

Terms and conditions for the purchase of Goods (Unlicensed)

1. Interpretation

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 12.4.

Contract: the contract between the Customer and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

Customer: Mawdsley-Brooks & Company Limited, or such other Mawdsley group company as shall be named in the Order.

Delivery Date: the date for collection or delivery of the Goods, as specified in the Order or, if no date is included, as agreed in writing between the parties.

Delivery Location: the address for delivery or collection of Goods as set out in the Order.

Goods: the products set out in the Order.

Good Distribution Practice: (a) current good distribution practice as described in Commission Guidelines on Good Distribution Practice of medicinal products for human use (2013/C 343/01) as updated or replaced from time to time; and (b) with respect to Great Britain, in place of or modifying the guidance described in point (a), any guidelines or principles published from time to time by the UK Regulatory Authority under regulation C17 of the Human Medicines Regulations 2012.

Good Manufacturing Practice: (a) current good manufacturing practice as described in Commission Directive 2003/94/EC and the guidance published by the Commission in EudraLex Volume 4, in each case as updated or replaced from time to time; (b) with respect to Great Britain, in place of or modifying the good manufacturing provisions described in point (a); (i) any regulations setting out principles and guidelines of good manufacturing practice that are made from time to time under regulation B17 of the Human Medicines Regulations 2012; and (ii) any guidelines or principles of good manufacturing practice published from time to time under regulation C17 of the Human Medicines Regulations 2012.

Mandatory Policies: the Customer's business policies and Supplier Code of Conduct, as provided to the Supplier and as amended from time to time.

Order: any purchase order for the Goods, sent by the Customer to the Supplier.

Specification: any specification for the Goods, agreed in writing by the Customer and the Supplier.

Supplier: the person or firm from whom the Customer purchases the Goods.

2. Basis of contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.

2.3 The Customer may make changes to these Conditions at any time, provided that the Conditions that apply to an Order will be those in force at the time the Order is accepted.

2.4 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing a written acceptance of the Order; and
- (b) the Supplier doing any act consistent with fulfilling the Order,

at which point the Contract shall come into existence.

3. The Goods

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose made known to the Supplier by the Customer, expressly or by implication;
- (c) in relation to manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after delivery (unless the Order specifies a longer period in which case the longer period shall apply); and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 The Supplier warrants that it holds, and undertakes to maintain, all the licences, authorisations and permits required to comply with its obligations under the Contract. The Supplier shall provide copies of all relevant licenses, authorisations and permits to the Customer upon request and immediately notify Customer of any changes or issues with regulatory compliance.

- 3.3 In relation to the sale of Goods comprising pharmaceutical or medicinal product, and without limitation to the foregoing:
- (a) the Supplier shall only supply Goods with at least seventy-five (75%) of unexpired full shelf life and at least twelve (12) months remaining. The Customer may reject any Goods which do not comply (without any liability) and the Supplier shall bear all costs associated with such rejection, including return shipping and disposal costs; and
 - (b) the Goods shall be manufactured, packaged and transported to the Customer in accordance with Good Manufacturing Practice and Good Distribution Practice.
- 3.4 In relation to the sale of Goods comprising hazardous goods, and without limitation to the foregoing:
- (a) the Supplier shall comply with all applicable international and domestic laws in relation to the packaging, labelling and carriage of such Goods;
 - (b) all such Goods shall be marked by the Supplier with applicable international danger symbol(s) and display the name of any hazardous material in English; and
 - (c) all documents provided by the Supplier in relation to such Goods must include, in English, a declaration of hazard, the name of the hazardous material and all relevant emergency information, in the form of written instructions, labels or markings.
- 3.5 The Supplier warrants that it owns all intellectual property rights in the Goods (including any packaging and marketing material used in connection with them) and has the right to supply such Goods to the Customer in accordance with the Contract.
- 4. Delivery**
- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - (b) each delivery of the Goods is accompanied by such paperwork and information as the Customer shall require; and
 - (c) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.
- 4.2 Unless the Order specifies otherwise, the Supplier shall deliver the Goods or make the Goods available for collection (as the case may be):
- (a) on the Delivery Date;
 - (b) at the Delivery Location; and
 - (c) during the Customer's normal business hours, or as instructed by the Customer.
- Delivery of the Goods shall be completed FCA (Incoterms 2020) at the Delivery Location unless otherwise stated in the Order.
- 4.3 Title in the Goods shall pass to the Customer upon completion of delivery.
- 4.4 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately.
- 5. Customer remedies**
- 5.1 If the Goods are not delivered on the Delivery Date, or do not comply with the warranties and undertakings in clause 3, then, without limiting any of its other rights or remedies, the Customer shall have the right to:
- (a) reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense; and
 - (b) require the Supplier to replace the rejected Goods, or to provide a full refund of the price (if paid);
- 5.2 These Conditions shall apply to any replacement Goods.
- 5.3 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.
- 6. Price and payment**
- 6.1 The price of the Goods shall be the price stated in the Order, or, if not included, the price set out in the Supplier's published price list in force as at the date of the Order.
- 6.2 The price of the Goods:
- (a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - (b) includes the costs of packaging, insurance and carriage of the Goods.
- 6.3 The Supplier may invoice the Customer for the Goods, plus VAT (if applicable), on or at any time after completion of delivery. The invoice shall include the date of the Order, invoice number, Customer's order number, Supplier's VAT registration number and any other documents that the Customer may reasonably require.

