

**GLAXOSMITHKLINE TERMS AND CONDITIONS OF PURCHASE  
(SOFTWARE & SERVICES) UK**

**1. DEFINITIONS**

- 1.1. **"Affiliate"** means an organisation which is directly or indirectly controlled by, in Control of, or under common Control with, either Supplier or GSK as appropriate, in each case for the time being and from time to time.
- 1.2. **"Agreement"** means the agreement between GSK and Supplier consisting of the Purchase Order, these Terms and Conditions, the Specification, and any other documents (or parts thereof) specified in the Purchase Order or otherwise expressly incorporating these Terms and Conditions.
- 1.3. **"Control"** means the ownership of more than 50% of the voting stock of any organisation or the legal power to direct or cause the direction of the general management of either Supplier or GSK as appropriate.
- 1.4. **"Incoterms"** means the Year 2000 edition of the official International Chamber of Commerce Rules for the interpretation of trade terms.
- 1.5. **"Intellectual Property Rights"** means any and all rights in and/or to: (a) patents; (b) inventions, discoveries, utility models and improvements whether or not capable of protection by patent or registration; (c) formulas, processes, compositions of matter, formulations, methods of use or delivery, data, reports, specifications and computer programs or models; (d) copyright and related rights; (e) moral rights; (f) design rights; (g) trade marks and service marks; (h) business or trade names, domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition; (i) database rights; (j) confidential information, know-how, trade secrets; and (k) other intellectual property rights; in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 1.6. **"Licence Fee"** means the licence fee set out in the Purchase Order.
- 1.7. **"Losses"** means all losses, claims, liabilities, costs, awards, fines, penalties, expenses (including legal fees and other professional expenses) and damages of any nature whatsoever and whether or not reasonably foreseeable or avoidable.
- 1.8. **"GSK"** means GlaxoSmithKline Services Unlimited, but shall, where rights or benefits are granted or Services provided, also include its Affiliates.
- 1.9. **"Purchase Order"** means GSK's purchase order issued to Supplier setting out GSK's requirements for Software or Services.
- 1.10. **"Services"** means the services specified in the Purchase Order.
- 1.11. **"Software"** means the computer Software and user documentation listed in the Purchase Order and any future upgrade, update or maintenance modification to such Software acquired by GSK during the subsistence of the Agreement.
- 1.12. **"Specification"** means the written specification setting out the performance required of the Software and Services that is supplied by GSK to Supplier or produced by Supplier and agreed in writing by GSK.
- 1.13. **"Supplier"** means the person, company or other legal entity to whom the Purchase Order is addressed.
- 1.14. **"System"** means computer central processing units and peripheral equipment, including without limitation, any cluster, combination or network of such central processing units and peripheral equipment which are under common control, and which are now, or may in the future be, owned or operated by GSK, its Affiliates or a third party who is providing services to GSK or its Affiliates.
- 1.15. **"Terms and Conditions"** means the terms and conditions set out in this document.

**2. STATUS OF THESE TERMS AND CONDITIONS**

- 2.1. These Terms and Conditions and other matters appearing on the Purchase Order shall apply to the purchase by GSK from Supplier of all Software or Services set out on the Purchase Order to the exclusion of all other terms and conditions, including any terms or conditions which are implied by trade, custom, practice or course of dealing or which Supplier may purport to apply or which are endorsed upon any correspondence or documents issued by Supplier irrespective of their date of communication to GSK. However, the terms and conditions in any separately negotiated and signed written contract entered into by the parties in respect of the Software or Services identified in the Purchase Order shall overrule these Terms and Conditions.
- 2.2. The Purchase Order constitutes an offer by GSK to purchase the Software and/or Services specified therein in accordance with these Terms and Conditions. The Purchase Order and these Terms and Conditions shall be deemed to be accepted by Supplier on the earlier of: (a) Supplier issuing a written acceptance of the Purchase Order; or (b) Supplier doing any act consistent with fulfilling the Purchase Order, at which point the Agreement shall come into existence.
- 2.3. GSK will not be liable in respect of any Purchase Order(s) or instructions other than those issued or confirmed on its official Purchase Order documents, whether issued in hard copy or by facsimile (in which case such documents shall be valid only when duly signed), or issued electronically in accordance with these Terms and Conditions.

