

**TERMS AND CONDITIONS****1. DEFINITIONS**

In the context of these terms and conditions, the following words shall have the following meanings:

"the Agreement" means these terms and conditions, the Order and the Specification;	"the Purchaser" means bpha Limited or any bpha Group Company within the meaning of section 1159 of the Companies Act 2006;
"the Supplier" means the person, firm, company or organisation to whom the Order is addressed;	"the Goods" means the goods or materials supplied in accordance with the Order;
"the Guarantee Period" means 12 months from acceptance by the Purchaser of the Goods or Services (or other period specified in the Order);	"the Order" means the order issued by the Purchaser for the supply of Goods overleaf;
"Services" means the services to be provided in accordance with the Order and the Specification;	"Specification" means the technical or other description of the Goods or Services;

**2. GENERAL**

- 2.1. These terms and conditions, together with the Order and the Specification, shall form the entire agreement between the Purchaser and the Supplier. If the Supplier's documentation contains terms or conditions additional to or at variance with these terms and conditions every additional or varying term or condition shall have no effect. A contract agreed and signed by both parties shall override these terms and conditions.
- 2.2. In the event of any conflict between these terms and conditions and the Order or Specification the terms of the Order or Specification shall prevail.
- 2.3. The Purchaser will only be responsible for payment for the Goods or Services, if accompanied by a valid Purchaser purchase order number.
- 2.4. No alterations, modifications or amendment to the Order or the Specification, the quantities, type, physical structure, specifications or standards are to be accepted or undertaken by the Supplier at the request of any employee of the Purchaser or its agent or representative or any other person unless and until written confirmation is received from a duly authorised representative of the Purchaser.

**3. SUPPLY OF GOODS**

The Purchaser reserves the right to refuse delivery of (or to return at the Supplier's cost and expense) any Goods delivered in excess of or in lesser quantities than those stated in the Order.

**4. QUALITY OF GOODS**

- 4.1. Without prejudice to the Purchaser's statutory rights, it is a condition of the Order that the Goods shall:
  - a) conform to the Specifications and the Order to the satisfaction of the Purchaser;
  - b) be fit and sufficient for the purposes for which they are required;
  - c) be of merchantable quality and free from defects, whether latent or patent;
  - d) be supplied with adequate information and instruction as to the use for which they are designed;
  - e) be supplied with detailed information about any conditions or procedures required to ensure that, when put to use, the Goods will be safe and without risk to health;
  - f) comply in all respects with all statutory requirements and in particular the Sale of Goods Act 1979.
- 4.2. In the event that the Goods or any part thereof fail to meet in full with the terms of Clause 4.1 irrespective of the slightness of such failure, the Purchaser (without prejudice to any of its other rights) reserves the right to reject and/or return the Goods to the Supplier at the Supplier's expense.
- 4.3. Any signature by or on behalf of the Purchaser on any delivery note will not signify acceptance of the quality or quantity of the Goods.
- 4.4. If within the Guarantee Period any defect in the Goods shall be discovered or arise under normal use, attributable to faulty design, materials or workmanship, the Supplier shall, without prejudice to any other rights or remedies of the Purchaser, promptly remedy the defect either by repair to the Purchaser's satisfaction or replacement without charge to the Purchaser.

**5. DELIVERY OF GOODS**

- 5.1. All Goods presented must be adequately packed for mode of delivery and type of Goods, at no cost to the Purchaser. The Supplier shall be held responsible for any damage incurred due to bad or insufficient packing.
- 5.2. Goods shall be delivered on the date, at the time and to the address specified in the Order. Time shall be of the essence in relation to delivery and the Purchaser shall be under no obligation to accept delivery of the Goods before the date or at a different address to that specified in the Order.
- 5.3. Supply of the Goods shall be effected by the Supplier at the Supplier's own risk and expense (including the risk of deterioration in the Goods necessarily incident to the course of transit)
- 5.4. Title and risk in the Goods shall remain with the Supplier until acceptance of the Goods by the Purchaser.

**6. REJECTION OR CANCELLATION OF ORDER**

Without prejudice to its other rights the Purchaser reserves the right to cancel this Order for any reason and at any time upon giving the Supplier notice in writing. Save in the event of breach of contract by the Supplier a reasonable price will be paid by the Purchaser for all work in progress at the date of cancellation which is subsequently accepted by the Purchaser. The Purchaser shall not be liable for any loss of profit, loss of contract, loss of business, loss of revenue or loss of goodwill or any other direct, indirect, special or consequential loss as a result of cancellation of an Order.

**7. SUPPLY OF SERVICES**

- 7.1. Services shall be supplied in accordance with the Specification and in compliance with all statutory requirements. The Services shall be subject to the right of inspection at any time by the Purchaser but such inspection shall not relieve the Supplier of its obligations nor constitute acceptance of any part of the work.
- 7.2. Without prejudice to the Purchaser's statutory rights, the Services shall be carried out with exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced provider of Services engaged in the same type of undertaking and under the same or similar circumstances and conditions as the Services.

