

## STANDARD PURCHASE ORDER TERMS & CONDITIONS SAUDI ARABIA

### 1. DEFINITIONS AND INTERPRETATION

1.1. These Terms and Conditions incorporate any contractual terms or master agreement between Purchaser and Supplier (or their respective Affiliates) governing the purchase of the Products and Services set out in the Purchase Order.

1.2. In these Terms and Conditions the following definitions apply:

**"Affiliates"** means any company, partnership or other entity which at any time directly or indirectly controls, is controlled by or is under common control with either Purchaser or Supplier, including without limitation, and by example only, as a subsidiary, parent, holding company or joint venture alliance partner;

**"Business Day"** means any day, other than Friday or Saturday, on which banks are open and conducting regular business in Riyadh, Kingdom of Saudi Arabia;

**"Confidential Information"** means any business, technical, operational, product, customer or personnel information of Purchaser, Supplier or their respective Affiliates, which is disclosed or obtained by the other in connection with the provision of the Products and/or Services;

**"Cure Date"** has the meaning set out in clause 10.2;

**"Data Protection Legislation"** means applicable law on the processing of personal data and on the free movement of such data;

**"Delivery"** means delivery of the Products and/or the performance of the Services, to the address specified for delivery in the Specifications or in the Purchase Order, as the case may be, and **"Delivered"** shall be construed accordingly;

**"Disclosing Party"** has the meaning set out in clause 11.1;

**"Documentation"** means the documentation relating to the Products and/or the Services, to be provided by Supplier under clause 6.1;

**"Force Majeure Event"** means strike, lock-out, labor dispute, act of God, war, riot, terrorism, civil commotion, malicious damage, compliance with law or

governmental order, rule, regulation or direction, accident, breakdown of plant, equipment or machinery, fire, flood or storm or any other event or circumstance outside of the reasonable control of a party;

**"Losses"** means all losses, claims, liabilities, costs, expenses and damages of any nature;

**"Personal Data"** has the meaning set out in the Data Protection Legislation;

**"Price"** means the amount in the relevant currency specified in the Purchase Order as the price for the Products and/or the Services;

**"Products"** means any item, goods, deliverable, materials or otherwise set out or referenced in the Purchase Order to be provided by Supplier pursuant to these Terms and Conditions;

**"Purchase Order"** means Purchaser's purchase order concerning the Products and/or Services to be delivered under these Terms and Conditions, with a unique identifying number;

**"Purchaser"** means the Bristol-Myers Squibb group company specified in the Purchase Order, which may include without limitation, Bristol-Myers Squibb Company, Bristol-Myers Squibb Pharmaceuticals Limited, Bristol-Myers Squibb Business Services Limited, ;

**"Purchaser's Personal Data"** has the meaning set out in clause 12.1;

**"Receiving Party"** has the meaning set out in clause 11.1;

**"Services"** means the services set out or referenced in the Purchase Order to be provided by Supplier pursuant to these Terms and Conditions and, including services to install or maintain the Products;

**"Specifications"** means Purchaser's statement of requirements concerning the scope and performance specifications applicable to the Products and/or Services;

**"Supplier"** means the party designated as such in the Purchase Order;

**"Terms and Conditions"** means these terms and conditions as amended from time to time;

**"VAT"** means any applicable value added tax, sales tax or any other similar tax;

**“Warranty Period”** means the period of 12 calendar months commencing on Delivery of the Products, unless a different warranty period is mandated by applicable law in which case such period shall be the warranty period for the Products.

1.3. In these Terms and Conditions, unless the context otherwise requires:

1.3.1. a reference to a person includes a body corporate, association or partnership and includes a reference to that person’s successors and permitted assigns;

1.3.2. **“party”** means either Purchaser or Supplier (as the case may be) and **“parties”** means both Purchaser and Supplier;

1.3.3. the word **“include”** or **“including”** is to be construed without limitation;

1.3.4. a reference to a clause is a reference to a clause of these Terms and Conditions;

1.3.5. clause headings are for reference only and do not affect the interpretation of these Terms and Conditions; and

1.3.6. all time periods in these Terms and Conditions shall be calculated by reference to the Gregorian calendar.

## 2. SCOPE

2.1 In exchange for Purchaser paying the Price, Supplier shall provide the Products and/or the Services in accordance with these Terms and Conditions.