**3. GRANT OF LICENCE**

- 3.1. Supplier grants to GSK and its Affiliates a world-wide, perpetual, irrevocable non-exclusive and fully paid up licence to use the Software for the purposes listed in Section 3.2 below.
- 3.2. GSK and its Affiliates may use the Software:
  - 3.2.1. for processing data of GSK and its Affiliates for their normal business purposes;

- 3.2.2. for any act which is reasonably incidental to that use defined in Section 3.2.1 including to maintain back-up copies of the Software (which copies shall at all times be and remain the property of Supplier); and
- 3.2.3. for any other act which is permitted by the Copyright, Designs and Patents Act 1988, including, without limitation, sections 50A to 50C thereof.
- 3.3. GSK and its Affiliates may grant sub-licences for all or part of the licence granted herein to third parties performing information processing services for GSK or its Affiliates, provided that such third parties agree to be bound by the use and confidentiality provisions set forth herein. GSK and its Affiliates may also hire third parties to modify (as permitted by law) and maintain the Software.
- 3.4. GSK and its Affiliates may change the configuration of the systems on which the Software is installed and may install the Software on new or additional compatible systems without prior notice to Supplier and without payment of an "upgrade fee" or other charge as a result of such actions provided the overall licence grant under the Agreement is not exceeded.
- 3.5. GSK and its Affiliates may store the Software (including any related documentation) at one or more locations owned or operated by GSK or its Affiliates. GSK and its Affiliates may use the Software at one or more locations or on one or more computer systems, whether or not owned or operated by GSK or its Affiliates, during testing or operation of a disaster recovery plan for their computer facilities.
- 3.6. Supplier will allow GSK and its Affiliates to freely use the Software in accordance with the Agreement without any hardware or software device restricting, limiting or affecting such use. Supplier warrants that the inclusion of such key or restriction device (if any) shall be used only to ensure that the Software can be used by the number of users, locations or systems specified in the Purchase Order and that the Software is not subject to any time bars or embedded code that may cause the Software to cease to operate for any reason whatsoever.
- 4. DELIVERY OF SOFTWARE AND PROVISION OF SERVICES**
- 4.1. Supplier must deliver the Software and perform the Services at the time and place, and in the manner, specified in the Agreement. If Software or Services are incorrectly delivered Supplier shall be responsible for additional expenses incurred in delivering them to the correct point specified in the Purchase Order or subsequently advised in writing by GSK. The quantity of Software or Services specified in the Purchase Order may not be changed without GSK's prior written consent. Quantities of Software or Services delivered in excess of those stated in the Agreement may not be accepted.
- 4.2. The Software and Services supplied must also comply in all respects with the Agreement and the implied conditions, warranties and terms contained in the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982, related statutes and any statutory re-enactment(s) or modification(s) thereof.
- 4.3. Time shall be of the essence in relation to the performance of any and all of Supplier's obligations pursuant to the Agreement.
- 5. PRICE AND PAYMENT TERMS**
- 5.1. The price (which shall be a firm fixed price) for the Software and/or Services (including, without limitation, the Licence Fee) shall be the price set out in the Purchase Order. The price is exclusive of VAT and, unless otherwise agreed in writing, inclusive of the costs of all packaging and other related charges, delivery and insurance. Any increase in the price for any reason shall be subject to the express prior written consent of GSK.
- 5.2. Upon acceptance of the Software and/or Services by GSK, Supplier shall invoice GSK for payment of the price (including, without limitation, the Licence Fees) and any other charges due hereunder. Payment will be made within 60 days from receipt of invoice. VAT (or any other equivalent tax), where applicable, will be shown separately on all invoices as a strictly net extra. GSK reserves the right to set off any sums in respect of which Supplier may be in default to GSK.
- 5.3. The correct Purchase Order number must be quoted on all invoices and GSK will accept no liability whatsoever for invoices, delivery notes or other communications which do not bear such Purchase Order numbers.
- 5.4. Supplier acknowledges and agrees that GSK normally requires invoices to be submitted electronically, and Supplier will accordingly issue all invoices under the Agreement such that they will be delivered to GSK via GSK's electronic global trading platform, OB10 (or such successor system as GSK may implement, in either case for the purposes of this Section 5, "OB10"), and Supplier will work with GSK, or GSK's nominated representative, and use reasonable efforts to ensure that Supplier is able to send invoices via OB10 from, or as soon as practicable after, the date the Purchase Order to which any invoice relates is issued by GSK. If GSK agrees that Supplier is not required to issue invoices electronically (until such time as Supplier is able to submit such invoices electronically in accordance with this Section 5.4), in paper format, to: GlaxoSmithKline Services Unlimited, Accounts Payable, c/o Xdi, Building 9 Floor 3, Vantage Point Business Village, Mitcheldean, Gloucestershire, United Kingdom, GL17 0FD, or to such other address as may be specified in the relevant Purchase Order, and in each case with a copy of the relevant invoice being sent to any additional GSK contact specified on the Purchase Order, and for the avoidance of doubt, Supplier shall bear all or any implementation or operating costs incurred by it in complying with this Section 5.4.
- 5.5. In the event GSK reasonably considers that any invoice submitted by Supplier is defective or relates to Software supplied or Services performed otherwise than in accordance with Supplier's obligations under the Agreement, GSK shall be entitled to withhold payment of the disputed amount (without prejudice to any other rights or remedies it may have) pending resolution of the dispute between the parties (each acting in good faith).
- 5.6. Any payment for an undisputed bona fide invoice not received by the due date shall be subject to an interest charge of 2% per annum above the Bank of England base rate from time to time.

