

GAMA Healthcare Ltd

Terms and Conditions of Sale – UK



The Customer's attention is drawn in particular to the provisions of clause 5, 8 (in the event the Customer is acting as a reseller) and 9.

1. Definitions

Accessories: means any accessories that are independent of the Consumables but that may be recommended or suggested for use alongside the Consumables to support their use (for example, dispensers, indicator notes or warming cabinets).

Capital Equipment: means the Rediroom®; Rediair®; Clinell® UV Disinfectant room sanitisers and disinfectors, the EasyClean™ commode, and such other products as may be identified by the Supplier as Capital Equipment from time to time.

Capital Equipment Accessories and Consumables: means (a) any accessories that are independent of the Capital Equipment but that may be recommended or suggested for use alongside the Capital Equipment (for example, certain detection or monitoring systems); and (b) those items that are required to be used with Capital Equipment but that have a limited lifespan as designed or are expected to wear and be replaced through normal use of the Capital Equipment (for example, canopies (in the case of Rediroom®), filters (in the case of Rediair®) and UV bulbs (in the case of the Clinell® UV Disinfectant)).

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 12.5.

Consumables: means any Supplier branded infection prevention products or accessories other than the Accessories, the Capital Equipment or the Capital Equipment Accessories and Consumables.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Products, such contract being created in accordance with clause 2.3 of these Conditions.

Customer: the person or entity that purchases the Products from the Supplier as set out in the Order.

Delivery has the meaning given in clause 4.2.

Delivery Location: has the meaning given in clause 4.1.

Force Majeure Event: an event, circumstance or cause beyond a party's reasonable control.

Licence Termination Date: has the meaning given in clause 8.2.

Minimum Order Requirements: (a) that the Delivery Location specified is within the United Kingdom; (b) where the Order is being placed by a party intending to resell the Products, that the reseller meets or is expected to meet the Minimum Reseller Requirements and the Products being ordered are within the Reseller Scope; and (c) such other requirements as the Supplier may impose from time to time.

Minimum Reseller Requirements: the minimum requirements that any reseller of the Products must meet, as may be communicated by the Supplier to the Customer from time to time, but which includes a requirement for each reseller to order at least eight thousand pounds (£8,000) worth of Products (excluding VAT) in each 12 month period.

Order: the Customer's order for the Products, which may be set out on the Customer's purchase order form or the Customer's written acceptance of the Supplier's quotation, as the case may be.

Products: the products set out in the Order, which may be Consumables, Accessories, Capital Equipment or Capital Equipment Accessories and Consumables.

Reseller Scope: has the meaning given in clause 8.3.

Small Order: an Order (a) where the total value of the Order is less than £1,000 (excluding VAT); or (b) subject to clause 4.6, where any individual delivery instalment under the Order is less than £1,000 (excluding VAT);

Supplier: GAMA Healthcare Ltd incorporated and registered in England and Wales (company number: 05316871) and whose registered address is The Maylands Building, Maylands Avenue, Hemel Hempstead Industrial Estate, Hemel Hempstead, England, HP2 7TG.

2. Basis of contract

2.1 These Conditions apply to each 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.

2.2 The Order constitutes an offer by the Customer to purchase the Products in accordance with these Conditions. The quantity, quality and description of and any specification for the Products shall be those set out in the Order (if accepted by the Supplier). The Customer is responsible for ensuring that the terms of the Order are complete and accurate. Where the Order constitutes a Small Order, it shall be deemed to include a delivery administration charge of £100 for each delivery instalment that is less than £1,000 (excluding VAT).

2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point a Contract shall come into existence. The Supplier

2.4 may reject an Order for any reason in its sole discretion but, for clarity, an Order will automatically be deemed to be rejected if it fails to meet the Minimum Order Requirements. Notwithstanding the foregoing, the Supplier may elect to make a counteroffer to the Customer setting out the basis upon which it would be willing to accept any Order

which it is otherwise intending to reject (including, for the avoidance of doubt, where an Order does not meet the Minimum Order Requirements). The Customer must accept the terms of the Supplier's counteroffer in writing and in full in order for the counteroffer to constitute a Contract for the purposes of these Conditions.