- 6.4 Unless otherwise stated in the Order or agreed between the parties, the Customer shall pay correctly rendered invoices by the end of the month, following the month in which a correctly rendered invoice is received by the Customer. Payment shall be made to the bank account nominated in writing by the Supplier.
- 6.5 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest will accrue each date at 4% a year above the Bank of England's base rate from time to time. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved on sums found or agreed to be due, from 7 days after the dispute is resolved until payment.
- 6.6 Without limiting any other rights or remedies, the Customer may set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier.
- 7. Indemnity**
- 7.1 The Supplier shall indemnify the Customer and keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including, but not limited to, any indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs and all other reasonable professional costs and expenses) (together the "Losses") suffered or incurred by the Customer as a result of or in connection with:
- (a) the use, sale or distribution of the Goods, or any product incorporating the Goods; and/or
 - (b) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights; and/or
 - (c) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this agreement by the Supplier, its employees, agents or subcontractors;
- except where such Losses are due to the negligence of the Customer, its employees, sub-contractors or agents.
- 7.2 This clause 7 shall survive termination of the Contract.
- 8. Insurance**
- During the term of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 9. Confidentiality**
- 9.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.2.
- 9.2 Each party may disclose the other party's confidential information:
- (a) to its employees, workers, officers, consultants, agents, subcontractors, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 9; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 10. Compliance with relevant laws and policies**
- 10.1 In performing its obligations under the Contract, each party shall:
- (a) comply with all applicable laws, statute and regulations from time to time in force; and
 - (b) comply with the Mandatory Policies.
- 10.2 Without limitation to the foregoing, the Supplier shall:
- (a) comply with all applicable laws, statutes, regulations and codes relating to anti-facilitation of tax, anti-bribery and anti-corruption and anti-slavery and human trafficking including without limitation the Criminal Finances Act 2017, the Bribery Act 2010 and the Modern Slavery Act 2015; and
 - (b) comply with the Data Protection Act 2018, UK GDPR and all applicable data protection laws when processing any personal data provided by the Customer. To the extent that the Supplier is required to process any personal data on behalf of the Customer in connection with the Contract, the Supplier shall prior to such processing enter into the Customer's data processing agreement and implement appropriate technical and organizational measures to ensure appropriate security of the data.

10.3 The Customer may immediately terminate the Contract for any breach of clause 10.

11. Cancellation and Termination

11.1 The Customer may cancel an Order in whole or in part at any time before acceptance of the Order with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work in relation to such Order.

11.2 The Customer may cancel an Order and terminate the Contract at any time, without any liability to the Supplier, if:

- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of the Supplier being notified in writing to do so;
- (b) the Supplier makes a voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction);
- (c) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier;
- (d) the Supplier ceases, or threatens to cease to carry on business; or
- (e) the Customer reasonably believes that any of the events mentioned above is about to occur in relation to the Supplier.

11.3 Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry.

11.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

12. General

12.1 Assignment and other dealings

- (a) The Customer may at any time assign any or all its rights or obligations under the Contract.
- (b) The Supplier may not assign or deal in any other manner with any or all its rights or obligations under the Contract without the prior written consent of the Customer.

12.2 **Subcontracting.** The Supplier may not subcontract any or all its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

12.3 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, warranties, representations and understandings between them relating to its subject matter.

12.4 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the Customer.

12.5 **Waiver.** No waiver by the Customer of any breach of the Contract shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.6 **Severance.** If any provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted. The parties agree that this shall not affect the validity of the rest of the Contract, and they shall negotiate in good faith to agree a replacement provision that achieves the commercial intention of the original provision.

12.7 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the address notified in writing to the other party.
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the relevant address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - (iii) if sent by email, at the time of transmission, or, if this falls outside 9.00am to 5.00pm on a Business Day, at 9:00am on the following Business Day.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

12.8 Third party rights.

The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

12.9 Governing law & Jurisdiction.

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract.