

## GENERAL TERMS AND CONDITIONS

### 1. Parties & Applicability

- 1.1 These General Terms and Conditions are between Novartis Pharmaceuticals (HK) Limited (“**Novartis**”) and the Vendor of services and/or goods specified on the Purchase Order (“**the Vendor**”). These General Terms and Conditions shall be hereinafter referred to as this Agreement.
- 1.2 If there is a validly existing agreement covering the purchase of the services and/or goods on the Purchase Order, then the Purchase Order shall be governed by such agreement and this Agreement shall not apply.

### 2. Scope

- 2.1 Novartis appoints the Vendor as the non-exclusive vendor of services and/or goods as set out in the Purchase Order. Novartis does not represent or guarantee any minimum volume of purchase.
- 2.2 Novartis is entering into this Agreement on behalf of itself and for the benefit of its affiliates. Except for rights to terminate or enforce this Agreement, which are reserved for Novartis, references to Novartis will include reference to Novartis and/or Novartis affiliates according to the context.
- 2.3 Unless otherwise agreed in writing by Novartis, this Agreement will prevail over any other terms and conditions or purchase conditions provided by the Supplier, or any standard business terms attached to or referenced in a Novartis Purchase Order.

### 3. Confirmation of Purchase

The purchase will be confirmed via Novartis Purchase Order and the terms and conditions of this Agreement shall apply to any purchase not currently covered by a validly existing agreement signed by the parties.

### 4. Vendor’s Obligations

- 4.1 Novartis has put in place a Third Party Risk Management framework which is aimed at promoting the societal and environmental values of the United Nations Global Compact with specific third parties that Novartis deals with.
- 4.2 In performing this Agreement, the Vendor shall:
  - (a) comply with all applicable laws and regulations, including those related to anti-bribery and anti-corruption (such as, but not limited to, the US Foreign Corrupt Practices Act, the UK Bribery Act and the Prevention of Bribery Ordinance (Cap. 201 of the laws of Hong Kong));
  - (b) comply with all policies and guidelines to the Vendor by Novartis in relation to the Vendor’s activities under this Agreement from time to time including but not limited to **Novartis Third Party Code** (and any published updates) which can be viewed and downloaded from <https://www.novartis.com/about-us/corporate-responsibility/resources-news/codes-policies-guidelines> (the Vendor may request a copy free of charge from Novartis). In the event that Novartis issues additional guidelines or policies (or updates to existing guidelines or policies) in relation to the Vendor’s activities under this Agreement, Novartis will provide the Vendor with a link or a copy and the Vendor will duly comply with such guidelines and policies thereafter. The Vendor hereby confirms that it has read and understood the above mentioned Novartis’ policies and guidelines;
  - (c) having regard to Clause 12.6 of Novartis Third Party **Code** (and any corresponding provisions of any published updates), provide information/documentation on reasonable request to Novartis, its affiliated companies and respective representatives to allow Novartis to verify compliance with the Third Party Code in the form requested;
  - (d) to rectify identified non-compliances with Novartis Third Party Code (where capable of remedy) and report remediation progress to Novartis, its affiliated companies and respective representatives on request;
  - (e) ensure that where any affiliate and/or subcontractor/agent of the Vendor has been pre-approved by Novartis (in accordance with this Agreement) to perform this Agreement, that such third

- parties also comply with the above requirements relating to Novartis Third Party Code;
- (f) not promise, offer, pay, cause to pay, accept payment or induce payment or take any action that could be considered a bribe;
  - (g) comply with all applicable industry standards;
  - (h) comply with all applicable pharmaceutical industry codes (including but not limited to the Code of Practice of the HKAPI (Hong Kong Association of the Pharmaceutical Industry) which can be viewed and downloaded from <http://www.hkapi.hk/home/code-of-practice/> (the Vendor may also request a copy free of charge from Novartis);
  - (i) perform its obligations in a professional and competent manner using suitably qualified personnel;
  - (j) perform its obligations with high ethical and moral business and personal integrity standards;
  - (k) ensure it has all necessary rights, consents and approvals to perform its obligations under this Agreement, including any governmental, industry or employer approvals;
  - (l) at its own expense provide and control the necessary materials and facilities for the proper and efficient performance of this Agreement;
  - (m) perform this Agreement in a manner that does not cause Novartis to breach any applicable laws, regulations, licenses or codes of practice relevant to this Agreement (including anti-bribery or privacy laws);
  - (n) confirm and warrant that neither any deliverables or information, nor the performance of any services by the Vendor shall infringe upon or violate the rights of any third party and Novartis shall receive free and clear title to all works, materials, information and deliverables prepared and/or developed in connection with this Agreement; and
  - (o) confirm and warrant that Novartis shall have the right to use for its own purposes, any ideas, methods, techniques, materials and information provided to or otherwise obtained by Novartis as a result of this Agreement, without restriction, liability or obligation.