## **6. REJECTION, FIXES AND REPLACEMENT**

- 6.1. If during the period of 180 days following delivery of the Software, or, if GSK carries out any user or other acceptance testing, following final acceptance of the Software by GSK, the Software fails to conform with the Specification (or otherwise with the Agreement), GSK may, at its discretion and without limiting its other rights and remedies under the Agreement, require Supplier, as soon as reasonably practicable (and in any event no longer than 30 days after GSK's giving notice), to either fix any error or bug in, or replace, the Software, or refund to GSK that portion of the Licence Fee attributable to the element or module of the Software which does not correspond with the Specification/Agreement (or, if the Licence Fee cannot be apportioned appropriately, or the impaired module or component is such that the remaining fully functional elements of the Software will not substantially deliver the functionality required by GSK, the whole Licence Fee shall be refundable). In any event:
- 6.1.1. error/bug fixes, replacements, and any refunds shall themselves be subject to the obligations in the Agreement; and
  - 6.1.2. any error/bug fix or replacement version of the Software shall be functionally equivalent to the Software, and to the extent that any such fix or replacement is not functionally equivalent, Supplier shall promptly reimburse any additional cost incurred by GSK in obtaining additional or different software in order to deliver the functionality originally described in the Specification/Agreement or otherwise on the Purchase Order.
- 6.2. In the event of a rejection (in whole or in part) in accordance with Section 6.1 above GSK shall notify Supplier in writing, and the payment obligation in relation to any affected Licence Fee (or other element of the price) shall be suspended immediately.
- 6.3. The parties shall use their reasonable endeavours to resolve any dispute arising pursuant to Section 6. If no agreement can be reached within 30 days, the parties shall agree on an independent expert (not an arbitrator) whose decision on whether or not the Software conforms with the Specification and Agreement and as to which party should pay his fees (the default result being that the fees shall be borne by the party against whom the expert's decision is given) shall be final and binding. Each party shall bear its own respective costs in relation to the dispute, notwithstanding the decision reached.
- 6.4. If the expert finds that any delivery of the Software has not complied with the Specification or Agreement, GSK shall have the rights stated in Section 6.1.
- 6.5. If the expert finds that the Software complies with the Specification/Agreement, GSK shall pay for such Software in accordance with the payment provisions contained in the Agreement.

