

SUMITOMO PHARMA AMERICA HOLDINGS, INC.

TERMS AND CONDITIONS FOR PURCHASE ORDER

1. Orders, Acceptance, Entire Agreement and Modification: The purchase order, together with these terms and conditions, and any attachments and exhibits, specifications, drawings, notes, instructions and other information, whether physically attached or incorporated by reference (collectively, "Purchase Order"), constitutes the entire and exclusive agreement between Sumitomo Pharma America Holdings, Inc. or any of its affiliated companies (collectively, "SMPA"), and the supplier and/or service provider ("Provider") identified in the Purchase Order. All sales of products ("Products") and provision of services ("Services") by Provider, its agents, employees, and subcontractors to SMPA are subject to these terms and conditions, and SMPA's submission of the Purchase Order is conditioned on Provider's agreement that any terms different from or in addition to the terms of the Purchase Order, whether communicated orally or contained in any purchase order confirmation, invoice, acknowledgement, release, acceptance or other written correspondence, irrespective of the timing, shall not form a part of the Purchase Order, even if Provider purports to condition its acceptance of the Purchase Order on SMPA's agreement to such different or additional terms. Provider's electronic acceptance, acknowledgement of this Purchase Order, or commencement of performance constitutes Provider's acceptance of these terms and conditions. No change to or modification of the Purchase Order shall be binding upon SMPA unless signed by an authorized representative of SMPA's procurement or purchasing office. This writing does not constitute a firm offer within the meaning of Section 2205 of the Massachusetts Uniform Commercial Code, and may be revoked at any time prior to acceptance. Notwithstanding the foregoing, if a master agreement covering procurement of the Products or Services described in the Purchase Order exists between Provider and SMPA, the terms of such master agreement shall prevail over any inconsistent terms herein.

2. Packing, Shipment and Delivery: All Products shall be prepared and packed for shipment in a manner that will protect it from loss or damage in transit and in accordance with best commercial practices in the absence of any specifications SMPA may provide. Without limiting the foregoing, Provider shall observe the requirements of any local laws and regulations relating to hazardous products, including, without limitation, with respect to its accompanying information, packing, labeling, reporting, carriage and disposal. SMPA is not liable for extra charges for packing, cartage or any other expense related thereto unless stated in this Purchase Order. Provider shall mark this Purchase Order number on each container. Deliveries shall be strictly in accordance with the schedule set out or referred to in this Purchase Order and in exact quantities ordered and made to SMPA at its designated delivery location set forth in the Purchase Order. Time is of the essence for this Purchase Order. Shipments in excess of quantities or in advance of schedule delivery dates as shown herein are not to be made without SMPA's prior written approval. SMPA reserves the right to return at Provider's expense any shipments received contrary to this instruction. Unless otherwise noted on the Purchase Order, Provider assumes responsibility for all shipping and delivery charges including, without limitation, customs, duties, costs, taxes and insurance. Title and risk of loss passes to SMPA upon acceptance in accordance with paragraph 6.

3. Cancellation: SMPA reserves the right to cancel this Purchase Order, or any part thereof, at any time, even though Provider is not in default hereunder, by giving written notice to Provider in the event of such cancellation. SMPA shall pay for all Products and Services delivered and completed and an equitable settlement shall be arrived at for the costs incurred by Provider for Products and materials in-process not to exceed the aggregate committed quantity and/or price specified in this Purchase Order. Upon receipt of any notice of cancellation hereunder, Provider, unless otherwise directed, will immediately discontinue all work-in-progress and immediately cancel all orders or subcontracts given or made pursuant to this Purchase Order. Exercise by SMPA of the rights of cancellation reserved in this paragraph shall give rise to no liability on the part of SMPA except as specified in this paragraph and shall not have the effect of waiving damages SMPA might otherwise be entitled to.

4. Specifications and Changes: If drawings, blueprints or specifications are furnished by SMPA to Provider, this Purchase Order shall be based upon such drawings, blueprints or specifications, and approval of samples by SMPA shall not relieve the Provider from strict and full compliance with such drawings, blueprints or specifications. SMPA may make changes in the drawings, blueprints and specifications on any item at any time. If such changes result in delay or additional expense to Provider, an equitable adjustment of price and delivery schedule will be made. Provider shall not change the material, the source of the material, the process or components used in producing the material, the specifications, inspection and/or tests used, or any contractors/sub-contractors without advance notification to, and written approval by, SMPA.

