

Conditions of Purchase

Evotec (UK) Ltd

1 Definitions

- 1.1 The term "Buyer" shall mean the person, firm or company so named in the Purchase Order
- 1.2 The term "Seller" shall mean the person, firm or company to whom the Purchase Order is issued.
- 1.3 The term "Purchase Order" shall mean any Purchase Order issued by the Buyer on any written order form to the Seller for the supply of its Goods. No Contract shall exist/subsist between the Buyer and Seller unless such a Purchase Order has been issued.
- 1.4 The word "Goods" shall mean all goods and services covered by the Purchase Order.
- 1.5 The term "Contract" shall mean the contract between the Buyer and Seller, consisting of the Purchase Order, these Conditions of Purchase or any other documents (or parts thereof) specified in writing in the Purchase Order.
- 1.6 The term "Date of Delivery" shall mean the date for delivery specified in the Purchase Order.
- 1.7 The term "Contract Price" shall mean the sum stated in the Purchase Order to be paid by the Buyer to the Seller for the supply of the Goods.
- 1.8 The term "Authorized Officer" shall mean the Buyers' employee authorized either generally or specifically by the Buyer to sign the Buyers Purchase Order, confirmation of which may be obtained from the Vice President of Finance.

2 General

- 2.1 The only terms and conditions applicable to a Purchase Order and/or contracts shall be those set out in the agreement and any additional provisions as agreed in writing between the parties, for instance those contained in any confidentiality agreement between the parties. For the avoidance of doubt, no other terms and conditions shall apply to the Agreement, including, without limitation, the Seller's own terms and conditions, even if Evotec does not explicitly object to such other terms and conditions.
- 2.2 If any terms of this Conditions are held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other terms and the remainder of the terms in question shall not be affected.

3 Amendment of Conditions

- 3.1 Neither party shall be bound by any variation; waiver or addition to these Conditions except as agreed by parties in writing and signed on their behalf by one of their authorised personnel.

4 Documentation

- 4.1 All correspondence must quote the Buyers' Purchase Order number.
- 4.2 Receipt of all Purchase Orders must be acknowledged in writing to purchasing-UK@evotec.com
- 4.3 Invoices and Statement must be sent to finance-abingdon@evotec.com.
- 4.4 Advice and despatch notes must be sent to logistics.abingdon@evotec.com
- 4.5 All invoices and statements must show separately the VAT rate and the amount of VAT charged and the Sellers VAT registration number.
- 4.6 If the Seller accepts a Buyers' Purchase Order by e-mail, acceptance shall be deemed to take place and a valid contract formed when Seller's e-mail is received by the Buyers' e-mail system. For the avoidance of doubt, the absence of signatures on behalf of the Seller and the Buyer on the Purchase Order issued by the Buyer shall not affect the validity of a Purchase Order or Contract formed by e-mail in accordance with the sentence above.

5 Specification

- 5.1 The quantity, quality and description of the Goods shall be as specified in the Purchase Order and/or in any applicable specification, drawings descriptions or samples supplied or advised by the Buyer to the Seller contained or referred to in the Purchase Order.
- 5.2 The Seller shall comply with all applicable standards, regulations and or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods.

6 Quality and Fitness for Purpose

- 6.1 The Seller warrants that at the time of delivery of the Goods the Goods shall be of satisfactory quality.
- 6.2 The Seller warrants that at the time of delivery of the Goods the Goods shall be fit and sufficient for the purpose for which such Goods are ordinarily used and for any particular purpose made known to the Seller by the Buyer.
- 6.3 The Buyer shall rely on the skill and judgement of the Seller in the supply of the Goods and the execution of the Purchase Order.

7 Right of Rejection

- 7.1 Where Goods do not conform with the Purchase Order, whether by means of quality or quantity or being unfit for the purpose for which they are

required, the Buyer reserves the right to reject such Goods in whole or in part irrespective of whether such Goods have been accepted or paid for and **Section 15A of the Sale of Goods Act 1979** shall not apply.