## **7. STANDARD OF SERVICES**

- 7.1. Supplier warrants and represents to GSK that any Services performed by Supplier or duly appointed sub-contractor:
- 7.1.1. shall be performed in a good and workmanlike fashion and with all due speed, care, skill and diligence; and
  - 7.1.2. shall be carried out in accordance with the Agreement, with current industry standard codes of practice and to the highest standards prevailing in Supplier's industry.
- 7.2. Supplier shall ensure that all of its personnel and sub-contractors are suitably qualified to perform the Services and that all necessary licences, work permits or other authorisations have been obtained.
- 7.3. If any materials which are required by Supplier for the provision of the Services are not delivered fully in accordance with any stipulations in the Agreement, Supplier shall immediately effect correct delivery and shall be responsible for any additional costs and expenses incurred by the parties in so doing.
- 7.4. If the Services do not conform with the Agreement in any way (including, without limitation the Specification) or if performance of the Services is delayed, GSK may, without limiting its other rights or remedies and at its discretion, do one or more of the following:
- 7.4.1. suspend any payment obligation in respect of the relevant part of the Services; and/or
  - 7.4.2. require Supplier to remedy such non-conformance by re-executing the relevant part of the Services; and/or
  - 7.4.3. require Supplier to repay or credit to GSK that part of the charges paid by GSK to Supplier relating to the provision of the relevant part of the Services; and/or
  - 7.4.4. purchase Services from elsewhere which nearly as practicable conform to the Agreement; and any extra expense incurred in doing so shall be paid by Supplier to GSK. Before exercising such right to purchase the Services from an alternative supplier GSK shall give Supplier an opportunity to replace the Services in respect of which payment was cancelled with Services which conform with the Agreement; and/or
  - 7.4.5. claim damages for any additional costs, loss or expenses incurred by GSK which are in any way attributable to Supplier's failure to comply with the Agreement.
- 7.5. GSK's rights under the Agreement are in addition to its rights and remedies implied by statute and common law.

## **8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1. Supplier shall indemnify GSK and its Affiliates, and keep them indemnified, on demand from and against all Losses incurred or suffered as a result of or in connection with any claim that the Software or the provision of the Services by Supplier, or the use by or on behalf of GSK of the Software or of any assets used or provided by Supplier in connection with the performance of the Services, infringes the Intellectual Property Rights or any other rights of any third party.
- 8.2. Supplier shall, at its expense, defend any and all claims or legal proceedings arising from infringements or alleged infringements of its Intellectual Property Rights in connection with the Software or Services, provided that GSK gives Supplier all reasonable assistance and the sole authority to defend or settle any legal proceedings at Supplier's expense.
- 8.3. GSK retains Intellectual Property Rights in, and ownership of all materials, plans, drawings, tools, data, the Specification, patterns and/or designs provided by GSK to Supplier, and they shall all be returned at any time in good condition to GSK at GSK's request.

- 8.4. Where Software is made to GSK's Specification, model, or plans, the Intellectual Property Rights in the Software in so far as they relate to the Specification, model, or plans, and any improvements or developments thereof shall be the absolute property of GSK, and Supplier will assign all such Intellectual Property Rights to GSK on demand.
- 8.5. Intellectual Property Rights arising during or out of the provision of Services ("**Arising IP**") shall be and remain the property of GSK. Supplier assigns to GSK (with full title guarantee and free of all encumbrances) all of the Arising IP. This assignment shall take effect on the date of the Agreement in respect of any Arising IP then in existence, or as a present assignment of future rights that will take effect immediately on the coming into existence of the Arising IP, as appropriate. At its cost, Supplier shall do all such further acts and things, and execute all such other documents, as GSK may reasonably request to vest the Arising IP in GSK and/or to enable GSK to protect, perfect, enforce or enjoy the full benefit of the rights assigned under the Agreement.
- 8.6. If any part of the Software and/or Services does or is likely to become the subject of an action or claim Supplier shall have the option (at its expense) to procure for GSK and its Affiliates the right to continue using the Software and/or Services, or replace the Software and/or Services with non-infringing Software or Services, or modify the Software and/or Services so that they become non-infringing without reducing their performance and functionality in accordance with the Specifications.

## **9. CONFIDENTIALITY AND PUBLICITY**

Supplier shall, and shall procure that its employees and sub-contractors shall, keep confidential all information of a commercial or technical nature disclosed to Supplier by or on behalf of GSK for the purpose of the Agreement, and shall not disclose such information to any third party without GSK's prior written consent. Supplier shall not without GSK's prior written consent disclose the existence of the Agreement or any information related to the Agreement (including GSK's name, that of any GSK Affiliate, the Software or the Services).

## **10. FORCE MAJEURE**

- 10.1. Neither party shall be liable for, nor be deemed to be in default of the Agreement, on account of any delay in completion or the performance of any other act under the Agreement due to circumstances which could not have been contemplated by the parties and which are beyond the party's reasonable control ("**Force Majeure**"), provided that the party claiming hereunder shall notify the other as soon as possible specifying the cause and probable duration of the delay or non-performance and shall minimise the effects of such delay or non-performance.
- 10.2. If the performance by either party of any of its obligations under the Agreement is prevented or delayed by Force Majeure:
- 10.2.1. for a consecutive period in excess of 5 working days, the parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable in the circumstances; and
- 10.2.2. for a period in excess of 60 days cumulatively or consecutively, then the other party shall in its discretion have the right to immediately terminate the Agreement upon written notice.

