

ARTICLE 1. Purpose

These General Conditions of Sale (hereafter the "GCS") define the terms and conditions whereby BLUEBACK (hereafter the "Company") sells products to its business customers (hereafter the "**Customers**"). The Company and the Customer are hereafter known individually as a "**Party**" and collectively as the "**Parties**".

The Customer declares that it has read these GCS prior to placing an Order, accepts them unreservedly and therefore renounces the application of its own general conditions of purchase.

Any request made by a Customer to the Company, as well as the use of the Equipment and the Application (such as defined herein) supplied by the Company in the context of an Order, implies unreserved acceptance of these GCS, and cancels any other previous document or exchange concerning the Order, or subsequent to it and not formalised by an express, written addendum signed by both Parties.

The Company reserves the right to change the GCS at any time and this will apply to any new Sales Quotes, even those linked with a previous Order. The Company therefore asks the Customer to read the GCS on receipt of a Sales Quote.

The fact that the Company does not enforce any specific Clause in these GCS at any moment in time does not imply its future abandoning of any such Clause.

Notice to Customers

The Solution (such as defined below) proposed by the Company is a wireless medical device that makes it possible to show, for a given patient, the relative degree of contraction of the transverse abdominal muscle and thus to view changes in muscular activity of this muscle in real-time during a medical rehabilitation session with a physiotherapist, a physician, a midwife or another healthcare professional wishing to exercise this muscle.

The Customer is notified that the Solution is a Class 1 Medical Device and subject to the provisions of Articles L.5211-1 and thereafter of the French Public Health Code.

The Customer certifies and guarantees to the Company that it is a healthcare professional, acting in the context of its business and is in possession of all necessary authorisations and qualifications required for the use of the Equipment.

ARTICLE 2. Definitions

The terms defined in this Article, as well as in the body of the GCS, shall have the corresponding meaning when appearing herein with a first capital letter, whether singular or plural.

"**Application**" means the software solution published and developed by the Company, downloadable free of charge to the Customer's Terminal as a mobile application. The Application is a standard solution that gives Customers standard functionalities without any developments for their specific requirements. It is a Class 1 medical device within the meaning of Article L.5211-1 of the French Public Health Code.

"**Order**" means the acceptance by the Customer of a Sales Quote and the GCS in accordance with the procedures defined in **Articles 4.1** (Order through the Website) and **4.2**. (Other Orders) in these GCS.

"**Documentation**" means the technical and commercial documentation relating to the Equipment and the Software, issued by the Company prior to any Order.

"**Personal Data**" means any information concerning an identified physical person or a person who could be identified, directly or indirectly, by reference to one or more elements that are specific to that person.

"**IPRs**" means any intellectual property right protected by the French Intellectual Property Code and International Conventions, including all rights arising from, or associated with: (i) procedures, studies, designs, inventions, discoveries, and any corresponding patent or patent application, (ii) copyrighted works, author's rights and any associated rights, software, their documentation and interfaces, (iii) databases, (iv) semi-conductor product topography, (v) drawings and models, and (vi) trademarks and brands.

"**Equipment**" means any materials made available to the Customer (e.g.: positioning belt, ultra HD electrode cables (sizes M or XL), Bluetooth unit, adhesive stickers, microUSB charger and its recharging cable), as appropriate possibly including operating software solutions (hereafter the "**Operating Software**").

"**Force Majeure**" means a Force Majeure occurrence within the meaning of Article 1218 of the French Civil Code.

"**Confidential Information**" means any information, of whatever nature, purpose, form, medium, and/or content, such as namely any data, know-how, specifications, drawings, processes, technical, financial, commercial or other elements, associated with the Order, the Application and/or the Parties and/or their products, communicated directly or indirectly by one Party to the other Party for the purposes of the negotiation and execution of the Order, regardless of the means of transmission (written, verbal, electronic and including electronic networks and/or messaging systems).

"**Software**" means the Application and Operating Software.

"**Solution**" means the complete unit assembly [Equipment + Software] made available to the Customer by the Company.

"**Sales Quote**" means the Sales Quote submitted by the Company to the Customer, together with these GCS, in accordance with the procedures as defined in **Articles 4.1** and **4.2**. of these GCS.

