

**TERMS AND CONDITIONS OF ORDER**

**1. DEFINITIONS:** 'The Company' means an Affiliate of KD Pharma Group SA purchasing the Products or Services such Affiliate referred to as "KD". Affiliate of KD Pharma Group SA means any corporation or other entity which is directly or indirectly controlled by KD Pharma Group SA. An entity shall be deemed to "control" another entity if it has the power to direct or cause the direction of the management or policies of the other entity whether through ownership of voting securities or otherwise. 'The Supplier' means the person, firm or company to whom this order is addressed. The word 'Goods' means the articles or things. The word 'Service' means the work described in the order.

**2. VALIDITY:** No order will be valid unless issued on the Company's official order form and duly signed by Supplier. Such order shall be treated as an offer on behalf of the Company which must be accepted in writing by the Supplier or by actual execution of the order. Acceptance of the order will be deemed to bind the Supplier to these conditions and no goods or Services shall be supplied or performed by or on behalf of the Supplier except in accordance therewith. In the case of any conflict between these conditions and those of the Supplier these conditions will prevail.

The right is reserved to cancel this order if it has not been executed within the time specified or within a reasonable time if no delivery or completion date has been specified.

**3. DOCUMENTS:** The order number must be quoted on all correspondence, delivery notes and invoices.

**4. DELIVERY:** Time is of the essence of this Order, and if delivery of goods or services is not completed by the time promised, the Company reserves the right, without liability and in addition to other rights and remedies: (i) to reject incomplete deliveries or services, (ii) to terminate this Order by notice effective when received by the Supplier as to goods not yet shipped or services not performed, (iii) to purchase substitute items and charge the Supplier with any loss or costs incurred, (iv) to receive a full refund of any amounts paid for goods or services not delivered or accepted, (v) to return at Supplier's risk and expense all or any part of a nonconforming delivery, and (vi) to hold the Supplier accountable for any loss or additional costs incurred (vi) to charge liquidated damages at the rate of specified in the Request for Proposal. The Company's receipt or acceptance of all or part of a nonconforming delivery does not constitute a waiver of any remedy the Company has under this Order or under applicable law. The Supplier is not entitled to effect delivery before the stated delivery time or to make partial deliveries unless agreed in advance in writing with the Company. If it is agreed that the Supplier shall carry out installation work or that performance testing shall be carried out in connection with delivery, the goods and/or services will not be deemed to be delivered until such performance testing is finalized and the Company has approved the installation in writing.

If the Supplier can foresee or should have foreseen that there is a probability that the delivery of the goods and/or services or part thereof will be delayed, the Supplier shall forthwith notify Buyer accordingly stating the reason for and expected duration of the delay. Supplier shall use its best efforts to reduce any delay and to minimize the harmful effects of such delay.

**5. SUBCONTRACTORS:** Unless otherwise agreed, Supplier shall not hire the services of Subcontractors to deliver the Goods and/or Services unless it has previously obtained Company's written consent. Supplier shall remain accountable for the quality and performance of the Goods and/or Services provided under a Subcontractor under the scope of this Order.

**6. QUALITY:** All Services shall be performed in a good, workmanlike manner, as well as, in full compliance with [Construction, Design and Management Regulations 2015] and materials and goods shall in every respect be equal to description, specification, previously approved supplies, or approved samples and shall be subject to the Company's inspection and approval within reasonable time after delivery. The Company reserves the right to reject goods or services which are not of the quality specification or sample required or is otherwise defective. Goods so rejected shall be held at the Supplier's risk and returnable at the Supplier's expense and shall not count as having been delivered unless the

Company elects to make such goods fit for their purposes in which case the Supplier shall be liable for the costs thereof, reject goods shall be disposed of by the Supplier at the Supplier's expense.

**8. INSPECTION:** For the provision of goods, duly accredited representatives of the Company shall be allowed to inspect material ordered at any stage of manufacture. Further, when applicable Company representatives shall be present at the FAT.

**9. INTELLECTUAL PROPERTY:** The Supplier shall indemnify the Company from and against all claims, damages and cost in respect of actual or alleged infringement of any patent, copyright, trademark, registered design or any other similar right. The Supplier shall not without the written consent of the Company disclose or make use of the information contained in any drawings or specification supplied by the Company (whether patentable or not) for purpose other than the execution of this order. The Supplier agrees, upon receipt of notification, to promptly assume all responsibility for defense of any suit or proceeding which may be brought against the Company or its agents, customers or vendors for alleged intellectual property infringement and/or any alleged unfair competition resulting from similarity in design, trademark or appearance of goods furnished hereunder including, without limitation, all costs of defending such suits or proceedings, any damages awarded against the Company and any amounts agreed upon by The Supplier to settle such claims. If the use of goods and/or services, or any part thereof, is enjoined due to infringement, or precluded by settlement, the Supplier will, at its own expense, and at its option, either procure for the Company the right to continue using such goods and/or services, replace the same with non-infringing goods and/or services that conform to the specifications, or modify such goods and/or services in a manner acceptable to the Company so it becomes non-infringing.

