

GSK NEW ZEALAND TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS

In these terms and conditions:

“Agreement” means an agreement between the Purchaser and Supplier for the supply of the Goods or Services constituted by an Order, these Conditions and any agreed variation;

“Conditions” means these terms and conditions of purchase and any agreed variations;

“Goods” means the goods described in the Order;

“GSK Product” means an investigational or licensed medicinal product, consumer healthcare product, vaccine, biological product or device whether under development by, or manufactured, marketed, supplied or distributed by or on behalf of, any division or operating company of the Purchaser or the GSK group of companies, whether in Australia, New Zealand or in any other country. A list of GSK Products is available on the GSK website;

“GST” means any tax including any additional tax imposed on the supply of or payment for goods or services which is imposed or assessed under any GST Law;

“GST Law” means The Goods and Services Act 1985, and all related and auxiliary legislation;

“Human Safety Information” (HSI) means any information relating to human health and/or wellbeing following exposure to GSK products, including Adverse Event information. Adverse Event (AE) means any untoward medical occurrence in a patient, clinical investigation subject or consumer, and is temporally associated with the use of a GSK Product, whether or not considered related to the product. Human Safety Information and related Adverse Events (“HSI/AE”) can include: any unintended sign (including an abnormal laboratory finding), symptom, or disease (new or exacerbated); failure to produce expected benefits (i.e. lack of efficacy); reports of off-label use; reports of medication errors or misuse, including drug overdose, whether accidental or intentional; reports of drug abuse or effects of drug withdrawal; reports of occupational exposure; reports of patients taking GSK Products while pregnant or breastfeeding; reports of paternal exposure to a GSK Product before and during pregnancy; transmission of an infectious agent via a medicinal product; safety information received as part of a product quality complaint; reports of drug interaction; unexpected therapeutic benefits – an unexpected improvement in a concurrent condition other than the one being treated;

“Loss” means any loss, liability, cost (including legal costs as the higher of an indemnity or solicitor-client basis) or expense incurred by the Purchaser relating to this Agreement;

“Order” means the Purchaser’s order overleaf and includes these Conditions;

“Purchaser” means GlaxoSmithKline NZ Ltd and any related company (within the meaning of the Companies Act 1993) as specified in the Order;

“Quality Complaint” means any claim reported verbally, in writing or electronically to GSK by or on behalf of a customer that expresses dissatisfaction with a GSK product released to market relating to product quality, stability, reliability, performance or usage or batch identity. Complaints may be associated with adverse events. This also includes any complaint against the handling of previous complaints.

“Representative” of a party means that party's director, officer, employee or agent;

“Services” means the services described in the Order;

“Specifications” means any technical or other specification relating to the Goods or Services referred to in the Order and details of which have been supplied by the Purchaser or its Representative to the Supplier; and

“Supplier” means the person who sells the Goods or provides the Services to the Purchaser.

2. BINDING TERMS AND CONDITIONS

2.1 Entire Agreement

The entire Agreement between the Purchaser and the Supplier for the purchase of the Goods or Services by the Purchaser from the Supplier is:

- (a) these Conditions;
- (b) any other terms and conditions (including Specifications) incorporated by reference in the Order as long as the Supplier has details of those terms and conditions;
- (c) any other terms and conditions which are imposed by law and which cannot be excluded; and
- (d) any agreed written variation.
- (e) where clause 2.3 applies, the written agreement referred to in that clause.

2.2 Precedence

These Conditions shall apply to all contracts for the purchase of Goods or Services by the Purchaser from the Supplier to the exclusion of any terms and conditions or any other materials which the Supplier may purport to apply or which are endorsed upon any correspondence or documents issued by the Supplier irrespective of their date of communication to the Purchaser. The Supplier may not rely on any representations by the Purchaser that are not included in the Agreement.

