

# Centrient Pharmaceuticals Limited China Entities General Purchase Conditions 2012

## 灿盛制药有限公司中国企业通用采购条件2012

These General Purchase Conditions apply to and form integral part of all requests for proposal, quotations and Purchase Orders. Customer expressly rejects the applicability of any other general terms and conditions or stipulations of Supplier.

### 1. Definitions

In this document, Agreement means: the binding contract formed as described in article 2; **Affiliate** of a party means any corporation, joint venture, or other business entity which directly or indirectly controls, is controlled by, or is under common control with such party. An entity shall be deemed to "control" another entity if it has the power to direct or cause the direction of the management or policies of the other entity whether through ownership of voting securities or otherwise; **Customer** means any of its Affiliate of Centrient Pharmaceuticals Limited in China, including but not limited to Centrient Biochem Intermediate (Chanchun) Limited Corporation, Centrient Pharmaceuticals (Zibo) Co. Ltd. and Centrient Trading (Beijing) Co. Ltd, which issues the Purchase Order or request for proposal; **Goods** are the products, materials, liquids, equipment, design, software, rental properties, stored goods, and all related documentation to be supplied as specified in the Purchase Order. A **Purchase Order** is the order issued by a Customer including all related documentation; **Services** are the services and/or all pertaining deliverables to be provided as specified in the Purchase Order. **Supplier** means each person or entity that enters into an agreement with Customer.

### 2. Acceptance

These General Purchase Conditions, together with the relevant Purchase Order issued by Customer, set forth the terms and conditions for the supply of Services and/or the delivery of Goods by Supplier to Customer and will be binding to Parties at Supplier's acceptance (the binding Agreement). Any changes by Supplier are binding only, if accepted by Customer in writing. Performing of any part of a Purchase Order by Supplier will operate as Supplier's unconditional acceptance thereof.

### 3. Commercial conditions

**3.1** Supplier shall deliver the Goods and/or perform the Services against the price(s) mentioned in the Agreement. Unless expressly stated to the contrary, prices are (i) fixed and firm (ii) exclusive of any Value Added Tax but (iii) inclusive all other taxes, duties, levies, fees (including license fees), charges and inclusive all costs.

**3.2** Unless explicitly otherwise agreed, Customer shall pay the amount invoiced by Supplier for Goods and/or Services delivered by bank transfer ninety (90) days after the end of the month of the date of receipt of invoice, provided and to the extent that the invoice is correct and not under dispute.

**3.3** Customer may authorize any other its affiliate to effect the payment due by Customer. Such payment shall discharge Customer from its respective payment obligation towards Supplier. In case an invoice is under dispute, Supplier has no right to postpone its obligations. Customer has the right to offset amounts it owes to Supplier or any of its affiliates, against amounts which Supplier or any of its affiliates owes to Customer.

**3.4** To the extent Services are supplied at a reimbursable basis, Supplier shall keep records of all costs, expenditures and hours worked and shall provide Customer access thereto.

### 4. Compliance

**4.1** Supplier complies with all applicable (inter)national laws, rules and regulations, standards and orders in connection with the performance of the Agreement, including all applicable laws, rules and regulations on international trade, such as embargos, import and export control and sanctioned party lists.

**4.2** Supplier expressly warrants that it has good and marketable title to the Goods and deliverables of the Services supplied, including right to grant Customer intellectual property right(s). Supplier holds any and all licenses, permits, end-user statements and any other documents, which are required in the country of origin, of transit and of destination to perform its obligation and will immediately notify Customer of any legal restrictions.

## **5. Time**

Supplier guarantees that it will supply without delay and interruption the Goods and/or Services. Supplier shall immediately notify Customer of any foreseeable delay.

## **6. Delivery, warranty and acceptance of Goods**

**6.1** Unless explicitly agreed otherwise, the goods shall be delivered according to Incoterm DDP site Customer.

**6.2** Delivery shall be effected in adequate packaging. Costly and re-usable packaging shall be taken back by Supplier. Supplier shall timely provide Customer with (copies of) all applicable licenses, documents, information, specifications and instructions necessary for safe and proper transport, use, treatment, process and storage of the Goods and with all certificates of analysis/conformity as customarily supplied. If applicable, stored Customer's Goods will be redelivered in the original quantity, state and condition.