"**Internet Site**" means the Company's Internet site accessible at the address <https://www.blueback.fr/> or <https://blueback-physio.com>

"**Terminal**" means any IT terminal corresponding with the Equipment acquired by the Customer from the Company by means of an Order and/or compatible and adapted equipment already in the Customer's possession (such as namely PC, *smartphone* and touchscreen tablets), provided that these comply with the requirements as stated in the Documentation.

ARTICLE 3. Equipment and Application

The Company offers its Customer the Equipment and the Application with the contents and functionalities as described in the Documentation. A user manual is supplied to the Customer on Delivery (hereafter the “**User Manual**”).

ARTICLE 4. Orders

The Customer certifies that it has been, prior to any Order, informed the Company of the characteristics and functionalities of the Equipment and the Application, that it has got access to the Documentation and has checked that these match with their requirements, and that the Company has answered any questions and requests for information issued by the Customer.

An advance of fifty percent (50%) of the price of the Equipment covered by the Sales Quote may be requested by the Company (hereafter the “**Advance**”). As appropriate, the Order will be deemed valid and accepted by the Company as of the effective cashing of the Advance.

4.1. Orders placed through the Website

On visiting the Internet Site, the Customer can obtain details of the technical characteristics of the Equipment and the financial terms and conditions associated with its sale. The Customer can make an initial selection of the equipment it wishes to order, by clicking on the “**ORDER**” button. All such Equipment selected during this visit is then grouped together on a page on the Internet Site (hereafter the “**Basket**”).

On completion of this ordering procedure, the Basket provides a summary of the various information relating to the selected Equipment.

After clicking on the “**CONFIRM MY ORDER**” button, on the bottom right of the Basket, the Customer is then asked to enter the information required by the Company to fulfil the Order, namely in terms of the billing, delivery and means of payment.

To proceed with the purchase, the Customer’s Internet Site asks the Customer to submit its Order, after selecting the Equipment and after checking the content of its Basket. The Internet Site then displays a page showing the detailed content of the Basket and gives the Customer the opportunity to amend the references and/or quantities for all Equipment selected.

Once the Customer has confirmed the Equipment selection, the Customer is asked to check or enter its details, to choose the delivery method, as well as to confirm its acceptance of the GCS. This stage corresponds to a Sales Quote.

By ticking the box “*I have read and accepted the BLUEBACK General Conditions of Sale*”, the Customer certifies that it has full knowledge of the GCS and has accepted the contents.

On completion of the above procedure, the Internet Site offers a number of payment options and automatically displays the Basket. By clicking on the chosen payment option, the Customer then definitively confirms the Order.

As appropriate, the Customer is then directed to the website of an on-line payment platform (e.g.: MoneticoPaiement) that allows payment by card through a remote electronic payment terminal. The Customer must read and accept the conditions for the use of this payment platform. Once payment has been made, the Customer is redirected back to the Internet Site.

As of the confirmation of the Order, the Order can no longer be cancelled, with the exception of the specific cases defined in these GCS. The Customer is then sent an Order acknowledgement email, containing a summary of the Order, a link to the GCS applicable on the date of the Order as well as an authentication code to activate the user account on the Application (hereafter the “**Authentication Code**”). Depending on the payment option used, the Customer may also receive another email containing the information required for the payment.

4.2. Other methods for ordering

Exceptionally the Company may allow the Customer to place an Order directly with it (not through the Internet Site). In this case, based on the requests submitted by the Customer, the Company prepares and sends a Sales Quote to the Customer.

The Customer then returns to the Company (i) the signed, dated and initialled GCS, (ii) the order form included with the Sales Quote, completed, signed and dated, and (iii) as appropriate, the Advance.

The Order is deemed valid and accepted by the Company after receipt by the Company of the above elements, and the effective cashing of the Advance as appropriate.

The Customer is notified that any request relating to the Equipment, not included in the Order, will be the subject of a new Sales Quote in accordance with the provisions of these GCS.

ARTICLE 5. Financial terms and conditions

5.1. Prices

The prices of the Equipment, as well as any price reductions, and any additional costs that may be charged by the Company, are communicated to the Customer by the Company in the Sales Quote, in Euros inclusive of all taxes, and excluding any external charges of whatever nature (hereafter the “**Price**”).

No discounts will be given for early payment.

5.2. Payment conditions

Invoices are payable in accordance with the payment conditions as stated in the Sales Quote.

For payments by direct debit transfer, the Customer agrees to take all necessary steps to ensure that the Company can make the direct debit transactions on the date agreed in the Order.