2.3 Other agreements

The parties may, but are not obliged to, enter into a separate written agreement relating to the ongoing supply of Goods and/or Services by the Supplier to the Purchaser. Where the parties have signed such a separate written agreement that incorporates, includes or refers to these Conditions, the Agreement will include that written agreement. The order of precedence between these Conditions and the separate written agreement will be as specified in that written agreement, but if no order of precedence is specified then the terms of that written agreement will prevail over these Conditions to the extent of any inconsistency.

2.4 Acceptance

Acceptance of an Order by the Supplier constitutes acceptance of these Conditions.

3. PRICE

3.1 Price of Goods or Services Supplied

The price specified in the Order is firm, and is not subject to increase. The price includes all costs of testing, inspection, labelling, packing, charges for freight and delivery to and off-loading at the destination specified in the Order.

3.2 GST

The price at which the Goods or Services are provided by the Supplier to the Purchaser does not (unless otherwise stated or agreed in writing) include GST, which must be added to the price and paid by the Purchaser as part of the price.

3.3 Freight

Unless otherwise stated or agreed in writing, the Supplier is responsible for freight and delivery to the destination specified in the Order.

4. PAYMENT

4.1 Payment Terms

- (a) The Supplier will invoice the Purchaser at the following times:
 - i. for any Goods, at the time that the Goods are delivered to the Purchaser by, or on behalf, of the Supplier; and
 - ii. for any Services, upon completion by the Supplier of the Services to be provided to the Purchaser
- (b) Despite any payment terms specified on any Supplier invoice, the Purchaser will pay the Supplier's invoice within the first five (5) days of the month following the expiry of sixty (60) days from the date of receipt of the relevant Supplier's invoice by the Purchaser.

4.2 Invoices

- (a) Invoices must be prepared and submitted using the Purchaser's electronic global trading platform the Tungsten Network invoicing system, unless otherwise agreed in writing between the parties. The Supplier will work with the Purchaser, or the Purchaser's nominated representative to ensure that the Supplier is able to send invoices via the Purchaser's global trading platform. Paper invoices will not be accepted by the Purchaser. Each invoice must quote the purchase order number provided by the Purchaser and must itemise value added tax or other applicable sales tax as a separate item, where appropriate.
- (b) Invoices must detail all Goods and/or Services provided under each invoice and meet the requirements of the GST Law in relation to the issuing of tax invoices.
- (c) The Supplier acknowledges that the Purchaser may not pay the Supplier's invoice within the timeframe set out in clause 4.1(b) if the Supplier does not comply with this clause 4.2.

5. DELIVERY

The Goods must be received on the dates and at destination specified in the Order. Time is of the essence. If the Supplier fails to meet any such delivery date, the Purchaser may, without limiting its other rights and remedies, cancel all or part of the Order.

6. TITLE AND QUALITY

6.1 Title

Property in the Goods passes to the Purchaser on delivery and signing of a delivery note by an authorised Representative of the Purchaser.

6.2 Risk

The Supplier bears all risks of loss and damage to the Goods until final acceptance by the Purchaser in accordance with clause 6.3.

6.3 Final Inspection and Acceptance

Notwithstanding any prior inspections or payments, all Goods shall be subject to:

- (a) final inspection which may include measurement, testing or examination; and acceptance at the Purchaser's facility within a reasonable time (but not more than 90 days) after receipt of the Goods.

6.4 No Waiver

The Purchaser's acceptance does not waive rights. If the Purchaser accepts any Goods, this does not extinguish any of the Purchaser's rights if the Goods do not comply with a term of the Agreement.

6.5 Supplier's Warranties

The Supplier warrants that the Goods:

- (a) are safe;
- (b) are free from encumbrances, defect or fault;

- (c) are of merchantable quality;
- (d) include appropriate and correct warnings and instructions;
- (e) are fit for the purpose for which purchased (as communicated by the Purchaser before the Order);
- (f) comply with any representations, descriptions, samples or other specifications (including Specifications) including quality, function, performance or design; and
- (g) include any applicable Supplier's warranty that passes to the consumer from the Purchaser without liability to the Purchaser.