**6.3** Supplier warrants the proper functioning of the Goods and warrants that the Goods will be in conformity with the specifications and requirements, be unused, of good materials and workmanship, free from any and all defects and from any and all liens and encumbrances, pledge or right of retention and suitable for the intended purpose. These warranties shall not be deemed to exclude warranties and/or rights that Customer may have or obtain and shall extend to Customer and its customers.

**6.4** Supplier shall properly and timely instruct Customer of any special use or treatment regarding the Goods.

**6.5** Supplier shall promptly repair or replace any and all Goods within a period of 2 years after the date of acceptance or the date of first operational use, whichever date is later. Repaired or replaced Goods or parts will be warranted for another period of 2 years from the repair or replacement date. If requested, Supplier shall as far as possible leave these goods in free use with its user until Supplier has delivered Goods in replacement. The warranty period shall be extended by any period(s) during which the Goods have been out of operation.

**6.6** Customer is entitled to reject any Goods, which are delivered (i) not at the agreed time, (ii) not in the agreed volume and/or quantity, (iii) in inappropriate or damaged packaging or (iv) with other defect(s), for risk and account of Supplier and without prejudice to Customer's right to compensation for the losses and damages suffered as a result of Supplier's non-compliance.

**6.7** Inspection, testing, acceptance or payment does not release Supplier from its obligations and warranties.

## **7. Performance and acceptance of Services**

**7.1** Supplier warrants the quality and the results of the Services. Supplier shall perform the Services in accordance with the requirements and specifications of the Agreement, observing due skill and care, using proper and well maintained materials and employing sufficiently qualified staff.

**7.2** Only written confirmation of acceptance shall constitute acceptance of the Services performed.

## **8. Transfer of title**

**8.1** The title of the Goods and deliverables of the Services shall pass to Customer upon delivery at the delivery point as stated in the Agreement. However, if Customer pays for any Goods prior to delivery, title shall pass to Customer upon payment.

**8.2** The title and risk of Goods under a rental service agreement remain with Supplier.

**8.3** The title of stored Customer's Goods under a warehousing agreement remains with Customer. The risk of such Goods is transferred to Supplier at acceptance of the Goods and ends after delivery of these Goods to Customer

**8.4** Supplier shall identifiably store any raw materials and semi-finished goods allocated for the manufacture and/or production of the deliverables and the finished deliverable itself. The risk of such goods remains with Supplier until acceptance thereof.

## **9. Opportunity to inspect**

**9.1** Supplier ensures that Customer or its nominee has the opportunity to inspect the Goods or the manufacturing process of the Goods and/or any place where the Services or part thereof may be carried out.

**9.2** Supplier diligently and continuously controls and tests the quality of the Goods and Services as well as the operations during manufacturing, storage and delivery. Supplier shall ensure that Customer, or its nominee, has the opportunity to attend tests and/or inspect the Goods at any time.

**9.3** Inspection and/or testing does not relieve Supplier of any obligation or liability under the Agreement.

## **10. Controlled changes**

The implementation of any and all changes of and/or improvements related to the Goods and/or (performance of the) Services including (business) processes, (raw) materials (including supply source) and/or any other changes that might affect the specifications of the Goods and/or the Services require the prior written approval of Customer. Supplier will inform Customer well in advance of such changes and will enable Customer to control and test the Goods.

## **11. EU and non EU Chemical Control Regulations**

With regard to chemicals supplied under the Purchase Order within or into the European Union, Supplier herewith confirms that it is fully aware of EC Regulation No. 1907/2006 on Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"). To the extent that any Goods or any of its substances fall within the scope of REACH, Supplier confirms and represents that the Goods or any of its substances, are fully compliant with the requirements of REACH. Supplier will provide the (pre-) registration number(s) to Customer. To the extent Goods or any of its substances fall within the scope of other chemical control regulations, Supplier confirms and represents that the Goods or any of its substances, are fully compliant with these regulations.

## **12. Sustainability, SHE and Security**

**12.1** The Triple P (People, Planet, Profit) values, as determined in the CENTRIENT Supplier Code of Conduct, are essential to Customer in creating sustainable value. Supplier agrees to comply with the Code of Conduct or will be sent at request.

