



GLAXOSMITHKLINE TERMS AND CONDITIONS OF PURCHASE (GOODS & SERVICES) (“Terms and Conditions”)

1. DEFINITIONS

“Affiliate” means an corporation which is directly or indirectly controlled by, in Control of, or under common Control with, either Supplier or Purchaser as appropriate.

“Agreement” means the agreement between Purchaser and Supplier consisting of the Purchase Order, these Terms and Conditions, the Specification(s), and any other documents (or parts thereof) specified in the Purchase Order or otherwise expressly incorporating these Terms and Conditions.

“Control” means the ownership of more than 50% of the voting share capital of any corporation or the legal power to direct or cause the direction of the general management of either Supplier or Purchaser as appropriate.

“Goods” means all (or any) of the goods covered by the Agreement including without limitation raw materials, processed materials or fabricated products.

“VAT” means Value Added Tax charged in accordance with the Revenue Code on the supply of goods and services.

“Incoterms” means the Year 2000 edition of the official International Chamber of Commerce Rules for the interpretation of trade terms.

“Intellectual Property Rights” means any registered and unregistered trade marks, trade names, brand names, logos, trade dress, registered and unregistered designs, patents, and any applications for registration thereof, and any know how, copyright and database rights wherever subsisting.

“Packaging” means bags, cases, carboys, cylinders, drums, pallets and other containers.

“Purchaser” means the GlaxoSmithKline (Thailand) Ltd. specified in the Purchase Order.

“Purchase Order” means an order placed by Purchaser which is either attached or overleaf.

“Services” means the services covered by the Agreement.

“Specification(s)” means the specification(s) detailed in a schedule to be attached to these Terms and Conditions, or as separately documented by Purchaser in writing which sets out the performance required of the Goods and Services.

“Supplier” means the person, firm (or any individual partner thereof), or company to whom the Purchase Order is addressed, and who will be supplying Goods or providing Services to Purchaser under the Agreement.

2. STATUS OF TERMS AND CONDITIONS

2.1 These Terms and Conditions shall apply to all purchases of Goods or Services by Purchaser from Supplier. Any other terms or conditions which Supplier may purport to apply or which are endorsed upon any correspondence or documents issued by Supplier to Purchaser irrespective of their date of communication appearing on the Purchase Order or in any separately negotiated written contract entered into by the parties in respect of the Goods or Services shall be applied only to the extent that is not inconsistent with these Terms and Conditions.

2.2 Acceptance of any of the Purchase Order constitutes acceptance of these Terms and Conditions and any schedules attached. Interpretation of the Purchase Order for the Goods and/or Services from Thai Supplier will be according to the applicable Thai law. In case of foreign Supplier, where appropriate, interpretation of the Purchase Order shall be governed by the provisions of Incoterms.

2.3 Purchaser will not be liable in respect of any Purchase Order(s) or instructions other than those issued or confirmed on its official, duly signed by its authorized person.

3. DELIVERY OF GOODS AND PROVISION OF SERVICES

3.1 Unless otherwise instructed in writing by Purchaser's nominated representative, all Goods must be delivered and all Services must be performed at the time and place specified in the Agreement. Supplier shall supply Purchaser with details of the anticipated lead times between placing an order and delivery of any Goods and Supplier shall keep Purchaser informed of progress.

If Goods or Services are incorrectly delivered, Supplier shall be responsible for additional expenses incurred in delivering them to the correct point specified in the Agreement or subsequently advised in writing by Purchaser. The quantity specified in the Agreement may not be changed without Purchaser's prior written consent. Quantities delivered in excess of those stated in the Agreement may not be accepted.

3.2 Time shall be of the essence in relation to the performance of any and all of Supplier's obligations pursuant to the Agreement.

3.3 Supplier shall be liable for the damage incurred to Purchaser due to the wrong delivery of Goods or Provision of Services.

4. PASSING OF PROPERTY AND RISK IN GOODS

4.1 Unless Incoterms are agreed in case of foreign Supplier, the title and risk in Goods shall remain with Supplier until they are delivered at the place specified in the Agreement and a nominated employee of Purchaser signs a delivery note.