- 7.2 If the Seller does not receive notice from the Buyer in accordance with clause 7.1 within thirty (30) days of receipt of the Goods by the Buyers, such Goods shall be deemed to comply in all respects with the Purchase Order.
- 7.3 The Buyer shall give the Seller reasonable opportunity to replace the Goods with new Goods that conform with the Purchase Order, after which time the Buyer shall be entitled to cancel the Purchase Order and purchase replacement Goods of the same or similar description elsewhere and without any prejudice to any other rights the Buyer may have with the Seller.
- 7.4 In the event of a cancellation as defined in Clause 7.3 the Seller shall promptly repay any monies paid under the Contract without any retention or offset whatsoever. Cancellation of the Purchase Order under these Conditions shall not affect any other rights the Buyer may have.
- 7.5 The Seller must collect all rejected Goods within a reasonable time frame of rejection. Where the Seller fails to collect such rejected Goods within a reasonable time frame, the Buyer shall be entitled to dispose the Goods at the expenses of the Seller and will not be held liable for the cost of Goods.

8 Delivery

- 8.1 The Date of Delivery of Goods shall be specified in the Purchase Order unless otherwise agreed by the Buyer and Seller. Time for delivery shall be the essence of the Contract.
- 8.2 The Seller shall bear the cost of delivering the Goods to the Buyer at the delivery point specified in the Purchase Order unless otherwise specified. Delivery shall be affected when Goods have been unloaded and accepted by an authorised officer of the Buyer.
- 8.3 If the Goods are incorrectly delivered then the Seller will be held responsible for all additional expenses incurred in delivering them to their correct destination.
- 8.4 The Seller shall ensure that each delivery is accompanied by a delivery note which is prominently displayed and which shows the Purchase Order number, date of order, number of packages and contents and in the case of part delivery the outstanding balance remaining to be delivered. The Seller shall also supply the Buyer free of charge with all operating safety and storage instructions, warning notices and other information that may be necessary for the proper use of Goods and that shall be displayed clearly.
- 8.5 The Seller agrees before delivery to provide the Buyer in writing and free of charge with a list by

name and description of any harmful (e.g. hazardous and toxicological) or potentially harmful substances, properties or ingredients in the Goods supplied and to include information concerning any changes in or control of such substances, properties or ingredients. The Buyer will rely on the Seller for the supply of such information to satisfy its own obligations under the Health and Safety at Work Act 1974 and any other relevant legislation. The Buyer shall comply with any instructions or warnings provided by the Seller relating to the use of the Goods and shall not misuse the Goods in any manner.

- 8.6 The Goods shall be properly packed, secured and despatched to arrive in good condition at the time and place specified in the Purchase Order.
- 8.7 Providing the Buyer has given notice to the Seller in reasonable time after receipt of the Goods, the Seller will repair or replace all Goods damaged, lost in transit, during off-loading or stacking free of charge.

9 Passing of Property and Risk

- 9.1 The Goods shall become the property of the Buyer when they have been delivered in accordance with Clause 8 above without the Buyers right to reject the Goods under Clause 7.
- 9.2 The risk in the Goods shall pass to the Buyer on completion of delivery in accordance with Clause 8 above provided that the risk in any goods rejected by the Buyer under Clause 7 shall revert to the seller immediately upon notice being given by the Buyer of such rejection.
- 9.3 International deliveries shall be subject to DDP under INCOTERM, latest version.
- 9.4 Notwithstanding that risk and possession of the Goods may have passed to the Buyer, all title in and to the Goods shall remain with the Seller, and shall not pass to the Buyer, until such time as full payment for the Goods, together with any interest due on such payments, has been received by the Seller.

10 Inspection

- 10.1 The Buyer shall have the right to inspect the progress and inspect the Goods at the Sellers or Sellers subcontractor's premises. The Buyer shall provide no less than 48 hours notice in writing of such visit.
- 10.2 The Buyer shall have the right to request all defects and deficiencies to be made good and alterations made where Seller or Seller's subcontractors have failed in the reasonable opinion of the Buyer to comply with the terms of the Contract.
- 10.3 Any inspection, checking, or approval on behalf of the Buyer under this clause shall not relieve the Seller of any of it's obligations under the Contract.