**8. TIME FOR ACCEPTANCE OF SERVICES**

- 8.1. The Supplier shall start the work on the date set out in the Order and carry the work to completion with the utmost speed and by the date specified in the Order. Time for the Supplier's performance is of the essence.

8.2. The Purchaser shall be under no obligation to accept the Services until the Supplier has complied in all respects with the Specification and delivered to the Purchaser copies of all necessary plans, manuals, and instructions to cover the proper operation and maintenance requirements for the Services and (if agreed in the Order) provided adequate training to the Purchaser's personnel.

#### **9. PRICE AND PAYMENT**

9.1. Prices shall remain as stated in the Order and shall not be subject to variations unless otherwise instructed.

9.2. Prices quoted shall be exclusive of Value Added Tax unless the contrary is expressly stated. Value Added Tax at the appropriate rate where chargeable shall only be paid by the Purchaser on receipt of a valid Value Added Tax invoice.

9.3. Payment shall be due 30 days from the date of invoice provided that the period for payment shall not begin to run until the date of acceptance of the Goods or Services by the Purchaser.

#### **10. WARRANTIES AND INDEMNITIES**

10.1. The Supplier warrants that: -

- a) It has full beneficial title to the Goods and passes title to the Purchaser with full title guarantee; and
- b) It will strictly comply with all applicable laws and regulations; and
- c) It has all necessary licences and consents to enable it to carry out Services, and the provision of the Goods and Services will not in any way infringe any rights of any third party; and
- d) Services will be performed by appropriately qualified and trained personnel; and
- e) All statements and representations made in respect of the Goods and/or Services prior to the submission of the Order are full and accurate and the Seller acknowledges the Purchaser's reliance on the same;
- f) Where applicable, the Supplier warrants that the Goods have any necessary export or import licences and comply with all relevant governmental regulations.

10.2. The Supplier shall indemnify the Purchaser and keep the Purchaser indemnified against any breach of any of the above warranties and in particular against any loss, claim, liability or expense in respect of claims that the Goods or Services infringe the intellectual property rights of any third party.

10.3. The Supplier shall take appropriate steps to ensure there is no slavery or human trafficking in its supply chains. The Supplier warrants that neither the Supplier nor any of the Supplier's officers or employees:

- a) have been convicted of any offence involving slavery or human trafficking; or
- b) have, to the best of the Supplier's knowledge, been the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

#### **11. INSURANCE**

11.1. The Supplier shall maintain adequate insurance to the full replacement value of the Goods prior to delivery or whilst the risk lies with the Supplier in accordance with Clause 5.

11.2. The Supplier shall carry Product Liability Insurance for an amount of not less than £5,000,000 on delivery and during the Guarantee Period.

11.3. The Supplier shall, at its expense, carry and maintain Public and Employers liability insurance for an amount of not less than £5,000,000 any one occurrence at all times during the execution of the Services.

11.4. The Supplier shall (if applicable) carry Contract Works or Contractors (All Risks) insurance for the full value of the contract works

#### **12. INTELLECTUAL PROPERTY**

12.1. If the Goods or Services are manufactured or supplied to the Purchaser's designs or specifications, or where the Purchaser has paid or is to pay the Supplier for design or research or development work, ownership of such works, designs, data, inventions and improvements, including all intellectual property rights shall belong solely to the Purchaser and the Supplier will, upon request, take all necessary steps to vest such rights in the Purchaser.

12.2. The Supplier shall not, without the Purchaser's prior written consent, use the Purchaser's trademarks or trade names or any derivative.

#### **13. CONFIDENTIALITY**

The Agreement and the subject matter thereof shall be treated as confidential between the parties and shall not be disclosed or publicised by the Supplier to any third parties for any reason without the Purchaser's prior written consent.

#### **14. FORCE MAJEURE**

14.1. The Purchaser shall not be liable to the Supplier for failure to accept delivery of the Goods or Services resulting from any cause beyond the Purchaser's reasonable control.

14.2. If the Supplier fails to perform any part of the Agreement by reason of any event or cause specified in the preceding sub-clause the Purchaser may at its discretion suspend or cancel the delivery of the Goods and/or the performance of the Services without any liability to the Supplier for payment.

#### **15. TERMINATION**

Either party may terminate the Agreement immediately if:

- a) there is a breach by the other which is not remedied within 14 days of being given notice to do so to the satisfaction of the other; or
- b) if an interim order is applied for or made, or a voluntary arrangement approved, or if a petition for a bankruptcy order is presented or a receiver or administrative receiver is appointed of any of the other's assets or undertaking.

#### **16. LAW AND JURISDICTION**

This Agreement shall be governed and construed and interpreted in accordance with English law.