Ensera 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 Ensera.

Applicable Laws means, in relation to the Goods, Deliverables and Services, all applicable laws, statutes, regulations in force at the relevant time including decisions having the force of law and other requirements of Regulatory Authorities and, as applicable to the relevant activities of the parties under the Contract, GDP and/or GMP.

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.

Change Order shall have the meaning given in clause 13.1.

Charges means the charges payable by the Customer to Ensera for the supply of the Goods and/or Services including any charges payable in relation to any stage of a Project, in accordance with clause 14.

Commencement Date has the meaning given in clause 2.1.

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

Contract means the contract between Ensera and the Customer for the supply of Goods and/or Services formed by the Quotation (including any Special Conditions), these Conditions, and the Specification.

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

Customer Equipment means any equipment, including tooling, dies, drills, moulds, presses, vessels, tools and machinery, and related items, that is provided to Ensera by or on behalf of or at the direction of the Customer for the provision of the Goods, Services or Deliverables by Ensera as agreed by the parties in a Specification or otherwise in writing.

Customer Materials means any documents, information, items, materials or products (whether owned by the Customer or a third party) including as relevant elements of Goods which are provided by the Customer to Ensera in order for Ensera to provide the Goods and/or Services.

Deliverables means the materials or products to be produced by Ensera for the Customer as a result of the Services, as set out in the Specification or Quotation.

Ensera means SteriPack Group Limited trading as or doing business as Ensera or any of its Affiliates, as specified in the Quotation.

Force Majeure Event has the meaning given to it in clause 23.3.

GDP (Good Distribution Practice) means current good distribution practice as described in the Commission Guidelines on Good Distribution Practice of medicinal products for human use (2013/C 343/01) as amended, updated or replaced from time to time.

GMP (Good Manufacturing Practice) means current good manufacturing practice as described in the Commission Directive 2003/94/EC and the guidance published by the Commission in EudraLex Volume 4, in each case as amended, updated or replaced from time to time.

Goods means the materials or products manufactured, produced, sterilised or packaged by Ensera as set out in the Specification and an agreed 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 the Quotation, as the case may be, and in each case in line with and incorporating any agreed Specification and special terms that Ensera has set out in a Quotation.

Order Confirmation means Ensera's written acceptance of the Order and in accordance with and incorporating the Specification and as agreed by Ensera, incorporating any agreed Specification and special terms that Ensera has set out in a Quotation.

Pass-Through Costs means any and all costs, expenses, and charges incurred by Ensera in relation to the Services or a Project, whether detailed in a Quotation, Specification, an Order, or reasonably necessary for the performance of the Services or Project, plus any applicable handling or administration fees, including but not limited to the procurement of Goods, materials, equipment, outsourcing, validation activities, regulatory submissions, technology transfer activities, Project-specific tooling and equipment, and any other costs charged by any third party in relation to the Services and/or a Project.

Project means any engagement between Ensera and the Customer that involves development, design, engineering, and/or validation activities, including initial project phases and non-recurring engineering/expenditure activities (including but not limited to tooling, equipment qualification, process validation, regulatory submissions, and technology transfer activities), whether undertaken pursuant to a single Order or multiple related Orders. Each Project may consist of distinct phases with separate non-recurring engineering/expenditure and Deliverables as specified in the applicable Specification or Quotation.

Quotation means a quotation for Services and/or Goods issued by Ensera to the Customer.

Regulatory Authority means any competent regulatory authority with relevant jurisdiction over (a) the authorisation of manufacturing, sale, wholesale distribution, supply, commercialisation (including regulatory approvals) or marketing activities relating to Goods and the supervision of those authorisations; or (b) the authorisation of activities involving controlled substances or (c) health, safety or environmental matters in general.

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

Special Conditions means any conditions which vary these Conditions as set out in the Quotation.

Specification means any specification for the Goods and/or Services, including any relevant plans or drawings, being as set out in the relevant Quotation or as separately agreed in writing by the parties.

Tariff means any tariff, duty, levy or charge imposed by a government or a Regulatory Authority on the import or export of products, goods and materials including raw materials.

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 Quotation may be accepted by the Customer confirming its acceptance in writing. The Quotation acceptance together with the Quotation and any separately agreed Specification form the Contract. The Contract is formed and commences from the date that Ensera confirms it has received

and accepted the written acceptance of Quotation (**Commencement Date**).

