

## **GENERAL PURCHASE CONDITIONS OF ASTRAZENECA B.V.**

AS FILED ON 3<sup>TH</sup> NOVEMBER 2011 AT THE REGISTRY OF THE DISTRICT COURT OF THE HAGUE UNDER NO. 81/2011

### **Clause 1 – Definitions**

In these General Purchase Conditions the following definitions apply:

AstraZeneca means AstraZeneca B.V. and/or its affiliated companies;

Supplier means any party that supplies goods to AstraZeneca or performs or has agreed with AstraZeneca to perform services for it, and any party to which AstraZeneca has given an instruction of another nature;

Agreement means all agreements between AstraZeneca and the Supplier relating to the purchase of goods and/or services by AstraZeneca from the Supplier, and to any other instruction given by AstraZeneca to the Supplier, as well as all acts or juridical acts relating to the foregoing.

### **Clause 2 - Applicability**

- 2.1 These General Purchase Conditions are applicable to all requests, quotations, offers, instructions, purchase orders, order confirmations, agreements and other juridical acts with respect to the supply of goods, the performance of services, the execution of instructions and the performance of other activities by the Supplier for AstraZeneca.
- 2.2 Any modification of or addition to these General Purchase Conditions shall be valid only if expressly agreed in writing.
- 2.3 General conditions of the Supplier, however described, are expressly excluded from applicability.
- 2.4 If the substance of the Agreement differs from the substance of these General Purchase Conditions, the substance of the Agreement shall prevail.

### **Clause 3 - Conclusion of the Agreement**

- 3.1 Quotations / offers / etc. originating from the Supplier shall be irrevocable, unless the quotation / offer / etc. unambiguously shows that it is without obligation or engagement and subject to contract.
- 3.2 No Agreement between AstraZeneca and the Supplier will have come into being until AstraZeneca has expressly accepted a quotation / offer from the Supplier in writing and has issued a purchase order.
- 3.3 Oral orders / instructions shall only be binding on AstraZeneca if they have been confirmed by AstraZeneca in writing.

3.4 All costs involved in preparing a quotation / offer shall be borne by the Supplier.

#### **Clause 4 – Prices**

4.1 Unless expressly otherwise agreed in writing, agreed prices are inclusive of all costs and inclusive of all taxes and levies.

4.2 If the Supplier exercises a power to increase prices agreed between the parties or conferred on the Supplier by any statutory provision, AstraZeneca may dissolve the Agreement (including these General Purchase Conditions) without any notice of default and without being liable in damages.

#### **Clause 5 – Delivery of Goods**

5.1 Goods shall be delivered in the manner and at the time stated in the order / instruction / Agreement.

5.2 The Supplier shall be in default by the mere failure to meet an agreed time limit for the delivery or partial delivery of goods.

5.3 Unless otherwise agreed in writing, the Supplier shall not make partial deliveries. If the parties have agreed that partial deliveries will be made, then for the purposes of these General Purchase Conditions the term delivery includes a partial delivery.

5.4 Overruns or underruns shall only be accepted if this has been expressly agreed in writing.

5.5 The term delivery includes the delivery of all accompanying auxiliary materials and all accompanying documentation.

5.6 A delivery shall be completed at the moment when delivery has been taken of the goods by or on behalf of AstraZeneca and AstraZeneca has signed in acknowledgement of receipt. Such signing leaves intact the possibility of the delivered goods being rejected pursuant to Clause 7 of these General Purchase Conditions. Furthermore, the Supplier cannot derive any right whatsoever from the signing referred to in the first sentence of this paragraph (5.6) and such signing will therefore not prevent AstraZeneca (for example) from exercising its rights on account of *inter alia* a failure on the part of the Supplier.

5.7 The Supplier shall not be entitled to suspend its obligation to deliver if AstraZeneca fails to fulfil any of its obligations.