## **11. LICENCES AND COMPLIANCE WITH LAWS AND REGULATIONS**

- 11.1. Supplier shall ensure that at all times it has and maintains all the licences, permissions, consents and permits that it needs to lawfully carry out its obligations under the Agreement and to grant the rights set out in the Agreement.
- 11.2. Supplier warrants that the Software and Services shall comply with the Agreement, relevant laws, regulations and other legal requirements.

## **12. DATA PROTECTION**

- 12.1. To the extent that Supplier, in providing any Services under the Agreement, "processes" (where "processes" is as defined in the Data Protection Act 1998 and includes, without limitation, obtaining, organising, storing, accessing, using, disclosing or adapting, and "processed" and "processing" shall be construed accordingly) any GSK information that constitutes "personal data" within the meaning of the Data Protection Act 1998, Supplier shall ensure that all such personal data is kept secure, and in accordance with all relevant legislation, and shall:
- 12.1.1. ensure, before processing any such personal data, that adequate technical and organisational controls are in place to:
- (a) prevent unauthorised or unlawful processing of any such personal data it may hold; and
- (b) protect any such personal data from accidental loss, damage or destruction; and
- 12.1.2. act only on the instructions of GSK when processing such personal data, including ensuring that such personal data is used only as authorised by GSK, or by the Agreement.
- 12.2. Supplier shall not process or transfer any personal data outside the European Economic Area, or transfer any personal data to any third party, without the prior written consent of GSK, which consent may be subject to Supplier (or the relevant third party) entering into a data transfer agreement with GSK, where GSK so requires, in a form substantially similar to the Standard Contractual Clauses issued from time to time by the European Commission, and entering into such other arrangements as GSK may reasonably require to satisfy its requirements as a data controller under the Data Protection Act 1998, as amended from time to time.
- 12.3. Supplier shall indemnify GSK and its Affiliates, and keep them indemnified, on demand from and against all Losses incurred or suffered as a result of or in connection with Supplier's breach of this Section 12.

### **13. COMPLIANCE WITH GSK STANDARDS, POLICIES AND PROCEDURES**

Supplier shall, and shall ensure that its staff and those of any sub-contractor shall, when working on any site in connection with the Agreement, comply with all relevant environmental, occupational health and safety legislation and any other appropriate standards, policies and procedures notified by GSK from time to time.

### **14. SUPPLIER'S EMPLOYEES**

- 14.1. For the duration of the period that any Services are being provided, the employment of any employee of Supplier shall remain with Supplier and shall not pass or otherwise transfer to GSK or its Affiliates and nothing in the Agreement shall be construed or have effect as constituting any relationship of employer and employee between GSK (or its Affiliates) and the employees and/or sub-contractors of Supplier. Supplier agrees that it is performing the Services as an independent contractor and will retain all responsibility for payment of any income tax, national insurance contributions, and any other taxation that may arise from the provision of the Services, and shall indemnify GSK and its Affiliates, and keep them indemnified, on demand from and against all Losses incurred or suffered as a result of or in connection with GSK or its Affiliates having to pay any tax, income tax or national insurance contributions and/or make any deductions at source in respect of the Services.
- 14.2. Notwithstanding the provisions of Section 14.1, if and to the extent that the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any other equivalent laws apply, such that GSK or its Affiliates (or a successor supplier to Supplier) incurs Employment Liabilities arising in relation to any Supplier personnel whose employment (or any claim arising out of such employment, or arising as a result of its termination) transfers to GSK (or its Affiliate) or to such successor supplier, Supplier shall indemnify GSK, its Affiliates and any replacement supplier, and keep them indemnified, on demand from and against all such Employment Liabilities. For the purposes of this Section 14.2, "**Employment Liabilities**" means any costs, claims, demands, fines, or expenses (including reasonable legal and other professional expenses) and all losses, damages, compensation and other liabilities incurred by, or attributed to, GSK or its Affiliates (and including those incurred by or attributed to any successor supplier or sub-contractor of GSK), and shall include any incurred as a result of an indemnity or warranty given, or to be given, by GSK or its Affiliates to, or any claim made by, a successor supplier or sub-contractor, in each case relating to the employment contracts of such Supplier personnel, or any claim under the Employment Rights Act 1996 or similar.

