

Boehringer Ingelheim - Terms and Conditions of Order

1) Basis of Order

- a) In accepting an Order (which may be implied by delivery or part performance), the Supplier acknowledges that the Conditions constitute all of the terms of any contract for sale of the Supplies, except to the extent that the parties have entered into a Supplier Agreement. To the extent that there is any inconsistency between the Conditions and a Supplier Agreement, the terms of the Supplier Agreement will prevail, but only to the extent of the inconsistency. Any conditions sought to be imposed by the Supplier that are conflicting or otherwise inconsistent with the Conditions or Supplier Agreement are hereby deemed to be ineffective for all purposes. The Conditions may only be modified or varied in writing signed by the parties. To the extent the Supplier's terms and conditions are provided with the Supplies (including as printed on consignment notes or other documents), those terms and conditions will be of no legal effect and will not constitute part of any Order.
- b) The Supplier acknowledges that it has read, understands, accepts and agrees to be bound by the Conditions.

2) Prices and payment

- a) All prices are shown in the Order and, unless specified otherwise in the Order, include all charges for supply of the goods or performance of the services including testing, inspection, packing, delivery or otherwise, all taxes (including GST), duties and other imposts for which the Supplier is liable, all insurance costs, and all amounts payable for the use of the Supplies (whether in the course of manufacture or use of any related patent, copyright, registered designs, trade mark and other intellectual property rights).
- b) No increase in prices will be allowed unless approved by the Authorised BI Representative in writing.
- c) Tax invoices MUST quote the relevant Order number to which the invoice relates and be sent to the following respective addresses (as applicable)
 - i) for tax invoices to Boehringer Ingelheim Pty Limited (ABN 52 000 452 308), PDF-INVOICES.AU@boehringer-ingelheim.com, where email is not available the invoice can be sent to: Accounts Payable, PO Box1969, Macquarie Centre North Ryde NSW 2113;
 - ii) for tax invoices to Boehringer Ingelheim Animal Health Australia Pty Ltd (ABN 53 071 187 285), PDF-INVOICES.AU@boehringer-ingelheim.com
 - iii) for tax invoices to Boehringer Ingelheim NZ Limited (Company Number: 88986), PDF-INVOICES.NZ@boehringer-ingelheim.com, and
 - iv) for tax invoices to Boehringer Ingelheim Animal Health New Zealand Limited (Company Number 664734), PDF-INVOICES.NZ@boehringer-ingelheim.com.
- d) Payment to the Supplier shall not constitute an acceptance of the Supplies by BI or a waiver of any of the Supplier's warranties.
- e) BI is entitled to set off against or deduct from any amounts due to the Supplier any monies due or claimed to be due from the Supplier to BI.
- f) Payment terms for:
 - i) Boehringer Ingelheim Pty Limited (ABN 52 000 452 308), are thirty (30) days from date of receipt of invoice by BI;
 - ii) Boehringer Ingelheim Animal Health Australia Pty Ltd (ABN 53 071 187 285), are thirty (30) days from date of receipt of invoice by BI;
 - iii) Boehringer Ingelheim NZ Limited (Company Number: 88986), are on or before the 20th day of the month following the month in which the Supplies are provided or the relevant invoice is received, whichever is the later and
 - iv) Boehringer Ingelheim Animal Health New Zealand Limited (Company Number 664734), are on or before the 20th day of the month following the month in which the Supplies are provided or the relevant invoice is received, whichever is the later.
- g) Should the Supplier quote or give better terms to any person, firm or company for the Supplies of similar quality and quantity within a period of six (6) months after any Order, the Supplier must notify BI of that occurrence and revise any existing offers to BI and apply the better terms to all future Orders with effect from the date the Supplier first made such offer to the other person. At BI's discretion, the adjustment may be set off by BI against future amounts owed by BI or BI may request a refund in respect of prior relevant Orders, in which case, the Supplier must refund the amount equal to the adjustment no later than five (5) business days after the date of BI's request.
- h) For ocean freight shipments the original bill of lading or copy of express release bill of lading, express receipt, and any other necessary paperwork must accompany the Supplier's invoice. For air freight shipments an airway bill, express receipt, and any other necessary paperwork must accompany the Supplier's invoice.
- i) If any Supplier invoice is subject to any discount (ie discount applied when paid within a certain period of time), the discount period shall be calculated from the date the invoice is received by BI's Accounts Payables Department, or the date goods are received or services completed, whichever is later.