11 Price

- 11.1 The price payable for the Goods shall be that stated in the Purchase Order and unless otherwise stated shall be inclusive of all charges including but not limited to packaging material, packing, shipping, loading, carriage insurance and delivery of the Goods to the delivery address and any duties, levies, customs, fee or charge of any nature whatsoever imposed by any governmental authority on the transaction between the Seller and the Buyer or taxes other than VAT; and fixed for the duration of the Contract.
- 11.2 No variation in price or extra charges can be made whether on account of increased material, labour, transport or fluctuations in rates of exchange or otherwise, without the prior written consent of the Buyer.

12 Payment

- 12.1 The Seller shall submit an invoice for the Goods after delivery has been completed. Invoices shall be submitted and distributed as set out in Clause 4.
- 12.2 All invoices must quote the relevant Purchase Order number.
- 12.3 Unless otherwise stated in the Contract, the Buyer shall pay the Seller within sixty (60) days of receipt of a correctly rendered invoice. The Buyer shall not be held responsible for delays in payment caused by the Sellers failure to comply with the Buyers invoicing instructions.
- 12.4 If the Buyer has rejected the Goods or any parts of them without having made payment and such rejected Goods are thereafter replaced by the Seller with Goods which conform to the Purchase Order then payment shall be made by the Buyer for the Goods with sixty (60) days of receipt of a properly prepared invoice for the same.
- 12.5 All invoices which do not conform to the Purchase Order shall be placed in dispute. The Buyer shall contact the Seller and the Seller shall work with the Buyer to resolve the dispute in a reasonable time frame. All disputed invoices will be removed from the Sellers statements and payment shall not be subject to any late payment penalties. Once disputes are resolved, invoices will be paid within a time frame agreed by both the Buyer and Seller.
- 12.6 Payment by the Buyer in accordance with the stipulated payment terms shall not constitute any admission by the Buyer as to the performance by the Seller of his obligations.
- 12.7 Interest may be charged by the Seller on any late payments due at the rate specified by the Late Payment of Commercial Debts (Interest) Act 1998 at the date of the invoice relating to the Goods.

13 Delayed Delivery

- 13.1 If the Seller is delayed in the performance of the Contract by any act or default of the Buyer or any circumstance of force majeure as defined in Clause 16 below the Buyer shall grant to the Seller a reasonable extension of the date of delivery of the Goods. Notwithstanding the granting of any such extension, the Seller shall use his best endeavors to deliver the goods by the delivery date.
- 13.2 If the Goods or any part of them are not delivered by the time or times specified in the Purchase Order or the extended delivery date under sub-clause 1 of this clause then the Buyer may by written notification cancel any Goods or undelivered balance of the Goods. The Buyer may also return for full credit and at the Sellers expense any Goods that in the Buyers opinion cannot be utilised owing to this cancellation.
- 13.3 Owing to the failure of the Seller to deliver the goods under sub-clause 1 and 2 of this clause, the Buyer may terminate the contract and purchase other Goods of the same or similar description elsewhere and recover from the Seller the amount by which the cost of purchasing such other Goods exceeds the Contract Price without prejudice to any other rights which the Buyer may have in respect of the Seller's breach of contract.

14 Defects Liability

- 14.1 The Seller shall without delay and without cost to the Buyer repair, or replace at the Buyers option any of the Goods which are or become defective within a period of 18 from delivery to 12 months from putting into service, whichever shall be shorter, due to faulty workmanship, materials, or faulty design, if the Seller is responsible for the design, errors in instructions, labels or handbooks or any other breach by the Seller of his obligations under the Contract or at law whether express or implied.
- 14.2 Any goods so replaced shall be subject to the same obligations for a further defect liability period of 12 months from their re-delivery after repair or replacement.
- 14.3 If the Seller shall fail to repair or replace such defective Goods the Buyer shall have the right to have the work of repair or replacement undertaken elsewhere and to recover the costs of so doing from the Seller.
- 14.4 The Seller shall be further liable to the Buyer for all direct damages sustained by the Buyer arising out of the said defects in the Goods up to the limit of liability stated in the Purchase Order or if no such limit is stated the Contract Price.

