

AstraZeneca Pharmaceuticals (Ireland) DAC - Standard Terms and Conditions for the Purchase of Goods and Services ("Conditions")

1. INTERPRETATION

1.1 In these Conditions the following words have the following meanings:

"AstraZeneca" means AstraZeneca Pharmaceuticals (Ireland) DAC;

"the Contract" means the contract between AstraZeneca and the Seller comprising (i) a written agreement (if any), (ii) the Order for the relevant Goods and/or Services, (iii) these Conditions and (iv) any other documents specified in the relevant Order. If there are any inconsistencies between the documents comprising the Contract, they shall have precedence in the order listed in this definition;

"Goods" means any goods (or any part or parts thereof) agreed in the Contract to be purchased by AstraZeneca from the Seller;

"Order" means AstraZeneca's purchase order or any other written request from AstraZeneca to for the supply of the relevant Goods or the Services;

"Parties" means AstraZeneca and the Seller and "party" shall mean one of them;

"Seller" means the person, firm or company who accepts the Order;

"Services" means the services agreed to be provided by the Seller to AstraZeneca under the terms of the Contract; and

"Specification" means the technical or other requirements (if any) for the Goods or Services referred to in the Order.

1.2 In these Conditions: references to any statute or statutory provision shall be construed as a reference to that statute or provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced; and references to the singular include the plural and vice versa as the context admits or requires.

2. APPLICATION OF TERMS

2.1 These Conditions shall govern the Contract to the entire exclusion of the Seller's terms or conditions. No terms or conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of order, specification or similar document will form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.

2.2 Any variation to these Conditions shall have no effect unless expressly agreed in writing and signed by a duly authorised representative of AstraZeneca.

2.3 Each Order for Goods or Services by AstraZeneca from the Seller shall be deemed to be an offer by AstraZeneca to purchase Goods or Services subject to these Conditions and AstraZeneca shall not be bound by the Order unless (a) it is placed on AstraZeneca's official purchase order and (b) the Seller in whole or in part accepts the offer within 7 days of the date of the Order or within such other period as may be specified in the Order either (i) expressly by endorsing and returning to AstraZeneca a copy of the Order, or (ii) impliedly by fulfilling the Order, in whole or in part accepts the offer within 7 days of the date of the Order or within such other period as may be specified in the Order.

2.4 AstraZeneca's rights under these Conditions are in addition to the statutory terms implied by the Sale of Goods Act 1983 and the Sale of Goods and the Supply of Services Act 1980.

3. QUALITY AND DESCRIPTION OF GOODS AND SERVICES

3.1 The Seller warrants to AstraZeneca that the Goods will:

3.1.1 conform as to quantity, quality and description with the particulars stated in the Contract;

3.1.2 be of sound materials and workmanship;

3.1.3 meet the Specification in all respects and be the same as any samples or patterns provided by either party and accepted by the other;

3.1.4 be capable of any standard of performance specified in the Contract;

3.1.5 comply with all statutory requirements and regulations relating to the manufacture and sale of the Goods at the time when the same are supplied;

3.1.6 be fit for any purpose indicated in the Contract (either expressly or by implication);

3.1.7 be free from any encumbrance, security or retention of title; and

3.1.8 not infringe any trade secret and/or any patent, copyright, database right, registered design, design right, trade mark, trade name or other intellectual property or industrial right of any third party unless such infringement has occurred directly as a result of any specification supplied by AstraZeneca.

3.2 If any Goods fail to comply with this Condition 3 AstraZeneca shall have any one or more of the remedies listed in Condition 12.

3.3 The Services will be performed by appropriately qualified and trained personnel with all due care and diligence and to the highest standard of quality prevailing in the industry at the time of performance.

3.4 If the personnel identified by the Seller become unavailable for whatever reason, the Seller undertakes to procure replacement personnel to perform the Services to the same or higher standard immediately.

4. INSPECTION AND TESTING

4.1 AstraZeneca may inspect and test the Goods at any time prior to delivery of the Goods to AstraZeneca.

4.2 If the results of such inspection or testing cause AstraZeneca to be of the opinion that the Goods do not conform or are unlikely to conform to the Order or to any Specification or the Contract, AstraZeneca shall inform the Seller and the Seller shall immediately take such action as is necessary to ensure conformity and in addition AstraZeneca shall have the right to require further testing and inspection.

4.3 The Seller shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Seller's obligations under the Contract.

5. INDEMNITY

The Seller shall indemnify AstraZeneca against all actions, suits, claims, demands, costs, charges, damages, losses, liabilities and expenses suffered or incurred by AstraZeneca and/or for which AstraZeneca may be liable to any third party due to, arising from or in connection with:

5.1 the negligent or wilful acts or omissions of the Seller, its employees, agents or contractors in manufacturing, supplying, delivering and/or installing the Goods or performing the Services;

5.2 the breach of any provision of the Contract by the Seller;

5.3 any defect in the workmanship, materials or design of the Goods or their packaging; and

5.4 any infringement or alleged infringement of any trade secret and/or any patent, copyright, database right, registered design, design right, trade mark, trade name or other intellectual property or industrial right for or relating to the Goods or the Services unless such infringement has occurred directly as a result of any specification supplied by AstraZeneca.

