

1. INTERPRETATION

1.1 In these Conditions:

“Anti-Corruption Laws”	means the United States Foreign Corrupt Practices Act and all other applicable U.S. legislation, statutory instruments and regulations in relation to bribery or corruption, including any laws enacted to implement the Organisation of Economic Cooperation and Development (“ OECD ”) Convention on Combating Bribery of Foreign Officials in International Business Transactions.
“Code of Business Conduct”	means TBS’ code of business conduct available from time to time on TBS’ website (www.bindingsite.com/en/legal).
“Conditions”	means the standard terms and conditions of sale set out in this document and includes any special conditions agreed in writing between the Customer and TBS.
“Contract”	means an Order for Products which, once accepted by TBS, will together with these Conditions and the terms of any Lease Agreement and/or any Service Agreement (if applicable), form the contract.
“Customer”	means the party placing an Order for Products.
“Data Protection Laws”	means any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the processing of personal data to which a party is subject, including the California Consumer Privacy Act (the “ CCPA ”), the California Consumer Privacy Rights Act (the “ CPRA ”), and the General Data Protection Regulation (Regulation (EU) 2016/679) (the “ GDPR ”) all as amended from time to time, together with any rules, regulations, and compliance guidance promulgated thereunder and including any foreign equivalents of any of the foregoing.
“Delivery”	means the delivery of the Products as specified in Clause 4.5.
“Governmental Official”	means (a) any officer or employee of: (i) a government, or any department or agency thereof; (ii) a government-owned or controlled company, institution, or other entity, including a government-owned hospital or university; or (iii) a public international organization (such as the United Nations, the International Monetary Fund, the International Committee of the Red Cross, and the World Health Organization), or any department or agency thereof; (b) any political party or party official or candidate for public or political party office; and (c) any person acting in an official capacity on behalf of any of the foregoing.

“Insolvency Event”	means any circumstances under which a party (a) has a receiver or similar officer appointed over all or a material part of its assets or business; (b) passes a resolution for winding-up of all or a material part of its assets or business or a court enters an order to that effect; (c) has entered against it an order for relief recognizing it as a debtor under any insolvency or bankruptcy laws (or any equivalent order in any jurisdiction); or (d) enters into any composition or arrangement with its creditors with respect to all or a material part of its assets or business.
“Instruments”	means the instruments (or any part of them) as set out in the Order.
“Intellectual Property Rights”	means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, specification rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world. For clarity, “Intellectual Property Right” means any one of the Intellectual Property Rights.
“Lease Agreement”	means a written lease agreement entered into between the Customer and TBS in respect of the Products.
“Order”	means an order for Products submitted by the Customer in accordance with Clause 3.
“Products”	means the products which are the subject of an Order, including but not limited to Instruments, Reagents, Software and consumables.
“Product Prices”	means the prices of the Products as determined in accordance with Clause 5.1.
“Reagents”	means the reagents supplied by TBS.
“Service Agreement”	means a written service agreement entered into between the Customer and TBS in respect of the Products.
“Shipment Address”	means the place for shipment of the Products as specified in the Order.
“Software”	means any software that is supplied (other than as part of an Instrument) by TBS to the Customer.

- “Specifications”** means the specifications for the relevant Products as provided in the TBS operator manual for Instruments and Software and the package inserts for Reagents and consumables, as applicable.
- “TBS”** means The Binding Site Inc, 33-0282653, 6730 Mesa Ridge Road, San Diego, CA 92121 or any of its affiliates that may be identified in the relevant contract from time to time.

2. FORMATION OF CONTRACT

- 2.1 All Orders accepted by TBS are subject to these Conditions.
- 2.2 The parties acknowledge and agree that any terms or conditions of purchase or sale submitted at any time by the Customer to TBS shall not apply to the Contract (and such terms are expressly excluded and rejected) and any failure by TBS to object to any such terms or conditions of sale shall not imply acceptance by TBS. The Contract is the complete and exclusive contract between the parties with respect to the purchase and sale of Products under the corresponding Orders.