**12.2** Supplier complies with and acts in accordance with all applicable safety, health and environmental instructions, avoid pollution of the soil and the groundwater, limit air and noise pollution on the Customer site, comply with site and site access regulations as well as Customer (network) security regulations. Supplier must arrange for proper and safe transport and equipment, as well as skilled and qualified staff, able to speak the local languages of the customer and/or English, to work in a safe, healthy and environmentally responsible manner. Customer may audit these aspects of this Agreement. Supplier shall report any irregularity with respect

to safety, health and environment and security. In case of an incident Supplier shall, under supervision of Customer, immediately take all measures to clean up, isolate or prevent pollution resulting from such incident.

### **13. Indemnification, Liability and Force Majeure**

**13.1** Supplier shall be liable and hold Customer and their directors and employees ("Indemnified Parties"), harmless from and indemnify them against any and all actual or contingent damage, loss, injury/death, costs and claims suffered by or brought against Indemnified Parties, resulting from or connected with the Agreement, the use and/or sale of Supplier's Goods by Indemnified Parties or any third party, the performance of the Services and the deployment of Supplier's Services by Indemnified Parties or any third party, except to the extent that this is caused by Customer's willful misconduct or gross negligence.

**13.2** Supplier is fully liable for the correct and timely payment of all taxes and levies indebted in connection to the performance of the Agreement and will indemnify Indemnified Parties against all claims and damages relating to its obligations concerning taxes, contributions and any claims of third parties, including the Government.

**13.3** In no event shall Customer be liable for any indirect damages (including but not limited to lost revenue, lost profits or other consequential or incidental damages) based upon the Agreement.

**13.4** Neither party shall be liable towards the other party for any non-fulfillment of the Agreement to the extent fulfillment thereof has been delayed, interfered with or prevented by an event entirely beyond the control of the party concerned, was not for its risk and not reasonably foreseeable ("Force Majeure"), provided that the party invoking Force Majeure shall use its best efforts to fulfill its obligations by any means possible. The mere fact of late supply of materials, labor or utilities shall not be deemed Force Majeure. In case a situation of Force Majeure continues for more than 30 days, Customer shall be entitled to (partly) terminate or cancel the Agreement by written notice. Customer may purchase similar goods and/or services from third parties during any period Supplier is unable to fulfill its obligations. The quantities affected shall be excluded from the calculation from any (minimum) volumes.

### **14. Confidentiality**

Any and all information provided by or on behalf of Customer shall be treated as confidential and shall only be used by Supplier for the purpose of this Agreement. Disclosing information is only allowed to any of its employees or a third party on a strict need-to-know basis, except in case Supplier is required to disclose the information by virtue of a court order or statutory duty, provided that the Supplier shall immediately inform Customer. Supplier shall upon demand promptly return to Customer all such information. Supplier shall not retain a copy thereof. Supplier shall treat the existence of the Agreement as confidential. Supplier or its employees will sign a confidentiality agreement at request.

### **15. Ownership and intellectual property**

**15.1** Any and all information, property or materials disclosed to Supplier remains the property of Customer. Supplier is not entitled to make use of or refer to any trademark, trade name, domain name, patent, design, copyright, or other intellectual property right of Customer or any of its affiliates, unless prior obtained written consent of Customer. Any authorized use shall be strictly in accordance with the instructions and for the purposes specified.

**15.2** Supplier warrants that the Goods and/or Services, alone or in combination, will not result in or give rise to any infringement or misappropriation of any intellectual property right of a third party.

**15.3** Supplier hereby assigns by way of present and future assignment all intellectual property rights, know-how, copyrights and other rights developed by or on behalf of Supplier explicitly for or on instructions of Customer .

**15.4** All intellectual property rights to software, including source code, sub-software and documentation, developed explicitly for Customer or on Customer's instructions shall rest with or be transferred to Customer. Intellectual property rights to other software shall remain with Supplier and Supplier shall grant Customer a non-exclusive, nontransferable, irrevocable, perpetual and royalty free license not limited to specific equipment or location. Customer is allowed to provide sub-licenses to other of its Affiliate.

## **16. Insurance**

The Supplier shall take out and maintain the insurance policies to cover the risks resulting from or connected with the Agreement. At the request of the Customer, Supplier will provide the insurance certificates evidencing Supplier's coverage and keep Customer informed of any changes.

