

BEATA HEUMAN

These Terms of Purchase (**Terms**) are incorporated into each purchase order, statement of work or release under a framework agreement for ordering Goods or Services (**Order**) issued by Beata Heuman Limited (**Buyer**). Buyer agrees to purchase, and Seller specified in the Order (**Seller**) agrees to sell, solely on the terms and conditions of the Order and these Terms, the Goods and/or Services specified in the Order. Seller will deliver to Buyer a prompt written acknowledgment of the Order. The Order will be automatically deemed to incorporate these Terms, to the exclusion of any other terms including any terms endorsed upon or included with Seller's quotation, acknowledgement, invoice or other documents. Buyer's offer to purchase the Goods and/or Services is expressly limited to and expressly made conditional on Seller's acceptance of the Order, including these Terms. Seller will be deemed to have accepted the Terms: (i) even if Seller's acceptance purports to make acceptance conditional on acceptance of inconsistent, additional or different terms to the these Terms; (ii) when acknowledged by Seller in writing; or (iii) if Seller makes any shipment or performance in response to or in anticipation of an Order. To the extent the terms expressly stated in the Order conflict with these Terms, the terms expressly stated in the Order will prevail.

SECTION A: Terms and Conditions applicable to Buyer's purchase of Goods

1. Orders for Goods

- 1.1 Each Order for goods and/or products (and any services incidental thereto) (**Goods**) shall, unless the parties agree that Buyer may specify the date and location after placing such Order, specify the date and time by which such Order is to be delivered (**Delivery Date**) and the delivery location (**Delivery Location**). If the Delivery Date and/or Delivery Location are to be specified after the placing of the relevant Order, Buyer shall give Seller reasonable advance notice of the relevant information. Time is of the essence with respect to Seller's obligations under the Order. Except with Buyer's express prior written consent, on no account shall Seller deliver Goods earlier than the Delivery Date.
- 1.2 Any forecasts given by Buyer are non-binding estimates only and shall not bind Buyer to any volume commitments. Where a forecast is expressly deemed to be binding in the Order, Seller agrees that Buyer shall not be bound by such forecasts where Seller is found to be in breach of the Terms and/or an Order in respect of historic deliveries including the warranties provided in clause 5, if a recall of the Goods is required, and/or if the Order is terminated for any reason.

2. Goods Delivery

- 2.1 Seller shall deliver each Order to the Delivery Location by the Delivery Date. If any Goods are not delivered on the specified Delivery Date, then, without limiting any other right or remedy of Buyer, Buyer may in its sole discretion reject or accept the late delivery.
- 2.2 Unless otherwise stated in the Order, Seller shall be responsible for arranging, at its own cost, the carriage and insurance of Goods (including clearing Goods for export and import to the Delivery Location). The parties may agree on a nominated carrier that Seller shall use.
- 2.3 Seller shall ensure that all Goods are properly packed, secured and labelled in such manner as to enable them to reach their destination in good condition. Seller will comply with all reasonable labelling requirements for the Goods that Buyer may specify.
- 2.4 Seller shall not deliver any Order for Goods by instalments except with the prior written consent of Buyer. Where any Order is to be delivered by instalments, they may be invoiced and paid for separately. References in these Terms to any Order shall, where applicable, be read as references to instalments.
- 2.5 Delivery of the Goods will be in the exact quantities stated in the Order unless otherwise specified in the Order by Buyer. Buyer assumes no liability for over-shipments and unless otherwise agreed will not be required to pay Seller for the excess quantities.

3. Risk and title in Goods

- 3.1 Risk in the Goods ordered will pass to Buyer on delivery to the Delivery Location. Title in the Goods will pass to the Buyer on the earlier of (i) payment for the Goods or (ii) delivery of the Goods to the Delivery Location. Buyer shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following delivery. Buyer's failure to inspect the Goods before payment does not impair Buyer's right to inspect the Goods after receipt. Buyer shall also have the right to reject any Goods as though they had not been accepted up until a reasonable time after any latent defect in such Goods has become apparent.
- 3.2 If Seller delivers non-confirming Goods, Buyer may, without limiting any other right or remedy, reject such Goods and return them to Seller (at Seller's risk and expense) and (i) require Seller to promptly repair or replace such Goods; or (ii) provide a refund.

SECTION B: Terms and Conditions applicable to Buyer's purchase of Services

4. Services and Deliverables

- 4.1 **Services** means the services described in any Order and the Deliverables provided in connection with such Services. **Deliverables** means the reports, data, information, designs, recipes, graphics, logos, images, photographs or any other item created for Buyer or delivered or to be delivered to Buyer in connection with the Services, together with any "Deliverables" identified in an Order.
- 4.2 Seller represents, warrants and covenants that Services shall be performed diligently and in a professional and workmanlike manner by competent and experienced personnel in a timely and professional manner in accordance with good industry standards.
- 4.3 If Seller delivers non-confirming Deliverables, Buyer may, without limiting any other right or remedy, reject such Deliverables and return them to Seller (at Seller's risk and expense) and (i) require Seller to promptly repair or replace such Deliverables; or (ii) provide a refund.

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- 4.4 Seller represents, warrants and covenants that it is an independent contractor and not an employee, agent, joint venturer or representative of Buyer. Nothing in these Terms or any Order will be construed as creating an employer-employee or a principal-agent relationship.

SECTION C: Terms and Conditions applicable to all Orders

5. Warranties

- 5.1 Seller represents, warrants and covenants to Buyer that all Goods and Services (and any Deliverables): (i) are free from defects; (ii) are of satisfactory quality and fit for their intended purpose; (iii) conform to the specification or sample provided or approved by Buyer and other requirements of the Order; (iv) are free and clear of all liens, claims or encumbrances; (v) comply with all applicable laws, ordinances, regulation and rules; and (vi) do not infringe or violate the intellectual property rights of any third parties.
- 5.2 Seller represents, warrants and covenants that (i) Seller has complied with and will at all times comply with applicable laws, regulations and rules; (ii) Seller has all necessary licenses, permits, rights, powers, and authority to enter into the Order and perform its obligations therein; and (iii) the execution and performance of the Order will not result in the breach by Seller of any agreement, covenant, or court order by which Seller is bound. All warranties contained in these Terms and any Order are in addition to all other warranties, express, implied or statutory, applicable to Seller or the Goods or Services.

6. Price, invoicing and payment

- 6.1 Seller shall invoice Buyer for the Goods and/or Services delivered in accordance with the prices set out in the Order (which shall accord with any Seller quotation or estimate that has been accepted by Buyer or any agreed price list). The price shall include all applicable taxes, duties and other amounts assessable by any government authority with respect to the Goods and Services.
- 6.2 Unless otherwise expressly agreed, Seller shall invoice Buyer on or following the date such Goods are delivered or the Services are performed. Each invoice shall quote the relevant Order number. Unless otherwise specified in the Order, Seller will invoice Buyer and Buyer will pay invoices in pounds sterling (GBP £). Unless the Order expressly states otherwise, Buyer shall pay each undisputed invoice within 60 days of the end of the calendar month in which it is received.

7. Indemnification

- 7.1 Seller shall indemnify Buyer on demand against all liabilities, costs, expenses, damages and losses (including attorney's fees and other professional costs and expenses) (**Claims**) that Buyer incurs or suffers however arising as a result of or in connection with: (i) any claim for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the supply, receipt, possession and/or use of any Goods or Services; (ii) Seller's breach of warranty or of the Order; (iii) any claims that the Goods or Services are defective; and/or (iv) any third party claim for death, personal injury or damage to property arising out of, or in connection with, defective Goods or Services, to the extent that the defect in such Goods or Services is attributable to any act or omission of Seller. In addition, Seller shall indemnify Buyer against any and all Claims arising out of or related to recalls of Goods resulting from Seller's breach of the Order and/or these Terms.

8. Intellectual Property

- 8.1 Nothing in these Terms shall cause or permit the Background IP of either party to be transferred or assigned to the other, and Buyer or its licensors will remain the owner of all Intellectual Property in all specifications, documents, drawings and other materials provided by or on behalf of Buyer to Seller. All Intellectual Property created by or on behalf of Seller for Buyer, commissioned by Buyer or made to the Buyer's specification, or conceived or created in the course of or in relation to the supply of the Goods and/or provision of the Services shall be owned by Buyer and Seller assigns to Buyer, or shall procure the assignment to Buyer of, all such rights (whether presently existing or to be created in the future) and if moral rights exist, Seller waives, or shall procure the waiver of, such moral rights.
- 8.2 Seller may not use the "Beata Heuman" name and/or logo in any manner, promotional or otherwise, without the prior written consent of the Buyer and in the event that such consent is provided all goodwill arising therefrom shall inure solely to the benefit of the Buyer.
- 8.3 "**Intellectual Property**" means domestic and international rights in any (i) trademarks, (ii) patents, (iii) copyrights, (iv) trade secrets and confidential information, (v) other intellectual proprietary property (of every kind and nature and however designated), whether arising by operation of law, contract, license, or otherwise, (vi) derivatives, improvements, and modifications of the foregoing, and (vii) all registrations, applications, renewals, extensions, continuations, continuations-in-part, divisions or reissues of the foregoing now or hereafter in force or hereafter acquired or adopted. "**Background IP**" means Intellectual Property in existence before the date of the Order or which is developed independently of an Order.