3. ORDERS

- 3.1 Each Order by the Customer to TBS is an offer to purchase the Products identified therein subject to these Conditions and the terms of any Lease Agreement and/or Service Agreement (if applicable). TBS may accept or reject an Order, in whole or in part, at its discretion. An Order shall not be accepted, in whole or in part, until the earlier of (i) TBS's written acceptance of the Order or (ii) the Delivery of the Product covered by the Order.
- 3.2 Each Order shall (i) be given in writing and shall specify the type, quantity and code numbers of the Products ordered; and (ii) contain an order number assigned by the Customer (and each party shall use the relevant order number in all subsequent correspondence relating to the Order); and (iii) specify the Shipment Address.
- 3.3 Once the Customer has placed its Order, the Customer may not cancel or change the Order without TBS's written consent and agreement as to an appropriate adjustment in the Purchase Price for the applicable Product.

4. MANUFACTURE, PACKING AND DELIVERY

- 4.1 TBS shall comply with all applicable laws governing its manufacture of the Products. TBS shall obtain and maintain in force all licenses, authorizations and permits needed to manufacture and supply the Products to the Customer. TBS shall provide to the Customer all necessary documentation relating to the Products including any certificates of origin, certificates of analysis, user manuals and warranty documentation.
- 4.2 TBS is not bound by any delivery dates identified in the Order and time is not of the essence in respect of any Delivery.
- 4.3 Each Delivery shall be accompanied by a delivery note from TBS showing the order number and the type and quantity of Products included in the Order.
- 4.4 TBS may ship the Products ordered by the Customer in partial and/or multiple shipments.
- 4.5 Delivery of the Products shall be CPT (Carriage Paid To) TBS's premises (Incoterms 2020) unless otherwise agreed by TBS in writing.
- 4.6 TBS's shipping dates are approximate only. If TBS delays shipment due to a Force Majeure Event, TBS may terminate the affected Order, or reschedule the shipment, which

TBS shall do within a reasonable period of time. The Customer may not refuse any Delivery or otherwise be relieved of any obligations under any Contract as the result of such delay.

- 4.7 If for any reason the Customer fails to accept Delivery of the Products or TBS is unable to Deliver the Products on the scheduled delivery date because the Customer has not provided appropriate instructions, documents or authorizations, or if TBS's Delivery of a Product to the Customer is delayed or prevented due to any cause within the Customer's control, then (i) TBS may, in its discretion, store the Products until Delivery takes place and (ii) the Customer shall be responsible and liable for all costs and expenses (including without limitation storage and insurance) related to such storage. If TBS stores the Products as provided in this Clause 4.7, risk of loss of the Products will pass to Customer on the original scheduled date of Delivery.

5. PRODUCT PRICES

- 5.1 The Product Prices shall be stated in the Order accepted by TBS in accordance with Clause 3.1.
- 5.2 Product Prices are exclusive of VAT (and any other applicable sales taxes) and costs of Delivery, including duties, levies or other government fees or taxes. If any of the foregoing taxes, fees or costs apply, it is the Customer's responsibility to pay them. If TBS pays any of the foregoing taxes, fees or costs, TBS will add them to the Customer's invoice. If the Customer claims any tax exemption, the Customer must provide a valid, signed certificate or letter of exemption for each respective jurisdiction. The Customer is also responsible for standard delivery and handling charges, if applicable, and Product Prices do not include such charges unless expressly agreed to in writing by TBS.
- 5.3 TBS may, by giving notice to the Customer at any time up to Delivery, increase the Product Price from that included in the acceptance of the Order if such increase is due to: (i) increased cost of raw materials or labor; (ii) any change in government regulations; (iii) any request by the Customer to change the quantities or types of Products ordered; or (iv) any Force Majeure Event.

6. INVOICING AND PAYMENT

- 6.1 TBS shall invoice the Customer for the Products at any time on or after Delivery.
- 6.2 Customer shall pay each invoice in full without deduction, withholding or set off, in cleared funds, within 30 days from receipt of invoice. Time of payment is of the essence. [RA1]The Customer will make all payments in the currency specified in TBS's invoice.
- 6.3 If the Customer is late in making any payment then, without affecting TBS's other rights or remedies, the Customer will pay to TBS, upon its demand, a late-payment charge. The late payment charge will be calculated as interest on the sums due from the payment due date until the Customer makes payment in full, at the rate of 1.5% per month, or, if less, the maximum amount allowed by law, and will also include TBS's reasonable costs of collection (including collection agency fees and attorneys' fees). TBS also reserves the right to cancel or stop deliveries and withhold shipments, in whole or in part, if the Customer does not pay TBS when due, or if the Customer does not perform its other obligations in the Contract.