4.2 Neither payment by, nor passage of property or risk in the Goods or the Services to, Purchaser shall be deemed to constitute acceptance of the Goods or the Services.

5. CONTRACT PRICE AND TERMS OF PAYMENT

5.1 The price (which shall be a firm fixed price), shall be exclusive of VAT, and inclusive of all packaging and other related charges and (unless Incoterms are agreed in case of foreign Supplier) inclusive of delivery and insurance. Any increase in the price for any reason shall be subject to the express prior written consent of Purchaser.

5.2 Provided that the Goods and/or Services which comply with the Agreement have been delivered to Purchaser, payment will be made by Purchaser to Supplier within the timeframe as instructed by the Purchaser. VAT where applicable will be shown separately on all invoices as a strictly net extra. Purchaser reserves the right to set off any sums in respect of which Supplier may be in default to Purchaser.

5.3 The correct Purchase Order number must be quoted on all invoices, and Purchaser will accept no liability whatsoever for invoices, delivery notes or other communications which do not bear such Purchase Order numbers.

- 5.4 To ensure payment in accordance with the above procedure all invoices must be received at the invoice address shown on the Purchase Order.

6. QUALITY AND FITNESS FOR PURPOSE OF GOODS

- 6.1 The Goods and Services must comply in all respects with the Specification(s) or any modifications that may be agreed in writing. The Goods supplied must also comply in all respects with the Agreement and any implied conditions, warranties and terms.
- 6.2 The Goods must be, supplied with adequate instructions as to use and use-by date, fit for the purpose for which they are intended, of satisfactory quality, and free from defects in design, material and workmanship.

7. REJECTION, REPAIR AND REPLACEMENT

- 7.1 In the case of Goods not conforming to the Agreement, Purchaser may, at its discretion:
- 7.1.1 require Supplier to either repair or replace the Goods at the site of delivery or Supplier's works, whichever Supplier shall so determine within 15 days from the receipt of the notice from Purchaser, or refund to Purchaser the purchase costs of all Goods which do not correspond with the Agreement. Repairs, replacements, and any refunds shall themselves be subject to the obligations in this Agreement;
- 7.1.2 in the case of defective delivery, require Supplier to promptly reimburse Purchaser in respect of any cost including but not limited to freight, clearance, duty and storage charges incurred by Purchaser; and
- 7.1.3 purchase Goods elsewhere which nearly as practicable accord with the Agreement and any extra expense thus incurred shall be paid by Supplier to Purchaser. Before exercising such right to purchase elsewhere Purchaser shall give Supplier an opportunity to replace rejected Goods with goods which conform with the Agreement within the period specified in Clause 7.1.1 or refund to Purchaser the purchase costs of all Goods which do not correspond with the Agreement.
- 7.2 In the event of a rejection in accordance with Condition 7.1 above Purchaser shall notify Supplier in writing, and the payment obligation in relation to any such delivery shall be suspended forthwith.
- 7.3 The parties shall use their best endeavours to resolve any dispute arising pursuant to Conditions 6 and 7.1. If no agreement can be reached within 30 days, the parties shall agree on an independent expert (not an arbitrator) whose decision shall be final and binding as to the dispute and as to which party should pay his fees, the default result being that the fees shall be borne by the party against whom the expert's decision is given.
- 7.4 If the expert finds that any delivery of the Goods has not complied with the Agreement, Purchaser shall have the rights stated in Condition 7.1.
- 7.5 If the expert finds that the Goods comply with the Agreement, Purchaser shall pay for such Goods in accordance with the payment provisions contained in the Agreement.