The Supplier warrants that the Services will be performed:

- (a) in a professional manner and with all due speed, care, skill and diligence
- (b) in accordance with the Agreement, current industry codes of practice; and
- (c) by suitably qualified and licensed personnel and sub-contractors.

6.6 Supplier's Indemnities

The Supplier must indemnify the Purchaser against any Loss incurred by the Purchaser concerning a breach of warranty, representation or term of the Agreement.

6.7 Rejected Goods

The Purchaser may reject any Goods or Services which do not comply strictly with the Agreement. Once the Goods are rejected, the Purchaser may require:

- (a) in the case of either Goods or Services, the Supplier to refund any payment within 7 days; or
- (b) in the case of Goods, replacement of the Goods to the Purchaser's satisfaction; or in the case of Services, the re-supply of the Services.

6.8 Title and risk in the rejected Goods immediately re-vests in the Supplier. The Supplier is liable for all Loss incurred by the Purchaser due to the rejection of the Goods. The Supplier must, at its cost, remove from the rejected Goods any of the Purchaser's Intellectual Property or any other distinguishing features such as name or symbols. In the event of a rejection of Goods or Services, the payment obligation shall be suspended forthwith.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Ownership

The Supplier agrees that all writings, specifications, drawings, designs, copyrightable material, inventions (whether or not patentable), improvements, discoveries, developments, and all works of authorship created by the Supplier in performance of Services or the Supply of Goods, including all worldwide rights therein under patent, copyright, trade secret, confidential information, or other intellectual property right (collectively "Work Product"), are the sole property of the Purchaser. The Supplier assigns to the Purchaser all right, title and interest in and to all such Work Product, and shall perform such further acts needed to transfer, perfect, and defend the Purchaser's ownership of the Work Product. The Supplier shall require its subcontractors to execute written assignments of Work Product to effect such assignment.

7.2 Licence

To the extent that the Supplier or third parties retain ownership rights in materials delivered with the Goods whereupon which the Work Product is based, the Supplier grants to the Purchaser an irrevocable, worldwide, non-exclusive, royalty-free right and licence to make, have made, modify, use, distribute, publicly perform or display, sell, offer to sell, and import such materials. The Supplier warrants that it owns or has acquired rights in all such intellectual property necessary to grant the licences and intellectual property rights set out in this clause 7.

7.3 Prohibition

The Supplier may only sell Goods containing the Purchaser's intellectual property to the Purchaser or as permitted by the Purchaser.

8. CONFIDENTIALITY

- 8.1 (1) Subject to clause 8.1(2), each of the Purchaser and the Supplier undertake to:
- a) keep confidential, and neither use nor disclose except for the purpose of the Agreement, all information of a proprietary or confidential nature relating to the business and affairs of the other which it may obtain in the course of its performance of the Agreement; and
 - b) keep the terms and conditions of this Agreement confidential (including prices) and not to make any public announcement or disclosure concerning the existence of this Agreement or these Conditions without the consent of the other party.
- (2) This condition does not apply to:
- a) any information which is generally available to the public (other than as a result of the wrongful disclosure by a party);
 - b) disclosure to advisors (where such advisors are under a reciprocal duty of confidentiality in respect of the information disclosed); or
 - c) information that is required to be disclosed by law.

