

SteriPack Terms and Conditions of Supply

1 Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Affiliate means any entity that directly or indirectly controls, is controlled by, or is under common control with/by SteriPack.

Applicable Laws means all applicable laws, statutes, regulations from time to time in force.

Business Day means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours means the period from 9.00 am to 5.00 pm on any Business Day.

Charges means the charges payable by the Customer to SteriPack for the supply of the Goods and/or Services in accordance with clause 14.

Commencement Date has the meaning given in clause 2.2.

Conditions means these terms and conditions as amended from time to time in accordance with clause 23.9.

Contract means the contract between SteriPack and the Customer for the supply of Goods and/or Services in accordance with these Conditions and any special terms specifically agreed by SteriPack in an Order Confirmation.

Customer means the person or firm who purchases the Goods and/or Services from SteriPack.

Customer Equipment means any equipment, including tooling, dies, drills, moulds, presses, vessels, tools and machinery, and related items, that is provided to SteriPack by or on behalf of or at the direction of the Customer for the provision of the Goods, Services or Deliverables by SteriPack as set out in an Order.

Customer Materials means any documents, information, items, materials, products or cosigned goods (whether owned by the Customer or a third party) which are provided by the Customer to SteriPack in order for SteriPack to provide the Goods and/or Services.

Deliverables means the materials or products produced by SteriPack for the Customer as a result of the Services, as set out in the Order.

Force Majeure Event has the meaning given to it in clause 22.

Goods means the goods, including the Deliverables (or any part of them) manufactured or produced by SteriPack as set out in the Order.

Intellectual Property Rights means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order means the Customer's order for the supply of Goods and/or Services as set out in the Customer's purchase order form, or the Customer's written acceptance of SteriPack's quotation, as the case may be.

Order Confirmation means SteriPack's written acceptance of the Order, incorporating any agreed Specification and special terms that SteriPack has set out in a quotation.

Pass-Through Costs means the costs incurred by SteriPack in relation to the Services as detailed in an Order, including but not limited to the procurement of equipment, outsourcing, and the costs charged by any third party in relation to the Services.

Services means the services, including the Deliverables, supplied by SteriPack to the Customer as set out in the Specification.

Specification means any specification for the Goods and/or Services, including any relevant plans or drawings, that is agreed in writing by the Customer and SteriPack.

SteriPack means SteriPack Group Limited or any of its Affiliates, as specified in the Order.

1.2 Interpretation:

- 1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its personal representatives, successors and permitted assigns.
- 1.2.3 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- 1.2.4 Any words following the terms including, include, **in particular**, **for example** or any **similar expression** shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.5 A reference to **writing** or **written** includes email.

2 Basis of Contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions and any special terms set out in the Order Confirmation.
- 2.2 The Order shall only be deemed to be accepted when SteriPack issues written acceptance of the Order, at which point, and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by SteriPack and any descriptions of the Goods or illustrations or descriptions of the Services contained in SteriPack's catalogues, brochures or website are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by SteriPack shall not constitute an offer and is only valid for a period of thirty (30) days from its date of issue.

2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2.7 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

3 Goods

3.1 The Goods are described in the Order and any applicable Specification.

3.2 To the extent that the Goods are to be manufactured or produced, or Services to be delivered in accordance with a Specification or instructions supplied by the Customer, the Customer shall indemnify SteriPack against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by SteriPack arising out of or in connection with any claim made against SteriPack for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with SteriPack's use of the Specification and provision of Goods or Services which follow the Specification or the Customer's instructions. This clause 3.2 shall survive termination of the Contract.

4 Services

4.1 SteriPack shall supply the Services and any Deliverables to the Customer in accordance with the Order and any Specification in all material respects.

4.2 SteriPack shall use all reasonable endeavours to meet any performance dates specified by the Customer, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services or provision of the Goods. SteriPack shall notify the Customer of any delays.

4.3 SteriPack reserves the right to change the Order, Goods, Services or the Specification if necessary to comply with any Applicable Laws, or if the

amendment will not materially affect the nature or quality of the Services or Goods, and SteriPack shall notify the Customer in any such event.