5.3. Failure to pay

The failure to pay a single invoice by its due date triggers forfeiture with all amounts owed to the Company becoming immediately payable, even if not due.

Invoices not paid by their due dates will be subject to interest at a rate equal to three (3) times the current legal rate increased by five (5) percentage points, as of the due date and without notice.

In accordance with the provisions of articles L.441-3 and L.441-6 of the French Commercial Code, any failure to pay on time lawfully triggers the application against the Customer of a fixed compensation for recovery costs, in the amount of forty (40) euros. Notwithstanding the foregoing, the amount of this compensation will be increased by the actual costs incurred in the recovery against proofs if these costs exceed forty (40) euros.

ARTICLE 6. Access to the application

The Customer accesses the Application using the Terminal and this is subject to the general conditions of use (hereafter the "GCU") of the Platform from which it is downloaded (e.g.: Google Play or any other platforms such as App Store, hereafter the "Platform").

To use the Application, the Customer must:

- Configure its Terminals to allow the downloading of the Application;
- Download the Application from a Platform;
- Agree to the GCU of the Platform;
- Create a user account for the Application;
- Activate its access to the Application by entering the Authentication Code sent to it by email during the order;
- Set its user name and its connection password (hereafter the "Login Details").
- Confirm having read the User Manual.

The Customer is solely liable for protecting its Login Details and agrees to immediately notify the Company in the event of the loss or theft of its Login Details. All operations carried out using the Login Details of the Customer will be deemed as having been carried out under its liability and with its approval.

Where relevant, the Customer will have the opportunity of directly purchasing through the Internet Site various options that can be integrated into the Application (hereafter the "Application Options") and which give it additional access rights or functionalities for the Application. The Application Options will be remotely activated on the Application by the Company.

The Customer agrees to purchase fast Internet access, at its own cost (not included in the Order and not supplied by the Company).

Access to the Application requires the use of *cookies* (i.e., text files installed on a Terminal during use with the aim of facilitating and improving the use of the Application) by the Company, which the Customer understands and accepts.

The Company would remind the Customer that the Internet that enables access to the Application is an open and informal network. There is no central management of the Internet, each part of the network belongs to independent public or private organisations. Its operation depends on cooperation between the operators of the various networks without there being any obligation of supply or quality of supply between the operators. The network can be subject to unequal transmission capacities and specific user policies. The Company cannot guarantee the correct operation of the Internet, and thus cannot guarantee the uninterrupted partial or full access to the Application by the Customer.

ARTICLE 7. Equipment

7.1. Ownership clause

The transfer of ownership of the Equipment only takes place (i) on receipt by the Company of full payment of the price of the Equipment (i.e.: effective cashing by the Company of the full Price) and (ii) subject to complete compliance with the provisions of the Order by the Customer.

If the transfer of ownership has not taken place as defined above, the Customer:

- Is prohibited from any actions that impact or could impact on the exercising of the ownership rights of the Company in the Equipment (e.g.: renting, resale, pledging);
- Agrees to enforce the ownership rights of the Company in the Equipment with regard to any third party under all circumstances, and notably in the event of any claim, seizure or Court proceedings;
- Is the custodian of the Equipment which must be insured against all risks.

7.2. Transfer of risks and delivery

If there are no special terms and conditions in the Order and subject to legal public order provisions, the Delivery of the Equipment is *Ex Works* from the premises of the Company or its partners (Incoterms 2010-International Chamber of Commerce).

Consequently, the transfer of the risk of loss and damage for the Equipment will take place the moment the Equipment leaves the above premises, with the Equipment shipped at the Customer's risk, which can in the event of loss submit its claims against the carrier in accordance with the conditions of article L.133-4 of the French Commercial Code and notify the Company of such action, by recorded delivery letter with acknowledgement of receipt.

The Company notifies the Customer of the date of making available of the Equipment in question on its premises (hereafter the "**Ex-works delivery Notice**"). As of the Ex-Works Delivery Notice the Customer has a period of eight (8) days to collect, or have collected, the Equipment from the premises of the Company.

The Parties hereby agreed that the Equipment is deemed delivered by the Company as of the Ex-Works Delivery Notice (hereafter the "**Delivery**").

Any complaint by the Customer concerning the conformity of the Delivery with the Order must, to be enforceable on the Company, be sent within a period of five (5) days as of the effective reception of the Equipment by the Customer. Beyond this period, the Customer is deemed to have irrevocably accepted the Delivery without reservation.