3) Performance and Delivery

- a) The delivery of all goods and the performance of all services must be made at the time, place, and in the manner, stated in the Order and time is of the essence in that regard. If no dates or times are specified, the Supplies must be delivered within a reasonable time. BI may at its discretion treat an Order as having been repudiated by the Supplier if the Supplier fails to deliver all or any of the Supplies on time.
- b) BI may reasonably specify in writing to the Supplier another time, place or manner for delivery or performance, in which case that other time, place or manner applies in place of that stated in the Order.
- c) The Supplier must ensure that the goods are suitably packed to avoid damage in transit or in storage.
- d) Packages must be marked with the purchase order number, item number, destination, contents, quantity, date and method of despatch and weight of each package.

4) Inspection and Acceptance

- a) All the Supplies delivered to BI are subject to BI's inspection. Signing of a delivery docket does not constitute acceptance of the Supplies.
- b) The Supplier is entirely responsible for controlling the quality of its Supplies and shall only offer to BI those which conform to the requirements of the Order. The Supplier

shall make inspection and test records available to BI upon request. Even if BI has accepted delivery of and inspected the Supplies, BI may still reject the Supplies within a reasonable time after delivery or inspection if the defects or other faults were not reasonably apparent at the time of inspection, the Supplies do not comply with the provisions of the Order or the warranties in the Conditions have been breached.

- c) Upon notification of rejection by BI, the rejected goods may be returned by BI (in its absolute discretion) and the Supplier shall, within a time acceptable to BI, replace such rejected goods which are in all respects in accordance with the Order. BI shall have the power to purchase elsewhere and any extra expense thus incurred shall be paid by the Supplier. Alternatively, if requested by BI (in its absolute discretion), the Supplier shall promptly rectify any defects, omissions or other faults in the Supplies provided, at the cost of the Supplier.
- d) Goods returned as faulty to the Supplier by BI for rework, replacement or credit will be at the risk of the Supplier and all handling and transportation costs for the return or replacement of goods will be borne by the Supplier.
- e) BI reserves the right to refuse to accept liability for any goods delivered in excess of the quantity ordered. At BI's discretion, excess goods may be returned to the Supplier at the Supplier's sole expense.
- f) All goods remain at the Supplier's risk until the later of receipt by BI of the goods, and, where applicable, receipt by BI of all documents evidencing title to the goods.
- g) The Supplies shall conform as to quality, description and specification with the particulars specified by BI and shall be of good quality materials and workmanship. Where BI has approved buying samples for goods, any Orders for goods of the same description subsequently placed by BI shall, unless otherwise indicated, be deemed to be placed on the basis of such buying samples as well as on the description and/or specification and in all such cases the goods shall conform both to such buying samples and the description and/or specification.
- h) The Supplier further warrants that the design, construction, composition and quality of the goods shall comply in all respects with all relevant requirements of any statute, statutory instrument or regulation in force at the date of delivery, and that the goods will conform to any trade description applied to them by the Supplier.
- i) The Supplier shall provide suitable containers and/or packing materials for the safe delivery and reasonable storage of the goods. Where such containers and packing materials are returnable and charged for, their cost is to be credited in full when they are returned.
- j) Hazardous goods must have prominent and suitable warnings on all containers, packages and documents and such markings shall comply with statutory and/or regulatory requirements.