#### **Clause 6 – Performance of Services**

6.1 Services shall be performed in the manner and at the time stated in the order / instruction / Agreement.

6.2 The Supplier shall be in default by the mere failure to meet an agreed time limit for performing services.

- 6.3 The provision of services shall have been completed at the moment when AstraZeneca has confirmed in writing that the services have been performed or that it has approved the services performed. The Supplier cannot derive any right whatsoever from this confirmation or approval and the confirmation or approval will therefore not prevent AstraZeneca (for example) from exercising its rights on account of *inter alia* a failure on the part of the Supplier.
- 6.4 The Supplier shall not contract out the performance of services to third parties except with the prior written permission of AstraZeneca.
- 6.5 The Supplier is responsible for, and shall ensure the availability of the auxiliary materials, personnel and/or third parties to be used or engaged for the purposes of the services to be performed.
- 6.6 The Supplier shall not be entitled to suspend the performance of services in the event that AstraZeneca should fail in the performance of any of its obligations.

#### **Clause 7 – Inspection**

- 7.1 AstraZeneca may at all times inspect or cause the inspection of the goods delivered or to be delivered, or examine whether the supplied services have been carried out in conformity with the Agreement and these General Purchase Conditions. The Supplier shall give its full cooperation to such inspection or examination.
- 7.2 If any goods are rejected, AstraZeneca shall notify the Supplier. AstraZeneca shall store the rejected goods or cause them to be stored at the Supplier's expense and risk. If the Supplier has not taken back the rejected goods within 14 days after AstraZeneca notifies the Supplier that the delivered goods have been rejected, AstraZeneca may without the Supplier's permission return these goods to Supplier at the latter's expense and risk. If the Supplier refuses to take delivery of the goods, AstraZeneca may either store these goods at the Supplier's expense and risk, or sell or destroy them.
- 7.3 The Supplier cannot derive any right from an inspection or examination referred to in Clause 7.1. or from the fact that no such inspection or examination has taken place.

#### **Clause 8 – Ownership and Risk**

- 8.1 The ownership and risk of the goods shall pass from the Supplier to AstraZeneca at the time of delivery, unless (i) it is otherwise agreed or (ii) the goods are rejected by AstraZeneca at the time of or after their delivery (pursuant to Clause 7 of these General Purchase Conditions).
- 8.2 The Supplier warrants that AstraZeneca acquires the unencumbered ownership of the goods.

8.3 The Supplier hereby waives all rights and powers it has on the strength of the right of retention or the right of recovery.

### **Clause 9 – Packaging and Shipment**

9.1 The Supplier shall pack the goods at its expense with due observance of the requirements imposed by or pursuant to statute and in a manner that is appropriate for the goods. The Supplier shall be liable for any damage caused by insufficient or inadequate packaging.

9.2 Each shipment shall be accompanied by a packing list.

9.3 The Supplier shall take back packing material on AstraZeneca's demand.

9.4 Packaging or loaned packaging will be returned at the Supplier's expense and risk to a destination to be stated by it.

### **Clause 10 – Payment**

10.1 Payment shall be made within 30 days after delivery of the goods or performance of the services, provided that the goods delivered or the services performed have been approved and after receipt of all accompanying documentation including the comprehensive invoice, correctly addressed. The invoice shall always state a purchase order number.

10.2 If the Supplier fails to discharge or fully discharge any obligation under the Agreement or under these General Purchase Conditions, AstraZeneca may suspend its obligation to pay the Supplier.

10.3 Payment by AstraZeneca shall in no way whatsoever imply a waiver of any right.

10.4 AstraZeneca may at all times set off any claim of the Supplier on AstraZeneca against claims which AstraZeneca has on the Supplier on any account whatsoever.