### **15. WARRANTIES AND SOFTWARE DEFECTS**

- 15.1. Supplier warrants to GSK that:
- 15.1.1. it has and will have title and sole ownership of the Software and/or the right to convey the licences granted herein, free of any liens, claims or encumbrances;
  - 15.1.2. for a period of 180 days following delivery of the Software, or, if GSK carries out any user or other acceptance testing, following final acceptance of the Software by GSK, the Software shall perform without material defect or error and in conformity with the Specification, functions and other performance requirements set forth herein and shall be free from all defects in material and workmanship;
  - 15.1.3. it will use its best endeavours to ensure no portion of the Software contains any unauthorised code such as a virus, Trojan Horse, worm, or other software routine or hardware component designed to permit unauthorised access used to disable, erase, or otherwise harm software, hardware, or data automatically; and
  - 15.1.4. unless otherwise agreed in writing in advance with GSK, the Software does not include any open source, freeware or shareware;
  - 15.1.5. neither the performance nor the functionality of the Software will be adversely affected by date compliance issues; and
  - 15.1.6. the Services will be performed:
    - (a) in accordance with the Specification (or any modifications that may be agreed in writing) and all applicable laws and regulations;
    - (b) in such a way as not to cause any material fault, deterioration of performance, or malfunction in any System; and
    - (c) in such a way as not to cause any interruption to the business processes of GSK (other than any agreed and unavoidable interruption which is required in order to perform the Services in a proper and efficient manner).
- 15.2. Supplier shall indemnify GSK and its Affiliates, and keep them indemnified, on demand from and against all Losses incurred or suffered as a result of or in connection with Supplier's breach of the warranties set out in Sections 15.1 above.

### **16. INDEMNITY AND INSURANCE**

- 16.1. Supplier shall indemnify GSK and its Affiliates, and keep them indemnified, on demand from and against all Losses incurred or suffered as a result of or in connection with any defect in the Software or Services or any breach by Supplier of its obligations hereunder or of any statutory duty or from any act or omission of Supplier's employees, agents or sub-contractors.
- 16.2. At all times during the term of the Agreement, Supplier shall maintain in force with a reputable insurance company insurance in respect of its liabilities under the Agreement for a minimum of £5,000,000 per event and if so required at any time produce the policy of insurance and the receipt for the current premium to GSK for its inspection. Supplier agrees that any monies received by Supplier from the insurance company in full or part settlement of a claim arising out of the Agreement and paid by or due to GSK shall be paid immediately to GSK without offset or counter claim.

16.3. Any limitation, monetary or otherwise in such insurance policy referred to in Section 16.2 above shall not be construed as a limitation on Supplier's liability and Supplier shall, notwithstanding such limitation, remain liable in full for any matters and to any extent not covered by the policy.

## **17. ETHICAL STANDARDS AND HUMAN RIGHTS**

17.1. Unless otherwise required or prohibited by law, Supplier warrants, to the best of its knowledge, that in relation to the supply of Software or Services under the terms of the Agreement:

17.1.1. it does not employ engage or otherwise use any child labour in circumstances such that the tasks performed by any such child labour could reasonably be foreseen to cause either physical or emotional impairment to the development of such child;

17.1.2. it does not use forced labour in any form (prison, indentured, bonded or otherwise) and its employees are not required to lodge papers or deposits on starting work;

17.1.3. it provides a safe and healthy workplace, presenting no immediate hazards to its employees, any housing provided by Supplier to its employees is safe for habitation, and it provides access to clean water, food, and emergency healthcare to its employees in the event of accidents or incidents at Supplier's workplace;

17.1.4. it does not discriminate against any employees on any ground (including race, religion, disability or gender);

17.1.5. it does not engage in or support the use of corporal punishment, mental, physical, sexual or verbal abuse and does not use cruel or abusive disciplinary practices in the workplace;

17.1.6. it pays each employee at least the minimum wage, or a fair representation of the prevailing industry wage (whichever is the higher), and provides each employee with all legally mandated benefits;

17.1.7. it complies with the laws on working hours and employment rights in the countries in which it operates;

17.1.8. it is respectful of its employees right to join and form independent trade unions and freedom of association; and

17.1.9. it complies with the GSK Anti-Bribery and Corruption Requirements set out in Annex A.

17.2. Supplier agrees that it is responsible for controlling its own supply chain and that it shall encourage compliance with ethical standards and human rights by any subsequent supplier of goods and services that are used by Supplier when performing its obligations under the Agreement.