## **17. Termination and suspension**

Customer is entitled to suspend the performance of its obligations in whole or in part or terminate the Agreement with immediate effect, without prejudice to its right to claim damages and without any compensation to or indemnification of Supplier (i) in case Supplier has been declared bankrupt, is in a state of liquidation, has ceased or suspended whole or substantial part of its business, is subject of a court order or preventative legal scheme of settlement (ii) in case of non-compliance with import, export or chemical control regulations or the provisions of safety, health, environment and security (iii) in case of not approved changes in accordance with article 10. After such termination Customer may return received Goods and/or Services in whole or partly against repayment from and retransfer of ownership therein to Supplier.

## **18. Miscellaneous**

**18.1** If any provision(s) of these General Purchase Conditions should be or become ineffective or invalid the other provisions will not be affected thereby. Parties agree to replace the ineffective or invalid provision(s) by a provision of similar important, which reflects as closely as possible the intent of the original clause.

**18.2** Failure by either party to require strict performance by the other party of any obligation hereunder shall in no way affect its right thereafter to enforce any obligation, nor shall a waiver by either party of any breach be held to be a waiver of any previous or later breach. No waiver will have any effect unless specific, irrevocable and in writing.

**18.3** Supplier shall not assign the Agreement in whole or in part without Customer's written consent. Such consent shall not relieve Supplier from, and shall be subject to compliance with, any of the obligations under the Agreement. Customer is entitled to assign this Agreement or any part thereof to any of its Affiliates on prompt notice to Supplier.

**18.4** Nothing in the Agreement shall be deemed to constitute either party as the agent of the other or create a partnership, joint venture or employment relation between the Parties.

**18.5** This Agreement shall be governed exclusively by the laws of the People's Republic of China with the exception of its conflict of laws principles. The United Nations Convention on contracts for the International Sale of Goods, concluded at Vienna on 11th of April 1980, shall not be applicable.

**18.6** Any dispute arising from the Agreement and/or Purchase Order which the parties are unable to amicably resolve shall be submitted to the exclusive jurisdiction of China Economic and Trade Arbitration Commission ("CIETAC"). The arbitration shall be conducted in Beijing in accordance with the Arbitration Rules of CIETAC. Pending a dispute neither party shall be excused from performing any of its obligations under the Agreement, except for obligations directly affected by the dispute.

**18.7** Expiry, termination or cancellation of the Agreement shall not affect any right or obligation, which expressly or by its nature survives such expiry, termination or cancellation, including but not limited to representations, warranties, confidentiality obligations, intellectual property rights and accrued rights.

**18.8** The current version of these General Purchase Conditions is available at <http://www.dsm-sinochem.com/en-us/ourproducts/generaltermsandconditions.aspx>

*These Conditions shall be referred to as Centrient Pharmaceuticals Limited China Entities General Purchase Conditions 2012.*

以下通用采购条件将适用于提议、报价和订单，并构成以上文件所有要求中不可分割的一部分。客户在此明确拒绝任何其它通用条件和条款或任何供应商规定的适用。

### 1、定义

在本文件中，“协议”是指以第2条所述方式缔结的具有约束力的合同；一方的“关联方”是指直接或间接控制该方、被该方控制，或与该方属同一控制之下的任何公司、合资企业，或其他商业实体。如果某一实体具有指导或指引另一实体的管理或政策的能力，无论是通过持有具有投票权的证券或其他方式，则该实体“控制”另一实体；“客户”是指灿盛制药有限公司在中国的任何关联方，包括但不限于灿盛生化中间体（长春）有限公司、和灿盛制药（淄博）有限公司、灿盛贸易（北京）有限公司；该客户发出订单或征求方案；“货物”意为产品、材料、液体、设备、设计、软件、租赁资产、储存的货物和所有在采购订单中列出应提供的所有相关文件。“采购订单”是客户所发出的包含所有相关文件的订单；“服务”意为服务和/或采购订单中列明的应当提供的相关交付。“供应商”意为与客户达成协议的个人或实体。

### 2、接受

本通用采购条件，与客户签发的其他相关采购订单一起，构成承包商向客户提供服务和/或交付货物的条款和条件，并将在承包商接受时对当事各方产生约束力（有约束力的协议）。承包商提出的任何变更，只有在客户以书面形式表示接受的情况下才具有约束力。承包商履行采购订单项下的任何义务都将构成承包商对采购订单的无条件接受。

