

STIEFEL RESEARCH AUSTRALIA TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS

In these terms and conditions:

- (1) "Adverse Event" means any untoward medical occurrence in a patient or clinical investigation subject or consumer, temporally associated with the use of the Purchaser's product, whether or not considered related to the product;
- (2) "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;
- (3) "Conditions" means these terms and conditions of purchase and any agreed variations;
- (4) "Goods" means the goods described in the Order;
- (5) "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;
- (6) "GST Law" means *A New Tax System (Goods and Services Tax) Act 1999*, and all related and auxiliary legislation;
- (7) "Human Safety Information" means any information relating to:
 - (a) the death, serious injury or illness of a person that may have been caused by the use or misuse of the Purchaser's product (a serious injury or illness includes any acute physical injury or illness requiring medical or surgical treatment by, or under the supervision of, a doctor or nurse); or
 - (b) human health and/or wellbeing arising following exposure of humans to the Purchaser's product. Examples include, but are not limited to, Adverse Event information, reports of patients taking the Purchaser's product whilst pregnant, reports of drug abuse or overdose, reports of drug interaction, information received as part of product complaints, as well as information regarding unexpected therapeutic benefits (i.e. an unexpected improvement in a concurrent condition other than the one being treated);
- (8) "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;
- (9) "Order" means the Purchaser's order overleaf and includes these Conditions;
- (10) "Purchaser" means Stiefel Research Australia Pty Ltd ABN 78 006 363 891 and any related body corporate (within the meaning of section 50 of the *Corporations Act 2001*) as specified in the Order;

(11) "Representative" of a party means that party's director, officer, employee or agent;

(12) "Services" means the services described in the Order;

(13) "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

(14) "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:

(1) these Conditions;

(2) 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;

(3) any other terms and conditions which are imposed by law and which cannot be excluded; and

(4) any agreed written variation.

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 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

Payment for Goods or Services supplied by the Supplier to the Purchaser will be tendered 60 days from the end of the month of statement and acceptance of the Goods or provision of Services. Payment of the invoice does not constitute acceptance of the Goods and shall be subject to adjustment for errors, shortages or defects in the Goods, or any other failure of the Supplier to meet the requirements of the Order.

4.2 Invoices

In addition to any other information specified in the Order or elsewhere in these Conditions, invoices must contain the following information: Purchase Order Number, Item Number, Description of Goods or Services, Sizes, Quantities, Weight, Unit Prices, GST Payable and Extended Totals. The Purchaser will accept no liability whatsoever for invoices which do not bear such information.

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(2).

6.3 Final Inspection and Acceptance

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

- (1) final inspection which may include measurement, testing or examination; and
- (2) 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:

- (1) are safe;
- (2) are free from encumbrances, defect or fault;
- (3) are of merchantable quality;
- (4) include appropriate and correct warnings and instructions;
- (5) are fit for the purpose for which purchased (as communicated by the Purchaser before the Order);
- (6) comply with any representations, descriptions, samples or other specifications (including Specifications) including quality, function, performance or design; and
- (7) 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:

- (1) in a good and workmanlike manner and with all due speed, care, skill and diligence
- (2) in accordance with the Agreement, current industry codes of practice; and
- (3) 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:

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

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 sub-contractors 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 The Supplier agrees to keep confidential all of the Purchaser's information concerning or arising from the performance of the Order ("Information"). This clause does not apply to Information which is lawfully obtained from a third party, is public knowledge, is already known or is otherwise independently developed by Representatives of the Supplier who have not been exposed to the Information.

8.2 Information remains the Purchaser's property.

All Information supplied by the Purchaser remains the property of the Purchaser and may only be used by the Supplier in fulfilling its obligations under the Agreement. The Supplier must not disclose any Information without the prior written consent of the Purchaser.

9. 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.

10. INDEMNITY

10.1 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:

- (1) the acts, negligence, omissions or wilful misconduct of the Supplier;
- (2) the Goods or Services supplied;
- (3) a breach of any of the Supplier's warranties or any other term of the Agreement;
- (4) the Supplier's negligent, unauthorised or wrongful acts or omissions with regard to the use or installation of hazardous materials;
- (5) 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
- (6) a claim of any lien, security interest or other encumbrance made by a third party.

11. TERMINATION

11.1 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 non-recoverable 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.

11.2 With Cause

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

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

12. 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.

13. 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.

14. MISCELLANEOUS

14.1 Conditions of Assignment, Subcontracting or Advertising

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

- (1) assigns its rights or subcontracts any obligation under the Agreement; or
- (2) advertises or publishes anything concerning the Agreement.

14.2 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;

- (1) maintain product liability insurance with a reputable insurer for at least \$10 million or greater amount specified in the Order;
- (2) 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.

14.3 Relationship

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

14.4 No Waiver

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

14.5 Provisions are Severable

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

14.6 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.

14.7 Governing Law

The law of Victoria governs the Agreement.

14.8 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 Australia, including those relating to manufacturing, storage, packaging, labelling and transportation.

15. REPORTING

15.1 Product issue reporting

- (1) 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.
- (2) Without limiting clause 15.1(1), 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.

15.2 Pharmaceutical

- (1) The Supplier will report Human Safety Information for Pharmaceutical Products or suspected counterfeit Pharmaceutical Products to Stiefel Research Australia Medical Information on 1800 033 109 or +61 3 9721 4323 within 24 hours of initial awareness.
- (2) The Supplier will report Technical or Quality complaints relating to Pharmaceutical Products to the Purchaser on +61 3 9721 6010 within 24 hours of initial awareness. Complaints samples if available must be securely retained and provided to the Supplier upon request.

16. PRODUCT RECALL

16.1 Purchaser to manage Product recall

- (1) 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.
- (2) 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.