8. STANDARD OF SERVICES

- 8.1 Supplier warrants and represents to Purchaser that any Services performed by Supplier or duly appointed sub-contractor:
- 8.1.1 shall be performed in a good and workmanlike fashion and with all due speed, care, skill and diligence. Supplier shall furnish the working programmes for the Services as Purchaser may reasonably require within 30 days of receipt of the Purchase Order. Supplier's working programmes shall give details of its proposals for carrying out the Services within the time stipulated indicating the sequence and timing of all operations forming part of the Services.
- 8.1.2 shall be carried out in accordance with the Agreement, with current industry standard codes of practice, and the highest standards prevailing in Supplier's industry. Supplier shall ensure that all of its personnel and sub-contractors are suitably qualified to perform the Services and that all necessary licences, work permits or other authorizations have been obtained.
- 8.2 If any materials which are required by Purchaser for the provision of the Services are not delivered fully in accordance with any stipulations in the Agreement, Supplier shall immediately effect correct delivery and shall be responsible for any additional costs and expenses incurred by both parties in so doing.
- 8.3 Purchaser shall have the right exercisable during the performance of the Services to suspend any payment obligation in respect of the Services if the performance does not conform in quality with any stipulations in the Agreement or if the performance is delayed from the time period specified under the working programmes.
- 8.4 If the Services do not conform to the Agreement, Purchaser shall have the right to purchase Services from elsewhere which nearly as practicable conform to the Agreement; and any extra expense incurred shall be paid by Supplier to Purchaser. Before exercising such right to purchase the Services from an alternative supplier Purchaser shall give Supplier an opportunity to replace the rejected Services with the Services which comply with the Agreement within 15 days from the receipt of the notice from Purchaser.

9. PACKAGING

Supplier will package and label the Goods in a manner suitable for transit and storage at no cost to Purchaser. Purchaser will not pay for or return Packaging materials unless previously agreed between the parties and confirmed in writing. Packaging must comply with all relevant legislative requirements, including those pertaining to environmental, and occupational health and safety standards. Supplier will investigate potential environmental improvements to Packaging and will, where practicable, use minimal Packaging, recyclable Packaging and recycled materials as appropriate.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Supplier shall, at its expense, defend any actions arising from infringements or alleged infringements of its Intellectual Property Rights in connection with the Goods or Services and Supplier undertakes to indemnify Purchaser against any costs which Purchaser incurs in connection with such actions, provided that Purchaser gives Supplier all appropriate information and assistance and the sole authority to defend or settle any legal proceedings at Supplier's expense.
- 10.2 Purchaser retains Intellectual Property Rights in, and ownership of all materials, plans, drawings, Specification(s), patterns and/or designs provided by Purchaser to Supplier, and they shall all be returned at any time in good condition to Purchaser at Purchaser's request.
- 10.3 Where Goods are made to Purchaser's Specification(s), model, or plans, the Intellectual Property Rights in the Goods in so far as they relate to the Specification(s), model, or plans, and any improvements or developments thereof shall be the absolute property of the Purchaser, and the Supplier will assign all such Intellectual Property Rights to the Purchaser at no fee to the Purchaser when such assignation is necessary.
- 10.4 Intellectual Property Rights arising during or out of the provision of Services shall be and remain the property of Purchaser.
- 10.5 In the event that the Intellectual Property Rights relating to the Goods and Services are held by the courts to infringe a third party's rights, and their use is enjoined by that third party, Supplier shall have the option and at its expense to procure for

Purchaser the right to continue using the Goods or Services, or replace the Goods with non-infringing Goods or Services, or modify the Goods or Services so that they become non-infringing without detracting from their overall performance and functionality.

In such case, Supplier shall be liable for any damage incurred to Purchaser due to the interference or discontinuation of the use of Goods and/or Services due to the above event.

11. CONFIDENTIALITY AND PUBLICITY

Supplier shall, and shall procure that its employees and sub-contractors shall, keep secret any Intellectual Property Rights, Specification(s) or other information of a commercial or technical nature disclosed to Supplier by Purchaser for the purpose of the Agreement, and shall not use or disclose such information to any third party without Purchaser's prior written consent. Supplier shall not without Purchaser's prior written consent disclose, copy, publicize or publish, the existence of the Agreement or any information related to the Agreement including the name of Purchaser, the Goods or Services, and the place of delivery or performance.

12. FORCE MAJEURE

12.1 Neither party shall be liable for, nor be deemed to be in default, on account of any delay in completion or the performance of any other act under the Agreement due to circumstances which could not have been contemplated by the parties and which are beyond the party's reasonable control ("Force Majeure"), provided that the party claiming hereunder shall notify the other with all possible speed specifying the cause and probable duration of the delay or non-performance and shall minimise the effects of such delay or non-performance.