5. Pricing and Payment: All Products and Services will be invoiced at pricing set forth on the Purchase Order. Unless otherwise specified in the Purchase Order, the pricing includes all taxes and other charges such as shipping and delivery charges, duties, customs, tariffs, imposts and government-imposed surcharges. All invoices shall be accompanied by a copy of the bill of lading for collect freight shipments and by a prepaid freight bill if all or any part of the freight is included on the face of the invoice. Provider will, at SMPA's request, break-out from the price all such taxes and other charges, in its invoices. Provider shall use its best efforts to assist SMPA in all legal efforts to minimize the taxes resulting from the performance of this Purchase Order. SMPA will not be bound to any prices to which it has not specifically agreed in writing. Unpriced orders will be at the price last invoiced or as stated in a written quotation. Unless otherwise stated on the Purchase Order, SMPA will pay Provider the price set forth in the Purchase Order within 60 days following SMPA's receipt of a properly prepared invoice. A properly prepared invoice must include the Purchase Order number and, if required in the Purchase Order, Provider's certification of conformance of the Products to the requirements/specifications. Payment and invoices will be in U.S. dollars. SMPA may, at any time, set-off any amounts Provider owes SMPA against any amounts SMPA owes to Provider or any of its affiliated companies.

6. Inspection, Acceptance: Provider agrees to permit SMPA's inspectors to have access to Provider's premises at all reasonable times for the purpose of inspecting the items set forth in the Purchase Order and work-in-process for production of such items. All items are subject to final inspection and approval at SMPA's premises or other place designated by SMPA. Such inspection shall be made within a reasonable time after delivery irrespective of the date of payment and the date of payment and/or the payment for any item purchased hereunder shall not constitute approval or acceptance of such material by SMPA and SMPA's right of inspection shall survive payment. SMPA may reject any or all of the Products or Services which do not conform to the applicable requirements/specifications for same. At SMPA's option, SMPA may (i) return the non-conforming Products to Provider for a refund or credit; (ii) require Provider to replace or repeat the non-conforming Product or Services, as applicable; or (iii) repair the non-conforming Products, at Provider's expense, so that it meets the requirements. As an alternative to (i) through (iii), SMPA may accept the non-conforming Products or Services conditioned on Provider providing a refund or credit in an amount SMPA reasonably determines to represent the diminished value of the non-conforming Products or Services.

7. Process Monitoring, SMPA's Property: Provider is responsible for monitoring its manufacturing processes performance and conducting sufficient process control, inspection, testing, proactive and preventative measures to assure that all items delivered to SMPA are in full compliance with their specifications. Statistical sampling is strongly encouraged to insure that the manufacturing processes are in statistical control. Related information must be available and could be requested by SMPA at any time. Provider is responsible for each Product conforming to specifications. SMPA does not plan to inspect or test beyond what is required to verify quality by Provider. Unless otherwise agreed in writing, all tooling, equipment, and material furnished to Provider by SMPA or specifically paid for by SMPA shall remain the property of SMPA. Such property, while in Provider's custody or control, shall be held at Provider's sole risk, and shall be kept insured by Provider at Provider expense in an amount equal to the replacement cost with loss payable to SMPA. Such property shall be delivered in good condition, normal wear and tear expected, to SMPA, immediately upon request by SMPA.

8. Returns: SMPA shall have the right to return to Provider any unused Products consistent with Provider's return policy for either full credit or a refund of the purchase price at SMPA's election.

9. Ownership. All data, information, reports, results, records, documentation, databases, designs, logos, packaging, formulations, writings, products, inventions, discoveries, improvements, new uses, ideas, know-how, concepts, software programs, processes, records, research, creations and all other works of invention or authorship (whether or not patentable, copyrightable, or entitled to or eligible for other forms of legal protection) and all other intellectual property rights made by Provider (whether alone or jointly with others) arising (a) in the performance of, or in anticipation of, the Services; (b) through the use of facilities, equipment, supplies, or Confidential Information of SMPA, or (c) at SMPA's expense (collectively, "Deliverables") will be the sole and exclusive property of SMPA.