2.2 Unless otherwise agreed in writing by Purchaser or set out in the Purchase Order, these Terms and Conditions shall prevail over any other terms and conditions, business terms, purchase conditions or order acknowledgement provided by the Supplier.

2.3 Supplier acknowledges that it provides the Products and/or the Services to Purchaser on a non-exclusive basis. Nothing in these Terms and Conditions shall restrict Purchaser’s ability to obtain products and/or services the same as or similar to the Products and/or Services from any third party.

2.4. Nothing in these Terms and Conditions commits or guarantees any future purchases of the Products and/or the Services.

2.5. The Products and/or the Services are purchased for the benefit of Purchaser and its Affiliates. Purchaser shall be entitled to enforce its right and the Supplier’s

obligations under these Terms and Conditions on its own behalf and on behalf of its Affiliates.

## 3. DELIVERY

3.1 Except as otherwise agreed in the Purchase Order or the Specifications, Supplier shall deliver the Products and/or the Services to Purchaser no later than 30 calendar days after the date of Supplier’s receipt of the Purchase Order. Time is of the essence in effecting Delivery.

## 4. PRICE, PAYMENT, RECORD AND AUDIT

4.1 Unless otherwise agreed in writing with Purchaser, the Price:

(a) is fixed and is not subject to any increased cost as a result of currency fluctuations;

(b) is inclusive of all requirements including without limitation all packing, labeling, customs, freight and transportation duties or charges;

(c) is exclusive or inclusive of VAT as stated in the Purchase Order and any applicable VAT shall be paid by the Purchaser at the prevailing rate prescribed by applicable law;

(d) to the extent that it requires the reimbursement of out-of-pocket expenses, such expenses shall be agreed by Purchaser in advance and the agreed out-of-pocket expenses shall be invoiced to Purchaser at Supplier’s cost without additional mark-up or margin; and

(e) constitutes fair market value for the Products and/or the Services and does not constitute bribery or any other form of inappropriate inducement according to and under applicable law.

4.2 Subject, where applicable, to the satisfactory completion of any milestones or unless an alternative invoicing schedule is agreed in writing by Purchaser, Supplier shall invoice the Price following Delivery and send such invoice to Purchaser’s nominated invoice address indicated on the Purchase Order. The Purchase Order unique identification number must be quoted on all Supplier invoices for the Products and/or the Services Delivered to Purchaser for payment to occur. Purchaser shall pay all invoiced amounts within the

allotted time frame as stipulated on the Purchase Order unless a discrepancy exists. If the payment due date falls on a day which is not a Business Day, then the payment due date shall be the first Business Day following the payment due date.

- 4.3 Purchaser may reasonably dispute the legal validity, accuracy or correctness of the invoice and may withhold payment on the disputed portion (including on the entire portion, where the legal validity of the entire invoice is disputed) until the dispute is resolved. Supplier shall provide Purchaser with the invoice and where applicable, such information as Purchaser may reasonably require to substantiate the Price.
- 4.4 Supplier will keep appropriate records related to the provision of the Services and Supplier will supply copies of such records or reports to Purchaser upon written request within 5 Business Days. Supplier will upon at least 2 weeks written notice also permit Purchaser or its agents to audit Supplier's records or performance of these Terms and Conditions and applicable laws. Supplier will cooperate and provide all reasonable assistance to Purchaser and its auditors under this clause.
- 4.5 Subject to applicable laws, Supplier will notify Purchaser of any unannounced regulatory inspection or audit relevant to these Terms and Conditions and will comply with Purchaser's reasonable instructions relating to the inspection. If Purchaser receives notice of a regulatory inspection or audit involving Supplier, then Purchaser will provide as much notice as reasonably possible. Supplier acknowledges that Purchaser may not receive prior notice.

## **5. TITLE AND RISK IN PRODUCTS**

- 5.1 Risk in the Products passes to Purchaser on Delivery. Full title to the Products free of prior rights or interests of any person, passes to Purchaser on payment of the Price (or portion of the Price) that corresponds to the Products actually Delivered.

## **6. DOCUMENTATION**

- 6.1 Supplier shall provide Purchaser with all documentation relative to the Products and/or Services customarily provided by Supplier or as otherwise agreed. All such documentation

shall be sufficient to enable Purchaser to receive the full benefit of the Products and/or the Services, including without limitation documentation sufficient to operate, to make full use of and/or to maintain the Products without further reference to the Supplier.