**10. WARRANTIES:** The Supplier warrants that the design, construction, or quality of the goods supplied or manner in which the Services are provided will (i) conform to specifications stated in this Order or the specifications, drawings and other descriptions or approved samples furnished by the Supplier or, if furnished by the Company, approved in writing by the Supplier; (ii) comply with the requirement of any Statute, Statutory Rule or Order, or Regulations which may be in force and affect the same (including without limitation the Federal Food, Drug, & Cosmetic Act); (iii) be of merchantable quality, (iv) be of good material and workmanship, (v) be free from defects in design and materials, (vi) be suitable for their intended use or purpose, and (vii) be free of liens and encumbrances. If applicable, the Supplier will assign to the Company all warranties applicable to any portion of the goods or services sourced by the Supplier from third parties, or if not assignable, will assert such warranties on behalf of the Company at Company's request in the event that Supplier becomes aware or has reasons to believe that a condition exists, within the manufacturing facility, the goods themselves, which does or may adversely impact any of the above warranties.

The Supplier warrants that it shall use its best efforts and all due diligence in performing Services hereunder, and that all services performed by it hereunder will (a) be performed in a safe, skilful and workmanlike manner; (b) be performed in conformity with the Supplier's directions, generally accepted professional standards, and all applicable federal, state and local laws, rules, regulations, orders and ordinances (including without limitation the CDM 2015 Rules); If, within one (1) year of completion of any services performed by the Supplier hereunder, such services are defective or do not conform with specifications, Health & Safety Plan, drawings or other description(s) furnished or specified by the Company in connection herewith, the Supplier shall, within thirty (30) days after receipt of a written notice from the Company specifying the defect or nonconformance, reperform such services without cost to the Company, and cover for the costs incurred by Company in connection to the delays triggered by the need of reperformance.

**11. INDEMNITY:** The Supplier shall defend, indemnify and hold the Company, its agents and customers harmless from and against all damages, claims, loss, cost, liabilities and/or expenses (including reasonable attorneys' fees and costs) incurred by the Company, including, but not limited to, those arising out of or resulting in any way from (i) any actual or alleged defect in the goods purchased

hereunder, (ii) any negligent or wilful act or omission of the Supplier, its employees, agents or subcontractors in the performance of the Services hereunder, (iii) the Supplier's breach of this Order or failure to comply with any express or implied warranty as provided herein or otherwise provided by law, (iv) violation of any statute, ordinance or administrative order, rule or regulation, and (v) any liability, loss or expense arising out of the work performed by the Supplier or its agents or subcontractors, including any claims that arise due to (a) injury to or death of any person, (b) loss of or damage to property, or (c) damage to the environment. The provisions of this paragraph shall survive the delivery and acceptance of the payment for the goods or completion and acceptance of and payment for services hereunder, as the case may be.

**12. INSURANCE:** The supplier shall have the following insurance coverage

General Third Party Liability Insurance/Contractor All Risk Insurance to the value of GBP 5,000,000 in the aggregate

Employers Liability insurance as per the statutory limits

Professional Indemnity insurance to the value of GBP,000,000 in the aggregate.

**13. MATERIALS:** The Supplier shall be responsible for any property of the Company which shall be issued to the Supplier for the execution of this order whether tools, patterns, gauges, or materials and shall indemnify the company against the loss or damage to such property whilst in the possession of the Supplier.

**14. PRICE & PAYMENT:** The Supplier shall not increase the price for all or part of this order without the written acceptance of the Company.

Unless otherwise set forth in this Order or agreed by the Parties in writing, payment terms are net 60 days from the date in which the Company receives the Supplier's invoice (or such lesser time as required by applicable law). No payments will be made by the Company without an invoice containing supporting detail and a reference to the applicable Purchase Order. Supporting details should include, as applicable, VAT, all taxes/duties, packaging, delivery cost, installation, documentation, initialization, testing, approvals, certificates etc, the price for the goods and/or Services excluding VAT and duty according to applicable VAT regulations, the customs and excise authority's standard number for imported products. (The Company reserves the right to demand reimbursement for customs and excise duties from the Supplier.) The Supplier will pay all taxes in connection with the sale or delivery of the goods and/or services to Company; except applicable sales taxes that the Supplier states as a separate line item on each quotation and invoice. All payments will be in the Company's local currency.

The Company will not be responsible for and shall not pay for the costs of services/goods in any invoice that were incurred over one-hundred eighty (180) days from the date of receipt of such invoice.

**15. PASSING OF PROPERTY:** Title to the goods shall pass to the Company on completion of delivery 'without prejudice to any right of rejection'. Goods remain at the Supplier's risk until delivery has been completed.