12.2 If the performance by either party of any of its obligations under the Agreement is prevented or delayed by Force Majeure:

12.2.1 for a consecutive period in excess of 5 working days, the parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable in the circumstances.

12.2.2 for a period in excess of 30 days consecutively, then the other party shall in its discretion have the right to immediately terminate the Agreement upon written notice.

12.3 Purchaser may, by notice in writing to Supplier, cancel any deliveries or Services which in Purchaser's opinion cannot be made within a reasonable time after the due date without incurring any liability on the part of Purchaser.

13. COMPLIANCE WITH STATUTES AND REGULATIONS

13.1 Supplier warrants that the Goods and Services comply with the Agreement, relevant statutes, regulations and other legal requirements including those relevant to the regulation of pharmaceutical, nutritional and cosmetic products, health, safety, environment, welfare, production, storing, handling and delivery of the Goods and Services.

13.2 Supplier shall provide evidence of compliance with such legal requirements (including, permits, inspection reports, certificates of analysis etc.) promptly on request and in any event within a reasonable time. Supplier shall ensure that its sub-contractors comply with this Condition.

13.3 Supplier shall use its best endeavours to comply with all reasonable requests of Purchaser to minimise Purchaser's compliance costs in respect of applicable data protection, health, safety, environmental and producer responsibility obligations.

14. INSPECTION

14.1 Purchaser, and any third party it appoints on its behalf, shall have the right upon prior notice to inspect and carry out any tests, or batch sampling, it wishes on all Goods at Supplier's premises and the premises of any sub-contractors and on any Services provided. Where pre-shipped inspection is specified, Supplier must, at its expense facilitate the same and provide any or all relevant certificates of analysis.

14.2 Any inspections, tests, approvals or acceptance given on behalf of Purchaser in relation to the Goods or Services shall not relieve Supplier from its obligations or liabilities under the Agreement.

14.3 Supplier shall, and shall ensure that its sub-contractors shall, grant a right of access to Purchaser and any third party it appoints in order to inspect and test the Goods for compliance with relevant environmental, occupational health and safety legislation and other requirements such as Purchaser standards.

15. DATA PRIVACY

Each party warrants that it will not process the personal data of staff, employees and/or sub-contractors working for the other to which they have been granted access, or which have otherwise been made available for the purpose of the Agreement. Each party agrees to indemnify the other in consequence of any breach of this Condition or any claim by an employee or sub-contractor of the other party that his/her rights have been infringed.

16. HAZARDS

16.1 Supplier shall, and shall ensure that its staff and those of any sub-contractor shall, when working on any site in connection with the Agreement, comply with all relevant environmental, occupational health and safety legislation and any other appropriate standards, policies and procedures notified by Purchaser.

16.2 Supplier will provide applicable hazard information such as material safety data sheets and will inform Purchaser of all regulations and guidance (statutory or otherwise) which Supplier knows or believes to be associated with the Goods and any combination of the Goods with another product.

16.3 Supplier will indemnify Purchaser against all liability and loss related to any third party claim which arises from Supplier's or Supplier's sub-contractors' actions resulting in alleged release of any waste, hazardous substance or other pollutant.

16.4 Supplier will endeavour to exceed statutory minimum environmental, occupational health and safety requirements in accordance with generally accepted best working practices and any specific standards or other requirements of Purchaser.

17. RESPONSIBILITY FOR INFORMATION

Supplier shall be responsible for any errors or omissions in any drawings, calculations, Packaging details or other particulars supplied by Supplier, whether such information has been approved by Purchaser or not, provided that such errors or omissions are not due to inaccurate information furnished in writing by Purchaser.

18. SUPPLIER'S EMPLOYEES

For the duration of the period that any Services are being provided, the employment of any employee of Supplier shall remain with Supplier and shall not pass or otherwise transfer to Purchaser and nothing in the Agreement shall be construed or have any effect

as constituting any relationship of employer and employee between Purchaser and the employees and/or sub-contractors of Supplier. Supplier agrees that it is performing the Services as an independent contractor and will retain all responsibility for payment of any taxation that may arise from the provision of the Services, and will indemnify Purchaser against any expense incurred by Purchaser as a result of Purchaser having to pay any tax and/or make any deductions at source in respect of the Services.