9. Confidentiality and Data Protection

- 9.1 The Order and all information or material of a confidential or proprietary nature (**Confidential Information**) supplied by (or on behalf of) Buyer (including any information relating to its group members, business or financial or other affairs) to Seller are strictly confidential and will not be disclosed (in whole or in part) by Seller to any other person without Buyer's prior written consent (except where disclosure is required by any government authority or pursuant to a court order). Seller shall apply to the Confidential Information no lesser security measures and degree of care than those which it takes in protecting its own confidential information, and in any event no less than that which a reasonable person or business would take in protecting its own confidential information.

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HAMMERSMITH ROAD, LONDON W6 7DJ +44(0)208 741 0102 INFO@BEATAHEUMAN.COM

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Seller will not use Buyer's name or the fact that Seller is selling Goods and/or Services to Buyer in any press release, media statement or otherwise publicise the Order without Buyer's prior written consent.

- 9.2 Each party shall comply with all applicable legislation for the time being in force pertaining to data protection, data privacy, data retention and/or data/security, and, to the extent applicable, obtain and maintain all appropriate registrations required in order to allow that party to perform its obligations under an Order.

10. Termination

- 10.1 Buyer may at any time by giving Seller written notice, terminate the Order or amend or delay all or any part of Seller's performance under the Order. If Buyer terminates for its convenience, its liability to Seller shall be limited to payment to Seller of all verifiable direct costs reasonably incurred (without additional mark-up) by Seller in fulfilling such Order up until the date of receipt of the notice of termination. If Buyer terminates the Order based on Seller's breach or as a result of Seller being subject to an insolvency event or change of control, Buyer will not be required to accept or pay for Goods or Services under the Order.
- 10.2 On termination or expiry of an Order, Seller will promptly deliver to Buyer any completed or partially completed Deliverables and Seller will return to Buyer all information and other materials provided by or on behalf of Buyer.

11. General

- 11.1 Seller may not sub-license or assign, sub-contract or delegate any or all of its rights or obligations under the Order without the prior written consent of Buyer.
- 11.2 All notices relating to the Order must be in writing. Notices to Seller will be sent to the registered office or principal place of business of the Buyer or otherwise stated on the Order. Notices to Buyer must be sent to the following address: 186-188 Shepherds Bush Road, London W6 7NL. Notices shall be delivered by hand, or by pre-paid first class post or registered mail.
- 11.3 No omission, forbearance or delay on the part of either of the parties to enforce fully any provision of the Order or any other right, power, privilege or remedy otherwise available to it shall be construed as a waiver of such provision, right, power, privilege or remedy or of a right thereafter to enforce the same or any other provision, right, power, privilege or remedy.
- 11.4 If at any time any provision of the Order is or becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction then such provision shall be treated in such jurisdiction as severed from the remaining provisions and neither the validity legality or enforceability of the remaining provisions nor the validity legality or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.
- 11.5 Seller shall maintain a quality assurance program in accordance with good industry practice and shall comply with Buyer's Social, Ethical and Environmental Business Policy as amended from time to time. Buyer shall be entitled to inspect and audit Seller's facilities on reasonable notice.
- 11.6 The Order (which for the avoidance of doubt shall incorporate these Terms) contains the entire agreement and understanding of the parties with respect to its subject matter and supersedes all prior agreements written or oral and each of the parties acknowledges that it has not been induced to enter into the Order by reason of any representation made by or on behalf of the other party. Nothing in this clause 11.6 will operate to limit or exclude any liability for fraud or fraudulent misrepresentation.
- 11.7 Except as set out in the Order, a person who is not a party to the Order shall not have any rights under or in connection with it, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 11.8 The Order and these Terms shall be governed by, and any dispute arising hereunder shall be determined in accordance with, English law. If the parties can not resolve a dispute regarding the Order through good faith negotiation, each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Order or its subject matter or formation, save that Buyer is also entitled to apply to any court worldwide for injunctive or other remedies in order to protect or enforce its Intellectual Property and/or Confidential Information.