10. Assignment. Provider will promptly disclose to SMPA all Deliverables and hereby assigns and agrees to unconditionally assign to SMPA all right, title and interest in the United States and throughout the world to Deliverables and any and all related patents, patent applications, copyrights, copyright applications, trademarks, trade names, trade secrets and other proprietary rights in the United States and throughout the world. All Deliverables will constitute "works made for hire," except to the extent such Deliverables cannot by law be "works made for hire." To the extent any such Deliverables shall not be deemed under applicable law to be "works made for hire," Provider hereby irrevocably assigns all rights to copyrights in or copyright applications for such Deliverables created or developed for SMPA to SMPA, including all rights of every kind in such Deliverable for the entire duration of the copyright. No rights are reserved to Provider.

Provider will (a) cooperate fully in obtaining patent and other proprietary protection for any patentable or protectable Deliverables all in the name of SMPA and at SMPA's cost and expense, and (b) execute and deliver all requested applications, assignments, and other documents and take such other measures as SMPA will reasonably request, in order to perfect and enforce SMPA's rights in the Deliverables. Provider acknowledges that the Products, Services and Deliverables contemplated in the Purchase Order may be utilized by SMPA or its affiliates.

11. Warranties: Provider warrants that all Products and/or Services provided by it: (i) shall be of good quality and workmanship and free of defects, latent or patent; (ii) shall conform to all applicable specifications, drawings or descriptions; (iii) shall be manufactured and labeled in compliance with applicable laws, rules and regulations, including without limitation the requirements of the Federal Food, Drug and Cosmetic Act and the regulations promulgated thereunder; (iv) shall be merchantable and suitable and sufficient by their intended purpose; (v) shall be free from any and all liens and encumbrances; and (vi) SMPA's use of same, does not and will not infringe upon any third party's intellectual property rights, right of publicity or privacy, or any other proprietary rights, whether contractual, statutory or common law. Provider further represents and warrants that it has and will maintain all federal, state, local and foreign registrations necessary for the lawful handling and distribution of the Product(s). Provider may not negate, exclude, limit or modify any warranty otherwise available to SMPA. Any attempt by Provider to do so is ineffective and shall not in any way bind SMPA. SMPA's inspection or acceptance of any Products or Services, or SMPA's payment for Products or Services shall not constitute a waiver by it of any warranty. None of the remedies available to SMPA for breach of any of the foregoing warranties may be limited except to the extent and in the manner agreed upon by SMPA in a separate agreement specifically designating such limitation and signed by an authorized representative of SMPA.

12. Confidentiality: The information contained in the Purchase Order including, without limitation, these terms and conditions, the ideas, information and designs contained in, shown upon, or incorporated by reference into the Purchase Order, work orders, drawings, specifications, photographs and other engineering and manufacturing information supplied by SMPA shall remain SMPA's property, shall be retained in confidence by Provider and not be disclosed to any other person or entity, and shall not be used nor incorporated into any Product, Service or item later manufactured or assembled by Provider for anyone other than SMPA. Any unpatented knowledge or information concerning Provider's processes, present or contemplated Products or their uses, or Services, which Provider may disclose to employees of SMPA in connection with the ordering, acquisition and use by SMPA of the Products or Services covered by this Purchase Order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as part of the consideration for this order and Provider agrees not to assert any claim (other than the claim for patent infringement) against SMPA by reason of any case or alleged use to which any such information or knowledge may be put by SMPA. If SMPA and Provider have entered into a confidentiality agreement ("CDA") which covers disclosure of confidential information under the Purchase Order, the parties shall treat the terms, conditions, and existence of the Purchase Order as Confidential Information as defined in the CDA. If the term of the CDA expires before the expiration or termination of the Purchase Order, then the term of the CDA shall be automatically extended to match the term of the Purchase Order.

13. Indemnity: Provider agrees to indemnify SMPA and hold it harmless from and against all claims, liability, loss, damage or expense, including counsel's fees, arising from or by reason of any suit, claim or demand relating to (i) injury to person (including death); (ii) any violation of the warranties contained herein; (iii) damage to property which may result in any way from any act or omission of Provider, or of its agents, employees, or subcontractors; (iv) trademark, patent or copyright infringement or litigation based hereon with respect to the Products, Services or any part thereof covered by this Purchase Order, and in each case (i) - (iv), such obligations shall survive acceptance of the Products and completion of the Services and payment therefor by SMPA. Provider agrees that it will, when so requested, provided that it is given reasonable notice of the pendency of any such suit, claim, or demand, assume the defense of SMPA and/or its successors, assigns and customers and users of its Products against any such aforementioned suit, claim, or demand, pendency of any such suit, claim or demand.

