

## **TARANTO PURCHASING TERMS**

This agreement is between Taranto Systems Limited ("Modaxo" Company), on behalf of itself and for the benefit of its Affiliates, and the entity accepting the terms within the online portal ("Supplier"), on behalf of itself, and for the benefit of its Affiliates. Supplier may accept this agreement by either by fulfilling a Purchase Order submitted by Modaxo or by using Modaxo's online publisher portal.

No terms or conditions submitted at any time by the Supplier shall form any part of the Contract. In the event of a conflict between any of these purchasing terms and any specific term or condition (whether in the Contract or otherwise) referred to in the Purchase Order, the latter shall prevail.

### **1. Definitions.**

**"Affiliate"** means any person, corporation or other entity that now or in the future, directly or indirectly controls, is controlled by or is under common control with a party. For purposes of this definition, "control" means with respect to: (a) a corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof or, for purposes of foreign corporations, if less than fifty percent (50%), the amount allowed by applicable law; and (b) any other entity, the power to direct the management of such entity.

**"Contract"** means the contract between Modaxo and the Supplier consisting of the Purchase Order, these Conditions, and any other documents (or parts thereof) specified in the Purchase Order.

**"Delivery Date"** means the date on which the Hardware is to be delivered to Modaxo and / or any End User, as specified in the Purchase Order.

**"Effective Date"** means the earlier of: (i) the first Purchase Order, Order Effective Date; (ii) the date of acceptance of the terms of this agreement by Supplier through the Modaxo online publisher portal.

**"End Users"** means customers of Modaxo or the applicable Affiliate, that purchase the Offering.

**"Hardware"** means any such hardware supplied to Modaxo and / or the End User by the Supplier pursuant to or in connection with the Purchase Order.

**"License"** means license to Supplier's software that are fully paid up following Modaxo's payment of the amount stated in the Purchase Order.

**"Order Confirmation"** means Supplier's written confirmation that the Purchase Order has been accepted and will be fulfilled.

**"Offering"** means the Licenses, Subscriptions, Hardware and Professional Services made available by Supplier for Modaxo to resell to End Users.

**"Price"** means the price of the Offering as specified in the Purchase Order.

**"Purchase Order"** means Modaxo's offer to purchase the Offering of the type, quantity, and price set forth therein, subject to these terms.

**"Quotation"** means Supplier's price for Licenses, Subscriptions, Hardware and Professional Services. Quotations may be made using a price sheet or may be specific to an End User.

**"Services"** means any the services (or any part of them) to be provided as specified, including any planning, preliminary or preparatory work, pursuant to or in connection with the Purchase Order.

**"Subscriptions"** means any services, maintenance, SaaS, PaaS, IaaS, or any other non-fully paid-up software that requires ongoing payments following Modaxo's delivery of the Purchase Order.

**"Territory"** means worldwide.

### **2. Supplier Obligations.**

2.1 Supplier shall:

2.1.1 use commercially reasonable endeavors to respond to any requests for Quotations within twenty-four (24) business hours.

2.1.2 provide accurate Quotations which will remain firm for a minimum of thirty (30) calendar days.

2.1.3 provide an Order Confirmation within two (2) business days of Modaxo's delivery of a Purchase Order, if no Order Confirmation is provided then, the Order will be deemed to be accepted at the end of the second business day.

2.1.4 promptly deliver the Offering to either Modaxo or any Affiliate thereof and /or the End User.

2.1.5 ensure that each Offering delivered is strictly in accordance with the Purchase Order, including item, quantity, price, and delivery location.

### **3. Appointment of Reseller Status.**

3.1 The Supplier hereby appoints Modaxo as an authorized reseller of the Offering to End Users and Modaxo hereby accepts such appointment.

3.2 The Supplier hereby consents to the Affiliates of Modaxo participating in this agreement to sell the Offering to End Users.

### **4. Modaxo Affiliates**

4.1 The Supplier acknowledges and agrees that a Modaxo Affiliate's shall have the right to acquire Offerings under this agreement by submitting a Purchase Order referencing the same.

4.2 When a Modaxo Affiliate submits and Supplier accepts such a Purchase Order, such Affiliate will be:

4.2.1 entitled to all Modaxo's rights under this agreement,

4.2.2 and bound to the terms and conditions of this agreement and the applicable Purchase Order.

4.3 When an Affiliate of Modaxo purchases Offerings for resale under this agreement (i) all references to "Modaxo" in this agreement shall refer to such Affiliate; and (ii) the terms and conditions of this agreement together with each Purchase Order.

