

## **GSK Consumer Healthcare Finland**

### **Terms and Conditions of Sale**

As at 01 August 2016

#### **1. DEFINITIONS**

"**Seller**" means **GlaxoSmithKline Consumer Healthcare Finland Oy** whose principal place of business is at Piispansilta 9A, Fin-02230, Espoo, Finland.

"**Buyer**" means the person, firm, or company placing an Order with the Seller.

"**Goods**" means the articles or things described in the Order.

"**Order**" means an order for Goods placed by the Buyer with the Seller.

"**Restricted Information**" means any information which is disclosed to the Buyer by the Seller in connection with the Order whether orally or in writing and whether or not such information is expressly stated to be confidential or marked as such.

#### **2. CONDITIONS**

These Terms and Conditions apply to all Orders for purchases of Goods by the Buyer from the Seller from time to time and exclude any terms and conditions, standard or otherwise, of the Buyer or implied by trade custom, practice or course of dealing. Any change or addition to these Terms and Conditions or further representation in respect of the Goods shall have no effect unless made in writing signed by a duly authorised employee of the Seller. These Terms and Conditions supersede any previous agreement between the Buyer and the Seller.

#### **3. ORDERS**

3.1 Each Order shall be deemed to be an offer by the Buyer to purchase Goods subject to these Terms and Conditions. No Order shall be deemed to be accepted until the Seller despatches Goods to the Buyer.

3.2 Except as expressly agreed by the Seller in writing the minimum Order of Goods is as published by the Seller from time to time and unless otherwise agreed in writing by the Seller, shall be valid only if in respect of multiples of complete cases of Goods, as notified to the Buyer from time to time.

3.3 The price of Goods is calculated on the basis of an Order for Goods to be delivered to one address only and in one consignment only. Split deliveries are counted as separate Orders.

3.4 If the Seller delivers to the Buyer a quantity of Goods up to 10% more or less than the quantity specified in the Order, the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay the price as adjusted in proportion with the quantity of Goods delivered.

#### **4. PRICES**

4.1 Except as expressly agreed by the Seller in writing, the price payable for the Goods shall be the price last notified by the Seller to the Buyer prior to the date on which the Seller despatches the Goods.

4.2 Prices are based on Carriage Insurance Paid (Incoterms 2010), provided the place of destination is in Finland.

4.3 All prices quoted are exclusive of VAT and any other duties or tax payable. The Buyer shall pay to the Seller an amount equal to any applicable VAT on the receipt of a valid VAT invoice.

#### **5. PAYMENT**

5.1 Except as expressly agreed by the Seller in writing payment for the Goods must be made in full to the Seller to the account notified to the Buyer on the invoice within 30 days from the date of invoice which may be issued at any time after the Goods are delivered to the Buyer. All invoices, statements and credit notes are net of VAT and other applicable taxes and will not be subject to any further discount. No payment shall be deemed to have been made until the Seller has received cleared funds. The Buyer shall make all payments due without deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer.

5.2 If the Buyer fails to pay any sum on the due date for payment under these Terms and Conditions, the Buyer shall pay interest on such sum (after as well as before judgment) pursuant to the relevant provisions of the Finnish law. The penalty is calculated on the value of the unpaid amount for the period from and including the due date up to the date of actual payment. Penalties may exceed the principal on which they are calculated. For the avoidance of doubt no discount will be offered for early payment by the Buyer.

5.3 The Seller may determine at its absolute discretion whether, and on what terms, to grant any application for credit by the Buyer. The Seller may undertake a search with a credit reference agency before accepting any such credit application. The Seller may also make enquiries about the principal directors of the Buyer with a credit reference agency, and the credit reference agency may record these searches. The Seller will monitor and record information relating to the trade credit performance of the Buyer and by accepting these Terms and Conditions the Buyer consents and agrees that such records will be made available to credit reference agencies and other organisations in order to assess applications for credit, and for the purposes of fraud prevention and debtor tracing.

#### **6. DELIVERY**

6.1 Goods shall be delivered Carriage Insurance Paid (Incoterms 2010), provided the place of destination is in Finland. Delivery is completed on the completion of unloading the Goods at the location specified in the Order.

6.2 Any time or date for delivery given by the Seller is an estimate only, and the Seller shall not be liable for the consequence of any delay nor shall delay in delivery entitle the Buyer to reject the Goods unless such delay exceeds 14 days otherwise than as a result of the Buyer's fault.