14. Assignment, Subcontracting, Independent Contractor: Provider may not assign any of its rights or delegate any of its obligations under the Purchase Order without SMPA's prior written consent, which SMPA will not unreasonably withhold. Provider may not subcontract any of its rights or obligations under the Purchase Order without SMPA's prior written consent. If SMPA consents to the use of a subcontractor, Provider will: (i) guarantee and will remain liable for the performance of all subcontracted obligations; (ii) indemnify SMPA for all damages and costs of any kind incurred by SMPA or any third party and caused by the acts and omissions of Provider's subcontractors; and (iii) make all payments to its subcontractors. Provider will defend, indemnify and hold SMPA harmless for all damages and costs of any kind, without limitation, incurred by SMPA and caused by Provider's failure to pay a subcontractor. Provider is an independent contractor shall not have the right to obligate SMPA in any manner whatsoever.

15. Waiver, Remedies: Failure of SMPA or Provider to insist on performance of any of these items and conditions or requisitions of this Purchase Order shall not be construed as a waiver of such items, conditions or requirements and shall not affect the right of either party thereafter to enforce each and every term, condition or requirement hereof. All remedies, whether provided by law, contract or contained elsewhere shall be deemed to be cumulative.

16. Compliance With Laws: SMPA complies with Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended. Provider represents and warrants that the performance of this Purchase Order shall be in accordance with the applicable standards, provisions and stipulations of all pertinent federal, state, or local laws, rules, regulations, executive orders or other ordinances, including, but not limited to, the Federal Corrupt Practices Act, as amended, the Fair Labor Standards Act, as amended and of regulations and orders of the United States Department of Labor issued under Section XIV thereof, the Occupational Safety and Health Act of 1970, the Toxic Substances Control Act, the Inventory Reporting and Premanufacture Notice regulations of the United States Environmental Protection Agency, and the provisions of Executive Order 11246, including all amendments thereto relative to Equal Employment Opportunity and the implementing rules and regulations of the Department of Labor on Equal Opportunity Employment; each as amended and in connection therein Provider shall, on SMPA's request, so certify.

17. Governing Law: The Purchase Order will be construed in accordance with, and all disputes will be governed by, the laws of the Commonwealth of Massachusetts, without regard to choice of law principles. The parties specifically waive application of the UN Convention on Contracts for the International Sale of Goods and the 1974 Convention on the Limitation Period in the International Sale of Goods, as amended by that certain Protocol, done at Vienna on April 11, 1980. English is the governing language of this Purchase Order.

18. Liability: NOTWITHSTANDING ANYTHING ELSE IN THE PURCHASE ORDER OR OTHERWISE, SMPA WILL NOT BE LIABLE TO PROVIDER WITH RESPECT TO THE SUBJECT MATTER OF THE PURCHASE ORDER UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY AMOUNTS IN EXCESS OF THE AMOUNT SMPA PAID TO PROVIDER IN THE SIX MONTHS PRECEDING THE EVENT OR CIRCUMSTANCE GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL SMPA BE LIABLE TO PROVIDER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS ARISING OUT OF, OR IN CONNECTION WITH, THE PURCHASE ORDER, WHETHER OR NOT SMPA WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. NOTHING IN THE PURCHASE ORDER LIMITS EITHER PARTY'S LIABILITY FOR BODILY INJURY OF A PERSON, DEATH, OR PHYSICAL DAMAGE TO PROPERTY OR ANY LIABILITY WHICH CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

19. Insurance: Provider will secure and maintain insurance providing coverage for liabilities to third parties for bodily injury (personal injury) and damage to property in amounts sufficient to protect SMPA in the event of such injury or damage, and will be in compliance with any and all laws, regulations or orders addressing the liabilities of an employer to its employees for injuries and disease suffered in connection with employment. Provider further will maintain such additional types and limits of insurance as is customary for a company of similar size and similar operations to Provider in the jurisdiction or jurisdictions in which Provider's operations take place.