2.2 Each Order shall only be deemed to be accepted when Ensera issues an Order Confirmation.

2.3 Where Ensera is providing Goods and/or Services as part of a Project, these Conditions together with any Specification or Quotation shall apply to all phases of the Project, including any non-recurring engineering/expenditure activities for design, development, engineering, tooling, validation, and regulatory services, and shall continue to apply until the parties execute a formal services agreement specifically governing the ongoing supply relationship.

2.4 Any samples, drawings, descriptive matter or advertising issued by Ensera and any descriptions of the Goods or illustrations or descriptions of the Services contained in Ensera'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.

2.5 Any estimates of timelines, costs, or resource requirements for a Project (whether set out in a Quotation or otherwise) are provided for planning purposes only and are non-binding. Such estimates may be subject to revision based on actual requirements of the Project, findings during the development process, changes in material costs, regulatory requirements, or other factors affecting the scope or execution of the Project. Any material changes to estimates will be communicated to the Customer in writing. Any Order submitted by the Customer based on such estimates shall be subject to Ensera confirming the costs in writing and such confirmed costs shall apply to the relevant Order.

2.6 These Conditions and any special terms set out by Ensera in a Quotation or Specification 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.

2.7 Any Quotation given by Ensera shall not constitute an offer and is only valid for a period of thirty (30) days from its date of issue unless otherwise specified in the Quotation, and valid only for the matters set out in that Quotation. If a Quotation is reissued then the new version of that Quotation shall apply in place of the previous Quotation and shall be valid for the period set out in that reissued Quotation.

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

2.9 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 which is based upon the Customer's communicated requirements, or instructions supplied by the Customer, the Customer shall indemnify Ensera 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 Ensera arising out of or in connection with any claim made against Ensera for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with Ensera'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 Ensera shall supply the Services and any Deliverables to the Customer in accordance with any Specification in all material respects.

4.2 Ensera shall use all reasonable endeavours to meet any performance dates agreed in the Specification or an Order Confirmation, 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. Ensera shall notify the Customer of any delays or changes to performance dates.

4.3 Ensera reserves the right to change the Quotation, Order and Order Confirmation, 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 Ensera shall notify the Customer in any such event.

4.4 Ensera warrants to the Customer that the Services will be provided in accordance with Applicable Law.

5 **Customer's obligations**

5.1 The Customer shall:

5.1.1 ensure that the terms of the Order are in line with the Quotation or Specification and that any information it provides in the Specification or to Ensera for the purposes of Ensera providing a Quotation and/or Specification are complete and accurate;

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

5.1.3 provide Ensera with such information and materials as Ensera 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 Ensera 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 including but not limited to any approvals required from Regulatory Authorities; and

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

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 Ensera to use the Customer Materials and the Customer Equipment for the provision of the Services and/or Goods;

5.2.3 it will inform Ensera of any known health and safety hazards arising from handling the Goods, Customer Materials or any product waste, and that it shall inform Ensera 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 a Quotation, during the term of the Contract the Customer shall give Ensera:

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 accepted under this clause 6 do not constitute an Order Confirmation.

6.4 If Ensera anticipates that it will be unable to meet the Customer's forecasted requirements provided in accordance with this clause 6, Ensera 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 Ensera requires the use of Customer Equipment, the Customer shall be responsible for the cost of purchase, transport, installation, maintenance and replacement of Customer Equipment and shall supply the Customer Equipment to Ensera by the dates set out in the Specification or as agreed between the parties. The Customer Equipment remains the absolute property of the Customer and Ensera may not part with possession of it, or make it available, to any third party.

7.2 Ensera 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 insurance cover for any loss or damage to the Customer Equipment for the period Ensera has possession or control of the Customer Equipment.

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

7.5 The parties shall take any further steps in relation to Customer Equipment which are set out in the Quotation or Specification.

8 Delivery

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

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

8.3 The Customer shall have sole responsibility and liability for the payment of any Tariffs related to Customer Equipment, raw materials, Goods or Deliverables, and Ensera shall have no responsibility for the payment of any such Tariffs. Ensera shall notify the Customer promptly if it is notified that Tariffs will be imposed on the import or export of any Customer Equipment, raw materials, Goods or Deliverables.

