



Roche Canada P.O. General Terms and Conditions

Updated May 2019

1. SCOPE AND PRECEDENCE

The following terms and conditions (the “**Terms**”) govern Purchase Orders (each a “P.O.”) issued by Hoffmann-La Roche Limited (“**Roche**”) whether the P.O. is received by a vendor (each a “**Vendor**”) by mail, fax, or by any electronic means, until such time as the Vendor receives a revised edition of these Terms or until the Vendor receives notification that these Terms were edited and posted on <http://vendorportal.roche.com>. Vendor agrees to sell and deliver any Deliverables (defined below), that are subject to this P.O. for Roche.

Additional or different terms, conditions, or instructions applicable to a particular order may be specified in the body of the P.O., or in an exhibit thereto, and, in the event of a conflict, shall take precedence over these Terms.

Despite anything to the contrary contained herein, if Vendor and Roche have executed an formal written agreement which governs the purchase and sale of the goods or services in issue, the terms of such agreement shall be controlling and shall take precedence over these Terms, the P.O., and any additional or different terms contained in any document generated by Vendor.

2. ACCEPTANCE

Offer and acceptance of any P.O. issued by Roche is expressly limited to these Terms and the applicable P.O. Any terms and conditions contained in a proposal, quotation or invoice of Vendor shall not constitute a part of the contract of sale resulting from Vendor's acceptance of Roche's order unless such terms and conditions are specifically incorporated or noted in the P.O. as provided in Section 1 above.

Any purported acceptance by Vendor containing additional or different terms shall be deemed to be an acceptance of these Terms only, excluding such additional or different terms.

Vendor's shipment of goods or commencement of services in response to Roche's order shall constitute conclusive acceptance of these Terms and any additional or different terms contained in any acknowledgment or invoice form submitted by Vendor shall not constitute any part of the contract of sale resulting from Vendor's acceptance.

3. PRICE AND PAYMENT TERMS; INVOICING

Each P.O. shall be filled at the price specified on the P.O., which is deemed to be in Canadian dollars unless specifically designated otherwise in the P.O. Unless otherwise stated herein, this P.O. price includes costs, packing, crating, marking, transportation, bracing and damage, fees or charges of any kind incurred by Vendor in relation to this P.O. The P.O. price also includes all taxes except value added tax (VAT), goods and service/harmonized sales tax (GST/HST/QST), provincial sales tax (PST, etc.) or the local equivalent. If no price is specified, the P.O. shall be filled at the lowest of (a) the price last quoted by Vendor; (b) the price last paid by Roche to Vendor; or (c) the prevailing market price, unless a higher price is approved in writing by an authorized representative of Roche's procurement department. Roche issues payments on a weekly basis. All invoices which have reached their payment term maturity will be accumulated and paid in the next weekly payment. **Roche's standard payment terms are net sixty (60) days after Roche's Accounts Payable Department receives an invoice that complies with the requirements of these Terms**, except that Roche may withhold payment of any amount that it may reasonably dispute in good faith until such dispute is resolved. Due dates are computed from the date an accurate invoice is received in Roche's Accounts Payable Department. Roche may return improper invoices for correction without penalty. In case of disputes, doubt concerning quality, or where rejections occur, Roche may defer payment without penalty.



Invoices (and any required additional documents) should be delivered to Roche via one of the following formats:

eMail: mississauga.ap@roche.com (preferred)

Mail: Hoffmann-La Roche Limited
7070 Mississauga Rd,
Mississauga, ON L5N 5M8
Attn: Accounts Payable

For Ex-Canada vendors shipping goods into Canada, the following invoicing instructions should be followed:

1. Vendor Roche with three copies of commercial invoices and six copies of Canada Customs Invoices properly certified for customs purposes.
2. Customs invoices must be forwarded as soon as goods are shipped.
3. Invoices must indicate number of pieces contained in shipment. Each piece must be identified by a number and its contents noted on the invoices.
4. Indicate country of origin on Canada Customs Invoice.
5. Provide a value in the currency of settlement for each item listed.
6. Trade discounts must be marked as such and deducted from customs invoices. Cash discounts must be shown but not deducted from total.

4. MODIFICATION

No modification to these Terms is valid unless approved in writing by an authorized representative of Roche's procurement or legal department.