The Delivery lead times are given for information only and the Company will do its best to comply with the lead times as stated in the Sales Quote.

Any delay in Delivery, for whatever reason, (i) shall not give the Customer the right to cancel the sale, nor to reject the ordered Equipment and (ii) shall not invoke the liability of the Company.

ARTICLE 8. Obligations on the Customer

The Customer agrees at all times to:

- Comply with all applicable legal and regulatory requirements, and in particular to not act and/or cause an action and/or omission that is intended to and/or has the effect of enabling the circumventing of the applicable legal and/or regulatory requirements and/or act in a fraudulent manner;
- Pay the Price by the due dates;
- Use the Equipment and the Application solely for its own business, in accordance with the terms of the Order (including the GCS), the Documentation and the User Manual;
- Ensure that its members of staff using the Equipment and/or the Application have been properly trained in its operation and comply with the GCS and the GCU of the Platform.

The Customer understands and accepts that it is solely liable for the data and information of all types collected, created, integrated, processed, modified, deleted, transmitted or distributed, its use and updating in the context of the use of the Equipment and/or the Application.

ARTICLE 9. Obligations on the Company

The Company agrees, subject to discharge of its obligations by the Customer, to make the Application available to the Customer and to supply Equipment that is in conformity with the specifications as agreed in the Sales Quote.

ARTICLE 10. Maintenance of the Software

As part of the corrective maintenance, the Company will make available to the Customer all updates for the Software as ordered (hereafter a "**Software Update**") which will be performed remotely.

New Versions of a Software implementing a new functionality or functionalities (hereafter a "**New Version**") are not included in the Order. Access to a New Version of any Software must be subject to a specific Order in accordance with the applicable GCS at the time of that Order.

The implementation of Software Update(s) and New Version(s) may necessitate in particular (i) loss of access to the Software and (ii) the Customer to carry out certain actions. The Company will notify the Customer in good time of the details for the implementation and will forward as required instructions for the Customer, which it in turn agrees to use and follow. The Company will make every effort to notify the Customer in good time prior to any operation that results in the stopping of all or some of the Software.

Any specific development not included in a Software Update or a New Version must be the subject of a specific request by the Customer to the Company which will respond positively or not, at its sole discretion and without having to justify its decision. As appropriate, the request for a New Version will be the subject of an Order in accordance with the GCS.

ARTICLE 11. Commercial Guarantee

The Customer can be covered by the commercial guarantee described in this Article.

In the event of the invoking of a guarantee covering it, the Customer agrees to notify the Company as quickly as possible (in the event of invoking the commercial guarantee, within fifteen (15) days as of the discovery of the fault), by recorded delivery letter with acknowledgement of receipt, as well as notifying its own insurer as appropriate.

Equipment is covered by the guarantee for a period and according to the terms and conditions indicated in the Documentation. The Equipment guarantee is a parts and labour guarantee, excluding wear parts, as generally accepted and/or specifically referred to in the Documentation.

In this case, the Equipment in question will be returned to the Company at the expense of the Customer and subject to its liability in packaging suitable for its transport.

The Company agrees to repair or replace, at its sole discretion, any Equipment under guarantee, deemed to be defective by the Company, and this as quickly as possible. In this event, the Equipment will be returned to the Customer at the expense of the Company.

If the returned Equipment is determined to be in working order or not covered by the guarantee, the Company will issue a price quote in advance to the Customer and the work will be carried out on the Equipment by the Company after the acceptance of this quote.

The replacement or repair of Equipment shall not extend the duration of this guarantee by the length of its non-availability.

Subject to any applicable imperative provisions, the guarantee is voided in the event (i) of payment default by the Customer, (ii) use of the Equipment and/or of the Application that does not comply with applicable legislation and regulations, (iii) use of the Equipment and/or of the Application that does not comply with the Order and/or the GCU of the Platform and/or the Documentation and/or the User Manual, (iv) irregular use and/or use of the Equipment and/or the Application for purposes other than those for which it was designed, (v) deliberate modification or alteration, even minor, to the Equipment and/or the Application, (vi) the combining of the Equipment and/or the Application with one or more elements not approved by the Company, (vii) intervention of a third-party not authorised by the Company for any operation concerning the Equipment and/or the Application, (viii) damage caused by inadequate packaging during transport, (ix) negligence on the part of the Customer, or (x) a *Force Majeure* occurrence.