8.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Ensera 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 Ensera with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

8.5 If Ensera 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 Ensera to the Customer. Ensera 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 Ensera with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

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

8.6.1 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 Ensera notified the Customer that the Goods were ready; and

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

8.7 If ten Business Days after the day on which Ensera notified the Customer that the Goods were ready for delivery the Customer has not taken actual delivery of them, Ensera 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.

8.8 If Ensera 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, Ensera shall make a pro rata adjustment to the invoice for the Goods.

8.9 Ensera 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 Ensera warrants that on delivery the Goods shall conform with Applicable Laws.

9.2 Subject to clause 9.3, if:

9.2.1 the Customer gives notice in writing to Ensera 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 Ensera is given a reasonable opportunity of examining such Goods; and

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

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

9.3 Ensera 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 Ensera'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 Ensera following any drawing, design or specification supplied by the Customer whether in the Specification or otherwise;

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

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

9.4 Except as provided in this clause 9, Ensera 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 The terms of this Contract shall apply to any repaired or replacement Goods supplied by Ensera.

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 Ensera and/or its Affiliates, provided that Ensera shall bear the risk of loss and damage to the Customer Materials for any loss or damage caused by Ensera's wilful misconduct or gross negligence in handling and/or properly storing the Customer Materials following completion of unloading of the Customer Materials at Ensera's facility.

10.2 The risk in the Goods shall remain with the Customer at all times. Title to the Goods (excluding title in any Customer Materials) shall not pass to the Customer until the earlier of:

10.2.1 Ensera receiving payment in full (in cash or cleared funds) for the Goods and any other goods that Ensera 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 reselling 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 Ensera'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 Ensera's behalf from the date of delivery;

10.3.4 notify Ensera 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 Ensera such information as Ensera 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 Ensera 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 Ensera's agent; and

10.4.2 title to the Goods shall pass from Ensera 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, Ensera 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 and Charges may have to be adjusted by the parties in good faith negotiations and reflected in a Change Order.

11.2 Any failure by Ensera to provide the Goods, Services, or meet Project milestones in accordance with the timetable agreed in the relevant Specification 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, terminate the Contract, or withhold payment of any non-recurring engineering/expenditure or Project costs incurred to date. If the Customer cancels any Services, then the following cancellation charges shall apply:

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

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

11.2.3 up to 4 weeks before the agreed timetable, 100% of the Charges,

provided that the Customer shall remain responsible for payment of all Pass-Through Costs, non-recurring engineering/expenditure and Project costs incurred prior to the effective date of cancellation.

11.3 If Ensera'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, Ensera 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 Ensera's performance of any of its obligations. Ensera shall be entitled to adjust any timeline, milestone dates, and associated costs which relate to such suspension;

11.3.2 Ensera shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Ensera's failure or delay to perform any of its obligations as set out in this clause 11.3; and

11.3.3 the Customer will indemnify Ensera 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 Ensera 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 Ensera (or any costs relating to third parties engaged by Ensera) to undertake any element of the Services or the factory space allocated to provide the Goods or perform the Services. Ensera may also charge the Customer further Charges in relation to any such delay provided that Ensera notifies the Customer of such Charges in advance.

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

12.3 Ensera shall have no liability with respect to any recall or withdrawal of Goods unless such recall or withdrawal has directly arisen from Ensera's gross negligence or wilful misconduct in which case Ensera'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 Ensera 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 Ensera and provide as much detail as Ensera reasonably requires of the proposed changes, including the timing of the proposed changes, any impact on Project milestones, and any technical specifications affected by such changes; and

13.3.2 Ensera 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 Ensera 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. For Project-related Change Orders that require significant engineering, validation, or technical assessment work, Ensera

may charge additional fees based on the scope of work required, which shall be agreed with the Customer in advance.

14 **Charges and payment**

14.1 In consideration of the supply of Goods and/or the provision of the Services by Ensera, the Customer shall pay the Charges as specified by Ensera. The Customer shall also pay (i) the Pass-Through Costs as set out in the Quotation or as otherwise confirmed by Ensera as being payable; (ii) any non-recurring engineering/expenditure including but not limited to tooling, equipment, validation, qualification, and Project-specific set-up costs as specified in the Quotation or otherwise agreed between the parties in writing; and (iii) where a Project is cancelled before one year of serial manufacturing has been undertaken by Ensera, all additional work undertaken by Ensera at development rates as advised by Ensera.