2.5 Once a Contract has been created in accordance with clause 2.3, it cannot be amended or cancelled by the Customer without the prior written consent of the Supplier. The Supplier may, at its sole discretion, permit a Customer to cancel a Contract where the Customer agrees to cover the cancellation administration charges which shall be notified by the Supplier to the Customer following the relevant cancellation request. The types of factors that the Supplier will take into account when deciding whether or not to accept a cancellation and/or the level of the cancellation administration charges include, without limitation, the quantity of Product subject to the cancellation request, the shelf-life remaining on the Product, and the current stock levels that the Supplier otherwise has available to it in respect of the Products being cancelled. If the quantity is equivalent to or greater than one container worth of Product, then the cancellation request is likely to be rejected or the cancellation administration charges are likely to be high to reflect, amongst other things, the likely storage costs that the Supplier shall incur before being able to sell that Product on to a new customer.

3. Products

3.1 Any descriptions or illustrations contained in the Supplier's catalogues, brochures, samples, price lists or other advertising material are intended merely to present a general picture of the Products and shall not form a representation or be part of a Contract.

3.2 In the event that any Products shall differ in any way to a degree which, in the opinion of the Supplier, is not material to that contained, referred to or described in the Supplier's catalogues, brochures, samples, price lists or other advertising material then the Supplier shall not be liable to replace, repair, make good or accept a return of such Products and the Customer shall accept such Products and make payment for such Products in accordance with the terms hereof.

3.3 The Supplier reserves the right to make any changes in the specification of the Products if required by any applicable statutory or regulatory requirement.

4. Delivery

4.1 The Supplier shall deliver the Products to the location set out in the Contract or such other location as the parties may agree (**Delivery Location**). For the avoidance of