7. TITLE AND RISK

Excluding Software, whether alone or incorporated within or forming part of a Product, which TBS and its licensors will continue to exclusively own and which is not being sold

to the Customer and subject in any case to the terms of the Lease Agreement, title to and risk of loss of the Products will pass to the Customer upon Delivery of such Products at TBS's premises. The Customer hereby grants to TBS a security interest in such Products to secure the payment therefor, and irrevocably authorizes TBS to file in any filing office in any Uniform Commercial Code ("UCC") state or jurisdiction, any financing statements and amendments that indicate its security interest (regardless of whether the Product falls within the scope of Article 9 of the UCC of the state or such jurisdiction), and to provide any other information required by part 5 of Article 9 of the UCC of the state or jurisdiction, and the Customer agrees to furnish any information reasonably required to file such financing statements or amendments, or to perfect TBS's security interest, and execute all related documents, promptly upon request. If TBS takes action to repossess Products in accordance with its UCC rights, the Customer will pay its costs in doing so, including reasonable attorneys' fees.

8. REGULATORY MATTERS; RESTRICTIONS ON USE

THE PRODUCTS ARE DESIGNED FOR IN VITRO DIAGNOSTIC USE ONLY, AND ARE NOT FOR IN VIVO OR THERAPEUTIC USES, OR FOR CONSUMPTION BY HUMANS OR ANIMALS. The Customer must use, maintain and dispose of Products, as well as any results or information generated from such Products, in accordance with the TBS instructions, product documentation, and any other TBS documentation accompanying such Products, and in accordance with all applicable law and regulation (including disposal rules), and ethical guidelines promulgated by established national and international ethical bodies. TBS is not engaged in rendering medical advice or services, and results from the Products are not intended in any manner to substitute any professional medical advice or treatment from a trained healthcare professional. TBS is not responsible for any clinical decisions that are made with respect to results from use of the Products. The Customer's failure to comply with any applicable TBS instructions shall constitute a material breach of the Contract. Only TBS may authorize and carry out Product recalls, and the Customer will cooperate with TBS in such efforts at TBS's reasonable request. The Customer hereby agrees to promptly inform TBS of all complaints or adverse effects caused by the Products.

9. INTELLECTUAL PROPERTY

- 9.1 All Intellectual Property Rights covering Products or arising out of or in connection with the manufacture or use of Products shall, as between the parties, be owned solely and exclusively by TBS. No right or license is granted to the Customer except as expressly set forth herein, including by implication, or by estoppel. The Customer may not modify, change, remove, cover or otherwise obscure any of TBS's or its licensor's or affiliates' brands, trade or service marks on the Products. Nothing in the Contract limits TBS's ability to enforce its Intellectual Property Rights and TBS reserves all rights not expressly granted herein.
- 9.2 TBS[ML2] hereby grants the Customer a limited, personal, nonexclusive, non-transferable, non-sublicensable right and license to use Products strictly in accordance with the terms of the Contract, including Clause 8. The Customer may not transfer, distribute or resell Products or any of their components.
- 9.3 Software is subject to a non-exclusive license agreement[ML3]. The Customer may not reproduce, modify nor transfer the Software without TBS's prior written consent. TBS

hereby grants to the Customer a royalty-free, non-exclusive, nontransferable license, without the right to sublicense, to use such Software solely for the Customer's own internal business purposes with the Products that TBS provides to the Customer hereunder, and to use the related documentation solely for the Customer's own internal business purposes. This license will terminate when the Customer's lawful possession of the Products provided hereunder ceases, unless earlier terminated as provided in the Contract. The Customer agrees to hold in confidence and not to sell, transfer, license, loan or otherwise make available in any form to third parties the Software and related documentation provided hereunder. The Customer may not disassemble, decompile or reverse engineer, copy, modify, enhance or otherwise change or supplement the Software provided hereunder.

10. WARRANTIES AND DISCLAIMERS

10.1 Instruments.

- 10.1.1 TBS warrants that, for a period of twelve (12) months from the date of Delivery ("**Warranty Period**"), each delivered Instrument shall: (i) conform in all material respects to its relevant Specifications; and (ii) be free from material defects in design, material and workmanship.
- 10.1.2 Subject to Clause 10.4, TBS shall, at its option, repair or replace any Instruments that in TBS's reasonable opinion do not comply with Clause 10.1.1.1; provided, that, (i) the Customer promptly notifies TBS in writing upon discovery of any defect and such notification is received within the Warranty Period and (ii) the Instruments have been used and maintained in accordance with: (a) normal operating conditions; (b) the applicable user manual; and (c) any other documentation provided by TBS at the time of or since the date of the Order.

