the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 28.6 The Buyer shall, promptly at Vita's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as Vita may from time to time require for the purpose of securing for the parties the full benefit of the Order.
- 28.7 Nothing in the Order shall be construed as creating a partnership or joint venture of any kind between the parties or as appointing any party as agent for the other party for any purpose and neither party shall have the authority to bind the other party or to contract in its name for any purpose.
- 28.8 Except as otherwise provided in these Conditions, the Order shall be the entire agreement between the parties in relation to the matters discussed herein and no other terms shall apply to it. The Buyer shall not be entitled to rely on assurances, representation or terms arising from pre-contract negotiations; nor shall the same operate as part of this Order or as a collateral warranty or collateral contract, unless the same have been confirmed by Vita in Writing or identified expressly in the Buyer's Order Form as warranties or conditions upon which the Buyer relies.
- 28.9 The Order and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and all disputes arising in connection with the Order shall be submitted to the jurisdiction of the English courts. The parties hereby expressly agree to exclude and disclaim the application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (also referred to as the **Vienna Convention**), and any successor convention or legislation, to the Order.

<b>Signatures:</b>	<b>SIGNED BY:</b> .....	
	for and on behalf of <b>VITA</b>  Dated: .....	for and on behalf of the <b>BUYER</b>  Dated: .....

## ANNEX 1: DATA PROCESSING, PERSONAL DATA AND DATA SUBJECTS

Description	Details
Subject matter and duration of the Processing	As described in the Order.
Nature and purposes of the Processing	As described in the Order.
Type of Personal Data	<p>Employee data: name, title, gender, job title, date of birth, personal contact details (address, telephone number, email address), work contact details (telephone number, email address), employee number, personal data contained in meeting, telephone or attendance notes.</p> <p>Client and business partner data: name, title, gender, work address, work email, work telephone numbers and job title.</p>
Categories of Data Subject	Buyer group employees, former employees and workers. Clients, business partners and suppliers of the Buyer group.