- doubt, the Delivery Location must be business premises linked to the Customer and cannot be, without limitation, premises linked to a third party, a PO box, or a residential address. If the Supplier has any concerns about the appropriateness of a Delivery Location at any time, it may cancel any Contract linked to that Delivery Location, without liability. Further, the Supplier shall be able to from the Customer any costs that the Supplier has incurred in respect of any steps that it took in fulfilling such Contract(s) prior to any cancellation by the Supplier pursuant to this clause 4.1.
- 4.2 Delivery is completed on the completion of unloading of the Products at the Delivery Location (**Delivery**).
- 4.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. After the Supplier notifies the Customer that the Products are ready for despatch, the parties shall seek to agree a mutually convenient time for the Supplier to deliver the Products to the Delivery Location. The Customer acknowledges that if it requires (i) delivery of the Products on a day that the Supplier does not customarily deliver to the Delivery Location; or (ii) delivery within a specific limited time slot; or (iii) delivery by a specific size of vehicle, the Supplier may impose a specific delivery charge on the Customer for such delivery, which the Supplier shall make the Customer aware of in advance of such delivery being made. If the Supplier does not make the Customer aware of any such delivery charges in advance of the delivery, the Supplier shall provide the Delivery for the price of delivery set out in the Contract which shall, in the event that the Order is a Small Order, include the £100 delivery administration charge for each delivery instalment that is less than £1000 (excluding VAT) (subject always to the provisions of clause 4.6).
- 4.4 If the Supplier fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement Products of similar description and quality in the cheapest market available, less the price of the Products. The Supplier shall not be liable for any delay or failure in delivery of the Products that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.5 The Supplier shall endeavour to ensure that the delivered Products are accompanied by a Supplier delivery note and the Customer must sign any such delivery note accompanying the Products. No claim for damage in transit, shortage of delivery or loss of Products will be entertained unless the Customer has given to the Supplier written notice of such damage, shortage or loss with reasonable particulars thereof within 3 days after Delivery or, in the case of total loss, within 3 days after receipt of the invoice or other notification of despatch.
- 4.6 The Supplier may deliver a Contract by instalments. Where the Supplier elects to deliver a Contract by instalments it shall not impose any additional delivery charges on the Customer as a result of its election to deliver the Contract by instalments. However, any delivery charges that it would otherwise have been entitled to impose, shall still apply. Any delay in Delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment related to the Contract.
- 4.7 The Supplier shall ensure that the Products are properly packed and secured in a manner to enable them to reach their destination in good condition.
- 4.8 If the Customer fails to take delivery of the Products, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract in respect of the Products, the Supplier may (a) hold the Products until actual Delivery or resale in accordance with paragraph (b) and charge the Customer for its reasonable costs including return, storage, and re-delivery costs and insurance; and/or (b) sell the Products to another customer if the Customer still hasn't taken delivery after 10 days.
- 5. Product Warranty**
- 5.1 **Warranty for Consumables.** The Supplier warrants that the Consumables shall be free from defects in design, materials and workmanship until the later of (i) 6 months from the date of shipment from the Supplier, or (ii) any expiration date or the end of the shelf-life pre-printed on such Consumables by the Supplier, but in either event, no later than 12 months from the date of shipment.
- 5.2 **Warranty for Capital Equipment.** The Supplier warrants that the Capital Equipment shall be free from defects in design, materials and workmanship for a period of 1 year after its shipment date from the Supplier, except for the frame of the Easyclean™ Commode which the Supplier warrants shall be free from defects in design, materials and workmanship for a period of 5 years after its shipment date from the Supplier. For clarity, the parts (and not the frame) of the Easyclean™ Commode shall benefit from the 1-year warranty relevant to all other items of Capital Equipment.
- 5.3 **Warranty for Accessories and Capital Equipment Accessories and Consumables.** Unless otherwise indicated by the Supplier, no warranty is given in respect of the Accessories or the Capital Equipment Consumables and Accessories.
- 5.4 **Exclusions from Warranty Coverage.** The foregoing warranties do not apply to the extent any non-conformance is due to (i) abuse, misuse, neglect, negligence, accident, improper storage, or use contrary to the instructions, training or specifications provided; (ii) fair wear and tear; (iii) where applicable, improper handling, installation, maintenance, or repair; (iv) unauthorized alterations; or (v) Force Majeure Events. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.5 **Procedure for Warranty Coverage.** Subject to clause 4.5, all warranty claims need to be made promptly following the identification of the non-conformance giving reasonable particulars of the nature of the claim and, in any event, prior to the expiry of the relevant warranty period.
- 5.6 In order for Products to be eligible for replacement, reimbursement or, in the case of Capital Equipment, repair under the warranty the Customer must (i) cooperate with the Supplier in confirming or diagnosing the non-conformance; and (ii) cooperate with the Supplier in relation to implementing the relevant replacement or reimbursement or, in the case of Capital Equipment, repair of such non-conforming Products.
- 5.7 **Warranty Replacements.** Any Products or parts of Products that the Supplier replaces in accordance with the warranty will be replaced by functionally equivalent Products or, in the case of Capital Equipment, reconditioned or new hardware or components at the Supplier's choice. No new warranty period will commence in respect of any replacement Products or parts thereof, but the remainder of the original warranty period will continue to apply. Where requested by the Supplier, any Products or parts thereof replaced or reimbursed by the Supplier in accordance with this warranty shall be returned to the Supplier in accordance with the Supplier's instructions and at the Supplier's cost. In the event that the Supplier determines (acting reasonably) on return of the non-conforming Products that the warranty did not apply either because the Products were not non-conforming or because any non-conformance was due to the circumstances set out at clause 5.4 above, the Customer shall be required to reimburse (i) as applicable, any refund provided by the Supplier or the then current list price of any replacement Products provided by the Supplier less, in each case, any value that the Supplier can derive from the returned Products; and (ii) the return shipping costs paid by the Supplier under this clause 5.7.
- 5.8 **Sole Remedy under Warranty.** The replacement, reimbursement or, in the case of Capital Equipment, repair of any Products under this warranty shall be the Customer's sole remedy and the Supplier's sole obligations with respect to any non-conforming Products. Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 5.1 or clause 5.2 (as appropriate).
- 5.9 **No Returns Except Under Warranty.** Except as provided in this clause 5, no return of Products shall be permitted. The Supplier may, at its sole discretion, permit a return (at the Customer's cost) and charge a restocking fee of 25% of the total price of the Products returned. The Supplier may take into account the following factors (without limitation) when deciding whether or not to permit a return pursuant to this clause 5.9: the period of time that the Product has been with the Customer; the shelf-life remaining on the Product; whether the Product has been stored appropriately and is in a resellable condition; and the current stock levels that the Supplier otherwise has available to it in respect of the Products being proposed for return. Any returns made by the Customer pursuant to this clause 5.9 must be pre-authorised in writing by the Supplier. Any returns sent to the Supplier without this pre-authorisation will be rejected and returned, resulting in an administration and delivery charge also being levied by the Supplier. Any Products returned pursuant to this clause 5.9 must be undamaged, unopened and be returned in their original packaging. If the Supplier authorises a return but the Products returned do not meet the requirements of this clause 5.9 or any specific pre-authorisation, the Supplier may reject those Products and arrange for their return to the Customer. In those circumstances, an administration and delivery charge will also be levied by the Supplier.
- 6. Title and risk**
- 6.1 The risk in the Products shall pass to the Customer on completion of Delivery.
- 6.2 Title to the Products shall not pass to the