## **7. CANCELLATION, REJECTION AND OTHER PERFORMANCE FAILURES**

- 7.1 If the Products and/or Services fail to materially comply with the Specifications, the Purchase Order, and/or Supplier's published technical, functional or operational specifications, then without limitation to Purchaser's statutory rights upon Delivery or if Delivery is delayed by more than 7 calendar days after the due date for Delivery, then Purchaser may:
- (a) notify Supplier in writing that, with immediate effect, Purchaser terminates all or the relevant part of the Purchase Order for the Products and/or Services; or
  - (b) reject the affected Products or if in Purchaser's opinion the delay or failure is severe, all of the Products including those previously Delivered.
- 7.2 If Purchaser rejects or terminates all or part of the Products and/or Services under clause 7.1, Supplier shall accept the return and immediately credit or refund to Purchaser the total Price paid and any costs incurred by Purchaser in returning the Products to Supplier.

## **8. WARRANTIES AND INDEMNITIES**

- 8.1 Without limitation to any statutory rights or warranties according to applicable law, Supplier warrants that:
- (a) upon Delivery the Products and/or Services materially comply with the Specifications and the Purchase Order, and shall continue to materially comply with the Specifications and the Purchase Order during the Warranty Period;
  - (b) the Products conform to their description and are materially free from defects in design, materials, workmanship and installation;
  - (c) the Products are of satisfactory quality and reasonably fit for their purpose and use;

- (d) the Products are new and have not been used by any person, unless otherwise agreed in writing by Purchaser;
- (e) it will comply with all applicable laws in supplying the Products and/or Services;
- (f) the Products and/or Services will comply with all applicable laws, regulations and industry standards and Supplier's published technical, functional or operational specifications therefor;
- (g) will obtain and maintain any necessary authorizations and registrations required to provide the Services and/or Products;
- (h) has the necessary facilities, experience and expertise to provide the Services and/or Products;
- (i) will use suitably qualified personnel in accordance with applicable professional or industry standards;
- (j) Purchaser is not the employer of Supplier's personnel used to provide the Services and/or Products. Supplier is solely responsible for:
  - the employment or engagement of Supplier personnel;
  - arranging all required work visas and ensuring that all Supplier personnel hold the necessary work visas (in accordance with applicable Saudi labor and immigration laws) to enable them to provide the Services to Purchaser;
  - the payment of all related salary, benefits, redundancy, termination and end of service benefits;
  - pensions and taxes for Supplier personnel;
  - compliance with all GOSI requirements (where applicable) and will produce and submit to Purchaser all relevant GOSI certificates when requested to do so; and
  - any Losses caused by Supplier personnel;
- (k) the Products (and/or the Purchaser's and its Affiliates normal use of the Products) do not and will not at any time infringe the intellectual property rights of any third party;
- (l) it is not aware of any conflicts of interest which could materially adversely affect Supplier's ability to supply the Products

and/or Services as required by these Terms and Conditions; and

- (m) it has the full and unrestricted right to Deliver the Products and/or the Services in accordance with these Terms and Conditions and all applicable laws.

8.2 Supplier shall indemnify Purchaser from any Losses arising out of a breach by the Supplier of clause 8.1. In addition, if at any time during the Warranty Period, Supplier becomes aware or Purchaser notifies Supplier of any failure of the Products and/or the Services to comply with clause 8.1(a) – (f), Supplier shall promptly rectify that failure at no cost to Purchaser.

## 9. LIABILITY

9.1 Subject to clauses 9.2, 9.3 and 9.4, the maximum total liability of Purchaser to Supplier, and of Supplier to Purchaser, for any Losses arising out of or in connection with the provision of the Products and/or Services is limited to the total Price.

9.2 The liability of Supplier for the indemnification of any breach of the warranty set out in clause 8.1(k) shall not be limited by clause 9.1.

9.3 Neither Purchaser nor Supplier shall be liable to the other party in connection with these Terms and Conditions for any lost profits, lost customers, loss of anticipated savings, loss of software or data or any other consequential or indirect loss falling within the same category save where such losses arise due to the gross neglect, wilful misconduct or fraud of Supplier or its officers, agents, servants and employees.

9.4 Nothing in these Terms and Conditions excludes or limits either Supplier's or Purchaser's Losses for death or personal injury caused by its negligence or any other category of Losses which cannot be excluded or limited by applicable law.