### 3、商业条件

3.1 供应商将以协议中所述的价格交付货物和/或提供服务。除非有明确的相反要求，价格是（1）固定且不可变的（2）不包含任何增值税，但是（3）包含所有的其他税收、税赋、征费及费用（包括许可费用）、收费并包含所有的成本。

3.2 除非另有明确约定，在发票为准确和无争议的情况下，客户将自收到发票日的该月月底（90）天后以银行转帐的方式支付承包商所出具的提供货物或服务的发票上所列的金额。

3.3 客户可授权任何其关联公司支付其已届支付期的款项。该项支付将免除客户对承包商的相应支付义务。如果对发票存有争议，承包商无权推迟履行其义务。客户有权以承包商或其关联方对客户的欠款来抵销客户对承包商或其关联方所欠的款项。

3.4 在服务提供是基于按工作量收费时，承包商应当保留所有成本、费用及工作小时的记录并使客户可以获取该等记录。

### 4、合规

4.1 供应商遵守所有与履行协议相关的可适用的国内（国际）法律、法规和规则、标准和要求，包括所有可适用的有关国际贸易的法律、法规、规则，比如禁运、进口和出口管制及制裁名单。

4.2 供应商明示担保其对货物及提供的服务享有完好及可售让的权利，包括授予客户知识产权的权利。承包商持有和所有的执照、许可、最终用户声明和任何原产地国、转运国和目的地国履行其义务所要求的其他文件，并将立即将任何法律上的限制通知给客户。

## 5、交货时间

供应商保证其将不延迟和不中断地提供货物和/或服务。承包商应当将任何可预见的延迟立即通知客户

## 6、交付、担保和接受货物

6.1 除非另有明确约定，货物应当根据国际贸易术语完税后交货（客户所在地）方式（Incoterm DDP Site Customer）交付。

6.2 交付应当在充分包装后进行。供应商应当回收费用高昂和可再次使用的包装。供应商应当及时地提供给客户所有适用的，对于安全和妥善运输、使用、处理、加工和储存货物所必需的执照、文件、信息、规格和指令，以及所有在惯例上应提供的分析/符合的证书。如果情况适用，供应商应依照初始数量、状态和条件转送货物。

6.3 供应商保证货物具有良好的功能并保证与其规格和要求相符、未经使用、选料考究和做工精良、没有任何缺陷且其上无任何和所有的留置权、第三方权利、质押权或所有权保留，并适用于预期的特定用途。这些担保不排除客户可能拥有或获得的其他担保和/或权利，且上述担保和/或权利应延伸到客户及其客户。

6.4 供应商应妥善并及时地就与货物相关的任何特殊用途或处理向客户做出指示。

6.5 供应商应当在客户接受货物或货物被实际使用之日起（以较后日期为准）两年内立即修复或替换任何和所有的货物。经修复或替换的货物或其部件应当自其被修复或替换之日起再保修两年。在客户要求时，供应商在作为替换的货物交付之前，应当尽可能地使原货物的使用者无偿地使用原货物。若货物一段期间内无法正常使用，则担保期间应就该无法正常使用期间相应延长。

6.6 客户有权拒收在交付时出现以下情形的任何货物：（1）非于约定时间交付，（2）不符合约定的容量和/或数量，（3）未妥善包装或包装破损或者（4）具有其他缺陷，该种拒收情况下，风险和费用由供应商承担，且不影响客户就其因供应商的交付不符合要求而导致的损失和损害请求赔偿的权利。