### **Clause 11 – Guarantee**

11.1 The Supplier guarantees that the goods to be delivered or the services to be performed will conform to the Agreement and these General Purchase Conditions. This Supplier shall in event guarantee that:

- the goods have the promised properties;
- the goods are new and free of defects and unencumbered by rights of third parties;
- the goods or services are suitable for the purpose for which the instruction/order was placed or for which the Agreement was concluded;
- the services will be carried out competently and without interruption;
- the goods or services meet the requirements laid down by or pursuant to law and/or applicable self-regulatory rules, *inter alia* in regard to quality, health, safety, the environment and advertising;

- the goods bear a designation of the manufacturer or the person marketing the goods; and that
  - the goods bear and are accompanied by all information and instructions which are necessary for their correct and safe use.
- 11.2 If it is found - regardless of the results of earlier inspections - that goods which have been delivered do not satisfy the stipulations of the first paragraph, the Supplier shall at its expense and on AstraZeneca's demand repair or replace the goods or make good what is missing, at the option of AstraZeneca, unless AstraZeneca prefers dissolving (*ontbinden*) the Agreement in accordance with the provisions of Clause 17 of these General Purchase Conditions, all the above without prejudice to AstraZeneca's other rights on account of default (including the right to damages). All costs to be incurred in this connection (including the cost of repair and disassembly) shall be borne by the Supplier.
- 11.3 In urgent cases and in cases where it will reasonably have to be assumed following consultation with the Supplier that the Supplier will fail to perform its guarantee obligations, AstraZeneca shall have the right to carry out the repair or replacement itself or to have the same carried out by third parties at the Supplier's expense. This shall not release the Supplier from its obligations under the Agreement and these General Purchase Conditions.
- 11.4 The guarantee period shall be five years after the delivery of the goods or the performance of the services, unless otherwise agreed in writing.
- 11.5 An agreed guarantee period shall begin to run anew after the acceptance of a repair, replacement or supplemental delivery to which the Guarantee Clause applies.

## **Clause 12 – Improper Advantage**

- 12.1 The Supplier declares, shall see to it and guarantees that:
- he when performing the Agreement will not in any improper or unlawful manner (have others) promote or (have others) bring about any improper advantage for AstraZeneca by inter alia – whether directly or indirectly – offering (or having others offer), promising (or having others promise), paying (or having others pay), donating (or having others donate), or accepting (or having others accept) any offer, promise or donation of any amount of money or any other advantage of which the value can be expressed in money. This also concerns any form of improper advantage in favour of inter alia government officials, medical professionals, medical organizations, patients, suppliers, charities, patient associations - both individually and in any organized form – for the purposes of obtaining (or having others obtain) turnover or sales, or securing (or having others secure) any improper advantage for AstraZeneca;
  - he has not made (or had others make) any of the abovementioned offers, promises, payments, donations or promises before entering into the Agreement.

12.2 The Supplier shall be held to impose the obligations referred to in Clause 12.1 to its (executive or subordinate) employees or third parties called in by him in the performance of the Agreement. The Supplier guarantees that the aforesaid employees/third parties will not act in breach of the relevant obligations.

### **Clause 13 – Confidentiality**

13.1 The Supplier shall keep absolutely secret all information (including ideas, knowledge, trade secrets, data, procedures, substances, samples and the like) which comes to its knowledge in connection with the Agreement and its performance and which AstraZeneca has designated to be confidential or which the Supplier can reasonably assume to be confidential ("Confidential Information"). The Supplier shall restrict access to Confidential Information to the persons who need to know this information for the purposes of the Agreement and/or its performance. Except with the prior written permission of AstraZeneca the Supplier shall not disclose or make public the Confidential Information or any part thereof to any person, firm, company or other entity and the Supplier shall not use the Confidential Information or any part thereof for any other purpose than for the Agreement and/or its performance.