6. DELIVERY/PERFORMANCE

6.1 The Goods shall be properly packed and secured in such a manner as to reach their destination in good condition under normal conditions of transport having regard to the nature of the Goods and other relevant circumstances. The Seller shall off-load the Goods as directed by AstraZeneca.

6.2 The Goods shall be delivered or the Services performed by the Seller at the time or within the period specified in the Contract or, if no such date is specified, delivery shall take place within 28 days of the Order.

6.3 The Goods shall be delivered to or the Services performed for AstraZeneca at the address specified in the Contract and in the manner specified in the Contract or as subsequently agreed in writing between the parties.

6.4 The Seller shall invoice AstraZeneca upon, but separately from, despatch of the Goods to AstraZeneca.

6.5 The Seller shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the order number, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

6.6 Time for delivery of the Goods and performance of the Services shall be of the essence of the Contract.

6.7 Unless otherwise stipulated by AstraZeneca in the Order, deliveries shall only be accepted by AstraZeneca in normal business hours.

6.8 If the Seller requires AstraZeneca to return any packaging material to the Seller that fact must be clearly stated on any delivery note and any such packaging material will only be returned at the Seller's cost.

6.9 Where AstraZeneca agrees in writing to accept delivery by instalments the Contract will be construed as a single contract in respect of each instalment. Nevertheless, failure by the Seller to deliver any one instalment shall entitle AstraZeneca at its option to treat the whole Contract as repudiated.

6.10 If Goods are delivered to AstraZeneca in excess of the quantities ordered AstraZeneca shall not be bound to pay for the excess, which will be and will remain at the Seller's risk and will be returnable at the Seller's cost.

7. RISK/PROPERTY

The Goods shall remain at the Seller's risk until delivery to AstraZeneca is complete (including off-loading and stacking) when ownership of the Goods shall pass to AstraZeneca.

8. PRICE AND PAYMENT

8.1 The price of the Goods or Services shall be stated in the Order and unless otherwise agreed in writing by AstraZeneca shall be exclusive of value added tax but inclusive of all charges for packaging, packing, carriage, insurance and delivery of the Goods to AstraZeneca and any duties, taxes, imports or levies incurred by the Seller.

8.2 AstraZeneca shall pay the price of the Goods or Services at the end of the month following the month of receipt of the relevant invoice unless stated otherwise in the Order. If payment of any amount is overdue, the Seller may, if it has a statutory right to interest, claim interest on the overdue amount, from the due date for payment until the date of actual payment, at the rate of 2% above the base lending rate of HSBC Bank plc accruing on a daily basis, whether before or after any judgement.

8.3 AstraZeneca reserves the right to set off any amount owing at any time from the Seller to AstraZeneca against any amount payable by AstraZeneca to the Seller under the Contract.

8.4 AstraZeneca shall pay any VAT subject to receipt of a valid VAT invoice.

8.5 The parties warrant that these Conditions do not (and are not intended to) take effect as an incentive or reward for a parties' past, present or future willingness to prescribe, administer, recommend, purchase, pay for, reimburse, authorise, approve or supply any product or service sold or provided by AstraZeneca.

8.6 Both parties agree that they (and where relevant, their directors, officers, employees, agents or sub-contractors) shall not, directly or indirectly pay or promise to pay, or authorise the payment of any money, or give, promise to give or authorise the giving of anything of value to any government official, healthcare professional or person affiliated with a healthcare organisation to obtain or retain

business or secure improper advantage for AstraZeneca (or any of its Affiliates). Neither party (and where relevant, their officers, employees, directors, agents or sub-contractors) has made prior to the date of these Conditions any payment, authorisation, promise or gift of the sort described herein.

9. CONFIDENTIALITY

The Seller shall, during the term of the Contract and for a period of five years thereafter, keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Seller by AstraZeneca or its agents and any other confidential information concerning AstraZeneca's business or its products which the Seller may obtain and the Seller shall restrict disclosure of such confidential material to such of its employees, agents or contractors as need to know the same for the purpose of discharging the Seller's obligations to AstraZeneca and shall ensure that such employees, agents or contractors are subject to like obligations of confidentiality as bind the Seller.

10. INTELLECTUAL PROPERTY

10.1 Materials, equipment, tools, dies, moulds and trade secrets and copyright, design rights, database rights or any other forms of intellectual property or industrial rights in all drawings, specifications and data supplied by AstraZeneca to the Seller shall at all times be and remain the exclusive property of AstraZeneca but shall be held by the Seller in safe custody at its own risk and maintained and kept in good condition until returned to AstraZeneca and shall not be disposed of other than in accordance with AstraZeneca's written instructions, nor shall such items be used otherwise than as authorised by AstraZeneca in writing.

