



Standard Terms and Conditions of Purchase

These standard terms and conditions were last updated on 2 April 2025, and apply to any purchase of Goods by the Customer from the Supplier on and after this date.

1. Interpretation

1.1 Definitions:

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 14.4.

Contract: the contract between the Customer and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

Customer: Smartway Pharmaceuticals Limited (registered in England and Wales with company number 08481191).

Delivery Date: the date agreed between the parties, or, if none is specified, within 7 days of the date of the Order.

Delivery Location: the address as agreed in writing by the Customer for delivery of Goods.

Goods: the goods (or any part of them) set out in the Order.

Mandatory Policies: the Customer's policies specified and accessible in the [Regulatory Information](#) section of its website, as amended from time to time.

Order: the Customer's order for the Goods, typically in the form of a purchase order.

Specification: any specification for the Goods that is agreed by the Customer and the Supplier.

Supplier: the person or entity from whom the Customer purchases the Goods, as identified in the Order.

1.2 Interpretation:

(a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

(b) A reference to a party includes its personal representatives, successors and permitted assigns.

(c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

(d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

(e) A reference to **writing or written** excludes fax but not email.

2. Basis of contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.

2.3 The Order shall be deemed to be accepted on the earlier of:

(a) the Supplier issuing a written acceptance of the Order; and

(b) the Supplier doing any act consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence.

2.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier.

2.5 Each party acknowledges that the Guidelines of Good Distribution Practice (**GDP**) and/or Good Manufacturing Practice (**GMP**) may apply and where applicable the parties will each take reasonable steps to comply with GDP and GMP, within the meaning of Regulation B17 and/or C17 of The Human Medicines Regulations 2012.

2.6 If the Supplier is the manufacturer of any Goods to be supplied which are special medicinal products, it shall ensure that they're manufactured to the nature, standard and quality in the Order, and that they shall comply with the relevant GMP, or the local equivalent (e.g. cGMP for the USA).

3. Goods

3.1 The Supplier undertakes that the Goods shall:

(a) correspond with their description and any applicable Specification;

(b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;

(c) be free from defects for 12 months after delivery;

(d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling,

packaging, storage, handling and delivery of the Goods, including without limitation those applicable under the GDP and/or GMP; and

(e) be supplied in compliance with the Mandatory Policies.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

3.3 The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract. If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

3.4 The Supplier warrants and represents to the Customer that:

(a) the Supplier is and shall continue to be lawfully authorised to sell the Goods to the Customer;

(b) if the Supplier is at risk of or loses its authorisation to sell the Goods, it shall immediately notify the Customer;

(c) the Goods comply with all applicable statutory and regulatory requirements and are not falsified, and if the Supplier has, or at any time becomes aware of, any reason to suspect that the Goods are falsified or otherwise non-compliant with any applicable statutory and regulatory requirements it shall inform immediately the Customer and shall comply with any reasonable requests of the Supplier to mitigate or otherwise address the consequences of that situation;

(d) onward sale of the Goods by the Customer in any manner shall not breach any restrictions imposed on the Supplier (regulatory or otherwise) and/or any of the Supplier's obligations to third parties;

(e) the Supplier shall comply with any reasonable request for information and/or documents from the Customer pertaining to its authorisation or ability to sell the Goods and/or the compliance or otherwise of the Goods themselves with any applicable statutory and regulatory requirements.

3.5 The Supplier must immediately, or where this is impossible due to a legal restriction as soon as reasonably possible, notify the Customer if the Supplier is or has become aware that it is going to be subject to an investigation, intervention or other action by a national competent authority or similar regulatory authority/agency, and provide the Customer with sufficient details (insofar as possible) about that, insofar as it relates to supplies between the Customer and the Supplier, or otherwise has the potential to impact on the Customer.

3.6 The Supplier hereby acknowledges that its breach of, or failure to comply with, clauses 3.1 – 3.5 shall constitute irremediable breach of the Contract.

3.7 If for any reason the Supplier recalls Goods (including at the direction of any manufacturer or competent authority) the Supplier shall provide the Customer with a copy of the recall notice and give the maximum amount of time possible to give effect to the recall. The Supplier shall fully indemnify the Customer in respect of any costs or other losses howsoever arising in connection with the recall, in accordance with clause 8 below.

4. Delivery

4.1 The Supplier shall ensure that:

(a) the Goods are properly packed using validated methods and are secured in such manner as to enable the Goods to reach their destination in good condition, and to comply with GDP and their labelling requirements;

(b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;

(c) where the Goods are to be exported by the Supplier for import into the United Kingdom, the correctly completed export, import, customs and excise documentation, declarations and permits, including with the correct customs procedure codes pertaining to the Goods; and

(d) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

(a) on the Delivery Date;

(b) at the Delivery Location; and

(c) during Business Hours, or as instructed by the Customer.

4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location, and time shall be of the essence for the performance of the Supplier's obligations under the Contract.

4.4 If the Supplier:

(a) delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or

(b) delivers more than 100% of the quantity of Goods ordered, the Customer may at its discretion reject the excess Goods and any rejected Goods shall be returnable at the Supplier's risk and expense.

If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle the Customer to the remedies set out in clause 5.