The Company does not guarantee that the Terminals can support and/or are compatible with any New Versions of the Application, which the Customer hereby accepts.

ARTICLE 12. Liability

12.1. *Customer liability*

Within the limitations as allowed by law, the Customer is solely and fully liable for all use of the Equipment, the Application and for all damages, regardless of their nature, suffered by its customers, third-parties and/or any agent of the Customer during the use of the Equipment and/or the Application by the Customer and/or its agents.

12.2. *Company liability*

The Customer acknowledges and accepts that the Company is subject to a general obligation of means in terms of the accessibility to the Application and/or the Application Options, given its methods of downloading and accessing the Platform that are outside the control of the Company and the random element of services supplied by means of electronic communications and Internet technologies.

Within the limitations allowed by law, the Customer hereby accepts that the Company cannot be held liable under any circumstances for consequential loss and intangible damage (business interruption, loss of customers, loss of opportunity, loss of data, etc.) suffered by the Customer.

The Company cannot be held liable under any circumstances for any damages arising from:

- The events defined in (i), (ii), (iii), (iv) (v), (vi), (vii), (viii), (ix) and (x) of **Article 11**;
- Of any error and/or omission attributable to the Customer in entering the required data (i) for the correct operation of the Equipment, of the Application and the Application Options and/or (ii) compliance with the contractual and legal obligations of the Company;
- The failure by the Customer to fully or partially fulfil an obligation under the Order, in particular but not limited to its financial obligations;
- The use of a Terminal (excluding Equipment) not approved by the Company and/or subject to modification without the prior approval of the Company;
- Any issues in accessing the Software and/or Application Options resulting from a scheduled technical maintenance operation required to ensure their correct operation and/or for the implementation of a Software Update or a New Version;
- Any slowness, interruptions, impossibility to connect or poor connections to the Application and/or the Application Options due to (i) the very nature of the Internet, mobile phone networks and wireless networks and/or (ii) the Platform and/or (iii) a failure in and/or saturation of the data communication networks (Internet, Intranet, or using wireless networks) over which the Company has no control;
- Infection by a virus, malevolent third-party intrusions, impacting the Equipment and/or the Application and/or data belonging to the Customer, the protection of which is its responsibility.
- Any data loss and damage caused to the Terminals as a result of a data download decided and performed by the Customer for which it takes full responsibility;
- Damage that could be suffered by the Terminals, for which the Customer takes full responsibility;
- Any hijacking of Login Details, and more generally of any information that is of a sensitive nature for the Customer;
- Any damage and degradation in access and/or the use of the Application and/or the Application Options arising from a refusal to install or the removal of cookies by the Customer;
- Any contractual relationship between the Customer and a third-party, in particular its patients, suppliers and partners;
- Defective packaging in the event of the shipping of the Equipment, in particular with regard to the invoking of the guarantee;

In any case it is explicitly agreed by the Parties that, subject to applicable regulations, the total arising from all causes of compensation, damages and interest, of whatever nature that will be borne or paid by the Company in favour of the Customer, subsequent to a final ruling by a competent Court or a settlement agreement approved in advance by the Company, shall not exceed an inclusive total for all disputes of the highest amount of either (i) the amounts net of taxes effectively paid by the Customer to the Company during the six (6) months preceding the occurrence of the trigger event for the damage in question, or (ii) fifty percent (50%) of the Price net of taxes of the Order in question effectively paid by the Customer to the Company.

In accordance with the provisions of Article 2254 of the French Civil Code, any proceedings, dispute or request of any nature by the Customer relating to the Company must take place within a maximum time limit of one (1) year as of the day on which the Customer became aware or should have become aware of the trigger event for the proceedings, the dispute or the request, otherwise any such action will be invalid because time barred, subject to any applicable legislation or regulations.

ARTICLE 13. Intellectual Property

13.1. Prior rights and other rights

Unless stated otherwise in the Sales Quote, the Company owns or holds all of the IPRs and know-how relating to the Equipment and Software.

The Order does not represent as such either a transfer of, or any restriction on, the IPRs and/or the know-how held by the Company.

Unless stated otherwise in the Sales Quote, the Customer acknowledges and accepts that it does not acquire and does not hold all or part of any of the Company's IPRs. Consequently, the Customer acknowledges and accepts that, with the exception of any rights granted in the licences agreed in **Article 13.5**, it does not acquire, or hold, any of the IPRs relating to the Equipment and/or the Software.