10.2 Reagents

- 10.2.1 TBS warrants that Reagents shall conform in all material respects to the relevant Specifications until their expiry date as indicated in the accompanying package insert.
- 10.2.2 Subject to Clause 10.4, (i) if the Customer gives notice in writing to TBS within a reasonable time of discovery and within the foregoing warranty period that some or all of the Reagents do not comply with the warranty set forth in Clause 10.2.1; (ii) if requested by TBS, the Customer returns to TBS the non-conforming Reagents at TBS's cost; and (iii) if the non-conforming Reagents are returned to TBS, TBS is given a reasonable opportunity to examine such Reagents to confirm such failure to comply, then TBS shall, at its option, either replace the defective Reagents or credit or refund the Purchase Price of the defective Reagents in full.

10.3 Software

- 10.3.1 TBS warrants that delivered Software will conform in all material respects to the relevant Specifications for a period of thirty (30) days from the date from the date of receipt.
- 10.3.2 Clause 10.3.1 will not apply to the extent that the non-conformity is caused by: (a) incorrect use of the Software; (b) use of the Software for a purpose

other than for which it was intended; (c) attempted or actual modification, alteration or repair of the Software; (d) use of the Software on equipment that is not expressly certified as compatible by TBS; or (d) failure to update the Software with the most recent version.

If Customer notifies TBS that the Software does not comply with the above warranty and if such notice is received during the above warranty period, then TBS shall use commercially reasonable efforts to correct the Software; provided, that, the Customer provides TBS with access to any information and documentation in the Customer's possession that is necessary for TBS to investigate or rectify any such non-conformity.

- 10.4 TBS shall not be held liable for the failure of any Products to comply with the warranties set out in Clauses 10.1., 10.2 or 10.3 in any of the following events: (i) the Customer makes any further use of such Products after giving notice to TBS of a defect; (ii) the failure to comply arises because the Customer failed to follow TBS's oral or written instructions as to the storage, commissioning, installation, use and/or maintenance of the Products or (if there are none) good trade practice regarding the same; (iii) the Customer alters or repairs such Products without the prior written consent of TBS; (iv) the failure to comply is with respect to any Products, including Reagents that are consumables, that require replacement in the ordinary course of business or that otherwise arises as a result of fair or normal wear and tear, willful damage, negligence or abnormal storage or working conditions; (v) the Products differ from their description or Specifications as a result of changes made to ensure compliance with applicable statutory or regulatory requirements; (vi) the failure to comply arises as a result of a Force Majeure Event; or (vii) the failure to comply arises as a result of any misuse or negligence of the Customer or any other act or omission of the Customer.
- 10.5 The Customer's sole and exclusive remedies in respect of a Product's failure to comply with the warranties set out in Clauses 10.1, 10.2 and/or 10.3 shall be as provided for in this Clause 10, and TBS shall have no further liability in respect of such failure.
- 10.6 EXCEPT FOR THOSE WARRANTIES EXPRESSLY SET OUT IN THIS CLAUSE 10, ALL WARRANTIES, CONDITIONS, REPRESENTATIONS AND UNDERTAKINGS (INCLUDING WITHOUT LIMITATION THOSE IMPLIED BY STATUTE, COMMON LAW OR OTHERWISE) ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW, AND TBS DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR RELATING TO CUSTOM, USAGE OR TRADE.
- 10.7 The provisions of this Clause 10 shall apply to any repaired or replacement Products supplied by TBS; provided, that, the warranties set out above shall apply to such repaired or replacement Products only for the term of such warranties remaining in respect of the Products repaired or replaced.
- 10.8 TBS'S WARRANTIES UNDER THE CONTRACT EXTEND ONLY TO THE CUSTOMER AND TO NO OTHER PERSON OR ENTITY. THE CUSTOMER IS NOT PERMITTED TO TRANSFER ANY WARRANTY TO ANY OTHER PARTY.

11. CUSTOMER'S OBLIGATIONS

- 11.1 The Customer shall comply with any user manual, instructions or storage conditions written on the packaging of the Products or set forth in the package inserts (the “**TBS Instructions**”).
- 11.2 The Customer shall ensure that the Products are used and disposed of in compliance with applicable laws, regulations and standards (including relevant traceability rules). The Customer shall be liable for any interpretation and/or use of results that are generated through the use of the Instruments,
- 11.3 TBS will not be liable for any non-compliance with the TBS Instructions and/or applicable laws and regulations in relation to the Products after Delivery, or in relation to use of the Products.