9. DATA PRIVACY

- a) Supplier must ensure that any Personal Information it obtains or holds in connection with this Agreement is collected, stored, used and disclosed by it in accordance with the applicable privacy laws.
- b) Supplier will promptly report to GSK any unauthorised access to, use or disclosure of Personal Information in connection with this Agreement ("Incident") of which it becomes aware, and will work with GSK to take reasonable steps to remedy the Incident.
- c) "Personal Information" has the meaning set out in the Australian *Privacy Act 1988 (Cth)*. To the extent that any GSK Confidential Information constitutes "Personal Information," the Supplier shall ensure, before processing any such Personal Information, that adequate technical and organisational controls are in place to:
 - i) prevent unauthorised or unlawful processing of any such Personal Information it may hold; and
 - ii) protect any such Personal Information from accidental loss, damage or destruction; and
- d) only hold and process such Personal Information in connection with the purposes for which it was provided to Supplier and shall act only on the instructions of GSK when processing such Personal Information, including ensuring that such Personal Information is used only as authorised by GSK, or by the Agreement.
- e) The Supplier shall not transfer any Personal Information in connection with this Agreement to any foreign jurisdiction, or transfer any Personal Information to any third party, without the prior written consent of GSK, which consent may be subject to the Supplier (or the relevant third party) entering into a data transfer agreement with GSK and entering into such other arrangements as GSK may require.
- f) All or part of the GSK Confidential Information may contain Personal Information that is licensed to GSK by third parties. At GSK's request, Supplier shall enter into any agreements with such third parties as may reasonably be required to enable the processing of Personal Information.

10. WORK ON THE PURCHASER'S PREMISES

If any services are to be performed on the Purchaser's premises, the Supplier must comply with all applicable environment, occupational health, and safety laws and the Purchaser's then current safety and other applicable policies. The Supplier shall provide the Purchaser with a complete list of all chemicals, hazardous materials, and ingredients in the composition

of goods used in the performance of the Services and a copy of the material safety data sheet for such chemicals and hazardous materials. The submission of such list by the Supplier shall not relieve the Supplier of exclusive responsibility for the safe transportation, use, storage, and disposal of such materials prior to acceptance by the Purchaser. All chemicals and hazardous materials brought by the Supplier to the Purchaser's premises shall bear a label stating the identity of the chemical or material and the hazards associated therewith.

11. INDEMNITY

11.1 Indemnity and Release

The Supplier must defend, indemnify and hold the Purchaser, its affiliated companies, and their representatives, successors, and assigns harmless from and against any and all claims, suits, actions, liabilities, loss, judgments or damages, whether ordinary, special or consequential arising directly or indirectly from or in connection with:

- (a) the acts, negligence, omissions or wilful misconduct of the Supplier;
- (b) the Goods or Services supplied;
- (c) a breach of any of the Supplier's warranties or any other term of the Agreement;
- (d) the Supplier's negligent, unauthorised or wrongful acts or omissions with regard to the use or installation of hazardous materials;
- (e) a claim that any Goods or Services supplied to the Purchaser infringe upon or misappropriate any patent, copyright, trademark, trade secret or other intellectual property interest of another; or
- (f) a claim of any lien, security interest or other encumbrance made by a third party.

12. TERMINATION

12.1 Without Cause

The Purchaser may, at any time, terminate the Order, in whole or in part, without cause, upon written notice to the Supplier. Following upon any such termination the Supplier shall, to the extent specified by the Purchaser, stop all work on the Order, and cause its Suppliers and subcontractors to stop work. Charges for any such termination of the Order will be limited to actual nonrecoverable costs incurred by the Supplier which the Supplier can demonstrate were properly incurred prior to the date of termination. In no event shall such reimbursement include anticipated profits for undelivered Goods or unperformed Services.

12.2 With Cause

The Purchaser may terminate the Order, in whole or in part, if the Supplier:

- (a) fails to make delivery of the Goods or perform the Services within the time specified in the Order;
- (b) fails to replace defective Goods or Services in accordance with these Conditions;
- (c) fails to perform any other term specified in the Agreement; or
- (d) become insolvent, files or has filed against it a petition in bankruptcy, or makes an assignment for the benefit of creditors.

13. THE PURCHASER'S PROPERTY

All drawings, specifications, artwork, data, material, supplies, equipment, tooling, dies, moulds, fixtures, and patterns furnished or paid for by the Purchaser, shall be the Purchaser's exclusive property, and shall be used by the Supplier only in performance of the Order. Such property, while in the Supplier's custody and control, shall be held at the Supplier's sole risk and, upon the Purchaser's request, shall be returned to the Purchaser in good condition, normal wear and tear excepted.