## 10. TERM AND TERMINATION

10.1 These Terms and Conditions bind the Parties relative to the Delivery of the Products and/or Services. Clauses 8, 9, 11, 12, 13 and 14.2 shall survive the Delivery of the Products and/or Services.

10.2 If Purchaser has failed to pay an undisputed invoice for the Price by the due

date and Purchaser has not remedied that failure of payment within 14 calendar days of having receiving notice from Supplier of the failure and the request that such failure be remedied (the "**Cure Date**"), then Supplier may immediately cease further Delivery of the relevant Products or Services by notice in writing to Purchaser.

10.3 Purchaser may cancel the provision by Supplier of any Products and/or Services remaining to be supplied by Supplier to Purchaser immediately by notice in writing to Supplier:

- (a) in the circumstances of clause 7;
- (b) if Supplier is bankrupt or enters (voluntarily or involuntarily) into any sort of insolvency proceedings; and
- (c) if Supplier fails to deliver the Products and/or Services within the time period and quality requirements stated on the Specifications, as supplemented and/or clarified by the relevant Purchase Order, and fails to remedy such failure to Purchaser's satisfaction within 14 calendar days after receiving Purchaser's request to remedy such failure.

10.4 Any cessation or cancellation under clauses 10.2 and 10.3 shall not relieve Purchaser of the obligation to pay Supplier for the Products and/or Services provided prior to the effective date of such cessation, cancellation and termination.

10.5 Purchaser may terminate these Terms and Conditions at its convenience with 30 calendar days' written notice to Supplier. Under this clause, Purchaser will pay for reasonable substantiated costs actually incurred or that are non-cancellable at the termination date.

## 11. CONFIDENTIALITY

11.1 A party (the "**Receiving Party**") shall maintain in confidence the other party's (the "**Disclosing Party**") Confidential Information and, subject to the provisions of clause 11.2, shall not use the Confidential Information for any purpose without the Disclosing Party's prior written consent.

11.2 The Receiving Party may use, disclose and/or store the Disclosing Party's Confidential Information:

- (a) for the purpose of performing its obligations under these Terms and Conditions;
- (b) for any other purposes required by applicable law;
- (c) within its organisation and to its Affiliates or subcontractors on a "need to know" basis, provided all such recipients have executed a broad confidentiality undertaking with the Receiving Party sufficient to protect the Disclosing Party's Confidential Information in accordance with these Terms and Conditions.

11.3 For the avoidance of doubt, the obligations of confidentiality in this clause 11 do not apply to information that is:

- (a) in the public domain other than through a breach of clause 11.1 by the Receiving Party;
- (b) rightfully disclosed by a third party or known to Supplier prior to the date of the Purchase Order; or
- (c) required to be disclosed by law, regulation or by any applicable stock exchange listing rules.

## 12. DATA PRIVACY

12.1 In providing the Products and/or Services, Supplier shall comply with the Data Protection Legislation relating to Personal Data of Purchaser's or its Affiliates customers, personnel or consultants obtained by Supplier in connection with these Terms and Conditions (the "**Purchaser's Personal Data**").

12.2 Without limitation to clause 12.1, Supplier shall:

- (a) process Purchaser's Personal Data in only on the instructions of Purchaser and ensure that it is used only as necessary to carry out Supplier's obligations under these Terms and Conditions;
- (b) ensure that the Purchaser Personal Data is kept secure and is not subject to any unauthorised or unlawful processing, accidental loss, destruction or damage; and
- (c) ensure that no Purchaser Personal Data is transferred outside the territory covered by the Service and/or Product without complying with the local applicable privacy laws.

### 13. INTELLECTUAL PROPERTY

13.1 The intellectual property rights of Purchaser or Supplier, as the case may be, which exist on the date Supplier receives the Purchase Order, shall continue to be owned by or licensed to the party introducing such rights.

13.2 All intellectual property rights in the Products and/or the Services created specifically for and paid for by Purchaser under these Terms and Conditions as part of the Price, shall be assigned to Purchaser immediately upon their creation. The intellectual property rights are assigned for their worldwide exploitation, for the duration of term of protection and for all means, media, form or formats of exploitation, including the right to reproduce, use, adapt, modify, transform, publish, distribute, publicly perform and communicate, translate and to prepare derivative works or to assign, sell or license such rights on an exclusive or non-exclusive basis.