17.3. Supplier shall ensure that it has ethical and human rights policies and an appropriate complaints procedure to deal with any breaches of such policies.

17.4. GSK reserves the right upon reasonable notice (unless inspection is for cause, in which case no notice shall be necessary) to enter upon Supplier's premises to monitor compliance by Supplier of the warranties set out in Section 17.1 above and Supplier shall, subject to compliance with law, furnish GSK with any relevant documents requested by GSK in relation thereto.

## **18. TERMINATION**

18.1. Subject to Section 18.4, if either party to the Agreement is in breach of the Agreement and does not remedy the breach within 30 days of notice from the other party so to do (if capable of remedy) the other party may terminate the Agreement immediately by notice to the party in breach.

18.2. If either party becomes bankrupt, dissolved, wound up, or makes any arrangement with its creditors or has a receiver, administrative receiver, liquidator or provisional liquidator appointed over all or any part of its assets or goes into liquidation (whether voluntary or otherwise) save as part of a bona fide reconstruction not involving insolvency or takes or suffers any similar action as a result of its liability to pay its debts or its insolvency it shall promptly so notify the other party in writing providing particulars of the circumstances whereupon the other party may terminate the Agreement immediately by notice.

18.3. If at any time during the term of the Agreement there shall be any change in the legal or beneficial ownership or Control of Supplier:

18.3.1. Supplier shall immediately so notify GSK in writing; and

18.3.2. GSK may, upon receiving notice or otherwise becoming aware of a change in the legal or beneficial ownership or Control of Supplier, terminate the Agreement immediately by notice in writing to Supplier if it considers in its sole discretion that such change of ownership or Control is prejudicial to its interests.

18.4. The Agreement may be cancelled at any time by GSK for any reason whatsoever, by giving Supplier notice in writing.

## **19. CONSEQUENCES OF TERMINATION**

19.1. Within 7 days after termination of the Agreement for any reason, Supplier shall (at its cost):

19.1.1. return to GSK all documents provided to Supplier by GSK; and

19.1.2. ensure that all documents containing Intellectual Property Rights and/or any information of a technical nature relating to the Software, the manufacture of the Software and the provision of Services, or of a confidential nature and supplied by GSK to Supplier, are returned to GSK or destroyed by Supplier at GSK's option.

19.2. With effect from termination of the Agreement Supplier shall not make any use for any purpose whatsoever of any Intellectual Property Right which is the property of GSK.

19.3. Termination of the Agreement shall be without prejudice to the continuation in force of Sections 1, 2, 3, 6, 8, 9, 12, 14, 15, 19, 20.3, 21.9 and 21.10. Supplier agrees to provide GSK with all reasonable support with respect to any investigation required by GSK or any regulator with respect to the Software or Services carried out prior or after such termination or withdrawal. GSK will reimburse Supplier's reasonable costs in providing such assistance.

19.4. Termination or expiry shall not relieve either party from any liability or action accrued prior to such termination or expiry. A fair and reasonable price will be paid for all Services in progress that have been delivered to GSK and which comply with the Agreement. GSK's liability is limited to Services in progress, and no further loss or liability will accrue on their account.

## **20. ASSIGNMENT AND DIVESTMENT**

20.1. Supplier's rights and obligations under the Agreement may not be assigned in whole or in part without the prior written consent of GSK (acting in its sole discretion) and any such consent shall not be deemed to relieve Supplier of any of its obligations and liability to GSK pursuant to the Agreement.

20.2. GSK shall be entitled at any time by notice in writing to Supplier to assign the whole or any part of its rights and obligations under the Agreement to any Affiliate or to any successor in title to the whole or part of that part of GSK's business which relates to the Software or Services.

20.3. If another company is created or a third party acquires GSK's assets through a divestiture or reorganisation of GSK's business or any part of it (such company or such third party acquirer being the "**Divested Entity**") such Divested Entity may use any portion of the Software provided under the Agreement for up to twelve months, on notice to Supplier, provided that the Divested Entity agrees to the terms and conditions of the Agreement. During this period, the Divested Entity may use the Software for either its business operations or GSK's business operations. If the Divested Entity wishes to continue to use any Software at the end of the time period specified above, the Divested Entity must execute a mutually agreeable contract with Supplier which will govern its subsequent use of the relevant Software.