14. POLICIES AND PROCEDURES

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

15. MISCELLANEOUS

15.1 Conditions of Assignment, Subcontracting or Advertising

The Supplier must obtain the Purchaser's consent in writing before it:

- (a) assigns its rights or subcontracts any obligation under the Agreement; or
- (b) advertises or publishes anything concerning the Agreement or information of a proprietary nature relating to the business affairs of the Purchaser.

15.2 Supplier must maintain insurance

During the period of the Agreement and while the Supplier has the risk in the Goods, the Supplier must, at its expense;

- (a) maintain product liability insurance with a reputable insurer for at least \$10 million or greater amount specified in the Order;
- (b) insure the Goods with a reputable insurer for their full replacement cost. The Supplier must on the Purchaser's request, produce satisfactory evidence of the insurance. Any limitation in the policy shall not be construed as a limitation on the Supplier's liability.

15.3 Relationship

The Supplier is an independent contractor of the Purchaser. Nothing in these Conditions constitute any other type of relationship between the parties.

15.4 No Waiver

Failing to insist on strict performance on any terms of the Agreement is not a waiver of any later breach or default.

15.5 Provisions are Severable

Each provision of the Agreement is severable. Severance does not affect any other provision.

15.6 Variation must be Writing and Notified

The Purchaser may by writing, amend, supplement or replace any Order, Specification or these Conditions. The changes then apply to any Agreement as the Purchaser notifies after the date of change.

15.7 Privacy

Purchaser may collect personal information from the Supplier in accordance with its privacy policy <http://au.gsk.com/en-au/privacy-policy/>. Purchaser may disclose the personal information to third parties used in the ordinary operation of its business, including its affiliates and third parties located overseas.

15.8 Governing Law

The law of New Zealand governs the Agreement.

15.9 Compliance with Laws and Standards

The Supplier must ensure that the Goods and any dealing between the Purchaser and the Supplier comply with all laws and standards that ensure the Goods are saleable in New Zealand, including those relating to manufacturing, storage, packaging, labeling and transportation.

16 REPORTING

16.1 Product issue reporting

- (a) The Supplier must notify the Purchaser by telephone (immediately confirmed in writing) or facsimile transmission immediately after it becomes aware of any

information (whether credible or otherwise) which may give rise to a recall of the Purchaser's product.

(b) Without limiting clause 16.1(a), the Supplier must notify the Purchaser as soon as is practicable after it becomes aware of any adverse publicity or threatened or pending legal proceedings with respect to the Purchaser's product or of any other information that might adversely impact upon the goodwill associated with the Purchaser or the Purchaser's product.

16.2 Human Safety Information/Adverse Event reporting

If the Supplier, or any of the Supplier's contractors, are informed or become aware of any report of any HSI/ AE (whether the information relates to the GSK Product by reference to its generic name or by reference to its trade mark), the Supplier shall provide all known information in respect of each such report to the Purchaser within one business day of receipt. The Supplier shall report this information to GSK Medical Information on **0800 808 500** or **+64 9 367 2900**.

17 PRODUCT RECALL

17.1 Purchaser to manage Product recall

(a) Any decision relating to a recall of the Purchaser's product (including any decision relating to the initiation or implementation of or strategy relating to a recall of the Purchaser's product) will be made at the discretion of the Purchaser or, where the Purchaser is not the Sponsor, the Sponsor unless otherwise directed by a relevant regulatory authority.

(b) The Supplier must not initiate, implement or take any action in relation to a recall of the Purchaser's product without the prior consent of the Purchaser or, where the Purchaser is not the Sponsor, the Sponsor.