- Customer until the Supplier receives payment in full (in cash or cleared funds) for the Products and all other Products that the Supplier has supplied to the Customer.
- 6.3 Until title to the Products has passed to the Customer, the Customer shall:
- store the Products separately from all other Products held by the Customer so that they remain readily identifiable as the Supplier's property;
 - not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
 - maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.1(b) to clause 10.1(c); and
 - give the Supplier such information as the Supplier may reasonably require from time to time relating to the Products and the ongoing financial position of the Customer.
- 6.4 Subject to clause 6.5 and 8, the Customer may resell or use the Products in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Products. However, if the Customer resells the Products before that time:
- it does so as principal and not as the Supplier's agent; and
 - title to the Products shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 At any time before title to the Products passes to the Customer, and if the Customer has failed to meet its payment obligations, the Supplier may:
- by notice in writing, terminate the Customer's right under clause 6.4 to resell the Products or use them in the ordinary course of its business; and
 - require the Customer to deliver up all Products in its possession that have not been resold, and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.
- 7. Price and payment**
- 7.1 The price of the Products shall be the price set out in the Contract.
- 7.2 The Supplier may, by giving notice to the Customer at any time prior to delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:
- any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - any request by the Customer to change the delivery date(s), quantities or types of Products ordered; or
 - any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 7.3 The price of the Products excludes
- amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice.
- 7.4 Subject to clause 7.5, the Supplier may invoice the Customer for the Products upon Delivery.
- 7.5 The Customer shall pay each invoice submitted by the Supplier: in accordance with the Customer's relevant payment terms; in full and in cleared funds; to the bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract. Subject to the Supplier's credit review of the Customer (following which the Supplier shall inform the Customer of the Customer's applicable payment terms, which may include payment in advance in circumstances where, for example, the Customer has exceeded the credit limit allocated to the Customer by the Supplier (in its absolute discretion)), all payments are due within 30 days of the date of the invoice.
- 7.6 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 10, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 7.7 All amounts due under the Contract 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).
- 8. Conduct of Resellers**
- 8.1 This clause 8 shall apply to resellers or any reselling activities. For the avoidance of doubt, the Supplier needs to approve the Customer as a reseller in order for the Customer to be able to resell Products purchased from the Supplier. In order to be approved as a reseller, the Customer must meet the Minimum Reseller Requirements.
- 8.2 The Supplier grants to the Customer a non-exclusive licence to use its trade marks and product related marketing and training materials for the sole purposes of distribution, promotion and sale of the Products in the UK. Unless earlier terminated in accordance with these Conditions, such licence shall automatically terminate 12 months after Delivery of the Products (**Licence Termination Date**). Other than the above, the Customer shall have no rights in respect of the trademarks or other intellectual property rights (or of the goodwill associated with them). Any use of the Supplier's trade marks and product related marketing materials or any other intellectual property rights after the Licence Termination Date is in violation of the Supplier's intellectual property rights and the Supplier reserves the rights to take legal actions accordingly.
- 8.3 The intention is that the Customer shall only sell the Products in the UK (whether online or otherwise). Where indicated by the Supplier to the Customer (whether orally or in writing), the Customer may also be limited to resell the Products to certain specific sectors or customers within the UK or to certain specific regions or areas
- within the UK (together, the permitted resale activities being known as the **Reseller Scope**). The Customer is strictly prohibited from actively selling the Products outside of the UK and particularly in jurisdictions where the Supplier has exclusive local distributors. In addition, where a Reseller Scope has been notified, the Customer is strictly prohibited from actively selling outside of the notified Reseller Scope. For these purposes, active selling shall be understood to mean actively approaching or soliciting customers, including, but not limited to, the following actions:
- visits;
 - direct mail, including the sending of unsolicited emails;
 - advertising in media, on the internet or other promotions, where such advertising or promotion is specifically targeted at customers outside of the UK or notified Reseller Scope;
 - online advertisements addressed to customers outside of the UK or notified Reseller Scope and other efforts to be found specifically by customers outside of the UK or notified Reseller Scope, including the use of territory based banners on third party websites and paying a search engine or online advertisement provider to have advertisements or higher search rankings displayed specifically to customers outside of the UK or notified Reseller Scope; and
 - advertising or promotion in any form (which may include providing translations of advertising materials outside of the Customer's normal course of business) that the Customer would not reasonably carry out but for the likelihood that it will reach customers outside of the UK or notified Reseller Scope.
- 8.4 If the Customer is planning on selling into jurisdictions the Supplier doesn't currently have exclusive distributors, it shall first discuss and agree the arrangement with the Supplier to ensure both parties are in compliance with the relevant Products and other applicable regulations.
- 8.5 All reselling activities on marketplace platforms amazon.co.uk (or any other Amazon domain extension) or ebay.co.uk (or any other Ebay domain extension) are strictly prohibited without specific written consent from the Supplier. Where written consent is provided, any reselling on those platforms must be undertaken in accordance with the specific terms of the relevant consent and only for the duration of the specific consent (where time limited). For the avoidance of doubt, this clause 8.5 is not a generic ban on all online selling and only applies to those specific platforms expressly referred to. All other online selling is permitted provided that it otherwise complies with the requirements of this clause 8.
- 8.6 The Customer shall employ and maintain appropriate, up-to-date and accurate traceability records to enable the immediate return of any Products, or batches of Products, to the Supplier in the event of a product recall. Such records shall be available for inspection by the Supplier.
- 8.7 The Customer shall, at the cost of the Supplier and as a matter of urgency, give any assistance that the Supplier shall reasonably require to carry out a product recall of any of the Products.
- 8.8 The Customer shall:

- (a) not sell or offer to sell any Product that has expired (based on the expiration dates provided on the labels or otherwise) and shall use commercially reasonable efforts to ensure the Products are sold with appropriate consideration for their labelled shelf life;
- (b) keep all stocks of the Products which it holds in conditions appropriate for their storage, provide appropriate security for the Products and follow the instructions of the Supplier so as to ensure no deterioration in the quality or appearance of the Products or their packaging, all at its own cost;
- (c) immediately inform the Supplier if the Customer receives any complaint, notice or communication regarding issues or concerns about any of the Products, including relating to the quality, condition, regulatory requirements or registrations of the Products;
- (d) not alter, obscure, remove, conceal or otherwise interfere with any markings or labels on the Products (including, without limitation, the batch number, expiry date and/or serial numbers as the case may be) nor add any markings or labels to the Products without the prior written consent of the Supplier;
- (e) not do, or omit to do, anything that would or may adversely impact the reputation of the Supplier or the Products (or any of them).
- 8.9 In the event that the Customer breaches any of its obligations under this clause 8, the Supplier may, without prejudice to any of its other rights or remedies under the Contract, do any one or more of the following:
- (a) by notice in writing, terminate the Customer's rights under clause 6.4 and 8.1 to resell the Products or use them in the ordinary course of its business;
- (b) require the Customer to deliver up all Products in its possession where title has not already transferred to the Customer and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them;
- (c) cancel or suspend any Contract (or part thereof) that has not already been delivered to the Customer by the Supplier;
- (d) invoice the Customer for any additional amounts that would otherwise have been payable by the Customer in the event that the original quotation had been prepared on the basis of the terms of the actual resale activity (applicable where, for example, the Products are resold outside of the permitted Reseller Scope where alternative pricing may apply);
- (e) terminate the Contract in accordance with clause 10.1;
- (f) revoke the trademark licence referred to in clause 8.2; and/or
- (g) refuse to accept any further Orders from the Customer.
- 9. Limitation of liability**
- 9.1 The restrictions on liability in this clause 9 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 12 of the Sale of Products Act 1979.
- 9.3 Subject to clause 9.2 and 9.4, the Supplier's total liability to the Customer in relation to each Contract shall not exceed the price paid under that Contract.
- 9.4 Subject to clause 9.2, the Supplier shall not be liable for any of the following types of loss: (a) loss of profits; (b) loss of sales or business; (c) loss of agreements or contracts; (d) loss of anticipated savings; (e) loss of use or corruption of software, data or information; (f) loss of or damage to goodwill; and (g) indirect or consequential loss.
- 9.5 This clause 9 shall survive termination of the Contract.
- 10. Termination**
- 10.1 Without limiting its other rights or remedies, the Supplier may terminate any Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer commits a material breach of any term of any Contract and (if such a breach is remediable) fails to remedy that breach within 15 days of that party being notified in writing to do so;
- (b) the Customer 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; or
- (c) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of any Contract is in jeopardy.
- 10.2 Without limiting its other rights or remedies, the Supplier may terminate any Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under any Contract on the due date for payment.
- 10.3 On termination of a Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest related to the Contract and, in respect of Products supplied under the Contract but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 10.4 Termination or expiry of a Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of a Contract which existed at or before the date of termination or expiry.
- 11. Force majeure**
- Neither party shall be in breach of a Contract nor liable for delay in performing, or failure to perform, any of its obligations under a Contract if such delay or failure results from a Force Majeure Event. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate the relevant Contract by giving 14 days' written notice to the affected party.
- 12. General**
- 12.1 **Confidentiality.** Except with the consent of the disclosing party or as required by law, a court order or by any relevant regulatory or government authority or to the extent that information has come into the public domain through no fault of the receiving party, each party shall treat as strictly confidential all commercial and technical information relating to the other party received or obtained as a result of (i) any discussions or negotiations related to the possibility of entering into a Contract; or (ii) entering into or performing the Contract, including but not limited to information which relates to the subject matter of the Contract, for example prices of the Products ("**Confidential Information**") for a period of 5 years after such Confidential Information was originally disclosed by the relevant Party. For the avoidance of doubt, price lists shared by the Supplier with the Customer shall constitute Confidential Information for the purposes of this clause 12.1 and so shall not be shared by the Customer with any other party except with the prior written consent of the Supplier.
- 12.2 **WEEE Compliance.** The Supplier is a producer of Electrical and Electronic Equipment (EEE) and is therefore obligated under the Waste Electrical and Electronic Equipment (WEEE) Regulations. The Supplier is fully compliant with all responsibilities as a registered member of a UK government approved WEEE Producer Compliance Scheme operated by Valpak Scotland Ltd. The Supplier's producer registration number is WEE/JK2866QU. The UK WEEE Regulations were first introduced in 2007 with the aim of reducing the amount of EEE ending up in landfill. As per the requirements of the Regulations, the Supplier finances the collection, treatment and recycling of obligated WEEE items when it reaches the end of its life and ensures its EEE products are marked with a crossed out wheeled bin symbol and a date mark.
- 12.3 **Assignment and other dealings.** Neither party may assign, transfer, declare a trust over the benefit of or otherwise dispose of a Contract without the other party's written consent, which shall not be unreasonably withheld or delayed, except that Supplier may assign a Contract to any affiliate or successor in interest, or in connection with a merger, consolidation, sale of all or substantially all of its assets, change of name or like event.
- 12.4 **Entire agreement.** Each Contract (including these Conditions) constitutes the entire agreement and understanding of the parties with respect to the subject matter of that Contract and supersedes any prior agreements, representations or

