

1. In these terms and conditions, the following terms have the following meanings:
 - (a) "Contract" means any agreement or purchase order between Proskauer and the Supplier for the sale of the Goods and/or for the supply of the Services that expressly or by implication is incorporated and subject to these conditions.
 - (b) "Proskauer" means Proskauer Rose LLP.
 - (c) "Goods" and/or "Services" means all goods, materials, articles, works, or services that the Supplier is required to supply under a Contract.
 - (d) "Specifications" means functional, technical, commercial or other specifications applicable to Goods or Services purchased by Proskauer pursuant to a Contract.
 - (e) "Supplier" means the person or entity who by a Contract undertakes to supply the Goods and Services to Proskauer as is provided for in such Contract.
2. The Goods and/or Services shall be supplied in accordance with these terms and conditions, notwithstanding anything to the contrary contained in the Supplier's terms of business, sale, or payments. Supplier performance under, or acknowledgement of, a Contract shall constitute acceptance of these terms.
3. Time is of the essence as regards every Supplier's obligations under each Contract.
4. The Goods shall be securely packed in trade packages of a type normally used by the Supplier for commercial deliveries of the same or similar goods, and the outside of such packages should display the description of goods, quantity in package, any special directions for storage, expiry date of contents (if applicable), batch number, and name of manufacturer. A delivery note shall accompany each delivery of the goods or services. Proskauer shall not be obliged to safeguard, return, or pay for the return of any packaging unless agreed in writing.
5. The Goods shall be delivered and the Services performed by the Supplier and the shipping paid in such manner, at such times, and at/to such places as Proskauer may order in writing from time to time, being times and places within the quantities, period, and localities specified in the applicable Contract. If the Goods are delivered, or the Services are to be performed, by installments, the Contract shall be treated as single and not severable. A signature supported by a printed name acknowledging receipt but not acceptance of the Goods or Services shall be obtained from the consignee.
6. Title and risk of damage to or loss of the Goods shall pass to Proskauer upon delivery and unloading in accordance with the applicable Contract. Pending such delivery and unloading, the Supplier shall maintain sufficient insurance cover against risk of loss or damage to the Goods.
7. The Supplier warrants that all Goods and/or Services will be supplied or performed to the satisfaction of Proskauer and will conform in all respects to the qualities, descriptions, and Specifications contained in the applicable Contract and with all statutory requirements, regulations, conditions, or other instrument having the force of law applicable to the Goods and/or Services comprised in the applicable Contract and that all Goods will be of merchantable quality and fit for the purpose for which they are required, free and clear of all security interest, lien charges, and restrictions or encumbrances of any kind. The goods shall be free from defects in design, material, and workmanship and will answer the description provided by the Supplier in writing. Proskauer reserves the right to demand that a sample or samples be submitted to it.
8. The Supplier warrants to Proskauer that the staff utilized to perform Services pursuant to each Contract are properly careful, skilled, and experienced in the duties required of them, sufficiently trained and instructed to carry out the Services, and will be available to perform their duties at all times in accordance with the applicable Specifications. Supplier shall comply with the following, as applicable: (i) Proskauer's security and privacy policies, including without limitation, its information security standards; (ii) Proskauer's workplace policies and procedures in effect for any facility of Proskauer or an affiliate where the Services are performed (e.g. evidence of full vaccination must be presented upon arrival to enter Proskauer's premises and if Supplier arrives without the required credentials they will not be permitted to enter Proskauer's premises); and (iii) corporate policies promulgated by Proskauer or an affiliate that are designed to adhere to applicable laws, regulations or regulatory guidance or designed to address regulatory issues. For more information on these policies and procedures, please visit Proskauer's supplier relations portal: <https://www.proskauer.com/supplier-relations>.
9. Without prejudice to any other right or remedy:
 - (a) If the Goods and/or Services do not conform to the warranties expressed above to the satisfaction of Proskauer, then Proskauer shall be entitled to require the Supplier to repair the Goods and/or Services; or to supply replacement Goods and/or Services in accordance with the applicable Contract; or reject the goods and return any such rejected goods to the Supplier at the Supplier's risk and expense; or at Proskauer's sole option, and whether or not Proskauer has previously required the Supplier to repair the Goods and/or Services or to supply any replacement Goods and/or Services, to treat the applicable Contract as discharged by the Supplier's breach and require repayment of any part of the applicable Contract price ("Price") that has been paid and cancel any outstanding deliveries. The whole of any consignment may be rejected if a reasonable sample of goods taken from that consignment is found not to conform in every respect to the requirements of the applicable Contract. Proskauer's right of rejection shall continue irrespective of whether Proskauer has, in law, accepted the Goods and/or Services.
 - (b) If the Supplier does not deliver the Goods or any part of them or carry out the Services in accordance with the Specification within the times specified in the applicable Contract, Proskauer may (i) require the Supplier to remedy the default within such time as Proskauer may specify by providing without further charge to Proskauer such part of the Goods and/or Services to the Specification; (ii) terminate the applicable Contract and purchase other Goods and/or Services of the same or similar description to make good such default; (iii) without terminating the whole of the Contract, terminate the Contract in respect of part of the Goods and/or Services only and thereafter provide or procure the provision of such part of the Goods or Services itself; and (iv) itself provide or procure the provision of the Services until Proskauer shall be satisfied that the Supplier is able to carry out the Services in accordance with these conditions. If the cost to Proskauer of executing or procuring such Goods and/or Services or part of them exceeds the amount that would have been payable to the Supplier for executing or procuring such Goods and/or Services, the excess shall be paid by the Supplier to Proskauer in addition to any other sums payable by the Supplier to Proskauer in respect of the breach of Contract.