5. DELIVERABLES AND INSPECTION

For the purpose of this P.O., "**Deliverables**" means: (i) for any order of goods, including software and any computer program, programming, modules, patches, upgrades, new versions and modifications thereto, Deliverables includes any goods or articles specified in Roche's order that Vendor is obligated to furnish to Roche; and (ii) for any order of services, Deliverables includes all services provided to Roche, together with all articles, materials, goods, information, works of authorship, trademarks, artwork, drawings, text, specifications, calculations, reports, ideas, inventions, discoveries, processes, improvements, software, data, and other documentation and materials created, developed, conceived or first reduced to practice by Vendor, alone or with others, related to services rendered for Roche under the P.O. or derived from information or materials Vendor has received from Roche.

All Deliverables furnished pursuant to a P.O. shall be subject to Roche's inspection and approval, including acceptance testing by Roche to verify that the Deliverables satisfy all requirements conveyed by Roche to Vendor relating to the Deliverables, including any specifications or documentation. If Roche discovers a non-conformity within ninety (90) days following delivery of the Deliverables and Roche notifies Vendor of the non-conformity, notwithstanding prior receipt and payment thereof, Vendor shall, at Roche's sole discretion, either: (i) correct the non-conformity at no additional charge in a timely, professional manner, or (ii) refund monies paid by Roche for the non-conforming Deliverables or services attributable to or affected by the non-conforming Deliverables, in which case Roche shall return such non-conforming Deliverables to Vendor at Vendor's expense. Nothing in this Section shall be construed to limit or otherwise affect Roche's indemnification rights, warranty rights or any other common law or statutory remedies.



6. PACKAGING, DELIVERY, TERMINATION

Vendor shall box, crate or package any Deliverables that are goods as required for shipment in compliance with all applicable laws, in accordance with good commercial and industry practice, and without charge to Roche unless otherwise specified on the applicable P.O. Roche shall have the right to terminate all or any portion of any P.O. without liability if delivery is not made within the time stated in the P.O.

Title and risk in the Deliverables that are goods shall pass to Roche when the Deliverables are delivered in accordance with the P.O. and Terms, and without prejudice to any right of rejection which Roche may have under the Terms or by law. Deliverables that are goods will be delivered to the Buyer's place of business or to the address stated in the P.O. Deliverables that are services will be performed at the Buyer's place of business or at the address stated in the P.O.

The Deliverables will be delivered and/or performed during the Buyer's normal office hours on the date or within the period specified in the P.O.

Time for delivery of the Deliverables will be of the essence.

7. GENERAL REPRESENTATIONS AND WARRANTIES

Vendor represents and warrants as follows:

- (a) All Deliverables that are goods supplied under the P.O. are free from defects, of merchantable quality, and in accordance with Roche's specifications.
- (b) All Deliverables do not and will not infringe, misappropriate or otherwise violate the intellectual property rights of any third party.
- (c) All Deliverables that are services will be performed in accordance with the professional and industry standards, skills, care and diligence that would be adopted and exhibited by an experienced firm in the same industry.
- (d) Neither Vendor nor any of its employees have been debarred, sanctioned, suspended, excluded, or otherwise declared ineligible by any national or international health authority or professional body. In addition, Vendor agrees that during the term of this P.O., Vendor shall promptly notify Roche if Vendor or any of its employees becomes the subject of an investigation by any national or international health authority.
- (e) Vendor will comply with all federal, provincial and local laws, requirements and regulations applicable to the nature of the Deliverables provided including, but not limited to, federal and provincial privacy legislation, competition legislation, anti-bribery statutes, anti-spam legislation and applicable Health Canada pharmaceuticals promotional regulations, or the local equivalent where applicable.
- (f) All Deliverables supplied under the P.O. shall be shipped in full compliance with packaging, labeling, shipping, and documentation requirements, including requirements concerning hazardous materials, substances, and waste of all provincial, local, national, or international governmental agencies or authorities regulating any segments or modes of transportation employed to effect delivery of such articles to Roche, and all hazardous materials, substances, and waste shall be packaged, marked, labeled and shipped in accordance with all applicable laws.
- (g) Unless Roche directs otherwise, all materials utilized in the Deliverables will be new.