13.2. Respect for the Company's rights

The Customer agrees not to undermine the IPRs, know-how, the image and/or the reputation of the Company.

Therefore, subject to any applicable legislation, the Customer cannot under any circumstances, other than with the use of the Equipment and/or Software in accordance with the Order and for its own sole use, reproduce, represent, modify, distribute, publish, adapt, exploit, etc., in any manner whatsoever, on any medium and by any means whatsoever, the Equipment and/or the Software, without the prior written authorisation of the Company.

The Customer agrees specifically not to reverse engineer to reconstitute or attempt to reconstitute all or part of the Software, for a purpose not expressly allowed by law and/or the Sales Quote.

The Customer agrees not to remove, alter, modify, hide and/or damage in any manner, in whole or part, the ownership labels and distinctive marks (protected by IPRs or not) belonging to the Company or third-parties, and applied to and/or integrated by any means and/or technique, and/or in the Equipment and/or the Software.

13.3. Claims by third-party concerning infringements

In the event of a claim by a third-party concerning infringements, by the Equipment and/or Software, of an IPRs protected in France, the Customer agrees to initiate any claims in this regard directly and immediately with the Company.

In this case, the Customer is expressly notified and accepts that the Company can, as it deems fit and at its expense, either replace or modify all or part of the Equipment and/or Software, or make every effort to obtain a right of use in favour of the Customer, provided that the following conditions exist:

- That the Customer has accepted and entirely fulfilled its obligations under the GCS and the Order;
- That infringement proceedings have been initiated by a third-party with a competent Court;
- That the Company is able to defend its own interests, and to do this, that the Customer collaborate fully with the Company by supplying all necessary elements, information and assistance for the proper conduct of that defence.

In the event that none of these measures are reasonably achievable, the Company can (i) unilaterally decide to reimburse to the Customer the Price net of taxes paid by this latter for the Equipment and/or Software in question, or (ii) cancel a licence granted for one or more Software products that are potentially infringing and reimburse to the Customer the Price paid by this latter for the licence in question, in the six (6) months prior to the notification by the Customer to the Company of the trigger event for the dispute.

13.4. Open Source and Third-Party technologies

The Software can include third-party *open source* technologies and/or belonging to other publishers. The rights granted in these technologies are subject to compliance with the various rights and obligations imposed on the Customer and are communicated to the Customer as relevant in the Documentation. The Customer agrees to comply with the terms and conditions of these licence.

13.5. Licences for use of the Software

Unless stated otherwise in the Sales Quote, subject to full payment of all sums due in this regard and strict compliance with the GCS and Sales Quote, the Company grants to the Customer, which accepts, a specific user licence that cannot be transferred, sub-licensed, and that is non-exclusive in the Software specified in the Order, for the whole world and for the period agreed in the Order.

For the Operating Software, the user licence is granted solely for operations linked with the Equipment.

13.6. Licences for the use of the Customer's distinctive marks

The Customer grants to the Company, free-of-charge and non-exclusively, for the whole world and for the period agreed in the Order, the right to use, reproduce, distribute, publish, modify and adapt (for its technical requirements), on any digital support (such as namely Internet sites, software and mobile application), the distinctive marks, trademarks, logos, images, photographs, graphics, visuals, texts and/or animations communicated by the Customer to the Company for the customisation and/or configuration of the Software and the Equipment, in accordance with the Order, as well as for the purpose of commercial references, for the promotion of the Company and its products.

The Customer certifies and guarantees the Company that it owns or holds the IPRs for the above elements communicated to the Company for this purpose.

ARTICLE 14. Confidentiality

The Parties agree to protect the confidentiality of Confidential Information of all types exchanged, collected or created during the execution of the Order, and this for the period of its execution and for a period of five (5) years as of its end regardless of the reasons for this.

The Parties are therefore prohibited from disclosing in any manner whatever, with the exception of to those persons who need to know and who agree to a commitment of confidentiality, for the execution of their rights and obligations under the Order, in any form whatever and for any purpose whatever, any of this Confidential Information and agree to ensure the compliance with this requirement by all of their corporate officers, staff, agents and any subcontractors.