5) Warranties

- a) The Supplier acknowledges that it is aware that in placing the Order, BI is relying on the Supplier's skill, expertise and judgment in the manufacture and supply of the goods and/or in the provision of the services.
- b) The Supplier hereby warrants that all goods supplied under the Order shall be (unless specified otherwise in the Order) of merchantable quality, fit for purpose, new, free from defects in material and workmanship, free of all charges (including liens, encumbrances and security interests) and shall conform to BI's specifications, drawings, samples and descriptions or (absent any such documentation) with applicable local laws and standards for the respective country, such as Australian standards or New Zealand standards.
- c) The Supplier must assign to BI at the request of BI the benefit of any warranty or guarantee that the Supplier has received from any supplier (whether under contract or by implication or operation of law) in relation to the Supplies.
- d) Where a sample of the Supplies has been approved by BI, the Supplier warrants that the Supplies must be of the same grade or quality as the sample. Where there is a purchase of the Supplies by description, the Supplier warrants that the Supplies will correspond with the description. Where similar goods or services have been supplied to BI by the Supplier, the Supplier warrants that the goods or services will be of the same or higher standard.
- e) The Supplier warrants that all services supplied under an Order will be supplied with due care, skill, diligence and professionalism. All services will be fit for the purpose for which they are required.
- f) The Supplier warrants in respect of each Order, the prices for goods and/or services are no less favourable than the terms it has offered to any person, firm or company for the Supplies of similar quality and quantity within a period of six (6) months from the date of each Order.
- g) The Supplier warrants that BI's use or sale of the Supplies will not infringe the proprietary or other intellectual property right of any person.
- h) The Supplier warrants that it has, and upon delivery BI will have, full beneficial interest in, and good and marketable title to, the goods and the Supplier has not created or allowed to be created or arise, any security interest in the goods.
- i) The above warranties shall endure for BI, its successors and assigns and, are additional to any other warranties given by the Supplier or implied by custom or law, whether statutory or otherwise.

6) Variations and cancellations

- a) BI may instruct the Supplier to vary the Supplies to be provided under an Order and the Supplier shall comply with any such instruction. The Supplier shall be entitled to be paid a reasonable amount for any such variation, as agreed by the parties.
- b) Substitutions or alterations in respect of any Order will not be accepted unless approved by BI in writing and may be returned freight collect without obligation by BI.
- c) An Order may be cancelled by BI in whole or in part if:
 - i) the Supplier fails to comply with any of the terms, conditions or warranties contained in the Conditions

- ii) the Supplier becomes insolvent, commits an act of bankruptcy, becomes bankrupt or is placed into liquidation, offers or enters into any scheme or arrangement or composition with creditors, has a receiver, controller or administrator appointed, or is wound up;
- iii) the Supplier acts in a manner which BI considers to be substantially prejudicial or harmful to BI;
- iv) the Supplier commits a breach of an Order and the breach is not remedied within a period of seven (7) days after receipt of the notice from BI requiring the Supplier to remedy the breach;
- v) the Supplier and/or the Supplies do not comply, in all respects, with all applicable laws, rules, and regulations, including, but not limited to, those relating to environmental matters, public health, wages, hours and conditions of employment, discrimination and occupational health and safety; or
- vi) BI otherwise forms the view that an Order should be cancelled,

then BI shall, without prejudice to any other remedies, have the right to terminate any Order without incurring any liability at law or in equity and without prejudice to its rights to recover amounts owing to it by the Supplier and/or damages.

- d) The Supplier shall not be entitled to any compensation in connection with any such cancellation except where BI forms the view that an Order should be cancelled unrelated to the grounds set out in paragraphs (c)(i) to (c)(v) to the extent any unavoidable reasonable costs were incurred by the Supplier in relation to the Order and BI received prior notice of it before the cancellation.
- e) BI's right to cancel any Order under this clause 6 is in addition to any other remedies which it may have at law or in equity.