8. USE OF NAMES/TRADE-MARKS

Vendor shall not use the name of Roche, any employee of Roche or any product or service of Roche in any press release, advertising or materials distributed to prospective or existing customers or any other public disclosure, except with Roche's



prior written consent or as required by Applicable Law. In no event, without the prior written consent of Roche, will Vendor: (i) represent, directly or indirectly, that any Deliverable provided by Vendor has been approved, recommended, certified or endorsed by Roche; or (ii) use Roche's logos or other trade-marks.

9. CONFIDENTIALITY

"Roche Confidential Information" means any non-public information: (i) disclosed by or on behalf of Roche or its affiliates to Vendor, either in writing or orally, (ii) about Roche or its affiliates and obtained by Vendor from a third party under an obligation not to disclose such information, (iii) created by Vendor or Roche, or (iv) observed by Vendor on the premises of Roche or its affiliate(s), in each case, in connection with this P.O. Roche Confidential Information does not include information that: (i) was already in the possession of a Vendor before Vendor obtained such information in connection with this P.O., as evidenced by such Vendor's written records, (ii) is independently developed by Vendor without reference to any information of Roche, as evidenced by Vendor's written records, (iii) is or becomes publicly available through no fault of Vendor, or (iv) is obtained by Vendor from a third party not bound by any obligation not to use or disclose such information.

Vendor will neither: (i) disclose Roche's Confidential Information except as authorized below or by Roche in writing; nor (ii) use Roche's Confidential Information for any purpose other than meeting Vendor's obligations under any P.O. Vendor may disclose Roche's Confidential Information (a) to its representatives, affiliates and subcontractors who need to know the information for the purpose of meeting Vendor's obligations under a P.O., provided that such representatives, affiliates and subcontractors are bound by a duty of confidentiality and Vendor is responsible to Roche for any unauthorized disclosure or use of Roche's Confidential Information by Vendor's representatives, affiliates or subcontractors; and (b) to the extent compelled by Applicable Law; provided, however, that Vendor will give Roche reasonable advance notice of the disclosure to the extent such advance notice is permitted by Applicable Law.

At any time, and without notice to Vendor, Roche may disclose information relating to a possible violation of law, or the existence of these Terms, including the compensation provisions, to a client, to a government or government agency, and to anyone determined by Roche to have a legitimate need to know.

10. INDEMNIFICATION

Each of Vendor and Roche will defend, indemnify and hold harmless the other (and the other's affiliates) against and from all liabilities, costs, damages, penalties or fees (including reasonable attorney's fees) ("Damages") resulting from third party claims, actions and suits ("Claims") arising out of: (i) any breach by it of any other representation, warranty, or obligation under this P.O., or (ii) any negligence or willful misconduct by it (or by its affiliates) in connection with its performance under this P.O.

11. INSURANCE

Vendor will obtain and maintain, at its own expense, a Commercially Reasonable level of insurance, and, upon request, shall provide a certificate of insurance to Roche. For purposes of this Section, "Commercially Reasonable" shall mean in accordance with standard practice in the industry and in the geographical area. Vendor shall also secure and maintain worker's compensation insurance as required by law and, on request, shall provide Roche with a certificate of good standing from each workers compensation board, or equivalent authority in each jurisdiction where the services are performed or other satisfactory evidence that Vendor is in compliance with applicable workers compensation or equivalent legislation.

13. ASSIGNMENT



Vendor shall not in any manner delegate its duty of performance or assign its rights or obligations under this P.O. without Roche's prior written consent, except that accounts receivables may be assigned in accordance with applicable law. Any attempted assignment in violation of the preceding sentence shall be of no force or effect.

14. GOVERNING LAW

The P.O. shall be governed by and construed according to the laws of the Province of Ontario and the laws of Canada applicable therein, excluding its rules on conflict of law. Both Vendor and Roche irrevocably agree to the non-exclusive jurisdiction of the courts of Ontario sitting in Toronto for the purposes of any disputes that may arise hereunder.

15. TAXES

Each party will be responsible for its own taxes, including property taxes on property it owns or leases, income taxes on its business and, any other taxes incurred by such party in connection with its business and with performing its obligations hereunder. Roche will be responsible for any VAT/GST/PST/HST or local equivalent taxes properly collectible from Roche under applicable law. Vendor will be responsible for payment of any transaction taxes that are, under applicable law, properly borne by Vendor; including, but not limited to all export and import taxes.