The obligations on the Parties under this Article do not extend to Confidential Information which the Party receiving it can prove (the exceptions listed below are not cumulative):

- That it was disclosed after having obtained prior written agreement from the other Party or that the disclosure was by the other Party;
- That it was accessible to the public at the moment it was communicated by the other Party, or that it had entered the public domain after this communication without it being at fault;
- That it had been received legally from a third-party not subject to any obligation of confidentiality;
- That on the date of its disclosure by the other Party this was already in its possession;
- That its disclosure was required in application of a legal or regulatory provision, or a final Court ruling issued by a competent Court. The Party subject to any such requirement to disclose must, in so far as possible, notify the other Party in advance, and, as appropriate, request the implementation of all appropriate measures or procedures to protect the confidentiality in this event.

ARTICLE 15. Personal Data

15.1. Obligations on the Company with regard to Personal Data

The Customer is hereby notified that for the execution of the Order:

- The Company may access Personal Data in accordance with the provisions of Regulation (EU) 2016/679 of the European Parliament and Council of 27 April 2016 concerning the protection of natural persons in terms of the processing of personal data and the free circulation of this data (hereafter the "GDPR") and Law 78-17 of 6 January 1978 concerning data processing, data files and individual liberties, such as amended by Law 2018-493 of 20 June 2018 concerning the protection of personal data (hereafter collectively the "**Applicable Regulations**");
- Personal Data is subject to computerised processing by the Company, for the purposes of creating a customer file and for managing the customer relationship, by its staff and/or those of its subcontractors or partners responsible for the execution of all or part of an Order;
- The Company processes Personal Data including the name, first names, telephone number, email address and postal address of the people in question.

During the management and execution of the Order, Personal Data may be communicated by the Company to:

- Any subcontractor submitting the appropriate guarantees in terms of the Applicable Regulations;
- Any company controlled by the Company, controlling the Company or under joint control within the meaning of Article L.233-3 of the French Commercial Code.

The Company may be required to communicate all or some Personal Data to competent judicial or administrative authorities in application of applicable laws or in the context of enforceable rulings. The Company agrees to limit the communication of Personal Data to what is expressly and absolutely required.

In the event that the Company transfers Personal Data in a country not covered by an adequacy decision from the European Commission, the Company agrees to put in place appropriate guarantees to protect the confidentiality and integrity of the Personal Data in accordance with the provisions of the Applicable Regulations (specifically Article 46 of the GDPR).

The Order and the GCS do not create between the Parties (i) any joint liability within the meaning of Article 26 of the GDPR, (ii) or a subcontractor relationship within the meaning of Article 28 of the GDPR.

Consequently, each Party will be qualified as being the Data Controller for its processing in accordance with the Applicable Regulations and agrees to comply in this matter with all the obligations associated with this status.

By way of exemption from the provisions of (ii) above, for the delivery of hosting and maintenance services in particular, and in so far as the Customer forwards documented instructions to the Company in this regard with authorisation to access the Personal Data in question, the Company, as a subcontractor of the Customer in processing the Personal Data of the patients of the Customer (identity, details type) during the term of the licences. The Customer hereby authorises the Company to subcontract all or part of the processing of the Personal Data. The Company agrees in this regard to supply the Customer with a list of its own subcontractors, with updates as appropriate. Subject to **Articles 11 and 12**, and within the limits allowed by law, the Company agrees to fulfil all of the obligations placed on subcontractors under the Applicable Regulations.

In this case, the Company agrees that the Personal Data of the patients of the Customer will be hosted in France and that these Personal Data will not under any circumstances be transmitted (beyond what has been agreed in the Order or herein), sold or transferred to a third-party, unless required by law, or following a Court ruling, or if the transmission is required in the context of criminal proceedings or individual legal action in the event of an attack on the computer infrastructure of the Company.

In accordance with the provisions of the Applicable Regulations (Articles 15 to 22 of the GDPR) the Customer and any person involved has the right to apply to the Company to access, rectify, erase and/or restrict the processing of the Personal Data, or the right to object to the processing and/or the portability of the Personal Data.

In accordance with the Applicable Regulations, the Customer is informed that the Personal Data which are derived, calculated or inferred by the Company on the basis of data supplied by the Customer are excluded from the right of portability, in so far as they have not been supplied by the Customer but created by the Company.

To exercise these rights, the Customer or any person involved must contact the Company by email at cjouanneau@blueback.fr.

The Company cannot under any circumstances be held liable for the failure to supply all or some of the Personal Data or for the supply of wholly or partially erroneous Personal Data.