4.6 The Customer will notify the Supplier of any discrepancies in respect of clause 4 by no later than 21 days of the Delivery Date. Without prejudice to the foregoing, the Customer will use reasonable endeavours to do so within 72 hours.

5. Remedies

5.1 If the Goods are not delivered on the Delivery Date, or do not comply with the terms of this Contract, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Customer may exercise any one or more of the following rights and remedies:

- (a) to terminate the Contract;
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; and
- (f) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

5.2 If the Goods are not delivered on the Delivery Date the Customer may, at its option, claim or deduct by way of liquidated damages 0.5% of the price of the Goods for each day's delay in delivery until the earlier of delivery or termination or abandonment of the Contract by the Customer, up to a maximum of 10% of the total price of the Goods. If the Customer exercises its rights under this clause 5.2, it shall not be entitled to any of the remedies set out in clause 5.1 in respect of the Goods' late delivery (but such remedies shall be available in respect of the Goods' condition).

5.3 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

5.4 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

6. Title and risk

Title and risk in the Goods shall pass to the Customer on completion of delivery in accordance with clause 4.3.

7. Price and payment

7.1 The price of the Goods shall be the price agreed in the Order.

7.2 The price of the Goods:

- (a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier (where applicable) at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- (b) includes the costs of packaging, insurance and carriage of the Goods, until completion of delivery.

7.3 No extra charges shall be effective unless agreed in writing with the Customer.

7.4 The Supplier may invoice the Customer for the price of the Goods plus VAT at the prevailing rate (if applicable) on

or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Order, the order number (if any), the invoice number, the Supplier's VAT registration number and any supporting documents that the Customer may reasonably require.

7.5 The Customer shall pay correctly rendered invoices within 30 days of receipt of the invoice, unless other terms are agreed with the Supplier. Payment shall be made to the bank account nominated in writing by the Supplier.

7.6 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 1% a year above the Bank of England's base rate from time to time, but at 1% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from 14 days after the dispute is resolved until payment.

7.7 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

7.8 If the Customer agrees to make advance, pro-forma or a deposit payment at the request of the Supplier, then those funds shall be held by the Supplier on trust for the Customer and be repayable on demand. The funds must be held in a ring-fenced account and not used for any

other purpose other than the Order to which they relate. Where the advance payment is to enable the Supplier to purchase the Goods for the Customer, the Supplier agrees that the title to those Goods vest in the Supplier.

8. Indemnity

8.1 The Supplier shall indemnify the Customer against all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with the Contract, including without limitation:

- (a) any claim that the supply, receipt or use of the Goods infringes any rights of third parties, including but not limited to the intellectual property rights of any third party;
- (b) any claim concerning non-compliance with any applicable statutory and regulatory requirements
- (c) any claim by a third party for death, personal injury or damage to property arising out of or in connection with defective Goods, to the extent that the defect is attributable to the acts or omissions of the Supplier;
- (d) any claim arising out of or in connection with the supply of the Goods, to the extent that the claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier; and
- (e) any recall in respect of the Goods, whether at the request of the Supplier or otherwise undertaken by the Customer on the basis that, in its reasonable opinion, it was necessary to do so.

9. Insurance

During the term of the Contract and for a period of 7 years afterwards, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability

insurance to cover the liabilities that may arise under or in connection with the Contract, and shall produce to the Customer on demand both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. Compliance with relevant laws and policies

10.1 In performing its obligations under the Contract, the Supplier shall:

- (a) comply with all applicable laws, statutes, regulations and codes from time to time in force; and
- (b) comply with the Mandatory Policies.

10.2 Breach of clause 10.1 shall constitute an irremediable material breach of the Contract.

11. Termination

11.1 The Customer may terminate the Contract in whole or in part at any time before delivery of the Goods with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

11.2 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 2 days of the Supplier being notified in writing to do so;
- (b) the Supplier is subject to regulatory action by a national competent authority or similar regulatory authority and the nature of that action is, in the reasonable opinion of the Customer, such that it means termination is appropriate in the circumstances

(c) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(d) the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with its creditors, having a receiver appointed to any of its assets, or ceasing to carry on business or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(e) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(f) the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

11.3 In the event the Customer terminates the Contract, the Customer shall not be required to make any payment to the Supplier and the Supplier shall immediately repay to the Customer any sums paid by the Customer in respect of any Goods not delivered, rejected or recalled.

11.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

11.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

12. Confidentiality

12.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.

12.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 Neither party may use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

12.4 Where a signed Confidentiality Agreement has been entered into between the parties, the provisions of that agreement (and not this) will prevail over this clause.

13. Force majeure

Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 7 days, the party not affected may terminate the Contract by giving written notice to the affected party.

14. General

14.1 Assignment and other dealings

(a) The Customer may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

(b) The Supplier may not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.

14.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

14.3 Entire agreement.

(a) The Contract constitutes the entire agreement between the parties.

(b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it has no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

14.4 **Variation.** No variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.

14.5 Waiver.

(a) Except as set out in clause 2.4, waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

(b) A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

14.6 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 14.6, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

14.7 Notices.

(a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be sent by email to the following addresses (or an address substituted in writing by the party to be served):

Supplier: any email address of the Supplier.

Customer: any email address of the Customer who has handled the Order.

(b) Any notice shall be deemed to have been received at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

(c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14.8 Third party rights.

(a) The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

(b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

14.9 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

14.10 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.



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