14.2 All sums payable by the Customer under the Contract:

14.2.1 are due for payment in accordance with the intervals or milestones specified in the relevant Specification or Quotation or, in relation to Pass-Through Costs as otherwise confirmed by Ensera;

14.2.2 are payable in the currency set out in the relevant Quotation or Specification;

14.2.3 are payable within thirty (30) days from the date of the relevant invoice to the bank account nominated in writing by Ensera 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) and the Customer shall be responsible for all bank charges connected with its payment of sums due to Ensera under or in relation to the Contract.

14.3 Ensera 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 issue a new Quotation under clause 2.7 and/or 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 Ensera that is due to:

(a) any assumption specified in the Specification or Quotation being incorrect or any other particular reason set out in the Specification or Quotation;

(b) the initial scope or specification of the Services, Project or Goods described in the Quotation or any timelines set by the Customer changing or being delayed by the Customer;

(c) the cost of any raw materials, labour or third party charges or the cost to Ensera of providing Goods or Services increasing;

(d) the Customer requesting any modifications to a Project including any additional testing requirements;

(e) any factor beyond the control of Ensera (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

(f) any request by the Customer to change the delivery date(s), quantities or types of Goods and/or Services ordered, or the Specification;

(g) the volumes forecasted by the Customer or set out in the Quotation not being met or minimum Order quantities not being met; or

(h) any delay in the Customer's project implementation or Customer Materials deliveries, or any delay

caused by any instructions of the Customer in respect of the Goods and/or Services or failure of the Customer to give Ensera adequate or accurate information or instructions in respect of the Goods and/or Services; or

(i) any components becoming obsolete in the circumstances set out in the Quotation or Specification.

14.4 Without prejudice to any other right or remedy that Ensera may have, if the Customer fails to make any payment due to Ensera under the Contract by the due date Ensera 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 Ensera 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 Ensera (or shall procure the direct grant to Ensera 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 the methodology, processes and know-how of Ensera in relation to the provision of the Services, that originate from Ensera (including the Quotation and any concepts, drafts, ideas and designs presented by Ensera to the Customer, production know-how and Ensera's supplier database) and are not Intellectual Property Rights in Customer Materials shall remain the exclusive property of Ensera or where applicable, the third party licensor from whom Ensera derives the right to use such IPRs (together the **Ensera IPRs**).

15.4 Ensera grants to the Customer a revocable, royalty-free, non-exclusive licence of the Ensera IPRs solely for the purpose of receiving the Services and/or the Goods.

15.5 The Customer shall indemnify Ensera 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 Ensera arising out of or in connection with any claim made against Ensera 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.

16 Data protection

16.1 Ensera 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://www.ensera.com/privacy-policy/ or such other privacy notice that Ensera makes available on its website from time to time.

17 Customer indemnity

17.1 The Customer indemnifies Ensera and will keep Ensera 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:

17.1.1 Ensera's use of any Customer Materials;

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

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

17.1.4 any claim made by any third party in relation to the Goods and any recall of the Goods;

17.1.5 a sum equivalent to any Tariffs imposed or to be imposed as set out in clause 8.3;

17.1.6 any costs or expenses of Ensera in complying with any directions of

Regulatory Authorities or any costs imposed by Regulatory Authorities; and

17.1.7 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 (including negligence), misrepresentation, restitution or otherwise.

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.

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.

18.5 Subject to clauses 18.2 to 18.4, Ensera'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.

18.6 These Conditions set out the full extent of Ensera's obligations and liabilities in respect of the supply of the Goods and/or Services. Ensera 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.

18.7 This clause 18 shall survive termination of the Contract.

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 Ensera reasonably believes that the Customer is about to become subject to any of them, Ensera 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 Ensera; 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 Ensera all of Ensera's outstanding unpaid invoices and interest, including any Pass-Through Costs, and in respect of Goods and Services supplied but for which no invoice has been submitted, Ensera 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 Ensera 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, suppliers, processes, methods, technical information or know-how 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 (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Project Manager of each party shall attempt 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 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 Ensera 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 Ensera.

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.

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 2.9, 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 or where a Special Condition has been set out in a Quotation, 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:** Unless otherwise specified in a Quotation, 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:** Unless otherwise specified in a Quotation, 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.