12. INDEMNIFICATION; LIMITATION OF LIABILITY

- 12.1 [The Customer will indemnify, defend with counsel approved by TBS, and hold TBS, including its parent, subsidiaries, affiliates and divisions, and their respective officers, directors, shareholders and employees, harmless from and against any and all losses, damages, liabilities, judgments, fines, amounts paid in settlement, expenses and costs of defense (including without limitation reasonable attorneys' fees) resulting from any claim, action or proceeding brought or initiated by a third party (“Third Party Claim”) against them to the extent that such Third Party Claim arises out of (a) the material breach by the Customer of this Contract or (b) the negligence or willful misconduct of the Customer, its affiliates, or their respective employees or agents.]
- 12.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TBS WILL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, MULTIPLE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO COSTS OF COVER, LOST PROFITS, LOST DATA, LOSS OF BUSINESS, LOSS OF GOODWILL OR LOSS OF REVENUE) IN CONNECTION WITH OR RELATING TO THE CONTRACT, INCLUDING WITHOUT LIMITATION ANY OF THE FOREGOING THAT MAY ARISE FROM OR ARE IN CONNECTION WITH TBS'S PRODUCTS OR SERVICES, EVEN IF TBS HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.
- 12.3 WITHOUT PREJUDICE TO CLAUSE 12.1, TBS'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT, OR ANY PRODUCT OR SERVICE, IS LIMITED TO THE AMOUNT THE CUSTOMER PAID TO TBS UNDER THE ORDER UNDER WHICH THE LIABILITY AROSE. HOWEVER, THESE PROVISIONS DO NOT LIMIT TBS'S LIABILITY THAT CANNOT BE LIMITED BY APPLICABLE LAW.

13. EXPORT RESTRICTIONS

- 13.1 The Customer acknowledges that Products that TBS supplies to Customer, including technical information and the information contained in Product documents (collectively “**Items**”), are subject to U.S. government export controls.
- 13.2 The export controls may include the Export Administration Regulations of the U.S. Department of Commerce (the “**EAR**”), which may restrict or require licenses for the export of Items from the United States and their re-export from other countries. The

Customer shall comply with the EAR, and all other applicable laws, regulations, treaties and agreements relating to the export, re-export and import of any Item. The Customer shall not, directly or indirectly, without first obtaining the required license to do so from the appropriate U.S. government agency export, re-export, distribute or supply any Item to (i) any restricted or embargoed country or to a person or entity whose privilege to participate in exports has been denied or restricted by the U.S. government; or (ii) any person or entity who is involved in improper development or use of nuclear weapons or of chemicals/biological weapons, or missiles, or in terrorist activities. The Customer will, if TBS requests, provide information on the end user and end use of any Item that the Customer exports or plans to export.

- 13.3 The Customer will cooperate fully with TBS in any official or unofficial audit or inspection related to applicable export or import control laws or regulations, and will indemnify and hold TBS harmless from, or in connection with, the Customer's or the Customer's consultants', agents' or employees' violation of this Clause 13.

14. TERMINATION

- 14.1 A party shall be entitled to terminate the Contract with immediate effect by giving notice in writing to the other party: (i) if the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 days after receipt of notice in writing requiring it to do so; or (ii) if the other party commits a series of minor breaches which, when taken together, amount to a material breach; or (iii) upon the occurrence of an Insolvency Event involving the other party; provided, that, in the case of any Insolvency Event that is an involuntary bankruptcy proceeding, such right to terminate shall only become effective if the other party consents to the involuntary bankruptcy or if such proceeding is not dismissed or stayed within forty-five (45) days after the filing thereof; or (iv) any Force Majeure Event (as defined in Clause 15.2) prevents the other party from performing its obligations under the Contract for any continuous period of three months.
- 14.2 TBS may terminate the Contract if Customer fails to pay any amount due under the Contract on the due date for payment and remains in default for 10 days after being notified in writing to make such payment.
- 14.3 Termination of the Contract shall not prejudice any of the parties' rights and remedies that have accrued as at termination.