6.7 检验、测试、接受或付款并不表示供应商的义务和担保被豁免。

## 7、服务的提供和接受

7.1 供应商担保服务的质量和结果。供应商应当按照协议的要求和规格提供服务，恪尽应有的技能和谨慎，使用适当且保存良好的材料并雇用充分适格的人员。

7.2 仅有书面的接受确认文件方构成对已履行的服务的接受。

## 8、所有权转让

8.1 货物和交付的服务的所有权将于本协议所述的交付点在交付之时转移至客户。但是，如果客户在交付之前就任何货物付款，则该货物所有权在付款之时转移至客户。

8.2 租赁服务协议项下货物的所有权和风险将由供应商保留。

8.3 根据仓储协议而存储的客户的货物的所有权属于客户。该种货物的风险将在接受货物时转移至供应商，并在这些货物交付给客户之后终止。

8.4 供应商应当区分地储存为制造和/或生产可交付物而使用的任何原材料和半成品，以及已完成的可交付物。该种货物的风险在客户接受之前将由供应商承担。

## 9、进行检验的机会

9.1 供应商确保客户或其指定的人拥有检验货物或货物生产过程和/或视察任何服务或服务的一部分可能予以履行的地点的机会。

9.2 供应商勤勉和持续地控制和测试货物和服务的质量，以及生产、存储和交付中的操作。供应商应当确保客户或其指定的人，拥有在任何时间参与测试和/或检验货物的机会。

9.3 检验和/或测试并不豁免供应商在本协议项下的义务或责任。

## 10、经批准的变更

对货物和/或（提供）服务，包括（商业）加工、（原）材料（包括供应源）或就与其相关的事项任何和所有的变更和/或改进，和/或任何其他可能影响到货物和/或服务的规格的变更的实施，均应取得客户的预先书面批准。供应商将就变更预先通知客户并使客户能够控制和测试货物。

## 11、欧盟和非欧盟的化学品控制规则

对于根据采购订单而提供的在欧盟境内或进入欧盟的化学品，供应商在此确认其完全知晓欧盟有关登记、评估、授权和化学品限制的第 1907/2006 号规则（简称 REACH）。在任何货物或其任何成分属于 REACH 所约束的范围之内的情况下，供应商确认并声明货物或其任何成分完全符合 REACH 所提出的要求。供应商将提供给客户（预）登记号。在任何货物或其任何成分属于其他化学品控制规则所约束的范围之内的情况下，供应商确认并声明货物或其任何成分完全符合该种规则的要求。

## 12、可持续性、安全、健康和环境及保障

12.1 3P（人、星球、利润）价值观，如行为准则所述，对客户创造可持续的价值具有关键意义。供应商同意遵守行为准则，或可应请求发放。

12.2 供应商遵守并依照所有可适用的安全、健康和环境指令而行事，避免污染土壤和地下水，限制在客户经营场所的空气和噪声污染，遵守场地和入场规则，以及客户的（网络）安全规则。供应商必须安排适当和安全的运输和设备，以及有技能并适格的能说客户当地语言和/或英语的人员，以对安全、健康和环境负责任的方式工作。客户可就本协议项下的这些方面进行审核。供应商应当就任何安全、健康、环境和保障方面的不合规进行报告。万一发生任何事故，供应商应在客户的监督之下，立即采取所有的措施以清除、隔离或防止因该事故而产生的污染。

## 13、赔偿、责任和不可抗力

13.1 供应商应对客户及其董事、雇员（以下简称“被补偿方”）承担责任，补偿其并使其免受因本协议的履行、被补偿方或者任何第三方使用和/或销售供应的货物、接收和采用供应商的服务引起的或与之有关的，被补偿方遭受的、或针对被补偿方提出的，任何和所有实际发生的或者可能发生的损害、损失、人身伤害/死亡、成本、索赔，但由客户故意的不当行为或重大过失引起的除外。

13.2 供应商应完全负责正确和及时地支付与履行本协议相关的所有税收和税赋，且应就与其税收义务、捐款、任何第三方主张（包括来自政府的主张）有关的所有主张和损害向受偿方做出赔偿。

13.3 无论何种情况下，客户均不因基于本协议的任何间接损害（包括而限于收入损失、利润损失或其他附随或附带的损失）承担责任。

13.4 任何一方均不因任何由于相关当事方所完全不能控制、非由其承担风险且无法合理预见的事件而迟延、影响或阻碍履行而造成的相应程度的不完全履行向对方承担责任，但援引不可抗力的一方应当尽最大努力以任何可能的方式履行其义务。仅材料、劳动力或公用设施迟延供应的事实将不构成不可抗力。如果一项不可抗力事件持续达 30 天以上，客户将有权以书面通知的形式（部分）终止或取消本协议。在供应商无法履行其义务的任何期间，客户有权向第三方购买类似的货物和/或服务。因此而受影响的数量应当从任何（最小）数量的计算中扣除。

## 14、保密

客户所提供或委托提供的任何和所有的信息将被视为机密，且仅能被供应商为本协议目的而使用。信息仅被允许向其雇员或第三方披露，且此披露应建立在必须知晓的基础上，除非供应商因法院命令或法定义务而被要求披露信息，但前提是其应立即通知客户。供应商应当应要求立即将所有该等信息返