17.2 Reimbursement of recall costs

(a) The reasonable costs incurred by the Supplier, including the Supplier's management costs, in connection with the recall of the Purchaser's product will be borne by the Purchaser, except where the conduct of the Supplier or its employees, contractors or other persons it has engaged has given rise to the recall of the Purchaser's product (in which case the reasonable costs incurred by the Purchaser in connection with the recall of the Purchaser's product will be borne by the Supplier).

(b) To the extent that a party pays costs in connection with the recall of the Purchaser's product for which the other is responsible under clause 17.2(a), the other party must, after receiving a written request together with sufficient evidence to substantiate the request for reimbursement from the first party, reimburse the first party within seven days.

18. ANTI BRIBERY AND CORRUPTION

18.1 The Supplier agrees it shall comply fully at all times with all applicable laws and regulations, including but not limited to anti-corruption laws, and that it has not, and covenants that it will not, in connection with the performance of this Agreement, directly or indirectly, make, promise, authorise, ratify or offer to make, or take any act in furtherance of any payment or transfer of anything of value for the purpose of influencing, inducing or rewarding any act, omission or decision to secure an improper advantage; or improperly assisting it or GSK in obtaining or retaining business, or in any way with the purpose or effect of public or commercial bribery, and warrants that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so. For the avoidance of doubt this includes facilitating payments, which are unofficial, improper, small payments or

gifts offered or made to Government Officials to secure or expedite a routine or necessary action to which we are legally entitled. For the purpose of this Agreement, "Government Official" (where 'government' means all levels and subdivisions of governments, i.e. local, regional, national, administrative, legislative, executive, or judicial, and royal or ruling families) means:

- (a) any officer or employee of a government or any department, agency or instrumentality of a government (which includes public enterprises, and entities owned or controlled by the state);
- (b) any officer or employee of a public international organisation such as the World Bank or United Nations;
- (c) any officer or employee of a political party, or any candidate for public office;
- (d) any person defined as a government or public official under applicable local laws (including anti-bribery and corruption laws) and not already covered by any of the above; and/or;
- (e) any person acting in an official capacity for or on behalf of any of the above. "Government Official" shall include any person with close family members who are Government Officials (as defined above) with the capacity, actual or perceived, to influence or take official decisions affecting GSK business.

- 18.2 GSK shall be entitled to terminate this Agreement immediately on written notice to the Supplier, if the Supplier fails to perform its obligations in accordance with this Clause 18. The Supplier shall have no claim against GSK for compensation for any loss of whatever nature by virtue of the termination of this Agreement in accordance with this Clause 18. The Supplier shall comply fully at all time with all applicable laws and regulations, including but not limited to applicable anti-corruption laws, of New Zealand in which it conducts business with the Purchaser.
- 18.3 Purchaser shall be entitled to terminate this Agreement immediately on written notice to the Supplier, if it fails to perform its obligations in accordance with this Agreement. The Supplier shall have no claim against the Purchaser for compensation for any loss of whatever nature by virtue of the termination of this Agreement in accordance with this clause. To the extent (and only to the extent) that the laws of New Zealand provide for any such compensation to be paid to the Supplier upon the termination of this Agreement, the Supplier hereby expressly agrees to waive (to the extent possible under the laws of New Zealand) or to repay to the Purchaser any such compensation or indemnity.

19. LABOUR RIGHTS

The Supplier represents and warrants, to the best of its knowledge, that in connection with this Agreement, it respects the human rights of its staff and does not employ child labor, forced labor, unsafe working conditions, or cruel or abusive disciplinary practices in the workplace and that it does not discriminate against any workers on any ground (including race, religion, disability, gender, sexual orientation or gender identity); and that it pays each employee at least the minimum wage, provides each employee with all legally mandated benefits, and complies with the laws on working hours and employment rights in the countries in which it operates. The Supplier shall be respectful of its employees right to freedom of association and the Supplier shall encourage compliance with these standards by any supplier of goods or services that it uses in performing its obligations under this Agreement.