13.2 The obligation to observe secrecy of Clause 13.1 does not apply to information of which the Supplier can prove supported by documentary evidence that it:

- was fully in its possession prior to disclosure by AstraZeneca without the Supplier having an obligation to observe secrecy toward AstraZeneca or a third party; or
- already was or subsequently came to be common knowledge or available at the time of disclosure by AstraZeneca, otherwise than by an act or omission of the Supplier; or
- was acquired by the Supplier from a third party who was not bound to keep this information secret; or
- was developed independently by the Supplier without any use of information disclosed by AstraZeneca; or
- must be disclosed by the Supplier pursuant to the law, any provision or regulation of a body approved by the government, or a binding and final decision of a court or other public authority. In such case the Supplier shall give AstraZeneca timely written notice in order to make it possible, in consultation with AstraZeneca, to limit the extent of the disclosure by the Supplier to what is strictly required .

13.3 The Supplier shall impose the same obligation as that imposed on it by Clause 13.1 on its employees or third parties it has engaged in the performance of the Agreement. The Supplier warrants that these employees / third parties will not act in violation of the obligation of secrecy.

### **Clause 14 - Intellectual Property**

14.1 If any goods delivered and/or services performed by the Supplier, including the accompanying documents, are subject to intellectual property rights which the

Supplier can prove already existed before the Agreement became effective and were held by the Supplier, or were developed independently of the Agreement and its performance, these intellectual property rights shall vest in the Supplier. The Supplier grants AstraZeneca a nonexclusive, perpetual, worldwide and transferable right of use with respect to such intellectual property rights for any purpose connected with AstraZeneca's business or activities. This right of use of AstraZeneca shall include the right to grant the same right of use to its customers or potential customers or to other third parties with which it maintains a relationship in connection with the operation of its business.

- 14.2 The Supplier guarantees that the use (including the resale) of the goods delivered or services performed by it do not infringe any intellectual property rights or other rights or property rights of third parties.
- 14.3 The Supplier shall indemnify AstraZeneca against all claims from third parties arising from any infringement of the rights mentioned in Clause 14.2 of these General Purchase Conditions and the Supplier shall compensate AstraZeneca for all damage resulting therefrom.
- 14.4 All drawings, materials and other auxiliary materials provided by AstraZeneca or made or purchased by the Supplier at the expense of AstraZeneca, are the property of AstraZeneca and may at all times be claimed by AstraZeneca without notice. The Supplier shall administer all these auxiliary materials and keep them in good condition at its own expense and risk. It shall not use them for, or allow them to be used by third parties except with the written authorization of AstraZeneca. Clause 13 applies *mutatis mutandis* to all auxiliary materials referred to in this Clause 14.4.
- 14.5 All intellectual property rights relating to all materials, processes, data, drawings, information, reports, know-how, inventions, trade secrets, improvements, techniques and other results, together with all accompanying documentation, which come into existence in connection with or as a result of any relationship (including the Agreement) between AstraZeneca and the Supplier shall vest exclusively in AstraZeneca from the moment of their coming into existence. To the extent necessary the Supplier irrevocably transfers in advance all such intellectual property rights to AstraZeneca and for no consideration, which transfer AstraZeneca accepts. If the situation arises that an instrument or other formal act is required for any such transfer or entry in relevant registers, the Supplier hereby commits itself to cooperate unconditionally in such act or, respectively, hereby grants irrevocable power of attorney to AstraZeneca to cause such transfer or entry (or other formal act) to be effected.

#### **Clause 15 - Liability**

- 15.1 Any failure of the Supplier to perform its obligations shall give AstraZeneca the right to demand that the Supplier fully or partly remedy the failure in the performance and/or the consequences thereof at the Supplier's risk and expense.

- 15.2 The Supplier shall be liable for any and all damage suffered by AstraZeneca as a result of any failure of the Supplier to fulfil its obligations and/or as a result of any act or omission of the Supplier or its employees or third parties engaged by it. The Supplier shall be liable for both direct and consequential damage.
- 15.3 Without prejudice to the provisions set forth in Clause 14.3, the Supplier shall indemnify AstraZeneca against all claims of third parties in connection with the Agreement concluded between AstraZeneca and the Supplier.
- 15.4 The Supplier shall take out and maintain adequate insurance for the liability referred to in this Clause 15, and shall allow AstraZeneca to inspect the policy if it so desires. This obligation to insure also extends to auxiliary materials involved in the performance of the Agreement in any way whatsoever.
- 15.5 AstraZeneca shall not be liable for any damage suffered on the part of the Supplier, unless the damage results from intent or wilful recklessness exclusively on the part of AstraZeneca's executive staff.