10.2 AstraZeneca shall own (and the Seller shall procure that AstraZeneca shall receive) all rights to any trade secrets and intellectual or industrial property relating to any results, designs, developments, ideas, processes, discoveries or inventions designed, developed, made, produced or originated by the Seller or any of its employees, agents or contractors whilst performing the obligations set out in the Contract.

10.3 The Seller will observe all copyright in written material including computer software belonging to AstraZeneca or any third party and the Seller will not make any unauthorised copies of such material or software.

11. TERMINATION

11.1 AstraZeneca may at any time and for any reason terminate the Contract in whole or in part by giving the Seller written notice whereupon all work on the Contract shall be discontinued and AstraZeneca shall pay to the Seller fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of profits or any consequential loss.

11.2 AstraZeneca may at any time by written notice to the Seller terminate the Contract forthwith if:

11.2.1 the Seller commits a material breach of any of the terms and conditions of the Contract and fails to remedy the breach (if capable of remedy) within 30 days of a notice from AstraZeneca specifying the breach;

11.2.2 any distress, execution or other process is levied upon any of the Seller's assets or the Seller enters into any compromise or arrangement with its creditors, is unable to or declares it is unable to pay its debts as they fall due, commits any act of bankruptcy or if an order is made or an effective resolution is passed for its winding up (except for the purposes of amalgamation or reconstruction as a solvent company) or if a petition is presented to court, or if a receiver and/or manager, receiver, examiner, administrative receiver or administrator is appointed in respect of the whole or any part of the Seller's undertaking or assets; or

11.2.3 the Seller ceases or threatens to cease to carry on its business; or

11.2.4 the financial position of the Seller deteriorates to such an extent that in the opinion of AstraZeneca the capability of the Seller adequately to fulfil its obligations under the Contract has been placed in jeopardy.

11.3 Termination of the Contract, however arising, will be without prejudice to the rights and remedies of AstraZeneca accrued prior to termination. Terms or conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

12. REMEDIES

12.1 Without prejudice to any other right or remedy which AstraZeneca may have, whether under the Contract or otherwise, if any Goods or Services are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract AstraZeneca may exercise any one or more of the following remedies at its discretion, whether or not any part of the Goods or Services has been accepted by AstraZeneca:

12.1.1 cancel the Contract in whole or in part;

12.1.2 to reject the Goods or Services (in whole or in part) and in the case of Goods return them to the Seller at the Seller's risk and cost on the basis that a full refund for such Goods shall be paid forthwith by the Seller;

12.1.3 at AstraZeneca's option, give the Seller the opportunity or require the Seller at the Seller's cost either to remedy any defect in the Goods or Services or to supply replacement Goods or Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;

12.1.4 to refuse to accept any further deliveries of the Goods or Services;

12.1.5 to carry out at the Seller's cost any work necessary to make or Services comply with the Contract; and

12.1.6 to claim such damages as may have been sustained in consequence the Seller's breaches of the Contract.

13. ASSIGNMENT

13.1 The Seller shall not assign the Contract or any part of it without AstraZeneca's prior written consent.

13.2 AstraZeneca may assign the Contract or any part of it to any Affiliate of AstraZeneca.

14. FORCE MAJEURE

AstraZeneca reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods or Services ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of AstraZeneca including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

15. GENERAL

15.1 If any provision of the Contract is ruled to be wholly or partly invalid, for any reason it shall, to the extent of such invalidity be deemed severable and the remaining provisions of the Contract shall continue in full force and effect.

15.2 Any waiver or delay by AstraZeneca in enforcing of any breach of, or any default under, or any provision of the Contract by the Seller will not be deemed a waiver of any subsequent breach or default or any of its rights under the Contract and will in no way affect the other terms of the Contract.

15.3 The Contract, and all disputes and matters (whether contractual or non-contractual) arising out of or in connection with it, (including as to its formation, existence, operation, termination and repudiation) shall be governed by Irish law and the parties submit to the exclusive jurisdiction of the Irish courts in relation to all such matters and disputes.

15.4 Seller represents and warrants that this Contract will be performed in full compliance with all applicable laws and regulations or other requirement of any relevant government or governmental agency, the IPHA code of practice, any associated guidance issued by any relevant body and the relevant internal parties of AstraZeneca. Where such regulations are advisory the compliance to be achieved by the Seller shall be the best practice in the relevant industry.

15.5 The Seller is an independent contractor. Neither party is or shall be deemed the agent, principal, partner or employer of the other party. The Seller shall not make any representation on behalf of, or incur any liability on behalf of, AstraZeneca.

15.6 The Seller is entering the Contract as principal on its own behalf. The Contract represents the entire agreement and understanding between the parties with respect to its subject matter and overrides and supercedes all prior agreements, letters and understandings between the parties in relation to such which are revoked by the mutual consent of the parties. The Seller confirms that it has not relied upon, and has no remedies in respect of, any promise, statement, term, condition, representation or warranty except those expressly set out in the Contract. This provision does not exclude any liability for fraud.