arrangements between the parties (oral or written) in relation to such subject matter. To the extent there is any conflict between these Conditions and the conditions set out on any Order then, unless confirmed in writing by the Supplier, these Conditions shall prevail.

- 12.5 **Variation.** The Supplier may decide to update these Conditions from time to time to reflect changes in applicable law or regulations or trade practice. Any Contract created after the variation of these Conditions, shall be subject to the varied Conditions. Any Contract created prior to the variation of these Conditions shall remain subject to the existing Conditions unless otherwise agreed by the parties.
- 12.6 **Waiver.** No single or partial exercise or failure or delay in exercising any right, power or remedy by either party shall constitute a waiver by that party of, or impair or preclude any further exercise of that or any right, power or remedy arising under the Contract or otherwise.
- 12.7 **Severance.** To the extent that any provision of the Contract is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision will be deemed not to be a part of the Contract, it will not affect the enforceability of the remainder of the Contract.
- 12.8 **Notices.** Any notice to be given to a party under a Contract shall be in writing and shall be delivered personally, or sent by recorded delivery, to the registered address of the party or address on the Order; and where the notice is being sent to the Supplier, a copy of such notice shall be sent by email to contracts@gamahealthcare.com. Either party may, by a notice given in accordance with this clause 12.8, change its address or email address for the purposes of this clause 12.8. A notice shall be deemed to have been served: (a) at the time of delivery if delivered personally; or (b) three (3) days after posting by recorded delivery.
- 12.9 **Third party rights.** No express term of a Contract nor any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise by any person who is not a party to it.
- 12.10 **Governing law.** Each Contract and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it shall be governed by the law of England and Wales.
- 12.11 **Jurisdiction.** The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with a Contract, its subject matter or performance.