#### **Clause 16 – Force Majeure**

- 16.1 In case of force majeure on the part of either party the performance of the Agreement shall be fully or partly suspended for as long as the situation of force majeure continues, without either party being liable to pay any compensation to the other party. If the situation of force majeure continues for more than thirty (30) days, the other party will be entitled to dissolve (*ontbinden*) the Agreement with immediate effect by registered letter and without recourse to the courts, without this giving rise to any right to compensation. Force majeure on the part of the Supplier shall in any case not include: lack of personnel, strikes, breach of contract by third parties engaged by the Supplier, failure of auxiliary materials, liquidity or solvency problems of the Supplier.

#### **Clause 17 – Dissolution (*ontbinding*)**

- 17.1 AstraZeneca may, at its option, fully or partly suspend the performance of the Agreement or dissolve the Agreement in full or in part by written notice without recourse to the courts (with immediate effect and without AstraZeneca being liable to pay any compensation) in the event that:
- the Supplier fails to fulfil any of its obligations under the Agreement and/or these General Purchase Conditions;
  - the Supplier applies for or is granted suspension of payments, or an application for the Supplier's liquidation is filed or a liquidation order is issued against the Supplier;
  - a guardian or administrator is appointed over the Supplier;
  - the Supplier's enterprise is sold or discontinued;
  - permits which are required for the performance of the Agreement are revoked; or
  - attachment is made on a significant part of the Supplier's operating assets.

17.2 All claims which AstraZeneca may have or come to have against the Supplier in the situations mentioned in Clause 17.1 shall be immediately due and payable in full.

### **Clause 18 – Assignment**

18.1 The Supplier may not assign any of its rights and obligations under the Agreement and these General Purchase Conditions to third parties without the prior written permission of AstraZeneca.

18.2 The Supplier may not contract out the performance of any of its obligations under the Agreement and these General Purchase Conditions to third parties without the prior written permission of AstraZeneca.

### **Clause 19 – Corporate Responsibility**

19.1 AstraZeneca does business with parties that observe its business policy as set out in the documents entitled "Corporate Responsibility", "Code of Conduct" and "SHE Regulations". On request AstraZeneca will send the Supplier the most recent versions of these documents. The Supplier affirms and warrants that it will comply with all legislation and regulations when carrying out the orders placed by AstraZeneca, including but not limited to all legislation and regulations on safety, health, the environment, fair labour conditions and all anti-discrimination rules.

### **Clause 20 – Invalidity of one or more Provisions**

20.1 The invalidity of any provision of the Agreement and/or these General Purchase Conditions shall not affect the validity of the other provisions of the Agreement and/or these General Purchase Conditions.

20.2 If and to the extent that any provision of the Agreement and/or these General Purchase Conditions is invalid, or is unacceptable in the given circumstances according to criteria of reasonableness and fairness, a provision shall apply between the parties which is acceptable considering all the circumstances.

### **Clause 21 – Applicable Law and Jurisdiction**

21.1 The legal relationship between AstraZeneca and the Supplier is governed exclusively by Dutch law, to the exclusion of the Vienna Sales Convention.

21.2 All disputes between AstraZeneca and the Supplier shall be settled by the competent court of Amsterdam, the Netherlands.

### **Clause 22 – Final Provision**

22.1 The Dutch text of these General Purchase Conditions constitutes the sole authentic text. In the event of any differences between the Dutch text and any translation thereof into any foreign language, the Dutch text shall prevail.