15 Liability

- 15.1 If either party fails to perform its obligations under the contract then that party shall be liable to the other for the damages arising directly and

naturally in the ordinary course of events from the breach of contract concerned.

- 15.2 Nothing in these Conditions shall operate to limit or exclude any liability, right or remedy to a greater extent than is permissible under English Law, including without limitation in relation to (a) death or personal injury caused by the negligence of a party to the Contract or (b) fraudulent misrepresentation or deceit.

16 Force Majeure

- 16.1 Neither party shall be liable for failure to perform its obligations under the Contract if such failures result from circumstances which were not in the contemplation of the parties at the time of the Contract and which are beyond the reasonable control of the party in breach.
- 16.2 The Buyer reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of Goods ordered if it is prevented from or delayed in the carrying on of its business through any circumstances beyond its reasonable control.
- 16.3 Any events which were unforeseeable, irresistible, insurmountable and independent of the will of the party concerned will declare the existence of force majeure and the effected party shall notify the other. The following shall be included but is not limited as causes beyond reasonable control:
- 16.3.1 Governmental actions, war or threat of war, national emergency, riot, civil disturbance, sabotage of requisition.
- 16.3.2 Act of God, fire, explosion, flood, epidemic or accident
- 16.3.3 import or export regulations or embargoes;
- 16.3.4 labour disputes not including the work-force of the Seller, industrial action
- 16.3.5 a power failure or breakdown of machinery.
- 16.4 If the event of force majeure continues for a period of less than 90 days then on the ending of the force majeure event the contractual obligations of the parties shall be reinstated with such reasonable modifications to take account of the force majeure event as may be agreed between the parties, or in default of agreement as may be determined by arbitration.
- 16.5 In the event of force majeure shall continue for a period of more than 90 days, then the Contract shall be considered as terminated by mutual consent and any payments made by the Buyer to the Seller shall be promptly refunded.

17 Intellectual Property Rights

- 17.1 The Seller warrants that it owns the Goods and that neither the Goods nor the Buyers' use of them will infringe any patent registered design trademark copyright or other protected right, with the exception of Goods made to the Buyers' design or instruction.

17.2 The Seller shall indemnify the Buyer from:

- 17.2.1 all costs, claims proceedings or demands in respect of claims for infringement of patent, registered trademarks, copyright or design right by reason of the use or sale of Goods against all costs, losses, expenses, claims and damages incurred in any action for such infringement or for which Buyer may become liable in any action;
- 17.2.2 all claims made against the Buyer arising out of the (negligent and/or wilful) acts and omissions of the Seller or its Subcontractors;
- 17.2.3 all losses, costs, damages, claims and expenses caused to and made against the Buyer which would not have been caused or made had the Seller fulfilled its expressed or implied obligations under the Contract.
- 17.3 In the event the Buyer receives notice of any claim that the Goods infringe any such patent, copyright, trade mark or design right of any third party, with the exception of Goods made to the Buyers design or instruction, the Buyer shall have the right to terminate the Contract forthwith but such termination shall be without prejudice to any other right of action the Buyer may have.

18 Assignment and Subletting

- 18.1 A Purchase Order or Contract shall not be assigned by the Seller nor sub-let as a whole. The Seller shall not assign any part of the Purchase Order or Contract without the Buyers written consent, which shall not be unreasonably withheld. The restrictions of this clause shall not apply for the subcontracting of materials or minor items or for any item for which the subcontractor is named in the Contract.
- 18.2 The Seller shall be responsible for all Goods supplied by subcontractors as if the Goods had been supplied by itself.

19 Insolvency and Bankruptcy

- 19.1 If the Seller becomes insolvent or bankrupt or (being a company) makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for the purposes of amalgamation or reconstruction) the Buyer may, without prejudice to any of its rights, terminate the contract forthwith by notice to the Seller or to any person in whom the Contract may be vested.