7) Confidential Information

- a) The Supplier shall not reproduce or sell the goods manufactured by the Supplier to specifications provided by BI for or to any person or entity other than BI. The Supplier shall not divulge to any person or entity any information relating to such specifications without the prior written consent of BI or except for the purposes of fulfilling the Supplier's obligations under an Order.
- b) In the event that the Supplier, or its servants, agents, independent contractors or subcontractors, receive Confidential Information, the Supplier shall not, and the Supplier will ensure that its servants, agents, independent contractors and subcontractors do not, use or disclose such information unless it has received the prior written consent of BI or except for the purposes of fulfilling the Supplier's obligations under an Order provided that its servants, agents, independent contractors and subcontractors are bound by confidentiality obligations substantially the same as those in the Conditions. If required by BI, the Supplier must procure its servants, agents, independent contractors and subcontractors to enter into an agreement in a form acceptable to BI.
- c) The Supplier shall not cause or allow any of the Confidential Information to be photocopied, reproduced or recorded in any manner except for the purposes of fulfilling an Order and will not enter or permit to be entered any such Confidential Information on any computer database not under the exclusive control of the Supplier.
- d) The Supplier acknowledges that any unauthorised use or disclosure of the Confidential Information or any part thereof in breach of this clause 7 may cause material damage to BI and accordingly BI shall have the right in addition to any other remedies available at law or in equity, to seek injunctive relief against the Supplier in respect of any breach or threatened breach.

8) Intellectual Property

- a) All intellectual property created in connection with an Order and relating to the Supplies is, from the time of creation, owned by BI.
- b) All reports, information, inventions, concepts, data or other works created by the Supplier for BI in connection with an Order will be the sole and exclusive property of BI. The Supplier shall not at any time, during or after the delivery of the Supplies, be entitled to claim any right, title or interest therein or any commission, fee or other direct or indirect benefit from BI, in respect of such works created by the Supplier.
- c) The Supplier must not use, disclose, copy or reproduce that intellectual property except for the purposes of the Order.

9) Indemnities

- a) The Supplier hereby indemnifies and agrees to keep indemnified BI, and its officers, employees, contractors and agents, from and against all loss, damage, costs (including legal costs and expenses on a solicitor/own client basis), expenses, claims, demands, suits, causes of action and proceedings arising out of and/or in connection with:
 - i) any actual or alleged infringement of any intellectual property, by reason of the purchase, possession or use of the goods or the outcomes of the services;
 - ii) any breach of the Conditions, fraud or negligence; and
 - iii) otherwise in connection with the Supplier's supply of the Supplies.
- b) The Supplier shall be liable for and hereby indemnifies BI against any costs (including on a solicitor/client basis), loss, damage, liability, claims or demands whatsoever arising out of or in connection with personal injury to or death of any person and damage to any property arising out of or in connection with the performance by the Supplier of its obligations under any Order.

10) Quality Assurance The Supplier shall operate and maintain an effective quality management system appropriate to the type of the Supplies specified in any Order.

11) Supplier Code of Conduct The Supplier acknowledges it has read and understood the Supplier Code of Conduct that is provided with the Conditions and made available at <https://www.boehringer-ingelheim.com/sustainability/environment-health-and-safety/expectations-towards-our-business-partners> and that it will use its reasonable commercial endeavours to uphold the principles set out in the Supplier Code of Conduct in relation to the supply of goods and services to BI.

12) Force Majeure

- a) Either Supplier or BI shall be excused from performance of an Order or any of the obligations in the Conditions if the performance or observance is prevented or delayed by any circumstance reasonably beyond its control, or by reason of an act of God, civil commotion, storm, terrorism, fire, riots, strikes, epidemic, legal moratorium (but not

one solely related to a BI product), war, revolution, explosion, any strike or other labour dispute, or any act or omission of any Government authority or any other event typically considered by Australian or New Zealand Courts to constitute force majeure, provided that the party so affected shall:

- i) give prompt written notice of such circumstances to the other party;
 - ii) only be excused to the extent of such prevention or during the period of such delay; and
 - iii) use its best efforts to avoid or remove the cause(s) of non-performance and observance with utmost dispatch,
- but the Conditions shall otherwise remain unaffected.