4.3 Where the Vendor or the Vendor's personnel fails to perform this Agreement to Novartis' reasonable satisfaction, the Vendor shall, at the Vendor' sole expense, remove or relocate the said personnel from performing this Agreement and provide a qualified replacement (to be approved by Novartis) to perform this Agreement.

4.4 If the Vendor receives an adverse event about Novartis products when performing this Agreement, it will report to Novartis Patient Safety ([safety.hk@novartis.com](mailto:safety.hk@novartis.com)) within **twenty-hour (24) hours** of becoming aware and cooperate with Novartis to follow up with the adverse event to enable Novartis to report adverse events in accordance with applicable laws and regulations.

4.5 If the Vendor receives a product quality complaint about Novartis products when performing this Agreement, it will report to Novartis QA team ([qa.hk@novartis.com](mailto:qa.hk@novartis.com)) within **one (1) business day** of becoming aware and cooperate with Novartis to follow up with the product complaint when needed.

4.6 The Vendor will ensure the Vendor's personnel, pre-approved subcontractors and affiliates are aware of and appropriately trained to comply with the terms of this Agreement, at no additional cost to Novartis. The Vendor will provide evidence to Novartis on request (e.g. provision of SOPs, work instructions and training records).

4.7 The Vendor acknowledges and agrees that Novartis Third Party Code forms an integral and material part of this Agreement. The Vendor's failure to adhere to comply with Novartis Third Party Code or any provisions under this Clause 4 shall constitute a material breach of the Vendor and entitle Novartis to terminate this Agreement forthwith by written notice without compensation to the Vendor.

## 5. Novartis' Obligations

Novartis shall use all reasonable endeavours to ensure that all data, information and material provided to the Vendor is sufficient and accurate for the Vendor's performance of this Agreement. In case the Vendor needs any additional data, information and/or material to perform this Agreement, the Vendor shall give reasonably and sufficiently clear instructions to Novartis within a reasonable timeframe in advance and in any event shall not delay any of the Vendor's performance obligations.

## 6. Fees

- 6.1 In exchange for the goods and/or services under the Purchase Order, Novartis will pay the Fees, subject to the satisfactory performance of the Vendor's obligations under this Agreement and completion of any associated deliverables in a timely and professional manner. For the purpose of this Agreement, time is of the essence.
- 6.2 Unless otherwise specified in this Agreement, the Fees are exclusive of VAT. All other taxes are the Vendor's responsibility.
- 6.3 Any pre-agreed third party expenses will comply with Novartis travel policy and be invoiced to Novartis at cost, without margin, overhead or administrative fee and supported by receipts.
- 6.4 The Fees are fixed and include all performances requirements of this Agreement.
- 6.5 Unless otherwise expressly specified in the Purchase Order, the Vendor will invoice monthly in arrears for delivered goods and/or completed performance of services under the Purchase Order during the previous month. The Vendor must provide to Novartis appropriate supporting documentation to substantiate the amount charged on request.
- 6.6 Unless otherwise stated on the relevant Purchase Order cover, Novartis will pay the Fees within ninety (90) days of upon receipt of the original correct, valid and undisputed invoice from the Vendor, subject to the satisfactory completion of associated deliverables.
- 6.7 Novartis will pay the undisputed portion of an invoice and will withhold payment on the disputed portion until resolved.

## **7. Vendor's Personnel**

In performing this Agreement, the Vendor is an independent contractor and that the Vendor itself and the Vendor's personnel used to provide any services or relating to any matters under this Agreement shall not represent itself or themselves as an agent or employee of Novartis. The Vendor is solely responsible to employ, engage, pay the Vendor's personnel (including any statutory employer's contributions) and the Vendor shall be responsible for all losses caused by the Vendor's personnel.

## **8. Confidentiality, Data Protection and Privacy**

- 8.1 During the term of this Agreement hereunder and thereafter, each party shall keep secure and neither party shall use, exploit, reveal or disclose to any person or entity any terms of this Agreement or any confidential or proprietary information provided by one party to the other party including, but not limited to trademarks, service marks, names and logos, details of customers or prospective customers, present or future activities of Novartis, and its associated companies and its and their customers, clients and the Vendor, except as necessary by either party in performing obligations hereunder, and no information concerning this Agreement shall be released publicly by the Vendor without the prior written approval by Novartis. Upon written request, each party shall return immediately to the other party all such information provided by that other party.
- 8.2 Novartis and the Vendor expect that this Agreement may include the processing of personal data, meaning any information or data in any form (including electronic and paper-based files) (a) relating directly or indirectly to a living individual; (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and (c) in a form in which access to or processing of the data is practicable. Both parties agree to comply with the Personal Data (Privacy) Ordinance (Cap. 486 of the laws of Hong Kong) and all applicable laws or regulations governing personal data protection ("**Data Protection Laws**").
- 8.3 To the extent this Agreement will include the processing of Personal Data falling within the scope of applicable Data Protection Laws by the Vendor or any Vendor subcontractors on behalf of Novartis, the Vendor agrees to comply with any data protection requirements together with any additional requirements for the processing of any personal data and/or any confidential data of Novartis, if applicable, as Novartis may reasonably require from time to time. The Vendor shall strictly comply with this Agreement and all requirements in applicable Data Protection Laws when collecting, processing or managing any personal information.