4.4 SteriPack warrants to the Customer that the Services will be provided using reasonable care and skill.

4.5 If the Order requires SteriPack to purchase goods or materials from a third party supplier specified by the Customer in order to enable SteriPack to perform the Services, SteriPack shall purchase and own those goods or materials and the Customer shall reimburse SteriPack for the direct costs of acquiring and installing those goods or materials in addition to the handling fee set out in the Order (unless agreed otherwise in the Order).

5 Customer's obligations

5.1 The Customer shall:

5.1.1 ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;

5.1.2 co-operate with SteriPack in all matters relating to the Services including the provision to SteriPack of adequate forward demand forecasts for Goods and/or Services;

5.1.3 provide SteriPack with such information and materials as SteriPack may reasonably require in order to supply the Services and/or Goods, and ensure that such information is complete and accurate in all material respects;

5.1.4 have the Customer Materials delivered to the location set out in the Order at the dates and times agreed in the Order, or as otherwise agreed in writing by the parties;

5.1.5 provide SteriPack with specific instructions, procedures and policies relating to its requirements in relation to Services and/or Goods, including the receiving, sourcing, packaging, labelling, serialization/aggregation, and warehousing of the Customer Materials and any goods or materials provided by third parties;

5.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services or production of Goods before the date on which the Services are to start; and

5.1.7 comply with any additional obligations as set out in the Order and/or Specification.

5.2 The Customer warrants that:

5.2.1 it shall comply with all Applicable Laws in relation to the performance of its obligations under the Contract and its use of the Goods;

5.2.2 it is the owner of all Customer Materials and Customer Equipment or has obtained all necessary licences from third parties for SteriPack to use the Customer Materials and the Customer Equipment for the provision of the Services and/or Goods;

5.2.3 it will inform SteriPack of any known health and safety hazards arising from handling the Goods, Customer Materials or any product waste, and that it shall inform SteriPack in advance of any special precautions to be taken in the handling or care of Goods or Customer Materials, and ensure that such information is updated when required;

5.2.4 it is solely responsible for the safety and efficacy of the Customer Materials; and

5.2.5 it has received no notice or other indication alleging that the manufacture, use or sale of the Goods have infringed or will infringe any third party Intellectual Property Rights.

6 Forecasts

6.1 Unless otherwise specified in an Order, during the term of the Contract the Customer shall give SteriPack:

6.1.1 not less than ten Business Days before the beginning of each quarter, a binding forecast of the Goods it expects to purchase during the relevant quarter; and

6.1.2 not less than one month before the end of each year, a non-binding forecast of the Goods it expects to purchase during the following year.

6.2 Forecasts shall be given in writing or, if given orally, shall be confirmed in writing within two Business Days. The Customer shall act in good faith when forecasting its requirements for Goods.

6.3 Forecasts provided under this clause 6 do not constitute an Order.

6.4 If SteriPack anticipates that it will be unable to meet the Customer's forecasted requirements provided in accordance with this clause 6, SteriPack shall inform the Customer in writing as soon as practicable and the parties will agree an alternative forecast.

7 Provision of Customer Equipment

7.1 Where the supply of Services by SteriPack requires the use of Customer Equipment, the Customer shall supply the Customer Equipment to SteriPack by the dates set out in the Order. The Customer Equipment remains the absolute property of the Customer and SteriPack may not part with possession of it, or make it available, to any third party.

7.2 SteriPack shall, for the period it has possession or control of the Customer Equipment ensure that the Customer Equipment is kept secure and identified as the property of the Customer.

7.3 The risk of loss or damage to the Customer Equipment shall remain with the Customer at all times and the Customer shall be responsible for maintaining adequate insurance cover for any loss or damage to the Customer Equipment for the period SteriPack has possession or control of the Customer Equipment.

7.4 The Customer shall reimburse SteriPack for the reasonable costs of any maintenance, calibration, repair or replacement of the Customer Equipment.

8 Delivery

8.1 SteriPack shall ensure that:

8.1.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods, special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

8.1.2 if SteriPack requires the Customer to return any packaging materials to SteriPack, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as SteriPack shall reasonably request. Returns of packaging materials shall be at SteriPack's expense.