## **21. GENERAL**

21.1. Supplier shall not, without the prior written consent of GSK, appoint any sub-contractor or any person or persons to carry out its obligations under the Agreement. In the event that Supplier appoints a sub-contractor or other person to perform its obligations it shall remain liable to GSK for the performance of all its obligations and shall ensure that any such sub-contractor or other person agrees to be bound by terms equivalent to those in the Agreement.

21.2. The Agreement contains the whole agreement between the parties in respect of the subject matter of the Agreement and supersedes all prior written or oral agreements, arrangements and understandings between them relating to that subject matter.

21.3. Each party acknowledges that, in entering into the Agreement, it has not relied on, and shall have no right or remedy (other than for breach of contract) in respect of, any statement, representation, assurance or warranty made or given, or purportedly made or given, by or on behalf of the other party (whether made negligently or innocently) other than as expressly set out in the Agreement.

21.4. Nothing in the Agreement shall create, or be deemed to create a partnership, joint venture or other relationship between the parties other than the contractual relationship expressly provided for in the Agreement.

21.5. No failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that (or any other) right or remedy and nor shall it preclude or restrict its further exercise. In addition, no single or partial exercise of any such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

21.6. If any provision of the Agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.

21.7. The Agreement may not be modified except by an instrument in writing signed by the duly authorised representatives of both parties.

21.8. Except for any rights granted to GSK Affiliates, which the parties hereby designate as intended third party beneficiaries to the Agreement, no person who is not a party to the Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under the Agreement is not subject to the consent of any person that is not a party to the Agreement.

21.9. The Agreement and any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) is governed by and shall be construed in accordance with English law. The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not apply to the Agreement.

21.10. The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter (including non-contractual disputes or claims).

## ANNEX A

### GSK ANTI BRIBERY AND CORRUPTION REQUIREMENTS

GSK requires compliance with the highest ethical standards and all anti-corruption laws applicable in the countries in which GSK (whether through a third party or otherwise) conducts business. All GSK employees and any third party acting for or on behalf of GSK must ensure that all dealings with third parties, both in the private and government sectors, are carried out in compliance with all relevant laws and regulations and with the standards of integrity required for all GSK business. GSK values integrity and transparency and has zero tolerance for corrupt activities of any kind, whether committed by GSK employees, officers, or third-parties acting for or on behalf of the GSK.

It is a material term of this Agreement that Supplier shall comply with the following:

1. Supplier shall comply fully at all times with all applicable laws and regulations, including but not limited to applicable anti-corruption laws, of the territory in which the Supplier conducts business with GSK.
2. Supplier agrees that it has not, and covenants and that it will not, in connection with the performance of this Agreement, directly or indirectly, promise, authorise, ratify or offer to make or make any "payments" of "anything of value" (as defined in the glossary section) to any individual (or at the request of any individual) including a "government official" (as defined in the glossary section) for the improper purpose of influencing or inducing or as a reward for any act, omission or decision to secure an improper advantage or to improperly assist the Supplier or GSK in obtaining or retaining business.
3. Supplier agrees that it has not, and covenants and that it will not, in connection with the performance of this Agreement, directly or indirectly, promise, authorise, ratify or offer to make or make any "facilitating payments" (as defined in the glossary section) to any individual (or at the request of any individual) including a "government official" (as defined in the glossary section).

### GLOSSARY

The terms defined herein should be construed broadly to give effect to the letter and spirit of GSK's ethical standards.

**Anything of Value:** this term includes cash or cash equivalents, gifts, services, employment offers, loans, travel expenses, entertainment, political contributions, charitable donations, subsidies, per diem payments, sponsorships, honoraria or provision of any other asset, even if nominal in value.

**Facilitating Payments:** otherwise known as "greasing payments" shall mean a payment to an individual to secure or expedite the performance of a routine government action by government officials.

**Government Official** shall mean: (i) Any officer or employee of a government or any department, agency or instrument of a government; (ii) Any person acting in an official capacity for or on behalf of a government or any department, agency, or instrument of a government; (iii) Any officer or employee of a company or business owned in whole or part by a government; (iv) Any officer or employee of a public international organisation such as the World Bank or United Nations; (v) Any officer or employee of a political party or any person acting in an official capacity on behalf of a political party; and/or (vi) Any candidate for political office.

**Payments:** this term refers to and includes any direct or indirect offers to pay, promises to pay, authorisations of or payments of anything of value.