4.4 Purchase Orders submitted by a Modaxo Affiliate shall represent a separate agreement between the Supplier and the Modaxo Affiliate.

4.5 If applicable, Purchase Orders submitted by a Modaxo Affiliate will apply toward Modaxo's cumulative volume and it will receive the same or better discount percentages applicable to any Purchase Orders placed.

4.6 A Modaxo Affiliate may incorporate specific terms and conditions required to address local laws and local regulations, except that such locally agreed upon terms and conditions will be deemed to be country-specific terms and will not be construed as amending this agreement in any way other than for the purposes of such locally agreed upon terms and conditions.

4.7 The parties agree that:

Modaxo and its Affiliates are independent and separate bodies and will therefore have no responsibility or liability for any acts, omissions, or obligations of the other under this agreement.

4.7.1 there will be no joint and several liability with respect to Modaxo and any of its Affiliates: and

4.7.2 any termination of this agreement will not terminate Purchase Orders previously submitted by Modaxo or its Affiliates and accepted by Supplier. Notwithstanding anything to the contrary in this agreement, except to the extent required under local law.

4.7.3 Supplier shall pursue any claims and damages solely against the applicable Modaxo entity (whether Modaxo or a Modaxo Affiliate) that caused such claims and damages to accrue.

## 5. Price and Payment.

5.1 The Supplier shall not increase the Price unless it is validly accepted and agreed in writing before the execution of the Purchase Order.

5.2 Unless expressly agreed otherwise between the parties in writing, the Price shall be inclusive of all delivery and insurance costs, VAT and any other applicable sales taxes, duties or levies.

5.3 The Supplier shall invoice Modaxo for the Offering following delivery thereof to Modaxo or the End User as applicable.

5.4 Modaxo agrees to pay Supplier all undisputed and valid invoiced amounts within forty-five (45) days from the date that Modaxo receives a valid invoice.

5.5 A valid invoice is one that is:

5.1.1 delivered in accordance with the contract.

5.1.2 that is for the correct sum.

5.1.3 in respect of the Offering supplied or delivered to the required quality (or are expected to be at the required quality).

5.1.4 which quote the relevant purchase order / contract reference (where used)

5.1.5 which has been delivered to the nominated address.

5.6 Modaxo specifically reserves the right to withhold or deduct by way of set-off or otherwise from any monies due or to become due to the Supplier any monies due to Modaxo from the Supplier.

5.7 Modaxo shall not be liable for any orders or amendments to orders other than those issued or confirmed on the official Purchase Order and shall not be responsible for the payment of the Price of any Offering supplied in excess of those required by the Purchase Order.

5.8 No payment of or on account of the Price shall constitute any admission by Modaxo as to proper performance by the Supplier of its obligations under the Contract.

## 6. Subscriptions Licenses and Hardware

6.1 The Supplier warrants and represents to Modaxo that the Hardware, Subscriptions and Licenses shall:

6.1.1 conform in all respects with any particulars or specification specified in the Purchase Order including any variations thereof.

6.1.2 conform in all respects with the requirements of any statutes, orders, regulations or byelaws from time to time in force.

6.1.3 be of satisfactory quality and free from defects in materials and workmanship; and

6.1.4 be fit and sufficient for the purpose for which such items are ordinarily used and for any particular purpose made known to the Supplier by Modaxo and Modaxo relies on the skill and judgement of the Supplier in the supply of the Hardware and the execution of the Purchase Order.

6.2 Supplier may upon thirty (30) days prior written notice to the Supplier: (i) add or remove Offerings; (ii) modify the design of or upgrade the Offerings.

## 7. Supply of services

7.1 The Supplier shall from the Effective Date and for the duration of the Contract provide the Services to the Modaxo and / or the End User as set out in the Purchase Order and any documentation appended thereto and in accordance with this Contract.

7.2 The Supplier warrants that it shall:

7.2.1. meet any performance dates for the Services specified in the Purchase Order, this Contract or as notified to the Supplier by Modaxo.

7.2.2. co-operate with Modaxo in all matters relating to the Services and comply with all instructions of the Authority.

7.2.3. perform the Services with all the due skill, care and diligence to be expected of a competent supplier experienced in providing services of a similar kind, scope and complexity as the Services.

7.2.4 appropriately select and use Supplier's Personnel who are suitably skilled, trained, experienced, and security cleared (as required) to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract.