8.2 Goods shall be delivered in accordance with the provisions stated in the relevant Order. All risk, costs and liabilities of the delivery of the Goods remains with the Customer. The Customer shall be responsible for obtaining any export licences.

8.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. SteriPack shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide SteriPack with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

8.4 If SteriPack fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods charged by SteriPack to the Customer. SteriPack shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide SteriPack with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

8.5 If the Customer fails to take delivery of the Goods within three Business Days of SteriPack notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by SteriPack's failure to comply with its obligations under the Contract in respect of the Goods:

8.5.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which SteriPack notified the Customer that the Goods were ready; and

8.5.2 SteriPack shall store the Goods until actual delivery takes place and charge the Customer for all related costs and expenses (including insurance).

8.6 If ten Business Days after the day on which SteriPack notified the Customer that the Goods were ready for delivery the Customer has not taken actual delivery of them, SteriPack may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

8.7 If SteriPack delivers up to and including 10% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, SteriPack shall make a pro rata adjustment to the invoice for the Goods.

8.8 SteriPack may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

9 Quality of Goods and Deliverables

9.1 SteriPack warrants that on delivery the Goods shall:

9.1.1 conform in all material respects with the Specification;

9.1.2 be free from material defects in materials and workmanship; and

9.1.3 be manufactured in compliance with all Applicable Laws in effect in the location in which the Goods were manufactured.

9.2 Subject to clause 9.3, if:

9.2.1 the Customer gives notice in writing to SteriPack within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 9.1;

9.2.2 SteriPack is given a reasonable opportunity of examining such Goods; and

9.2.3 the Customer (if asked to do so by SteriPack) returns such Goods to SteriPack's place of business at the Customer's cost,

SteriPack shall, at its option, repair or replace the defective Goods or refund the price of the defective Goods in full.

9.3 SteriPack shall not be liable for the Goods' failure to comply with the warranty set out in clause 9.1 if:

9.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 9.2;

9.3.2 the defect arises because the Customer failed to follow SteriPack's oral or written instructions as to the storage, commissioning, installation, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;

9.3.3 the defect arises as a result of any damage, alteration or mishandling of the Goods by the Customer or any third party appointed by the Customer to deliver or store the Goods;

9.3.4 the defect arises as a result of SteriPack following any drawing, design or specification supplied by the Customer;

9.3.5 the Customer alters or repairs such Goods without the written consent of SteriPack;

9.3.6 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

9.3.7 the Goods differ from their description as a result of changes made to ensure they comply with Applicable Laws.

9.4 Except as provided in this clause 9, SteriPack shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 9.1.

9.5 These Conditions shall apply to any repaired or replacement Goods supplied by SteriPack.

10 Title and risk

10.1 Title to and risk in the Customer Materials shall remain with the Customer at all times. As a result, the Customer retains any risk of loss, damage, theft or destruction of the Customer Materials at all times, including while the Customer Materials are in the possession or control of SteriPack and/or its Affiliates and Customer shall be responsible for maintaining adequate insurance cover for any loss or damage to the Customer Materials throughout the entire supply chain, provided that SteriPack shall bear the risk of loss and damage to the Customer Materials for any loss or damage caused by SteriPack's wilful misconduct or gross negligence in handling and/or properly storing the Customer Materials following completion of unloading of the Customer Materials at SteriPack's facility.

10.2 The risk in the Goods shall pass to the Customer on completion of delivery. Title to the Goods

(excluding title in any Customer Materials) shall not pass to the Customer until the earlier of:

- 10.2.1 SteriPack receives payment in full (in cash or cleared funds) for the Goods and any other goods that SteriPack has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; or
 - 10.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 10.4.
- 10.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 10.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as SteriPack's property;
 - 10.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 10.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on SteriPack's behalf from the date of delivery;
 - 10.3.4 notify SteriPack immediately if it becomes subject to any of the events listed in clause 19.2.2 to clause 19.2.4; and
 - 10.3.5 give SteriPack such information as SteriPack may reasonably require from time to time relating to: (i) the Goods; and (ii) the ongoing financial position of the Customer.
- 10.4 Subject to clause 10.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before SteriPack receives payment for the Goods and Deliverables. However, if the Customer resells the Goods before that time:
- 10.4.1 it does so as principal and not as SteriPack's agent; and
 - 10.4.2 title to the Goods shall pass from SteriPack to the Customer immediately before the time at which resale by the Customer occurs.
- 10.5 At any time before title to the Goods passes to the Customer, SteriPack may:

10.5.1 by notice in writing, terminate the Customer's right under clause 10.4 to resell the Goods and/or Deliverables or use them in the ordinary course of its business; and

10.5.2 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

11 Delays

11.1 The parties acknowledge that there may be delays in the provision of Goods or Services due to their nature and that if such delays occur, timelines may have to be adjusted by the parties in good faith negotiations and reflected in a Change Order.

11.2 Any failure by SteriPack to provide the Goods or Services in accordance with the timetable agreed in the relevant Order or Change Order shall not in itself constitute a breach of the Contract and shall not entitle the Customer to refuse to take delivery of the Goods, claim damages or terminate the Contract. If the Customer cancels any Services, then the following cancellation charges shall apply:

11.2.1 8 to 12 weeks before the timetable agreed in the respective Order, 25% of the Charges;

11.2.2 4 to 8 weeks before the timetable agreed in the respective Order, 50% of the Charges; and

11.2.3 up to 4 weeks before the timetable agreed in the respective Order, 100% of the Charges.

11.3 If SteriPack's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

11.3.1 without limiting or affecting any other right or remedy available to it, SteriPack shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays SteriPack's performance of any of its obligations;

11.3.2 SteriPack shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from SteriPack's failure or delay to perform any of its obligations as set out in this clause 5.2; and

11.3.3 the Customer will indemnify SteriPack for its losses, liabilities, costs and expenses arising from or in connection with any delay caused by the Customer, or a third party appointed by the Customer which leads to SteriPack being unable to fulfil a manufacturing or sterilisation slot reserved for the provision of the Services or otherwise incurring or suffering any losses, liabilities, costs, expenses or penalties including any idle capacity costs relating to the personnel engaged by SteriPack (or any costs relating to third parties engaged by SteriPack) to undertake any element of the Services or the factory space allocated to provide the Goods or perform the Services. SteriPack may also charge the Customer further fees in relation to any such delay as set out in the Order.

12 Recalls of Deliverables

12.1 The Customer shall have sole responsibility for (and shall be responsible for all costs and expenses involved in) initiating and managing any recall or withdrawal of the Goods.

12.2 SteriPack shall at the cost of the Customer provide assistance as the Customer may reasonably request in connection with any withdrawal or recall.

12.3 SteriPack shall have no liability with respect to any recall or withdrawal of Goods unless such recall or withdrawal has directly arisen from SteriPack's gross negligence or wilful misconduct in which case SteriPack's liability shall be limited to (as relevant) refunding its charges in relation to such Goods or Services performed in relation to such Goods and in any event shall be limited in accordance with clause 18.

13 Change Control

13.1 Either party may propose changes to the scope or execution of the Services, but no proposed changes shall come into effect until a **Change Order** has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:

13.1.1 the Goods or Services;

13.1.2 the Charges or Pass-Through Costs;

13.1.3 the timetable of the provision of Goods or Services; and

13.1.4 any of the terms of the Contract and/or the Specification.

13.2 If SteriPack wishes to make a change to the Goods or Services other than as set out in clauses 4.2 or 4.3, it shall provide a draft Change Order to the Customer.

13.3 If the Customer wishes to make a change to the Goods or Services:

13.3.1 it shall notify SteriPack and provide as much detail as SteriPack reasonably requires of the proposed changes, including the timing of the proposed changes; and

13.3.2 SteriPack shall, as soon as reasonably practicable after receiving the information at clause 13.3.1, provide a draft Change Order to the Customer.

13.4 If the parties:

13.4.1 agree to a Change Order, they shall sign it and that Change Order shall amend the Contract and/or the Specification; or

13.4.2 are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in clause 22.