19. SOFTWARE DEFECTS

- 19.1 Supplier warrants that any Goods, and/or computer hardware or software supplied by Supplier to Purchaser (the "Products"):
- 19.1.1 are free from defects and/or disabling codes, and have been duly tested to ensure that there are no hidden defects or disabling codes and are subject to recognised and appropriate release procedures including the latest version of a proprietary virus detection software package approved by Purchaser, and Supplier shall procure that corresponding obligations are imposed with its sub-contractors or agents;
 - 19.1.2 have been obtained from a reputable and reliable software developer and not through any interest group or multi-organisational software sharing scheme;
 - 19.1.3 will comply with and function substantially in accordance with their related user documentation; and
 - 19.1.4 shall not breach any other third party's Intellectual Property Right.
- 19.2 Supplier shall indemnify and hold Purchaser harmless against any and all losses, damages, costs, claims, proceedings, or expenses sustained or incurred directly and naturally, in the ordinary course of events, by Purchaser as a result of Supplier's breach of the above warranties.

20. LIABILITY AND INSURANCE

- 20.1 Supplier shall indemnify Purchaser against any direct liabilities, damages, claims, costs, losses and expenses incurred or paid by Purchaser howsoever arising from any defect in the Goods or Services or any breach by Supplier of its obligations hereunder or of any statutory duty or from any act or omission of Supplier's employees, agents or sub-contractors.
- 20.2 Supplier shall insure with a reputable insurance company its liabilities under the Agreement the amount equal to 100 percentage of the value of the Goods and Services to be provided per event unless this requirement is waived by Purchaser in writing and if so required at any time produce the policy of insurance and the receipt for the current premium to Purchaser for its inspection. Supplier agrees that any monies received by Supplier from the insurance company in full or part settlement of a claim arising out of the Agreement and paid by or due to Purchaser shall be paid immediately to Purchaser without offset or counter claim.
- 20.3 Any limitation, monetary or otherwise in such policy shall not be construed as a limitation on Supplier's liability and Supplier shall, notwithstanding such limitation, remain liable in full for the matters and to the extent not covered by the policy.

21. ASSIGNMENT

- 21.1 Supplier's rights and obligations under the Agreement may not be assigned in whole or in part without the prior written consent of Purchaser (acting in its sole discretion) and any such consent shall not be deemed to relieve Supplier of any of its obligations and liability to Purchaser pursuant to the Agreement.
- 21.2 Purchaser shall be entitled at any time by notice in writing to Supplier to assign the whole or any part of its rights and obligations under the Agreement to any Affiliate or to any successor in title to the whole or part of that part of Purchaser's business which relates to the Goods or Services.

22. THIRD PARTY RIGHTS

No person who is not a party to the Agreement, other than an assignee of any right or obligation assigned pursuant to Condition 21 shall have any rights to enforce any Term or Condition of the Agreement.

23. SUB-CONTRACTORS

Supplier shall not, without the prior written consent of Purchaser, appoint any sub-contractor or any person or persons to carry out all or any of its obligations under the Agreement. In the event that Supplier appoints a sub-contractor or other person to perform its obligations it shall remain liable to Purchaser for the performance of all its obligations and shall ensure that any such sub-contractor or other person reads and understands the implications of the Agreement. The Supplier shall, by entering into a separate agreement or otherwise, further ensure that any such sub-contractor or other person shall be subject to and shall adhere to the same obligations imposed on the Supplier under the Agreement.