7.2.5. adequately supervise and manage the Supplier's Personnel properly to ensure that the Supplier's obligations are fulfilled in accordance with this Contract.

7.2.6. ensure that if any of the Supplier's Personnel are eligible to work in the area where the Services are to be performed, or the Supplier shall ensure that the Supplier's Personnel has the necessary Home Office permission to work and shall ensure compliance with the Immigration, Asylum and Nationality Act 2006 and any other Legislation relevant.

7.2.7. ensure that the Services conform with all descriptions and specifications set out in any specification, and that the deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by Modaxo.

7.2.8. provide all equipment, tools and vehicles and use the best quality goods, materials, standards and techniques, and ensure that the deliverables, and all goods and materials supplied and used in the Services or transferred to Modaxo, will be free from defects in workmanship, installation and design.

7.2.9. obtain and always maintain all necessary licenses and consents and comply with all applicable Legislation.

7.2.10. observe all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises; and

7.2.11. hold all Modaxo materials in safe custody at its own risk, maintain the Modaxo materials in good condition until returned to Modaxo, and not dispose or use Modaxo materials other than in accordance with the Modaxo's written instructions or authorization. All Modaxo materials are the exclusive property of the Modaxo.

7.3 Modaxo's rights under this Contract are in addition to the statutory terms implied in favour of Modaxo (so far as not inconsistent with any express terms of this Contract) including those terms implied under the Supply of Goods and/or Services Act 1982.

## 8. Inspection, Rejection and Guarantee

8.1 Nothing contained in this Contract shall in any way detract from the Supplier's obligations under common law or statute or any express warranty or condition contained in the Purchase Order.

8.2 Modaxo may return Offerings to Supplier for a full refund if an Offering is found to be defective, not in accordance with the Contract, or has been returned by End User pursuant to a Supplier guarantee to the End User.

8.3 The Supplier shall permit the Purchaser or its authorized representatives to make any inspections or tests it may reasonably require in relation to the Offering and the Supplier shall afford all reasonable facilities and assistance free of charge. The Supplier shall make good any defects or deficiencies in the event of any failure (in the sole opinion of Modaxo) to comply with the terms of the Purchase Order or the Contract. No failure to make a complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the Purchaser of any rights or remedies in respect of the Hardware.

8.4 Modaxo may by written notice to the Supplier reject any part of the Offering which fail to meet the requirements in the Contract. Such notice shall be given within a reasonable time after delivery to the Modaxo. If Modaxo rejects any of the Offering pursuant to this condition, the Supplier shall at the Purchaser's sole option (without prejudice to its other rights and remedies) either:

8.4.1 repair or replace, at Modaxo's sole discretion, the defective Offering as quickly as possible or (as the Purchaser shall elect in its sole discretion) replace the defective Offering with an Offering which comply in all respects with the requirements under the Contract; or

8.4.2 refund to the Purchaser the Price in respect of the defective Offering.

8.5 Unless otherwise stated in the Purchase Order, the Supplier shall guarantee the Hardware for a period of twenty-four (24) months from installation or thirty (18) months from delivery, whichever shall be the longer. For Services and Software including any Licenses or Subscriptions, the Supply shall provide a guarantee period in excess of thirty-six (36) months, from delivery or installation whichever is the latter.

8.6 If Modaxo shall, within such guarantee period or within thirty (30) days thereafter, give notice in writing to the Supplier of any defects that have arisen during the guarantee period under proper and normal use, the Supplier shall (without prejudice to any of the Modaxo's other rights and remedies) as quickly as possible remedy such defects (whether by repair or replacement as Modaxo shall elect in its sole discretion) without cost to Modaxo.

8.7 Any Offering rejected or returned by the Purchaser pursuant to this condition shall be returned to the Supplier at the Supplier's risk and expense.

## 9. Intellectual Property

9.1 It shall be a condition of the Purchase Order and / or the Contract that the Offering shall not infringe any patent, trade mark, design right (whether registered or not), copyright or any other

right in the nature of intellectual property of any third party and the Supplier shall indemnify and keep indemnified Modaxo against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which Modaxo may suffer or incur as a result of or in connection with any breach of this Condition.

9.2 All materials, equipment, software, inventions, specifications, instructions, plans or any form of intellectual property right in any of the foregoing ("Intellectual Property") furnished to or made available to the Supplier by the Purchaser pursuant to the Purchase Order are hereby assigned to and shall remain vested solely in the Purchaser.