13.3 Supplier grants to Purchaser and its Affiliates a non-exclusive, perpetual (or other maximum term permitted by applicable law), fully paid-up licence to use, copy, and store any of Supplier's pre-existing intellectual property rights or third party rights, which form part of the Products and/or the Services and which are necessary for Purchaser to receive the benefit of the Products and/or Services.

13.4 Supplier shall, at Purchaser's request, do all acts and execute all documents reasonably required to enable Purchaser to obtain the full intended benefit of this clause 13.

13.5 Any use by Supplier of Purchaser's or its Affiliates' business or product names, logos and trademarks requires the prior written consent of Purchaser. All such names, logos and trademarks shall remain the exclusive property of Purchaser, its Affiliates and their licensors, as the case may be.

### 14. MISCELLANEOUS

14.1 These Terms and Conditions supersede any prior, and shall apply without regard to any subsequent, understandings, discussions or agreements relating to the same subject

matter, as well as any standard terms and conditions of Supplier.

14.2 These Terms and Conditions are governed by the laws and regulations of the Kingdom of Saudi Arabia. Any dispute, controversy or claim arising out of or relating to these Terms and Conditions or any breach, termination or invalidity thereof, shall be fully resolved by and are subject to the exclusive jurisdiction of the courts of the Kingdom of Saudi Arabia.

14.3 These Terms and Conditions may be amended from time to time by Purchaser unilaterally by notice in writing to the Supplier. Any amendments of these Terms and Conditions shall apply only to orders for Products and/or Services placed after the effective date of such amendment.

14.4 Supplier may not assign, transfer, subcontract or novate its obligation to supply the Products and/or Services pursuant to, or its rights arising from, these Terms and Conditions. Purchaser may assign, transfer or novate its rights and obligations pursuant to or arising from these Terms and Conditions upon written notice to Supplier of the occurrence of such assignment, transfer or novation. In the event that Purchaser consents (such consent to be at the sole discretion of Purchaser) to Supplier subcontracting part or all of its obligations to supply the Products and/or Services under these Terms and Conditions, Supplier shall remain fully responsible to Purchaser for the performance of its obligations under these Terms and Conditions and shall ensure that any permitted subcontractor fully complies with Supplier's obligations hereunder.

14.5 If any provisions of these Terms and Conditions shall be held to be illegal, invalid or unenforceable in whole or in part, the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

14.6 A failure to exercise or delay in exercising a right or remedy provided for in these Terms and Conditions or by applicable law does not constitute a waiver of that or any other right or remedy. No single or partial exercise of a right or remedy provided by these Terms and Conditions or by applicable law shall prevent a further

exercise of the right or remedy or the exercise of any other right or remedy.

any governmental order or by any applicable stock exchange listing rules.

14.7 Supplier and Purchaser are independent contractors and neither they nor their respective personnel are in a partnership, joint venture, employment or agency relationship as a result of or in connection with the supply of the Products and/or the Services.

14.8 Except as expressly specified herein, no any third party shall have any benefit or right arising from these Terms and Conditions.

14.9 Neither Purchaser nor Supplier will be liable for any Losses arising directly or indirectly from the failure or delay in performing its respective obligations under these Terms and Conditions to the extent and for the duration that such failure or delay is caused by a Force Majeure Event.

14.10 Purchaser takes seriously its compliance and ethics responsibilities and seeks to do business only with third parties who share Purchaser' high standards of ethical behavior. To that end, Purchaser has adopted Standards of Business Conduct and Ethics for Third Parties ("**3P Standards**"). Purchaser encourages the Supplier to comply with the elements of the 3P Standards that apply to the Supplier. The 3P Standards are available at

[http://www.bms.com/ourcompany/compliance\\_ethics/Pages/default.aspx](http://www.bms.com/ourcompany/compliance_ethics/Pages/default.aspx)

14.11 Any notices must be in writing and will be deemed received when delivered personally, when delivered by electronic means with proof of delivery or 5 Business Days from the date mailed, if sent by registered or certified mail.

14.12 Neither party will make any press release or other public disclosure regarding these Terms and Conditions and any Products and/or Services supplied thereunder except that (a) the parties agree that Purchaser will be entitled to publicly disclose in the appropriate forum or media (including website) these Terms and Conditions, the Products and/or Services and any fees and expenses for transparency purposes, in accordance with applicable laws, regulations and industry codes; and (b) as may required under any applicable law or regulation, by