The Company retains the Personal Data of the Customer for the period required for the management and completion of the Orders. The Company can retain Personal Data beyond the execution of the Order for the period necessary to fulfil any legal, regulatory, accounting or fiscal obligation of retention of Personal Data (in particular for evidentiary purposes) or for communication to competent authorities (administrative, police, etc.).

15.2. Obligations on the Customer relating to Personal Data

The Customer understands and accepts that it is solely responsible for Personal Data collected, created, integrated, processed, modified, deleted, transmitted or distributed, the exploitation of these and their updating in the context of the use of the Equipment and/or the Application.

ARTICLE 16. Materials vigilance

The Company agrees to collate, analyse, record and declare to the Agence Nationale de Sécurité du Médicament et des Produits de Santé (ANSM), as required, any incident or risk of incident occurring during the use of the Equipment and/or the Application even if the incident results from the misuse of the Equipment and/or the Application by the Customer.

The Customer acknowledges and accepts that in the event of (i) the temporary or permanent non-availability of the Equipment and/or the Application, or (ii) withdrawal or suspension of the marketing authorisation for the Equipment and/or the Application, decided by the Agence Nationale de Sécurité du Médicament et des Produits de Santé, or any other competent authority, body or jurisdiction, the Company shall not be liable to pay any indemnity or compensation or disbursement to the Customer.

ARTICLE 17. Force Majeure

In the event of a *Force Majeure* occurrence, the obligations on the Parties, under the GCS, will be suspended for the entire duration of the *Force Majeure* occurrence and will restart as of the end of this latter.

In the event of such an occurrence preventing one Party from fulfilling its obligations, this latter agrees to notify the other Party as soon as possible.

The Company and/or the Customer will be free to terminate the Order if the *Force Majeure* occurrence lasts for longer than sixty (60) days as of notification to the other Party of the occurrence of the *Force Majeure* event, without either Party being entitled to any compensation or damages.

ARTICLE 18. Insurance

The Parties certify that they have professional indemnity insurance cover for their operations in the context of the Order, and this is with a reputable and solvent company.

They agree to maintain this insurance cover for the duration of the Contract and to provide evidence on the first request from the other Party.

ARTICLE 19. Subcontracting

The Customer hereby authorises the Company to subcontract all or part of the execution of the Contract to the subcontractor of its choice. The Company will be fully liable for all work allocated to its subcontractors and for the compliance with the provisions of Law 75-1334 of 31 December 1975 concerning subcontracting.

ARTICLE 20. Early termination

The Contract can be terminated by either Party in the event of the other Party failing to fulfil any of its obligations.

The termination will automatically take effect two (2) weeks after formal notice sent by recorded delivery letter with acknowledgement of receipt to the defaulting Party, stating its intention to enforce this Clause and without regularisation, and this without prejudice to any damages to which the Party not at fault may be entitled.

ARTICLE 21. Data restitution

Subject to an explicit written request from the Customer sent by recorded delivery letter with acknowledgement of receipt at least thirty (30) days as of the end of a Licence period regardless of the reasons, the Company will, at the choice of the Customer, either undertake the destruction or the restitution of the data, within a maximum period of thirty (30) days as of this written notification from the Customer.

The restitution will be by means of a transfer of computer files or on digital media using a standard format that can be easily read in an equivalent environment.

The Company can draw up a quote for any additional charges incurred as a result of any specific requests of the Customer concerning the transferability of its data and Customer Content (e.g.: conversion into a complicated format, etc.) and/or any assistance service provision for the Customer for the migration and retrieval of its data by the Customer and/or by a third-party service provider.

ARTICLE 22. Reciprocal independence

Each Party is free to take whatever measures it deems appropriate to fulfil its obligations and this in complete independence. The Order does not create any link of subordination, association or agency between the Parties. Each Party acts exclusively for and on its own behalf and is not authorised to represent the other Party.

ARTICLE 23. Election of domicile / Applicable Law / Assignment of jurisdiction

The Parties elect domicile at their registered head offices.

Any disputes concerning the conclusion, validity, interpretation, execution and the termination of the Order and/or the GCS will be subject exclusively to the laws of France.

If an amicable settlement cannot be reached in the thirty (30) days following receipt of notification sent by recorded delivery with acknowledgement of receipt by one Party and notifying the other Party of the dispute, each Party shall be free to refer the matter to the competent Courts within the jurisdiction of the Court of Appeal (Cour d'Appel) for the Company's head office.