



## TERMS AND CONDITIONS

**Finn Pathologists** is a trading name for Precision Histology International Ltd, a company incorporated in England & Wales under company number 2161963 ("**Finn Pathologists**", "**We**", "**Our**"). Our registered office is at One Eyed Lane, Weybread, Diss, Norfolk, IP21 5TT. Our VAT number is 737 1452 35.

### 1. Interpretation

Definitions:

**"Finn Pathologists"** Finn Pathologists is a trading name for Precision Histology International Ltd, a company incorporated in England & Wales under company number 2161963 whose registered office is at One Eyed Lane, Weybread, Diss, Norfolk, IP21 5TT

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

**"Charges"** the charges payable by the Customer for the supply of the Services in accordance with clause 5.

**"Commencement Date"** has the meaning given in clause 2.2.

**"Conditions"** these terms and conditions as amended from time to time in accordance with clause 10.4.

**"Contract"** the contract between Finn Pathologists and the Customer for the supply of Services in accordance with these Conditions.

**"Control"** shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

**"Customer"** the person or firm who purchases Services from Finn Pathologists.

**"Customer Default"** has the meaning set out in clause 4.2.

**"Order"** the Customer's order for Services in the Customer's purchase order form or the Customer's written acceptance of a quotation by Finn Pathologists.

**"Services"** the laboratory, pathology and diagnostic testing services supplied by Finn Pathologists to the Customer

**"Turnaround Times"** the approximate turnaround times for the Services provided by Finn Pathologists.

- 1.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.3 A reference to **writing** or **written** includes fax and email.

## **2. Basis of contract**

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when Finn Pathologists issues written acceptance of the Order at which point and on which date the Contract shall come into existence ("**Commencement Date**").

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4 Any quotation given by Finn Pathologists shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

## **3. Supply of services**

3.1 Finn Pathologists shall use all reasonable endeavours to meet any Turnaround Times it has provided in its price list or to the Customer but any such dates shall be estimates only and an approximation. Time shall not be of the essence for performance of the Services.

3.2 Finn Pathologists reserves the right to amend the Services if necessary to comply with any applicable law or regulatory requirement.

3.3 The Customer acknowledges that it shall be liable for costs incurred by Finn Pathologists in the event of any request to vary or suspend the Services or a request for any additional Services. Submissions that are cancelled 24 hours after receipt will be charged at 50% of any tests that are in process. The full price will be charged for any services that have been provided through to completion with a report having already been sent before receiving the cancellation request.

3.4 Finn Pathologists warrants to the Customer that the Services will be provided using reasonable care and skill.

## **4. Customer's obligations**

4.1 The Customer shall:

4.1.1 ensure that the terms of the Order and any information it provides to Finn Pathologists relating to the samples sent for testing are complete and accurate;

4.1.2 co-operate with Finn Pathologists in all matters relating to the Services and provide Finn Pathologists with such information as Finn Pathologists may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects.

4.2 If Finn Pathologists 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**"):

4.2.1 without limiting or affecting any other right or remedy available to it, Finn Pathologists 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 Finn Pathologists performance of any of its obligations;

- 4.2.2 Finn Pathologists shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Finn Pathologists' failure or delay to perform any of its obligations as set out in this clause 4.2; and
- 4.2.3 the Customer shall reimburse Finn Pathologists on written demand for any costs or losses sustained or incurred by Finn Pathologists arising directly or indirectly from the Customer Default.