Vendor acknowledges and understands that, where Vendor is a nonresident of Canada providing services in Canada, Roche may be required to withhold and remit to Canadian tax authorities an amount equal to 15 percent of the gross amount payable to Vendor for services rendered in Canada.

16. REIMBURSABLE TRAVEL AND EXPENSES

In the event that travel and other out-of-pocket expenses are included in an approved P.O., Roche will reimburse Vendor only for Vendor's actual, reasonable, proper, out-of-pocket expenses, with no additional overhead, profit margin, administrative charges, handling fees, or other markup, directly attributable to the P.O. in accordance with Roche's Travel Policy. Roche shall provide Vendor with a copy of Roche's Travel Policy upon request. Roche's Travel Policy is also available on the Roche Vendor Portal at <http://vendorportal.roche.com>

17. PROVISION OF SERVICES

If the P.O. relates to Roche's purchase of services (with or without goods) the following additional provisions apply:

- (a) *Labour Furnished By Vendor:* Vendor acknowledges and agrees that in performing services, Vendor will be acting solely as an independent contractor, and neither Vendor nor any of its employees, associated consultants, subcontractors or employees of said consultants or subcontractors shall be deemed to be employees of Roche for any purpose. Except as allowed by the "Subcontractors" provisions below, all persons employed by Vendor in the performance of the services are employees of Vendor. Vendor shall carry such employees on the payrolls of Vendor and make all required payments to federal, provincial and local authorities covering payroll taxes and any other payments relating to such persons' employment.
- (b) *Subcontractors:* Vendor shall not use any subcontractor without the prior written approval of Roche. Vendor shall be fully responsible for services performed by the subcontractor to the same extent as if the services were performed directly by Vendor and ensure that such subcontractors comply with all of the requirements of these Terms and the applicable P.O.
- (c) *Verification And Acceptance of Services:* In the case of building maintenance services, Vendor shall arrange each maintenance or service call with Roche personnel prior to attendance at Roche's facilities.



(d) *Liens*: Vendor agrees and warrants that no mechanics liens shall attach to Roche's property by virtue of Vendor's default in paying its employees, Vendors or subcontractor

(e) *Safety and Security*: Vendor shall be responsible for initiating, maintaining and supervising all safety and security precautions and programs in connection with any services required by this P.O. in accordance with Roche's contractor health and safety policies in effect for the project site where the Services are performed at the time of the performance of the Services.

18. INTELLECTUAL PROPERTY

(a) Vendor shall indemnify Roche and shall keep Roche indemnified from and against all claims, loss, damage or expense brought, made or suffered by or against Roche by reason of any or any alleged infringement by the Deliverables or their sale or use or incorporation in other Deliverables or by other items created and/or delivered by the Vendor or by the Vendor in its performance of services, of any patents, registered designs, trade-marks, copyright or other third party intellectual property rights in Canada or elsewhere.

(b) In the event that any documents or other materials are produced or provided by the Vendor in the course of providing the Deliverables, the vendor agrees that such documents and materials shall be owned by Roche, and the Vendor hereby assigns all of its rights, title and interest in such documents and materials to Roche. The Seller shall perform all necessary acts to give effect to this clause.

(c) All plans, drawings, specifications and patterns or other documents and materials relating to the Deliverables, which are delivered by the Roche to Vendor, shall remain the property of the Roche. Roche authorises Vendor to use the intellectual property rights of the Roche for the purposes only of exercising its rights and performing its obligations under these Terms. Vendor shall maintain all such aforementioned documents in good order and condition. Upon completion of the services or upon request by Roche such property shall be returned to Roche in good order and condition. Should Vendor fail to return this property to Roche, Roche may either withhold payment for the Deliverables until such property is returned or withhold such part of the payment due as may be required to replace them or restore them to good order or condition. No such plans, drawings, specifications, or pattern or document or material shall be shown nor its contents disclosed by Vendor to any other person without written agreement of Roche.