还给客户。供应商不得保留其复制件。供应商应当将本协议的存在亦视为机密。供应商或其雇员在被要求时应签署单独的保密协议。

## 15、所有权和知识产权

15.1 任何和所有披露给供应商的信息、产权或材料仍然属于客户的财产。供应商无权利用或援引客户或其任何关联方的任何商标、商号、域名、专利、设计、版权或其他知识产权，除非获得客户的预先书面同意。任何被授权的使用均应限制在指示的范围之内且符合经同意的特定目的。

15.2 供应商保证货物和/或服务，无论单独还是整体的，均不会导致或引发任何对第三方的知识产权的侵权或非法使用。

15.3 供应商特此以现时及将来转让的方式转让其所有明确为客户或在客户的指示之下开发或委托开发的知识产权、商业秘密、版权和其他权利。

15.4 所有明确为客户或在客户的指示之下开发的对于软件的知识产权，包括源代码、子软件和文档，均应属于客户所有或转让给客户。其他软件的知识产权应仍属供应商所有，且供应商应当授予客户一项非排他性的、不可转让的、不可撤销的、永久的、免费的，且不受限于任何特定设备或地点的许可。客户有权再向它的关联方提供分许可。

## 16、保险

供应商应当购买并维持保险以涵盖因本协议而产生或与其有关的风险。在客户的要求之下，供应商应当提供证明其购买了保险的保险凭证并向客户通报任何变更。

## 17、终止和中止

在以下情况下，客户有权以立即生效的方式全部或部分中止履行其义务或终止本协议，且不影响其主张损害赔偿的权利，也无需对供应商做出任何赔偿或补偿：（1）供应商被宣告破产、处于清算状态、终止或中止其全部或实质部分的业务、受限于法院执行令或预防性法律和救济措施；（2）未能遵守有关进口、出口或化学品控制的规则或关于安全、健康和环境及保障的条文；（3）未根据第 10 条规定批准的变更发生。在该终止之后，客户可以全部或部分返还其已收到的货物和/或服务，并收回对应的已支付款项并将前述货物和/或服务的所有权返还给供应商。

## 18、其它

18.1 如果这些通用采购条件中的任何条款应被视为或将成为不生效或无效，其他条款将不受影响。各当事方同意以具有类似重要性的条款来代替该不生效或无效条款，新条款的内容应尽可能接近于原条款。

18.2 任何一方未能向另一方就其应履行的任何义务提出严格履行的要求，将不会影响该当事方在其后强制另一方履行任何义务，任何一方对任何违约放弃主张将不构成其对该违约之前或之后的违约进行主张的放弃。除非弃权为具体、不可撤销和书面的，否则将不产生任何效力。

18.3 供应商如未取得客户的书面同意，不得将本协议全部或部分转让。该同意不会豁免供应商在本协议项下的任何义务，且应符合本协议的规定。客户有权在及时通知供应商的情况下向任何其关联方转让本协议的全部或任何部分。

18.4 本协议的任何部分都不应导致某一方被视为另一方的代理人，或在双方之间构成合伙、合资企业或雇佣关系。

18.5 本协议应受中华人民共和国法律法规的排他性管辖，冲突法规则除外。1980 年 4 月 11 日在维也纳缔结的《联合国国际货物销售协议公约》将不适用。

18.6 由本协议和/或采购订单而产生的任何争议，如当事各方未能通过友好协商解决，均应提交至中国国际经济贸易仲裁委员会（“CIETAC”）仲裁，该委员会对上述争议享有排他性管辖权。仲裁应根据 CIETAC 仲裁规则在北京进行。在争议期间，除非某项义务被该争议直接影响，任何一方均不能免除履行其在本协议项下的义务。

18.7 本协议届满、终止或解除，将不影响任何明示地或就其性质而言不随该届满、终止或解除而失效的权利或义务，包括而限于陈述、担保、保密义务、知识产权和产生的权利。

18.8 本通用采购条件现行版本可从如下网址获取：<http://www.dsm-sinochem.com/general-terms-and-conditions.html>。

以上条件合称为“灿盛制药有限公司中国企业通用采购条件 2012”。