16.2 Reimbursement of recall costs

- (1) 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).
- (2) 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 16.3(1), the other party must, after receiving a written request together with sufficient evidence to substantiate the request for reimbursement for reimbursement from the first party, reimburse the first party with seven days.

17. ANTI BRIBERY AND CORRUPTION

- (1) The Supplier acknowledges receipt of the Anti Bribery and Corruption (ABAC) 'Prevention of Corruption – Third Party Guidelines' (as set out below) and agrees to perform its obligations under this Agreement in accordance with the principles set out therein.
- (2) The Supplier shall comply fully at all time with all applicable laws and regulations, including but not limited to applicable anti-corruption laws, of Australia in which it conducts business with the Purchaser.
- (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 Australia 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 Australia) or to repay to the Purchaser any such compensation.

PREVENTION OF CORRUPTION – THIRD PARTY GUIDELINES

The Purchaser Corporate Policy 007 on Preventing Corrupt Practice and Maintaining Standards of Documentation ("**Purchaser Policy 007**") requires compliance with the highest ethical standards and all anti-corruption laws applicable in the countries in which the Purchaser (whether through a third party or otherwise) conducts business. The Purchaser Policy 007 requires all the Purchaser employees and any third party acting for or on behalf of the Purchaser to ensure that all dealings with third parties, both in the private and government sectors, are carried out in compliance with all relevant laws and regulations and with the standards of integrity required for all the Purchaser business. The Purchaser values integrity and transparency and has zero tolerance for corrupt activities of any kind, whether committed by the Purchaser employees, officers, or third-parties acting for or on behalf of the the Purchaser. **Corrupt Payments** – The Purchaser employees and any third party acting for or on behalf of the Purchaser, shall not, directly or indirectly, promise, authorise, ratify or offer to make or make any "payments" of "anything of value" (as defined in the glossary section) to any individual (or at the request of any individual) including a "government official" (as defined in the glossary section) for the improper purpose of influencing or inducing or as a reward for any act, omission or decision to secure an improper advantage or to improperly assist the company in obtaining or retaining business.

Government Officials – Although the Purchaser's policy prohibits payments by the Purchaser or third parties acting for or on its behalf to any individual, private or public, as a "quid pro quo" for business, due to the existence of specific anticorruption laws in the countries where we operate, this policy is particularly applicable to "payments" of "anything of value" (as defined in the glossary section), or at the request of, "government officials" (as defined in the glossary section).

Facilitating Payments – For the avoidance of doubt, facilitating payments (otherwise known as "greasing payments" and defined as payments to an individual to secure or expedite the performance of a routine government action by government officials) are no exception to the general rule and therefore prohibited.

GLOSSARY

The terms defined herein should be construed broadly to give effect to the letter and spirit of the Purchaser Policy 007. The Purchaser is committed to the highest ethical standards of business dealings and any acts that create the appearance of promising, offering, giving or authorising payments prohibited by this policy will not be tolerated.

Anything of Value: this term includes cash or cash equivalents, gifts, services, employment offers, loans, travel expenses, entertainment, political contributions, charitable donations, subsidies, per diem payments, sponsorships, honoraria or provision of any other asset, even if nominal in value.

Payments: this term refers to and includes any direct or indirect offers to pay, promises to pay, authorisations of or payments of anything of value.

Government Official shall mean:

- Any officer or employee of a government or any department, agency or instrument of a government;
- Any person acting in an official capacity for or on behalf of a government or any department, agency, or instrument of a government;
- Any officer or employee of a company or business owned in whole or part by a government;
- Any officer or employee of a public international organization such as the World Bank or United Nations;
- Any officer or employee of a political party or any person acting in an official capacity on behalf of a political party; and/or
- Any candidate for political office

In many countries in which the Purchaser conducts business, doctors and other healthcare providers may qualify as government officials because they are either (i) employed by a government-owned or funded hospital, clinic, university or other entity and/or (ii) receive funding, professional service fees or other remuneration from a government-owned or funded hospital, clinic, university or other entity.

18. ETHICAL STANDARDS AND HUMAN RIGHTS

Unless otherwise required or prohibited by law, the Supplier warrants that:

(a) it does not employ engage or otherwise use any child labour in circumstances such that the tasks performed by any such child labour could reasonably be foreseen to cause either physical or emotional impairment to the development of such child.

(b) it does not use forced labour in any form (prison, indentured, bonded or otherwise) and its employees are not required to lodge papers or deposits on starting work.

(c) it provides a safe and healthy workplace, presenting no immediate hazards to its employees, any housing provided by the Supplier to its employees is safe for habitation, and it provides access to clean water, food, and emergency healthcare to its employees in the event of accidents or incidents at the Supplier's workplace.

(d) it does not discriminate against any employees on any ground (including race, religion, disability or gender).

(e) it does not engage in or support the use of corporal punishment, mental, physical, sexual or verbal abuse and does not use cruel or abusive disciplinary practices in the workplace.

(f) it pays each employee at least the minimum wage, or a fair representation of the prevailing industry wage (whichever is the higher), and provides each employee with all legally mandated benefits.

(g) it complies with the laws on working hours and employment rights in the countries in which it operates.

(h) it is respectful of its employees right to join and form independent trade unions and freedom of association.

The Supplier shall ensure that it has ethical and human rights policies and an appropriate complaints procedure to deal with any breaches of such policies. GSK reserves the right upon reasonable notice (unless inspection is for cause, in which case no notice shall be necessary) to enter upon the Supplier's premises to monitor compliance by the Supplier of the warranties set out in this Section and the Supplier shall, subject to compliance with law, furnish GSK with any relevant documents requested by GSK in relation thereto.