9.3 The Supplier shall not (except to the extent necessary for the implementation of the Purchase Order) without prior written consent of Modaxo, use or disclose any such Intellectual Property or any information (whether or not relevant to the Contract) which the Supplier may obtain pursuant to the Contract and in particular (but without prejudice to the generality of the foregoing) the Supplier shall not refer to Modaxo or the Contract in any advertisement without the Purchaser's prior written agreement.

9.4 Supplier hereby grants to Modaxo a non-exclusive, royalty free, right to use its name and any trademarks associated with the Offerings (collectively "Marks") during the term of this Contract for the sole purpose of marketing and reselling the Offerings to End Users.

9.5 Upon any termination of this Contract, Modaxo shall remove such Marks from all materials, letterheads, signs and any other media in which Modaxo displayed such Marks.

9.6 Modaxo shall not remove or alter any Marks from any Offerings or other materials provided by Supplier. Any goodwill derived from Modaxo's use of the Marks will inure for the benefit of Supplier.

9.7 Supplier may use Modaxo's tradename "Modaxo" for the sole purpose of identifying Modaxo as a reseller of the Offering to potential End Users.

9.8 Supplier shall not make any other use of Modaxo's tradename or trademarks without Modaxo's prior written consent. Any goodwill derived from Supplier's use of Modaxo's tradename or trademarks will inure for the benefit of Modaxo.

9.9 Modaxo may sublicense, resell, assign, transfer, rent or lease any Offering, or a portion thereof, acquired under this Contract to an Affiliate. Any such transfer of an Offering shall not augment the rights Supplier granted to Modaxo. Upon such transfer, Modaxo's rights in the applicable Offerings will terminate and all rights and obligations of Modaxo will vest in the applicable Modaxo Affiliate. The applicable Modaxo Affiliate will be bound by the terms of this Contract.

#### **10. Insurance.**

10.1 During the term of this Contract and for three (3) years following termination hereof, Supplier shall continue to maintain with a reputable insurance company a policy or policies of insurance that are normal for contracts of this nature and covering

all the matters which are the subject of indemnities under these Conditions.

10.2 The Supplier shall at the request of the Purchaser produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium.

10.3 Supplier shall direct the insurance Supplier to name Modaxo as an additional insured to each policy and have the insurance Supplier send a certificate to Modaxo that proves Modaxo has been added to Supplier's policy, and that confirms that before any cancellation, modification, or reduction in coverage of the policy, the insurance Supplier will give Modaxo 30 business days' prior written notice of the proposed cancellation, modification, or reduction of coverage.

10.4 Supplier shall provide Modaxo with certificates or other acceptable proof of coverage on request, and the Supplier shall notify Modaxo of any material change to Supplier's insurance.

10.5 The Supplier shall be liable under all the provisions of the Contract whether or not it complies with the insurance provisions in this Clause 10.

#### **11. Confidentiality**

Definition.

"Confidential Information" means non-public information of a competitive or commercially sensitive, proprietary, financial, or trade secret nature, or information that involves or implicates privacy interests. Confidential Information includes any information labeled "Confidential" or "Proprietary," business plans, strategies, forecasts, analyses, financial information, employee information, technology information, trade secrets, products, technical data, specifications, documentation, rules and procedures, methods, contracts, presentations, know-how, product plans, business methods, product functionality, data, customers, markets, competitive analysis, databases, formats, methodologies, applications, developments, inventions, processes, payment, delivery and inspection procedures, designs, drawings, algorithms, formulas or information relating to engineering, marketing, or finance and any other information that the Recipient should reasonably believe to be confidential given the circumstances.

#### **Confidentiality Obligations.**

11.1 Each party acknowledges that certain information it will receive from the other party may be Confidential Information of the other party. Any party receiving Confidential Information ("Recipient") shall exercise the same degree of care and protection with respect to the Confidential Information of the party disclosing Confidential Information ("Discloser") that it exercises with respect to its own Confidential Information, but in no event less than a reasonable standard of care. Recipient and its personnel may only use Discloser's Confidential Information to the extent necessary to fulfill its obligations under this Contract during the term. Recipient shall be liable for any and all breaches by its personnel. Upon termination of this Contract, Recipient shall return or destroy all of Discloser's Confidential Information and, upon Discloser's request,

certify such return or destruction to Discloser's reasonable satisfaction.