6.3 The Seller may deliver the Goods in one or more instalments and in such a case each instalment shall be treated as a separate contract. Failure by the Seller to make a delivery of any instalment shall not entitle the Buyer to reject the remaining instalments.

6.4 If the Buyer will not accept delivery of any Goods (otherwise than where the Buyer is entitled to reject the Goods and has notified the Seller of this rejection in accordance with Condition 8) or the Seller is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, licences or documents: (i) risk in the Goods will pass to the Buyer upon the due date for delivery; and (ii) the Seller may dispose of the Goods or store the Goods until delivery and the Buyer shall reimburse the Seller for all related costs including storage.

## **7. ARTICLE NUMBERING**

The printing of bar codes on Goods by the Seller is not the subject of any contract between the Seller and the Buyer. The Seller will endeavour to observe the rules of the Article Numbering Association but it will not be liable to the Buyer for any loss, damage or expense attributable to the absence or defect of any such bar code printing unless the same shall result from negligence by the Seller.

## **8. LOSS OR DAMAGE**

8.1 The Buyer shall take all reasonable measures for the purpose of averting or minimising loss of Goods. The Buyer shall: (i) inspect the Goods immediately on delivery and shall notify the carrier immediately of any lost or damaged Goods or any shortfall in delivery; (ii) apply immediately for a survey by the carrier's representative if any loss or damage is apparent to the Goods or there is any shortfall in delivery; (iii) record any non-delivery, loss or damage to the Goods on the carrier's copy of the delivery note for the Goods; and (iv) notify the Seller in writing of any non-delivery of, or loss or damage to, the Goods within three (3) days of the delivery or, in the case of damage not apparent on inspection, within three (3) days of the date on which the Buyer discovers or ought to have discovered the damage.

8.2 Any of the Buyer's associates or employees who sign the delivery note shall be deemed to be the Buyer's representative.

8.3 The Buyer shall not be entitled to reject any Goods or make any claim in relation to a shortfall in delivery pursuant to Condition 8.1 where such rejection or claim has not been notified to the Seller within the above time limits.

## **9. RISK**

Subject to Condition 6.4, risk in the Goods shall pass to the Buyer on delivery and the Buyer shall insure the Goods for their full replacement value for the period from delivery to the date when title passes to the Buyer as provided for by these Terms and Conditions.

## **10. TITLE TO GOODS**

10.1 Regardless of whether delivery has been made, legal and beneficial title to the Goods remains with the Seller until the Buyer has paid the Seller unconditionally in cash or cleared funds the full price (plus VAT) of those Goods in accordance with Condition 5.

10.2 Until ownership of the Goods passes from the Seller to the Buyer, the Buyer acknowledges that it holds the Goods on a fiduciary basis solely as bailee for the Seller. The Buyer must store the Goods (at no cost to the Seller) in good condition, clearly identifiable as the Seller's property and separately from all other goods in its possession. The Buyer must not in any way charge Goods that are the Seller's property. The Seller shall have the right to ensure/inspect that the goods are present at the Buyer's premises until resale in accordance with Condition 10.3. For this purpose the Buyer shall allow the Seller to enter the premises and other storage facilities of the Buyer if so requested by the Seller.

10.3 Notwithstanding that some or all of the Goods remain the Seller's property, the Buyer may sell the Goods at full market value in the ordinary course of its business. The Buyer may not otherwise sell, deal or part with, or otherwise dispose of the Goods until title to them has passed to the Buyer. Any sale or dealing permitted

by this Condition shall, as between the Buyer and its customer, be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf, and the Buyer shall deal as principal when making such a sale or dealing and not as agent.

10.4 If the Buyer ceases to trade for any reason, or fails to make any payment due to the Seller within 14 days after it falls due under these Terms and Conditions or otherwise, or if any distress or execution is levied on any of the Seller's goods, or if the Buyer offers to make any arrangement with its creditors, or commits an act of bankruptcy, or if a petition in bankruptcy is presented against it, or if the Buyer is unable to pay its debts as they fall due, or if a resolution or petition to wind it up is passed or presented, or if a receiver, administrator, administrative receiver or manager is appointed over some or all of its business, or if a judgement is entered against the Buyer which is not paid within seven (7) days, or if the Buyer suffers any analogous proceedings under foreign law or if the Buyer in any way charges any of the Goods which are the Seller's property: (i) all sums outstanding in respect of the Goods shall become payable to the Seller immediately; (ii) the Seller shall (without prejudice to any of its other rights and remedies) have the right to repossess and use the Goods; (iii) any rights of the Buyer under Condition 10.3 to sell, dispose of, deal or in any way use the Goods shall immediately cease; (iv) all other monies whatsoever owing by the Buyer to the Seller shall immediately become due and payable; and (v) the Seller may suspend deliveries of Goods to the Buyer, cancel any allowance of credit or require full or partial payment of the price of Goods prior to delivery.