19. TERMINATION

Despite any contrary terms contained above, Roche shall have the right to terminate this P.O. or cancel all or any part of the Deliverables, for any reason including convenience, by giving Vendor five (5) days prior written notice of its intent to so terminate or cancel. Roche shall have the right to terminate or cancel this P.O. immediately upon notice to Vendor at any time prior to acceptance by Vendor of this P.O. In the event of such termination, Roche shall have no obligation to Vendor except the obligation to pay all costs actually and reasonably incurred by Vendor prior to the date of termination plus a normally accepted trade allowance on such costs as full payment of Vendor's overhead and profit, provided, however, that in no event shall Roche be obligated to pay an amount in excess of the amount set out in the applicable P.O.; advance payments will be refunded accordingly. If this P.O. is terminated as a result of the default of Vendor, Roche shall have no obligation to reimburse Vendor for any services performed by Vendor pursuant to this P.O.

Vendor agrees that breach of Section 20 shall be considered a material breach of this P.O. and that Roche may immediately seek all remedies available under law and equity including termination of this P.O. if it believes, in good faith, that such a breach by Vendor has occurred.

20. NO INDUCEMENT OF PUBLIC OFFICIALS



Vendor represents and warrants that neither they nor any individual or entity acting on their behalf, nor any payee under this P.O., will, directly or indirectly, offer or pay, or authorize an offer or payment of, any money or anything of value to any Public Official (defined below) or public entity, with the knowledge or intent that the payment, promise or gift, in whole or in part, will be made in order to influence an official act or decision that will assist Vendor or Roche in securing an improper advantage or in obtaining or retaining business or in directing business to any person or entity. “Public Official” means any officer or employee of a government, a public international organization or any department or Vendor thereof, or any person acting in an official capacity, including, for a public Vendor or enterprise; and any political party or party official, or any candidate for public office.

21. ADVERSE EVENT REPORTING

If in the course of the activity covered by this P.O., Vendor becomes aware of suspected Adverse Event (“AEs”)/ special situations and other case type reports* / product complaints associated with the use of a Roche medicinal product, this should be reported to the Roche Drug Safety department as detailed below, within one business day.

- Email: mississauga.drug_safety@roche.com
- Fax: 905-542-5864
- Phone: 1-888-762-4388

* pregnancy/breastfeeding, use in pediatric/elderly population, lack of efficacy, overdose, misuse, abuse, off label use, medication error (including intercepted medication error and potential medication error), occupational exposure, data related to a suspected transmission of an infectious agent via a medicinal product (STIAMP), drug interaction, falsified medicinal products (whether suspected or confirmed) and suspected AEs from class action lawsuits.

22. GENERAL

(a) **Assignment and Subcontracting:** Roche may assign or delegate this P.O. or any of its rights or obligations hereunder. Vendor may not assign, delegate, transfer or subcontract the Services without the prior written consent of Roche. This P.O. will inure to the benefit of and bind the Parties’ permitted successors and assigns. (b) **Relationship of the Parties and Employment Matters:** The Parties to this P.O. are independent contractors, and nothing contained in this P.O. shall be deemed or construed to create a partnership, joint venture, employment, franchise, or fiduciary relationship between the Parties. Vendor assumes sole and full responsibility for withholding any and all appropriate taxes and mandatory social contributions and for complying with any applicable law, including workers compensation, unemployment insurance, social contributions and wage and hour laws. Where the Services require Vendor personnel or representatives to travel, all the usual risks of travel shall be assumed by Vendor. Vendor is responsible for securing at its own expense any health, travel, life or other insurance required by travelling personnel, and any passport, visa, vaccination, or other entry requirements for travel. (c) **Waiver:** A Party’s failure to exercise, or delay in exercising, any right, power, privilege or remedy under this P.O. shall not; (i) operate as a waiver thereof, or (ii) operate as a waiver of any other right, power, privilege or remedy. A waiver will be effective only upon the written consent of the Party granting such waiver. (d) **Severability:** If any of the provisions of this P.O. are held to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable provisions shall be replaced by legal, valid and enforceable provisions that will achieve to the maximum extent possible the intent of the Parties, and the other provisions of this P.O. shall remain in full force and effect. (e) **Language.** The parties acknowledge having required that the P.O. and all documentation and notices entered into or given pursuant hereto or relating directly or indirectly hereto are drawn in English. *Les parties reconnaissent avoir exigé la rédaction en anglais du présent bon de commande ainsi que de tous les documents et avis qui pourront être exécutés ou donnés à la suite de ou ayant un rapport direct ou indirect avec le bon de commande.*