**Exclusions.**

11.2 The confidentiality obligations will not apply to information that:

- 11.2.1 is known by the Recipient prior to its receipt.
- 11.2.2 is now or becomes publicly known by acts not attributable to the Recipient.
- 11.2.3 is disclosed to Recipient by a third party who has the legal right to make such a disclosure.
- 11.2.4 is disclosed by the Recipient with Discloser's prior written consent.
- 11.2.5 is subsequently developed by the Recipient independently of any disclosures made hereunder and without use or access to any of the Discloser's Confidential Information; or (vi) is required to be disclosed pursuant to governmental regulation or court order.

**Injunctive Relief.**

11.3 Each party acknowledges that any violation of its obligations relating to Confidential Information would result in damages to the other party that are largely intangible but nonetheless real, and that cannot be remedied by an award of damages. Accordingly, any such violation will give the other party the immediate right to a court-ordered injunction or other appropriate order to enforce those obligations. A party's right to injunctive relief is in addition to any other rights and remedies available to such party at law and in equity. The pay against whom any such injunction is entered shall pay to the other party all reasonable expenses, including attorney fees, incurred in obtaining such enforcement.

**12 Warranties and Disclaimer.**

12.1 Supplier represents and warrants to Modaxo and the End User that:

- 12.1.1 it has all necessary power and authority to enter into this Contract and appoint Modaxo as an authorized reseller of the Offering.
- 12.1.2 the Offering are free from any liens and encumbrances; and
- 12.2.3 to the best of its knowledge, including matters of which Supplier should be reasonably aware, the Offerings do not infringe any patent, copyright, trademark, trade secret or other proprietary right.

12.3 Modaxo represents and warrants that it has all necessary power and authority to enter into this Contract and perform its obligations hereunder.

**13. Ownership and risk**

13.1 Ownership and risk in the Offering shall without prejudice to any of the rights or remedies of Modaxo shall pass to Modaxo and / or the End User on delivery.

**14. Indemnity.**

14.1 Supplier shall indemnify Modaxo for all losses and liabilities (including reasonable attorneys' fees and court costs) arising from any third-party claims relating to:

- 14.1.1 the Supplier Offerings infringing any patent, copyright, trademark, trade secret or other proprietary right.
- 14.1.2 Supplier having breached any representation, warranty or obligation to an End User; or (iii) Supplier having breached any representation, warranty or obligation under this Contract.

14.2 The indemnifying party's obligation to indemnify the indemnified party is contingent upon the indemnified party:

- 14.2.1 providing the indemnifying party prompt written notice of any claim.
- 14.2.2 tendering the exclusive control of the defense of any claim to the indemnifying party; and
- 14.2.3 reasonably cooperating with the indemnifying party in the defense of the claim, at the indemnifying party's sole cost and expense.
- 14.2.4 Infringement Remedy. In the event of an infringement claim, Supplier shall, at its expense:
- 14.2.5 procure the right for each End User to continue using the Offering.

14.2.6 make such alteration, modification or adjustment to the Offering so that they become non-infringing without incurring a material diminution in function; or

14.2.7 replace the Offering at no cost to either Modaxo or End User with non-infringing substitutes provided that the substitutes do not entail a material diminution in.

14.3 If none of the foregoing is reasonable, then Modaxo or the applicable End User may return the infringing Offering and Supplier shall promptly refund the sum of all payments made by Modaxo and End User hereunder for such Offering, and any service, dependent thereon, within thirty (30) days of such return.

**15. Limitation of Liability**

15.1 Neither party shall be liable to the other party (whether in contract, tort (including negligence), misrepresentation or for breach of any duty (including strict liability) or otherwise) under or in connection with this Contract (including the supply or non-supply of the Services) for any:

- 15.1.1 indirect or consequential loss or damage; or
- 15.1.2 any loss of future business or future profits.

15.2 Other than for death or personal injury, or those terms which cannot be limited by Law, the maximum aggregate liability of the Parties under or in connection with this Contract in contract, tort (including negligence), misrepresentation, for breach of duty (including strict liability) or otherwise shall be the Purchase Order price or £1,000,000, whichever be the greater.

## 16. Term and Termination

16.1 The Contract shall commence from the Effective Date and will continue in full force and effect until the conclusion of the applicable Purchase Order or until terminated by either party in accordance with the terms herein, whichever be the earlier.

16.2 In the event of a material breach of the Contract by either party, the non-breaching party may terminate the Contract with immediate effect by notice in writing.

16.3 Modaxo may terminate the Contract with immediate effect by notice in writing to the Supplier if at any time: -

16.3.1 the Supplier passes a resolution that it be wound-up or that an application be made for an administration order, or the Supplier applies to enter a voluntary arrangement with its creditors.