24. TERMINATION

- 24.1 Subject to Condition 25.3, if either party to the Agreement is in breach of the Agreement and does not remedy the breach within 30 days of notice from the other party so to do (if capable of remedy) the other party may terminate the Agreement immediately by notice to the party in breach.
- 24.2 If Supplier shall become bankrupt, dissolved, wound up, or shall compound or make any arrangement with its creditors or have a receiver, administrative receiver, liquidator or provisional liquidator appointed over all or any part of its assets or go into liquidation (whether voluntary or otherwise) save as part of a bona fide reconstruction not involving insolvency or shall take or suffer to be taken any similar action as a result of its liability to pay its debts or its insolvency it shall promptly so notify Purchaser in writing giving particulars of the circumstances whereupon Purchaser may terminate the Agreement immediately by notice. (For the avoidance of doubt, Purchaser may terminate the Agreement upon the occurrence of any of the circumstances described in this Condition notwithstanding that Supplier may not have given notice to Purchaser as required.)
- 24.3 If at any time during the term of the Agreement there shall be any change in the legal or beneficial ownership or Control of Supplier:
- 24.3.1 Supplier shall immediately so notify Purchaser in writing; and
 - 24.3.2 Purchaser may, upon receiving notice or otherwise becoming aware of a change in the legal or beneficial ownership or Control of Supplier, terminate the Agreement immediately by notice in writing to Supplier if it considers in its sole discretion that such change of ownership or Control are prejudicial to its interests.
- 24.4 The Agreement may be terminated at any time by Purchaser for any reason whatsoever, by giving Supplier notice in writing immediately or on 30 (thirty) days' notice.

25. CONSEQUENCES OF TERMINATION

- 25.1 On termination of the Agreement Supplier shall, no later than seven days after Purchaser's request but at Purchaser's cost:

- 25.1.1 deliver to Purchaser (or as Purchaser shall direct) all quantities of the Goods in its possession which comply with the Agreement;
 - 25.1.2 return to Purchaser all documents provided to Supplier by Purchaser; and
 - 25.1.3 ensure that all documents containing Intellectual Property Rights and/or any information of a technical nature relating to the Goods, the manufacture of the Goods and the provision of Services, or of a confidential nature and supplied by Purchaser to Supplier, will be returned to Purchaser or destroyed by Supplier at Purchaser's option.
- 25.2 A fair and reasonable price will be paid for the Goods that are complied with the Agreement and have been delivered to Purchaser and/or for all Services in progress that have been performed by Supplier. Purchaser's liability is limited to the said Goods and Services in progress, and no further loss or liability will accrue on their account.
- 25.3 Termination or expiry shall not relieve either party from any liability or action accrued prior to such termination or expiry.
- 25.4 With effect from termination of the Agreement Supplier shall not make any use for any purpose whatsoever of any Intellectual Property Rights which is the property of Purchaser.
- 25.5 Termination of the Agreement or withdrawal of any Goods or Services from the Agreement shall be without prejudice to the continuation in force of Conditions 1, 2, 10, 11, 21, 22, 23, and 29. Supplier agrees to provide Purchaser with all reasonable support with respect to any investigation required by Purchaser or any regulator carried out prior or after such termination or withdrawal with respect to the Goods or Services. Purchaser will reimburse Supplier's reasonable costs in providing such assistance unless such termination or withdrawal has occurred for a reason contained in Condition 24.

26. POLICIES AND PROCEDURES

Purchaser shall notify Supplier of relevant policies/procedures which may be applicable from time to time and which Supplier should follow in the supply of Goods or Services in this Agreement. Purchaser shall provide copies of such policies / procedures where appropriate.

27. WAIVER

No waiver or forbearance by Purchaser in enforcing any of its rights under the Agreement shall prejudice or affect the ability of Purchaser to enforce any of its other rights. No waiver shall be effective unless in writing and signed by Purchaser. For the avoidance of doubt, it is agreed that a waiver of a right on one occasion shall not constitute a waiver of the same right in the future.

28. SEVERABILITY

Any provision of these Terms and Conditions which is declared void or unenforceable by any competent authority or court shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect the other provisions of these Terms and Conditions, which shall continue unaffected.

29. AMENDMENT

The Agreement may only be amended in writing by authorised representatives of both parties.

30. GOVERNING LAW AND JURISDICTION

The construction, validity and performance of the Agreement shall be governed by the Laws of Thailand, and both parties hereby submit to the exclusive jurisdiction of Thai Courts.