13.5 SteriPack may charge for the time it spends on preparing and negotiating Change Orders which implement changes proposed by the Customer pursuant to clause 13.3 at a cost of £500 per Change Order.

14 Charges and payment

14.1 In consideration of the supply of Goods and/or the provision of the Services by SteriPack, the Customer shall pay the Charges as set out in the Order. The Customer shall also pay the Pass-Through Costs as set out in the Order or as otherwise confirmed by SteriPack as being payable.

14.2 All sums payable by the Customer under the Contract:

- 14.2.1 are due for payment in accordance with the intervals specified in the relevant Order or in relation to Pass-Through Costs as otherwise confirmed by SteriPack;
- 14.2.2 are payable in the currency set out in the relevant Order;
- 14.2.3 are payable within thirty (30) days from the date of the relevant invoice to the bank account nominated in writing by SteriPack and time for payment shall be of the essence of the Contract;
- 14.2.4 are exclusive of VAT or any other applicable tax that may be levied, and the Customer shall in addition pay an amount equal to any VAT or other tax chargeable on those sums on delivery of a valid VAT or tax invoice (as applicable); and
- 14.2.5 shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 14.3 SteriPack reserves the right to:
- 14.3.1 increase the Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Consumer Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the Consumer Prices Index; and
- 14.3.2 increase the Charges, by giving notice to the Customer at any time, to reflect any increase in the cost of the Goods and/or Services to SteriPack that is due to:
- (a) any assumption specified in the Order or Specification being incorrect;
 - (b) any factor beyond the control of SteriPack (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (c) any request by the Customer to change the delivery date(s), quantities or types of Goods and/or Services ordered, or the Specification; or
 - (d) any delay caused by any instructions of the Customer in respect of the Goods and/or Services or failure of the Customer to give SteriPack adequate or accurate information or instructions in respect of the Goods and/or Services.
- 14.4 Without prejudice to any other right or remedy that SteriPack may have, if the Customer fails to make any payment due to SteriPack under the Contract by the due date SteriPack may:
- 14.4.1 suspend all or part of the supply of Goods and/or the provision of Services until payment has been made; and/or
- 14.4.2 require the Customer to pay interest on the overdue sum from the due date until the date of payment at the rate of 4% above the Bank of England's base rate from time to time. The Customer shall pay the interest together with the overdue amount.
- ## 15 Intellectual Property Rights
- 15.1 SteriPack acknowledges that the Intellectual Property Rights in the Customer Materials are and remain the exclusive property of the Customer or, where applicable, the third party licensor from whom the Customer derives the right to use such Customer Materials.
- 15.2 The Customer grants to SteriPack (or shall procure the direct grant to SteriPack of) a fully paid-up, non-exclusive, non-transferable, royalty-free licence (including the right to grant sub-licences to permitted subcontractors) to copy and modify the Customer Materials solely for the purpose of performing its obligations under the Contract.
- 15.3 The Customer acknowledges that all Intellectual Property Rights in or arising out of or in connection with the Goods and/or Services including (but not limited to) the methodology, processes and know-how of SteriPack in relation to the provision of the Services, that originate from SteriPack and are not Intellectual Property Rights in Customer Materials shall remain the exclusive property of SteriPack or where applicable, the third party licensor from whom SteriPack derives the right to use such IPRs (together the **SteriPack IPRs**).
- 15.4 SteriPack grants to the Customer a revocable, royalty-free, non-exclusive licence of the

SteriPack IPRs solely for the purpose of receiving the Services and/or the Goods.

(including negligence), misrepresentation, restitution or otherwise.

15.5 The Customer shall indemnify SteriPack against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by SteriPack arising out of or in connection with any claim made against SteriPack for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the use of the Customer Materials in accordance with the terms of the Contract.

18.2 Nothing in this clause 18 shall limit the Customer's payment obligations under this agreement or under clause 15.5 or clause 17.1.

18.3 Nothing in the Contract limits any liability for:

18.3.1 death or personal injury caused by negligence;

18.3.2 fraud or fraudulent misrepresentation; and

18.3.3 any matter which cannot legally be limited or excluded by Applicable Laws.