10. The Contract Price shall be as stated in the applicable Contract and, unless otherwise stated, shall be inclusive of all charges for packaging, freight, carriage, insurance, delivery, and installation of the Goods to the addresses named in the Contract or orders and all payments made or to be made to any third party in respect of any intellectual property used for the purpose of performing the Contract. No variation in the price will be accepted unless Proskauer's prior written consent has been given thereto. Proskauer shall pay the Contract Price to the Supplier at the end of the month following the month in which the invoice is received or the Goods and/or Services are delivered, whichever is later, unless otherwise agreed in writing by Proskauer. Whenever under a Contract any sum of money shall be recoverable from or payable by the Supplier, the same may be deducted from any sum then due, or which at any time thereafter may become due, to the Supplier under such Contract or under any other contract with Proskauer.
11. Without prejudice to its liability for breach of any of its obligations under a Contract, the Supplier shall be liable for and shall indemnify Proskauer against any liability, loss, costs, expenses, claims, or proceedings whatsoever arising under any statute or at common law in respect of any loss or damage to property (whether real or personal), any injury to any person, including injury resulting in death, in consequence of or in any way arising out of any defect in the Goods or the delivery or unloading of the Goods or arising out of the provision of the Services by the Supplier, its servants, or agents except insofar as such loss, damage, or injury shall have been caused by negligence on the part of Proskauer, its servants, or agents and against any costs or claims arising from any infringement of any intellectual property.
12. The Supplier shall indemnify Proskauer against any liability, loss, claim, or proceedings whatsoever in respect of death or injury howsoever caused to any of the Supplier's employees, subcontractors, or agents while in or about Proskauer's sites, premises, or other places of business in connection with a Contract.
13. Without prejudice to the indemnification obligations provided in clauses 11 and 12, the Supplier shall maintain adequate insurance to cover the risks of personal injury, death, and damage.
14. If any provision of a Contract is or becomes illegal, void, or invalid, that shall not affect the legality and validity of its other provisions.
15. Failure of either party to seek redress for breaches or to insist on strict performance of any provision of a Contract or the failure of either party to exercise any right or remedy to which it is entitled under a Contract shall not constitute a waiver thereof and shall not cause a diminution of the obligations under such Contract. No waiver of any provision of a Contract shall be effective unless both parties in writing agree to it. No waiver of any default shall constitute a waiver of any subsequent default.
16. Neither the expiration nor the termination of the Contract shall prejudice or affect any right of action or remedy that shall have accrued or shall thereafter accrue either to Proskauer or to the Supplier.
17. Proskauer may at any time, without invalidating the Contract, issue an instruction in writing to the Supplier to vary the Goods and/or Services comprised in the Contract by their addition, omission, substitution, or other change or by varying the time and/or place of delivery and/or completion. Such variations shall, where appropriate, be valued in accordance with the rates and prices contained in the Contract, or if such rates and prices are inapplicable, a reasonable valuation for the variation shall be made.
18. The parties shall not assign the whole or any part of a Contract. The Supplier shall not subcontract the supply of the Goods and/or Services without Proskauer's prior written consent in each instance.
19. The Supplier, its employees, and agents at all times shall keep confidential and secret and shall not disclose to any person other than a person authorized by Proskauer any information and other matters acquired by them in connection with a Contract.
20. Proskauer may at any time by notice in writing terminate a Contract without compensation to the Supplier if (a) Supplier files a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors, or similar proceeding; (b) Supplier becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors, or similar proceeding and such petition or proceeding is not dismissed within thirty (30) days from filing of such petition or proceeding; (c) Supplier ceases or threatens to cease to carry on business in the ordinary course; or (d) Supplier breaches any of its obligations under a Contract, or Proskauer, in its reasonable discretion, determines that Supplier cannot or shall not deliver the Goods or perform the Services as required. Such termination shall not prejudice or affect any right of action or remedy that shall have accrued or shall accrue thereafter to Proskauer.
21. Except as otherwise agreed to between the parties, Proskauer may cancel a Contract in respect of all or part of the Goods and/or Services by giving notice to the Supplier at any time prior to delivery or performance, in which event Proskauer's sole liability shall be to pay the Supplier the price for the Goods or Services received by and reasonably acceptable to Proskauer.
22. In the event of any conflict between these Conditions and any supplementary conditions appended to the contract, then the supplementary conditions shall prevail.
23. The Contract shall be deemed to be made in the State of New York and shall in all respects be construed and governed by the laws of that State. Any action or claim arising out of a Contract shall be brought solely before the appropriate federal or state courts located in New York County, State of New York and the parties hereby irrevocably submit to the jurisdiction of such courts in respect of the interpretation and enforcement of any Contract.
24. No amendment to these terms and conditions or any Contract shall be valid unless in writing and signed by both parties.
25. The relationship between the parties is that of independent contractors. Neither party is an agent, partner, or employee of the other party and neither party shall have the right or any other authority to enter into any contract or undertaking in the name of or for the account of the other party or to assume or create any obligation of any kind, express or implied, on behalf of the other party.
26. Supplier shall not, without the prior written consent of Proskauer in each instance, refer to the existence or subject matter of this Agreement, state that Proskauer is a customer or potential customer of Supplier, or use the name, trademark, trade name or service mark of Proskauer in any press release, advertising, promotional materials, or represent that any Goods or Services have been endorsed or approved by Proskauer.
27. All documentation, reports, and paperwork covered and generated under the Contract shall be written using the English language. Stenographic or clerical errors, whether in mathematical computations or otherwise, made on a Contract or any other forms delivered shall be subject to correction.