20 Termination

- 20.1 The Buyer shall be entitled to cancel any Purchase Order in whole or in part at any time by giving written notice to the Seller prior to delivery of the Goods. If the Buyer exercises this right of cancellation then the Buyers' sole

liability shall be to pay the Seller the irrevocable costs incurred by the Seller in accordance with the Contract and fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation shall not include any loss of anticipated profits or consequential loss.

- 20.2 If the Seller commits a breach of any of the terms and conditions of the Contract, the Buyer shall have the right by giving written notice to the Seller to terminate the Contract with immediate effect at any time.
- 20.3 The Buyer shall be entitled to, by giving written notice to cancel a Purchase Order or the Contract with immediate effect at any time if the Seller ceases or threatens to cease to carry on its business.
- 20.4 If the Seller fails to pay any money due from it to the Buyer, then the Buyer by written notice shall be entitled to terminate the Contract with immediate effect.

21 Indemnity

- 21.1 The Seller shall keep the Buyer fully and effectively indemnified against:
 - 21.1.1 any royalties payable by the Seller resulting from whatsoever and
 - 21.1.2 any claim in Contract or tort or otherwise for any direct or indirect damages, expenses or costs (including without limitation legal expenses and experts' fees) relating to damage to property or injury to loss to any person, firm or company, or for any loss of profit or production arising out of, or occasioned by any error in design or drawings; or any defects in failure of the Goods or part thereof provided; or work performed by the supplier or occasions by reason of any (negligent and/or wilful) act or omission by the Seller or any subcontractor of it.
- 21.2 The Seller shall effect with a reputable insurance company a policy or policies covering all the matters which are subject of indemnities under these Conditions and shall at the request of the Buyer produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium there under.

22 Confidentiality

- 22.1 The Sellers shall not use or make public any details of the Purchase Order or the Buyers name for advertisement or publicity purposes without the prior written consent of the Buyer. The consent shall cover only the material described in the request and shall only apply for the approved time period. Both parties shall comply with applicable data protection law.
- 22.2 The Seller shall hold as confidential all information, details, specifications, drawings and any other matter relating to the Goods to be

supplied in any way whatsoever and shall not disclose the same or any of the same to any other person except such of his employees and permitted subcontractors and suppliers as may be necessary for the performance of his obligations under the Contract.

- 22.3 The Sellers duty of confidentiality shall continue in respect of each item of information until that item of information lawfully enters the public domain, except any information's which (i) is or becomes public knowledge through no improper conduct on the part of the Seller; (ii) is already lawfully possessed by the Seller prior to receiving it; (iii) is obtained subsequently from a third party without any obligations of confidentiality and such third party is in lawful possession of such material and is not in violation of any contractual or legal obligation to maintain the confidentiality of such material; (iv) is independently developed by the Seller, as evidenced by the Seller's written records, without access to such information; and/or (v) is approved for release by written authorization of the Buyer.
- 22.4 In the event the Seller that it is required by law or by a regulatory authority having jurisdiction to disclose any confidential information, whether by way of public filing or otherwise, then the Seller shall promptly give written notice thereof to the Buyer and (subject to such law or regulatory authority) permit the other the right to review such disclosure, obtain a protective order or to terminate any further discussions.
- 22.5 All documents and drawings containing such information and any copies thereof shall upon completion of the contract, or it's termination for any reason, be returned to the Buyer.

23 Corrupt Gifts

- 23.1 The Seller shall not provide, in any event, to give, provide, or offer to the Buyers' employees and/or agents any loan, fee reward, emolument or advantage whatsoever. In the event of any breach of this condition, the Buyer shall without prejudice to any other rights the Buyer may possess, be at liberty forthwith to terminate with immediate effect any Contract and to recover from the Seller any loss or damage resulting from such termination.

24 Law

- 24.1 This Conditions and any Contract shall in all respects be governed by and interpreted in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English courts in connection with any dispute hereunder.