16.3.2 a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Supplier's property, assets or any part thereof.

16.3.3 the court orders that the Supplier be wound-up or a receiver of all or any part of the Supplier's assets be appointed.

16.3.4 the Supplier is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986.

16.3.5 the Supplier (being an individual or partnership) is declared or adjudicated bankrupt or enters any arrangement or composition with its creditors.

16.4 Modaxo may terminate any Purchase Order prior to fulfillment, by providing notice to the Supplier.

16.5 Modaxo may terminate its obligations with respect to any Subscription, without any further obligation to

16.6 Supplier if the applicable End User fails to meet its payment obligations to Modaxo.

16.7 Upon receipt of a notice of termination for a Subscription, Supplier may transact directly with such End User, without further payment obligations for Modaxo.

16.8 Either party may terminate this Contract at any time, with or without reason, upon thirty (30) days prior written notice to the other party.

16.9 Subscriptions, or any other Offering will not renew unless a valid Purchase Order is submitted by Modaxo.

16.10 Termination of this Contract will not terminate any outstanding Purchase Orders.

16.11 Nothing in this clause shall affect the coming into, or continuance in force of any provision of the Contract which is expressly or by implication intended to come into force or continue in force upon termination of the Contract.

## 17. General

17.1 Notices.

Any notice hereunder shall be deemed to be sufficiently given and any delivery hereunder deemed made when delivered in person or sent by registered or certified mail or courier to the address set forth in the Purchase Order.

17.2 Modifications.

This Contract may not be modified except by a Contract in writing duly executed by representatives of either party.

17.3 Headings.

Section headings are shown herein for convenience only and shall not affect the meaning or interpretation hereof.

17.4 Force Majeure.

Neither party shall be liable for the failure to perform its obligations under this Contract due to events beyond such party's reasonable control including, but not limited to, strikes, riots, wars, fire, acts of God or acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any court or governmental body.

17.5 Waiver and Severability.

17.5.1 The failure by a party to exercise any right hereunder will not operate as a waiver of such party's right to exercise such right or any other right in the future. No waiver may be valid against any party hereto unless made in writing and signed by the party against whom enforcement specified therein. If any portion of this Contract is determined to be illegal or unenforceable under the law, then that portion shall be stricken from this Contract without effect to that remainder of this Contract that can be given effect independently of such invalid terms.

17.5.2 Each party shall comply with all applicable laws, rules, and regulations in the performance of their obligations under this Contract, including any applicable import and export control regulations and data protection laws.

17.6 Independent Contractors.

The relationship of the parties will be independent contractors, and neither party will have the authority to enter into Contracts on behalf of the other party.

17.7 Assignment.

17.7.1 This Contract may not be assigned or otherwise transferred, and the duties hereunder may not be delegated by either party unless such party has received prior written notice from the other party, which will not be unreasonably withheld, conditioned, or delayed. All provisions hereof shall be binding upon either party's successors or assigns.

17.7.2 Any Change in Control of a party will not be considered an assignment of this Contract, for which the other party's prior written consent is required. "Change in Control" means any of the following: (i) a public offering of securities on a recognized exchange; (ii) any purchase or sale of securities held by employees or angel investors; (iii) any purchase or sale of securities held by private equity or venture capital firms; or (iv) a sale of all or substantially all of the assets of seller, whether in a single transaction or a series of transactions, a merger, consolidation, or any other transaction or arrangement the effect of which is that fifty percent (50%) or more of the total voting power entitled to vote in the election of the board of directors is held by a person or persons other than the shareholders of the acquired Supplier who, individually or as a group, held fifty percent (50%) or more of such voting power immediately prior to such event.

#### 17.8 Third Party Rights

Unless otherwise provided herein, the Contract is not intended to create any rights of any kind whatsoever enforceable by any person who is not a party to the Contract, including any rights enforceable under the Contracts (Rights of Third Parties) Act 1999.

#### 17.9 Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the country/state in which Modaxo entity entering the Purchase Order is incorporated, without regard to rules on conflict of laws. The United

Nations Convention on the International Sale of Goods will not apply to this Contract, or any Purchase Order issued hereunder.

#### 17.10 Entire Agreement.

This Contract sets forth the entire agreement of the parties regarding the subject matter hereof and supersedes all prior agreements and understandings. This Contract may only be modified by a written amendment signed by all parties. Any preprinted or click through terms presented by Supplier (e.g. on a website, Quotation, or invoice) will not apply.