- 8.4 This Agreement may contain personal data such as names, identity card numbers, passport numbers, addresses, signatures, bank account details, photos and contact information etc. that identifies or describes one or more individuals, whether directly or indirectly. This Agreement and the personal data disclosed under this Agreement may be transferred to, stored or otherwise processed in other countries that have privacy and data protection laws that differ from those where this Agreement is executed or where the individual(s) resides. The personal data disclosed in this Agreement will be used for the purposes of performance, administration and enforcement of this Agreement, future interactions and/or dispute resolutions. Execution and delivery of this Agreement constitutes the representation by each party to this Agreement that the individuals identified have been notified of and have consented to the collection, transfer, storage and processing of such personal data, as described herein. The Vendor shall not use or disclose any data obtained during performance of this Agreement for any purpose other than those directly related to this Agreement. Any unused data shall be properly destroyed according to Novartis' specified guidelines.
- 8.5 The Vendor shall immediately inform Novartis of any unauthorized use, disclosure or security breach relating to Novartis' confidential or proprietary information or personal data disclosed by Novartis under this Agreement and shall use its best endeavours to cooperate with Novartis to mitigate and rectify any further unauthorized use, disclosure or security breach.
- 8.6 The obligations of the parties set forth in this Clause 8 shall survive any termination of this Agreement until the information is in the public domain, other than because of a breach of this Agreement by a party.

## **9. Intellectual Property**

- 9.1 This Agreement does not affect the pre-existing intellectual property rights of either party or any intellectual property rights created independently of this Agreement.
- 9.2 All materials, results, deliverables and outputs relating to this Agreement will be owned by Novartis ("**Created Material**"). The Vendor will ensure that all intellectual property rights in the Created Material are assigned to Novartis without further payment and that any moral rights in the Created Material are waived in favour of Novartis.
- 9.3 The Vendor warrants that the Created Material does not and will not infringe the intellectual property rights of any third party. The Vendor will indemnify Novartis from and against any liability, damages, costs, expenses or claims arising from any breach of this Clause by the Vendor or the Vendor's personnel or any approved subcontractors.
- 9.4 The Vendor shall not use Novartis' name, trade name, trademark, service mark, logos nor those of its associated companies, nor refer to or identify Novartis or any of its associated companies nor publicly divulge or use information pertaining to this Agreement, in any advertising or publicity releases or promotional or marketing activities or correspondence to others without Novartis' prior written approval.

## **10. Indemnity**

- 10.1 The Vendor agrees to indemnify and hold harmless Novartis and its affiliates from all claims, judgements, decrees, damages, losses, costs and expenses, including attorneys' fees and costs, arising from any suit or claim arising from or alleged to have arisen from:
- (a) a breach of this Agreement by the Vendor, its personnel, affiliates or any approved subcontractors;
  - (b) the Vendor's performance of any of its obligations under this Agreement;
  - (c) any actual or alleged infringement of any patent, copyright, service or trademark, or other intellectual or industrial property right (including, without limitation, misappropriation of trade secrets) in any manner arising out of or connected with the performance of this Agreement;
  - (d) any error, omission or negligence of the Vendor, its personnel, agents or subcontractors in the performance of this Agreement and/or relating to this Agreement; and
  - (e) the Vendor's failure to comply with any applicable laws or regulations relating to this Agreement.
- 10.2 The Vendor shall, at its own expense, defend and/or assist in defending any such claim or action

and will cooperate with Novartis to prevent or minimise any adverse impact to Novartis' business and operations.

## **11. Term and Termination**

11.1 This Agreement expires upon due performance of both parties' obligations under this Agreement, or at the latest, three (3) years after the Purchase Order (whichever is the earlier).

11.2 Either party may terminate this Agreement immediately by notice in writing if the other Party:

- (a) becomes bankrupt, insolvent or cannot pay its debts when due;
- (b) materially breaches this Agreement and the breach has not been remedied within thirty (30) days' written notice or cannot be remedied at all.