## **5. Charges and payment**

- 5.1 The Charges for the Services shall be calculated in accordance with Finn Pathologists then price list.
- 5.2 Finn Pathologists may update or alter its price lists, catalogues, sales literature or other documentation relating to the Services (in whatever form and on whatever media) at any time without given notice to the Customer. Any typing, clerical or other error or omission in any catalogue, sales literature, price list, dispatch note, invoice or other documentation or any information issued by Finn Pathologists shall be subject to correction without liability on the part of Finn Pathologists.
- 5.3 Unless the Customer has paid for the Services at the point at which their Order is submitted, Finn Pathologists shall invoice the Customer on at the end of the month that the submission was received.
- 5.4 The Customer shall pay each invoice submitted by Finn Pathologists:
  - 5.4.1 within 30 days of the date of the invoice or in accordance with any credit terms agreed by Finn Pathologists and confirmed in writing to the Customer; and
  - 5.4.2 in full and in cleared funds to a bank account nominated in writing by Finn Pathologists, and time for payment shall be of the essence of the Contract.
- 5.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made under the Contract by Finn Pathologists to the Customer, the Customer shall, on receipt of a valid VAT invoice from Finn Pathologists, pay to Finn Pathologists such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.6 If the Customer fails to make a payment due to Finn Pathologists under the Contract by the due date, then, without limiting Finn Pathologists remedies under clause 9, 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 5.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time.
- 5.7 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).
- 5.8 In the event that we issue a final demand in respect of overdue invoice(s), an administration charge of £15 will be incurred on the invoice for the following month.
- 5.9 Any discounts are only eligible providing payment is received within 30 days of invoice.
  - 5.9.1 Samples received from pets belonging to clinicians and practice staff will be charged at 70% of the list price (only for tests that are eligible for discount)

## **6. Data protection and data processing**

- 6.1 Finn Pathologists shall process the Customer's personal data only in accordance with its Privacy Policy and the Customer's instructions from time to time and at all times in compliance with all applicable laws, enactments, **GDPR** regulations, orders, standards and other similar instruments.
- 6.2 Finn Pathologists may authorise a third party (subcontractor) to process the Personal Data provided that the subcontractor's contract:
- 6.2.1 is on terms which are substantially the same as those set out in the Contract; and
  - 6.2.2 terminates automatically on termination of the Contract for any reason.
- 6.3 Finn Pathologists warrants that, having regard to the state of technological development and the costs of implementing any measures, it will take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against the accidental loss or destruction of, or damage to, personal data.

## **7. Limitation of liability**

- 7.1 Nothing in the Contract shall limit or exclude Finn Pathologists' liability for:
- 7.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - 7.1.2 fraud or fraudulent misrepresentation; or
  - 7.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 7.2 Subject to clause 7.1, Finn Pathologists shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- 7.2.1 loss of profits;
  - 7.2.2 loss of sales or business;
  - 7.2.3 loss of agreements or contracts;
  - 7.2.4 loss of anticipated savings;
  - 7.2.5 loss of use or corruption of software, data or information;
  - 7.2.6 loss of or damage to goodwill; and
  - 7.2.7 any indirect or consequential loss.
- 7.3 Subject to clause 7.1, Finn Pathologists' total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the total Charges paid under the Contract.
- 7.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 7.5 This clause 7 shall survive termination of the Contract.

## **8. Termination**

- 8.1 Finn Pathologists may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 8.1.1 the Customer commits a material breach (other than one in respect of payment pursuant to clause 8.1.5 below) of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of the Customer being notified in writing to do so;
  - 8.1.2 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), 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;
  - 8.1.3 the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
  - 8.1.4 the Customer's financial position deteriorates to such an extent that in Finn Pathologists opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
  - 8.1.5 the Customer fails to pay any amount due under the Contract on the due date for payment; or
  - 8.1.6 there is a change of control of the Customer.
- 8.2 Without affecting any other right or remedy available to it, Finn Pathologists may suspend the supply of Services under the Contract or any other contract between the Customer and Finn Pathologists 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 8.1.2 to clause 8.1.4, or Finn Pathologists reasonably believes that the Customer is about to become subject to any of them.

## **9. Consequences of termination**

- 9.1 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 9.2 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

## **10. General**

- 10.1 Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 10.2 Assignment and other dealings.**
- 10.2.1 Finn Pathologists 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.
  - 10.2.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 10.3 Entire agreement.**

- 10.3.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 10.3.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of 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 based on any statement in the Contract.
- 10.3.3 Nothing in this clause shall limit or exclude any liability for fraud.
- 10.4**Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 10.5**Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 10.6**Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 10.7**Third party rights.**
- 10.7.1 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.
- 10.7.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 10.8**Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
- 10.9**Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.