**16. LAW:** These Conditions shall be construed and interpreted pursuant to the substantive laws of the country (or state) in which the KD Selling Entity is incorporated. The United Nations Convention on Contracts of the International Sale of Goods (CISG) shall not apply.

The parties agree that any suits, actions or proceedings that may be instituted by any party shall be initiated before the competent courts at the seat of incorporation of the KD Selling Entity.

The Construction, Validity, and performance hereof shall be governed by the Laws of England and competent courts are those of the city of London.

**18. ENVIRONMENT:** It is the responsibility of the Supplier to dispose of waste generated during the course of any work being undertaken in accordance with current environmental legislation. No waste generated by the Supplier during the course of work may be disposed of on the Companies premises without the written permission of the Companies HSE Department Head. Any authorised disposals on the Companies premises should be carried out in accordance with

the relevant Company Environmental Procedures, which can be obtained from the HSE Department Head. Suppliers are not permitted to remove or dispose of Company waste materials without the consent of the Companies HSE Department Head.

**19. CONFIDENTIALITY:** The Supplier shall consider all information furnished by Buyer or its affiliates in any manner whatsoever, including but not limited to the terms of this Order, all trade secrets, technical know-how, descriptions, recipes, manufacturing instructions and models, and any scientific and financial information to be confidential ("Confidential Information"). The Supplier agrees: (i) to hold all Confidential Information in confidence and not disclose it to any third party; (ii) not to use Confidential Information for any purpose other than to fulfil The Supplier's obligations under this Order, unless The Supplier obtains written permission from the Company; and (iii) to use at least the same degree of care, but no less than a reasonable degree of care, to safeguard the Confidential Information as it employs with respect to its own information of a similar nature. Upon the expiration or earlier termination of this Order, or upon the Company's request, the Supplier and any subcontractors of Supplier agrees promptly to return to the Company, or destroy, all documents or other tangible materials containing and/or embodying any of the Confidential Information (including, without limitation, all copies, reproductions, summaries and notes of the contents thereof), and to certify that all such Confidential Information has been returned to the Company or disposed of in a manner approved by the Company. The Supplier shall make every reasonable effort to insure, that each of its employees who are involved in the performance of Supplier's obligations under this Order will abide by the non-use and confidentiality obligations as set forth in this paragraph. The obligations of the parties under this section shall survive termination, cancellation or expiration of this Order.

**20. TERMINATION.** The Company may terminate this Order or any part thereof with or without cause upon written notice to the Supplier. Upon receipt of notice of such termination, the Supplier shall immediately stop all goods or Services in process and shall immediately cause any of its suppliers or subcontractors to cease such goods or Services in process. The Supplier shall not be paid for any goods and/or Services processed after receipt of the notice of termination, nor for any costs incurred by the Supplier's suppliers or subcontractors which the Supplier could reasonably have avoided. The Supplier shall not unreasonably anticipate the requirements of this Order. The Company may also terminate this Order or any part hereof for cause in the event of any default by The Supplier, or if The Supplier fails to comply with any of the terms and conditions of this Order. Events of default shall include, but not be limited to, (a) the Supplier's failure to deliver goods or render Services within this Order or to deliver such goods or Services within the specified deadlines, (b) the Supplier's failure to make progress in the performance of its obligations under this Order reasonably satisfactory to the Company, (c) deliveries of goods which are defective or which do not conform to this Order, (d) failure to provide the Company with adequate assurances of future performance, (e) the appointment of any trustee or receiver for any substantial portion of the Supplier's assets, any assignment for the benefit of the Supplier's creditors, The Supplier is insolvent, files for bankruptcy or is adjudged bankrupt (f) The Company determining, in good faith, that any of its material or equipment used in connection with the goods and/or Services is in danger of destruction or damage, or that the Company's title thereto is in jeopardy or (g) the Supplier's breach of any provision contained in this Order. In the event of the Company's termination for cause, the Company shall not be liable to the Supplier for any damages sustained by reason of the termination, and The Company shall have all rights and remedies provided at law and in equity. In the event of any termination of this Order, the Company may procure, upon such terms and in such manner as the Company may deem appropriate, goods and/or Services comparable to the cancelled goods and/or Services, and the Supplier will be liable to the Company for any excess cost of such comparable products. Further, the Company may require the Supplier to deliver, in the manner and to the extent directed by the Company, any completed or partially completed goods and/or Services, against the Company's payment of the portion of the price properly allocable to such goods and/or Services. In the event of termination pursuant to this section, (i) all deposits or prepayments shall be deemed to have been held in trust for the Company's benefit and will be returned to the Company promptly upon request; (ii) when applicable Supplier shall ensure a smooth transition of the Services to any third party appointed by the Company in a timely manner, in full cooperation

with the Company and such new appointed third party. The obligations of the parties under this Order that by their nature would continue beyond the termination, cancellation or expiration of this Order shall survive termination, cancellation or expiration of this Order.