16 Data protection

16.1 SteriPack may act as a controller of certain personal data it processes under the Contract. Where it does so this is in accordance with its privacy notice at <https://steripackgroup.com/privacy-policy/> or such other privacy notice that SteriPack makes available on its website from time to time.

18.4 Subject to clause 18.2 and 18.3, neither party shall be entitled to recover from the other party any loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use of information, loss of or damage to goodwill, special, incidental, indirect, consequential or punitive losses, even if that party has been placed on notice of the possibility of such losses.

17 Customer indemnity

17.1 The Customer indemnifies SteriPack and will keep SteriPack indemnified against all claims, costs, losses (including, but not limited to, consequential or indirect loss and loss of profit whether foreseeable or not), damages, expenses and proceedings in respect of:

18.5 Subject to clauses 18.2 to 18.4, SteriPack's total liability arising under or in connection with the Contract whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited to 50% of the Charges for the Order under which such liability arose.

17.1.1 SteriPack's use of any Customer Materials;

18.6 These Conditions set out the full extent of SteriPack's obligations and liabilities in respect of the supply of the Goods and/or Services. SteriPack hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.

17.1.2 any negligence or default on the part of the Customer, its employees, agents or contractors;

17.1.3 any act by SteriPack expressly authorised or ratified by the Customer including but not limited to SteriPack following any instructions of the Customer whether in the Order, Specification or otherwise; or

18.7 This clause 18 shall survive termination of the Contract.

17.1.4 any failure or delay in delivering Customer Materials or taking delivery of Goods.

18 Limitation of liability

18.1 References to liability in this clause 18 include every kind of liability arising under or in connection with the Contract including liability in contract, tort

19 Termination

19.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party not less than three (3) months' written notice, provided that any notice to terminate served under this clause 19.1 shall not expire before the first anniversary of the Commencement Date.

19.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

19.2.1 the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

19.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

19.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

19.2.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

19.3 Without affecting any other right or remedy available to it, if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 19.2.2 to clause 19.2.4, or SteriPack reasonably believes that the Customer is about to become subject to any of them, SteriPack may:

19.3.1 suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and SteriPack; or

19.3.2 terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

20 Consequences of termination

20.1 On termination of the Contract:

20.1.1 the Customer shall immediately pay to SteriPack all of SteriPack's outstanding unpaid invoices and interest and, in respect of Goods and Services supplied but for which no invoice has been submitted, SteriPack shall submit an invoice, which shall be payable by the Customer immediately on receipt; and

20.1.2 the Customer shall return any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then SteriPack may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

20.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations, and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

20.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

21 Confidentiality

21.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 21.2.

21.2 Each party may disclose the other party's confidential information:

21.2.1 to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 21; and

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

21.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

22 Dispute resolution

22.1 If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in the Contract, the parties shall follow the procedure set out in this clause:

22.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Project Manager of each party shall attempt in good faith to resolve the Dispute;

22.1.2 if the Project Managers of each party are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to a senior manager of each party who shall attempt in good faith to resolve it; and

22.1.3 if the senior managers of each party are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice.

22.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 23.11 (Jurisdiction) which clause shall apply at all times.

22.3 If the Dispute is not resolved within 60 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period

of 60 days, or the mediation terminates before the expiration of the said period of 60 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 23.11 (Jurisdiction).

23 General

23.1 Assignment and other dealings

23.1.1 SteriPack may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

23.1.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of SteriPack.

23.2 Notices

23.2.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the email address specified by each party in the Order.

23.2.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

23.2.3 This clause does not apply to the service of any proceedings or other documents in any

legal action or, where applicable, any arbitration or other method of dispute resolution.

- 23.3 **Force majeure.** Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a Force Majeure Event). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for six months, the party not affected may terminate the Contract by giving ten Business Days' written notice to the affected party.
- 23.4 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 23.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 23.5 **Waiver.** Except as set out in clause 2.7, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 23.6 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 23.7 **Entire agreement.** The Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 23.8 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 23.9 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 23.10 **Governing law.** 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.
- 23.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.