15. FORCE MAJEURE

- 15.1 Neither party (nor any person acting on its behalf) shall have any liability or responsibility for failure to fulfil any obligation under the Contract, including with respect to TBS's failure to Deliver, so long as, and to the extent to which, the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event. Notwithstanding the foregoing, the payment of invoices due and owing hereunder shall in no event be delayed by the Customer because of any Force Majeure Event affecting the Customer.
- 15.2 A **"Force Majeure Event"** means an event beyond the reasonable control of TBS (or any person acting on its behalf), which by its nature could not have been foreseen by TBS (or such person), or, if it could have been foreseen, was reasonably unavoidable, and includes acts of God, storms, floods, riots, fires, sabotage, epidemics and pandemics (and the effects thereof), civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism.

16. DATA PROTECTION

- 16.1 The parties shall comply with the Data Protection Laws and any legislation or guidelines which amend or replace such legislation to the extent necessary to perform their respective obligations under the Contract.

17. ANTI-CORRUPTION

- 17.1 The Customer agrees to comply with the terms of TBS's Code of Business Conduct.
- 17.2 Each party shall comply with applicable Anti-Corruption Laws, including by ensuring that it has in place adequate procedures to prevent bribery, and shall use all reasonable endeavours to ensure that: (i) all of that party's personnel; (ii) all others associated with that party; and (iii) all of that party's subcontractors; in each case involved in performing the Contract so comply.
- 17.3 Without limitation to Clause 17.2, neither party will make, offer, give, promise to give, or authorize, any bribe, kickback, payment or transfer of anything of value, directly or indirectly, to any person or to any Government Official for the purpose of: (i) improperly influencing any act or decision of the person or Government Official; (ii) inducing the person or Government Official to do or omit to do an act in violation of a lawful or otherwise required duty; (iii) securing any improper advantage; or (iv) inducing the person or Government Official to improperly influence the act or decision of any organization, including any government or government instrumentality, in order to assist either party in obtaining or retaining business.
- 17.4 Each party shall immediately notify the other party as soon as it becomes aware of a breach or possible breach of any of the requirements in this Clause 17. Each party may terminate the Contract immediately if the other party is in breach of this Clause 17.

18. GENERAL

- 18.1 If any provision of these Conditions shall be held to be invalid or unenforceable in whole or in part, the unaffected provisions shall remain in full force and effect.
- 18.2 No modification, amendment or change to the terms of the Contract will be binding unless in writing and signed by both of TBS and the Customer. TBS's failure to object to terms contained in any subsequent communication from the Customer will not be a waiver or modification of the Contract. No waiver of or delay or failure by TBS to exercise any rights or remedies shall prejudice any future or further exercise thereof.
- 18.3 All notices to be served on TBS by the Customer shall only be valid if (a) by e-mail addressed to legal@bindingsite.com with a copy to, and (b) addressed to the Chief Financial Officer of TBS at the registered office address of TBS. Notices to the Customer will be sent to the address set forth on the relevant Order. Any such notices will be deemed received when personally delivered (including by commercial courier), or three (3) business days after being sent by certified mail, postage prepaid, to a party's specified address.
- 18.4 The Customer shall keep as confidential all information disclosed to it by or on behalf of TBS which could reasonably be considered as confidential. This shall include, but not be limited to, Product Pricing, all information received by the Customer which comprises Intellectual Property Rights or know-how belonging to TBS, and all information relating to TBS's business which is not in the public domain. TBS shall not use any information provided to it by the Customer other than to enable it to perform its obligations under the Contract.

- 18.5 The Contract and the performance by the parties under the Contract will be governed by the laws of the New York without reference to choice of law provisions. If any action shall be brought to enforce or interpret the terms of the Contract, the parties agree that such action will be brought in the State or Federal courts located in New York. Each party hereby irrevocably submits with regard to any action or proceeding for itself and in respect to its property, generally and unconditionally, to the non-exclusive jurisdiction of the aforesaid courts. Each party hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to the Contract: (a) any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure to lawfully serve process; (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (c) to the fullest extent permitted by applicable law, that (i) the suit, action or proceeding in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper, and (iii) the Contract, or the subject matter hereof, may not be enforced in or by such courts. **IN THE EVENT OF ANY LEGAL PROCEEDING RELATING TO THIS CONTRACT, EACH PARTY HEREBY WAIVES THE RIGHT TO A TRIAL BY JURY.** The U.N. Convention on Contracts for the International Sale of Goods is hereby expressly excluded.