13) Insurance

- a) The Supplier shall be solely responsible for worker's compensation claims brought by its respective employees, and will not hold BI liable for the same. In the event the Order requires performance by the Supplier on BI's premises, any Supplier contracting with a BI entity that is incorporated in Australia shall maintain appropriate insurance covering its employees engaged in such performance in amounts no less than required by applicable law
- b) The Supplier shall take out and maintain (for a period ending at least [12] months after completion of the completed Order) valid and enforceable insurance coverage for damages, loss and injury caused by the Supplier.
- c) The Supplier will immediately exhibit to BI, upon written request, certificate(s) of insurance evidencing its insurance coverage and limits.
- d) Risk of loss or damage from any cause whatsoever shall remain with the Supplier and shall not pass to BI until delivery of the Supplies to the place specified in the Order for delivery. The Supplier shall at its own expense keep all goods insured to their full insurable value against all normal and usual insurable risks until such time as the risk passes to BI.

14) Liability

- a) To the extent permitted by law, in no event shall the aggregate liability of BI, and its directors, officers, employees, agents, contractors and representatives, under an Order include any associated incidental, special, punitive, indirect or consequential loss or damage (including, without limitation, loss of profits, income or savings) of any kind whatsoever nor shall it exceed the amount to be paid by BI to the Supplier in respect of that Order.

15) Occupational Health and Safety

- a) The Supplier is responsible for the management of all employer obligations in connection with the Supplier's directors, officers, employees, agents, contractors and representatives, including all obligations and laws relating to occupational health and safety, when attending the premises of BI pursuant to the terms of the Order.
- b) The Supplier shall ensure that it, and its directors, officers, employees, agents, contractors and representatives, at all times, comply with BI's work place rules, procedures, security and BI's other reasonable requirements when attending any BI premises.

16) Improper Payments

- a) The Supplier warrants, represents and undertakes that:
 - i) it will comply with the requirements of all applicable anti-bribery legislation both national and foreign; and
 - ii) it has not and will not make, promise or offer to make any payment or transfer anything of value (directly or indirectly) to:
 - (1) any individual, corporation, association, partnership; or
 - (2) government or semi-government body, (including but not limited to any officer or employee of any of the foregoing, a healthcare professional employed by a government-owned healthcare facility) who, acting in their official capacity or of their own accord, are in a position to influence, secure or retain any business for (and/or provide any financial or other advantage to) BI by improperly performing a function of a public nature or a business activity with the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining or retaining business.
- b) The Supplier will immediately notify BI if its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out above at the relevant time.
- c) BI shall be entitled to immediately terminate any Order at any time in the event of a breach by the Supplier of this clause 16.

17) General Provisions

- a) The Supplier shall comply with all relevant laws in connection with the provision of the Supplies (including holding all consents, permits and licences necessary to provide the Supplies).
- b) The Supplier shall not sub-contract or assign any duties, obligations, rights or interests (as the case may be) arising under or in connection with an Order without the prior written consent of BI. BI may assign all or any of its rights and obligations hereunder to (i) any of its affiliates, and/or (ii) any successor or assign of all or substantial parts of its business and/or assets, whether pursuant to merger, consolidation, reorganization, sale or otherwise.
- c) A party's failure or delay to exercise a power or right does not operate as a waiver of the power or right. A waiver is not effective unless in writing.
- d) If any provision of the Conditions should be held to be invalid in any way or unenforceable, the remaining provisions must not in any way be effected or impaired. The Conditions must be construed so as to most nearly give effect to the intent of the parties as it was originally executed.
- e) The rule of interpretation which sometimes requires that an agreement be interpreted to the disadvantage of the party which put the agreement forward, does not apply.
- f) Neither the Conditions, nor any Order, shall create rights or obligations of exclusivity inuring to the benefit of the Supplier. Nothing in the Conditions, or in any Order, shall limit BI's right to, at all times, purchase goods and services from other persons.

- g) In the performance of any Order, the Supplier shall at all times act as, and be deemed, an independent contractor. Nothing in the Conditions or in any Order shall be construed to render the Supplier or any of its employees, agents or officers, an employee, joint venture, agent, or partner of BI. The Supplier is not authorised to assume or create any obligations or responsibilities, express or implied, on behalf of or in the name of BI. It is understood that the employees, methods, facilities and equipment of the Supplier shall at all times be under its exclusive direction and control.
- h) These Conditions together with any Order, constitute the entire contract between the Supplier and BI in respect of that Order.
- i) Any unlawful provision in these terms will be severed and the remaining provisions will be enforceable.
- j) The provisions of the United Nations Convention on Contracts for the International Sale of Goods will not apply to the supply of the Supplies under an Order.
- k) The Conditions are governed by and shall be interpreted in accordance with the laws of New South Wales (where the contracting BI entity is an entity incorporated in accordance with the laws of Australia) or the laws of New Zealand (where the contracting BI entity is an entity incorporated in accordance with the laws of New Zealand). The parties submit to the jurisdiction of the courts of the state of New South Wales and Australia or New Zealand (as applicable) and of courts of appeal there from.