## **11 UNFORESEEN CIRCUMSTANCES**

The Seller shall not be liable to the Buyer by reason of any delay or non-performance of any of its obligations under these Terms and Conditions to the extent that such delay or non-performance is due to any matter outside the Seller's reasonable control.

## **12 CONFIDENTIALITY**

The Buyer shall at all times keep all Restricted Information confidential and not disclose any Restricted Information to any person unless such Restricted Information is or becomes public knowledge through no fault of the Buyer or it can be shown to the reasonable satisfaction of the Seller that such Restricted Information was known to the Buyer before it was disclosed by the Seller.

## **13 LIMITATION OF LIABILITY**

13.1 The Seller shall not (except as provided in Condition 8), be liable to the Buyer for any loss or damage arising from non-delivery or delay in delivery of the Goods under these Terms and Conditions, whether in respect of the whole or part of the Goods.

13.2 If any of the Goods are defective in manufacture or are contained in defective containers, the Seller's liability howsoever arising in respect of any such defect shall be limited to the replacement of the defective Goods or by crediting the Buyer with the price of the defective Goods, as at the Seller's discretion.

13.3 The Seller shall not be liable for (i) losses that were not caused by any breach on its part, (ii) any business loss (including loss of profits, revenue, contracts, anticipated savings, data, goodwill or wasted expenditure), or (iii) any indirect or consequential losses; and in no event will the Seller be liable to the Buyer for

any amount in addition to the return of any moneys paid by the Buyer to the Seller for Goods.

13.4 The Seller's liability shall be limited to a period of one (1) year from the date of receipt of the Goods by the Buyer.

13.5 This Condition 13 shall not exclude or restrict the Seller's liability for death or personal injury arising from its negligence.

#### **14 STATUTORY REGULATIONS**

The Buyer must ensure that all containers used to store, consign, carry and deliver or sell the Goods are labelled in accordance with all statutory and other regulations for the time being in force. The Seller shall have no liability to the Buyer in respect of any loss or damage to the extent that such loss or damage arises because the Buyer failed to comply with these Terms and Condition or otherwise failed to follow the Seller's instructions as to the storage or use of the Goods.

#### **15 INTELLECTUAL PROPERTY**

15.1 The Buyer shall not infringe any patent, trade mark, trade name, registered design, copyright or any other Intellectual property belonging to the Seller and relating to the Goods or any other things supplied by the Seller with or in relation to the Goods. Use of containers bearing a registered trademark for goods other than those associated with such trade marks is an infringement the Seller's rights.

15.2 If the Seller makes any changes to any Goods at the request of the Buyer, the Buyer shall indemnify the Seller against all claims, costs and liabilities arising from any resultant infringement of a third party's intellectual property rights.

#### **16 REPORTING**

If the Buyer becomes aware of any issue relating to the health or wellbeing of a consumer following use of the Goods, the Buyer shall inform the Seller as soon as is reasonably possible. The Buyer can call the Seller on +358 10 3030 605 to report any such issues.

#### **17 ANTI-BRIBERY AND CORRUPTION**

The Buyer shall comply fully with all applicable laws and regulations, including but not limited to applicable anti-corruption laws of the territory in which the Buyer conducts business with the Seller.

#### **18 APPLICABLE LAW AND JURISDICTION**

18.1 These Terms and Conditions shall be governed in every respect by the laws of Finland.

18.2 The parties will attempt in good faith to negotiate a settlement to any claim or dispute between them or arising out of or in connection with these Terms and Conditions. If the matter is not resolved by negotiation the parties will refer the dispute to arbitration in accordance with the following provisions of this Condition 18. Any dispute, controversy or claim arising out of or relating to the Terms and Conditions, or the breach, termination or validity thereof, shall be finally settled by arbitration by one (1) arbitrator in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The place of arbitration is Helsinki and the language of arbitration is English.

#### **19 SEVERABILITY**

Any provision of these Terms and Conditions which is or may be void or unenforceable shall to the extent of such

invalidity or unenforceability be deemed severable and shall not affect any other provision of these Terms and Conditions.