11.3 **Additional Termination Right.** In addition to and without prejudice to any other rights and remedies that may be available to Novartis:

- (a) Novartis may terminate this Agreement at any time, with immediate effect, by written notice to the Vendor, in the event that the Vendor breaches any provisions under Clause 4 Vendor's Obligations or the Vendor makes any material omission or misrepresentation of information in responding to the "**Questionnaire for Third Parties**" (completed before entering into this Agreement).
- (b) Novartis may also terminate this Agreement at its convenience with (30) days' written notice to the Vendor. If Novartis terminates for convenience, Novartis will pay for reasonable substantiated costs that are actually incurred or are non-cancellable at the termination date up to a maximum of the Fees that would have been payable.

11.4 Expiration or termination of this Agreement will not affect the accrued rights or liabilities of either party. For the avoidance of doubt, Clauses 8 and 9 shall survive the expiration or termination of this Agreement.

11.5 The Vendor will return all confidential information, personal data, created materials and Novartis resources not used in performing this Agreement, and provide copies of all reports and records.

## **12. Parties' Relationship**

The parties are independent and nothing in this Agreement implies any partnership, agency, joint venture or employment relationship between the parties, their affiliates or personnel or any approved subcontractors.

## **13. No Conflict of Interest**

13.1 If any competitive service is undertaken by the Vendor during the term of this Agreement, the Vendor shall conduct such competitive service in such a way that the proprietary nature of this Agreement is maintained and not disclosed to a competitor or any other third parties. The Vendor's confidentiality obligation under this Clause 13.1 and Clause 8 above shall survive termination of this Agreement.

13.2 During the term of this Agreement, the Vendor undertakes and warrants that it is free and will remain free from any commitments or conflicts of interest that would prevent the Vendor from performing any of its obligations to Novartis. In performing this Agreement, the Vendor shall not violate any prior or any other confidentiality agreement, employment contract or any other duty owed to any other third parties.

## **14. Notices**

14.1 Any notices must be in writing and sent to the party's address set out under the Purchase Order and shall be deemed received when delivered personally, when delivered by electronic means with proof of delivery, when delivered by courier with proof of receipt or five (5) business days from the date mailed, if sent by registered or certified mail.

14.2 Notice of a change in address shall be given in the manner set forth in this Clause with not less than seven (7) days' prior written notice.

**15. Amendment**

The terms of this Agreement may not be amended without the prior written consent of parties.

**16. No Subcontracting**

The Vendor shall not subcontract any of its obligations under this Agreement, without the prior written consent of Novartis. The Vendor remains responsible for any approved subcontractors' performance under this Agreement.

**17. No Assignment**

The Vendor shall not assign its rights and obligations under this Agreement without Novartis' prior written consent.

**18. Entire Agreement**

This Agreement sets out the entire agreement of the parties and supersede all prior agreements and undertakings relating to its subject matter.

**19. No Third Party Rights**

Other than Novartis, its affiliates and successors and permitted assigns and the Vendor, this Agreement shall not be construed as granting any rights to any third parties under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) or any other applicable laws.

**20. No Waiver**

No failure or delay on the part of either party to this Agreement in exercising any power or right under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of such power or right preclude any other or further exercise thereof or the exercise of any other power or right. No waiver by either party to this Agreement of any provision of this Agreement, nor of any breach or default, will be effective unless in writing and signed by the party against whom such waiver is to be enforced.

**21. Force Majeure**

21.1 Neither party shall be liable to the other for any loss or damage suffered by the other as a direct result of either party being prevented, hindered or delayed in the performance of its obligations under this Agreement by reason of any cause beyond that party's control including, but not limited to, any act, omission, circumstance, event or cause beyond the reasonable control of a party. It includes but is not limited to an act of God, peril of the sea, unavoidable accident of navigation, war (whether declared or not), sabotage, riot, insurrection, civil commotion, national emergency (whether in fact or law), martial law, fire, flood, cyclone, earthquake, landslide, explosion, power or water shortage, epidemic, quarantine, or legally enforceable order of governmental agency but excluding any act, omission, circumstance, event or cause occurring as a result of an act, omission, default or negligence of that party or its authorised agents or subcontractors.

21.2 The party affected by Force Majeure shall use all reasonable endeavours to perform its obligations under this Agreement.

**22. Severability**

Any term or provision of this Agreement that is determined by a court of competent jurisdiction to be invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement.

**23. Governing Law and Dispute Resolution**

This Agreement shall be governed by, interpreted and construed in accordance with the laws of Hong Kong. The parties hereto irrevocably submit to **the exclusive** jurisdiction of the Courts of Hong Kong.

**24. Headings**

The headings in this Agreement are inserted for convenience only and are not intended to affect the meaning of any of the provisions hereof.