18) Definitions

Authorised BI Representative means the following for the following companies:

- i) Boehringer Ingelheim Pty Limited (ABN 52 000 452 308): BI Head of Procurement or the BI Company Secretary, or any such other person that the Finance Secretary or the Head of Procurement may nominate and notify the Supplier of in writing.
- ii) Boehringer Ingelheim Animal Health Australia Pty Ltd (ABN 53 071 187 285): BI Head of Procurement or the BI Company Secretary, or any such other person that the Finance Secretary or the Head of Procurement may nominate and notify the Supplier of in writing
- iii) Boehringer Ingelheim NZ Limited (Company Number: 88986): BI General Manager, BI Head of Procurement, Accounting and Supply Chain Manager and or the Respiratory Product Manager or any such other person that the General Manager or Management Accountant may nominate and notify the Supplier of in writing.
- iv) Boehringer Ingelheim Animal Health New Zealand Limited (Company Number 664734): BI General Manager, BI Head of Procurement or the BI Company Secretary, or any such other person that the Finance Secretary or the Head of Procurement may nominate and notify the Supplier of in writing

BI means any of the Boehringer Ingelheim group of companies listed below and any BI "Affiliate" (where "Affiliate" shall mean any company (i) 50% or more of whose outstanding securities or assets are owned or controlled, directly or indirectly, by BI, (ii) which owns or controls, directly or indirectly, 50% or more of the outstanding securities or assets of BI, or (iii) any company owned or controlled, directly or indirectly, to the extent of 50% or more of the outstanding securities or assets, by any of the companies described in (i) or (ii) or any company that is under the common control of any of said companies referred to in (i), (ii) or (iii)).

- 1) Boehringer Ingelheim Pty Limited (ABN 52 000 452 308) of 78 Waterloo Road, North Ryde NSW 2113 Australia;
- 2) Boehringer Ingelheim Animal Health Australia Pty Ltd (ABN 53 071 187 285) of 78 Waterloo Road, North Ryde NSW 2113, Australia;
- 3) Boehringer Ingelheim NZ Limited (Company Number: 88986) of Level 3, 2 Osterley Way, Manukau, Auckland 2104, New Zealand; and
- 4) Boehringer Ingelheim Animal Health New Zealand Limited (Company Number 664734) of Level 3, 2 Osterley Way, Manukau City, Auckland, 2104, New Zealand.

Conditions means these conditions, and any conditions set out in the Order.

Confidential Information means the Conditions and any information relating to the Conditions, including, but not limited to, the price paid by BI to the Supplier for the Supplies, all materials, data and information provided by BI, any information of whatever nature and in whatever form relating to BI's business and any samples produced for or provided to BI. Confidential Information does not include information which is in the public domain, becomes part of the public domain without the fault of the Supplier, or is or becomes available to the Supplier by a third party lawfully in possession of such.

GST has the meaning given to it in the respective country legislation, such for Australia: *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and for New Zealand Goods and Services Tax Act 1985.

Order means the purchase order form attached or despatched separately by BI to the Supplier, and includes any other documents incorporated by reference in that purchase order form, and any amendments (to any of those documents or the purchase order) agreed in writing by an Authorised BI Representative.

Supplier means the person, persons, entity, firm or company to whom an Order is addressed and shall include its administrators, successors, permitted subcontractors and permitted assignees.

Supplier Agreement means an agreement relating to the sale and purchase of the Supplies, that has been executed by the Authorised BI Representative.

Supplies means the goods and/or services specified in the Order or otherwise provided by the Supplier.