

Purchase Order Terms And Conditions

ROCHE DIABETES CARE PURCHASE ORDER TERMS AND CONDITIONS

The terms and conditions below shall form part of all Purchase Orders issued by Roche Diabetes Care, division of Hoffmann-La Roche Ltd. ("Roche") to the vendor ("Vendor") identified on said Purchase Order:

1. Without obligating itself to inspect any goods ("Goods") supplied by Vendor pursuant to the Purchase Order, Roche reserves the right to reject any and/or all Goods if, upon inspection, said Goods are found to be unsatisfactory.
2. Vendor will indemnify and hold Roche and its affiliates harmless from and against any loss, damage, claim, liability and expense arising out of Vendor's negligence or breach of its obligations under this Purchase Order.
3. Vendor will properly package the Goods for shipment and mark each package with the relevant Purchase Order number, as well as a description and the quantity of contents. Roche will have the right to inspect all Goods anywhere and at any time. Shipments originating outside Canada will be accompanied by all required customs documentation. Vendor will comply with all applicable export restrictions.
4. The Vendor: (a) warrants that the Goods will be of merchantable quality and condition suitable for their intended purpose; (b) warrants that the Goods will meet such specifications, if any, as are called for in this Purchase Order; (c) warrants that it has the right to sell the Goods and that the Goods do not infringe the patent or other intellectual property rights of any other person; (d) agrees to defend, indemnify and hold Roche and its employees, officers, and directors harmless from and against any and all damages, injuries, causes of action, costs, losses and expenses, if any, resulting from (i) any defect in the Goods, or (ii) the negligence, willful misconduct or breach of Vendor, arising out of or related to this Purchase Order.
5. The Vendor warrants that all services ("Services") provided will be performed in a professional and workmanlike manner in accordance with applicable professional standards.
6. Vendor will perform its obligations in relation to this Purchase Order in accordance with the stipulated schedule. Time will be of the essence. If Vendor does not comply with the stipulated delivery schedule or Vendor fails to make progress so as to compromise timely performance, Roche may, at its option and sole discretion, either approve a revised delivery schedule or terminate this Purchase Order in whole or in part pursuant to the termination provisions set forth below, without prejudice to any other recourse it may have.
7. It is agreed that if the price of the Goods or Services is higher than is specified in the Purchase Order, the price must be agreed upon by the parties before shipment is made or this Purchase Order shall be void. If no price is shown in the Purchase Order, it is agreed that the Goods or Services will be billed at the price last quoted to Roche by the Vendor or last paid by Roche to the Vendor.
8. Vendor must indicate the Purchase Order number or any other reference number provided by Roche on all documents including packing slips and invoices. If Vendor fails to do so, Roche may refuse to receive the Goods or to pay invoices until the appropriate references are included on said documents.
9. When Vendor provides Services on Roche's premises or the premises of a Roche customer, Vendor will ensure that all its personnel comply with environmental, safety, and other rules established from time to time by Roche in relation to the Services. Any information concerning Roche's technology or activities, except for information that Roche has made generally available to the public, will be kept confidential and used only for purposes of fulfilling Vendor's obligations under this Purchase Order. Vendor and its personnel will, on request, sign Roche's standard confidentiality agreement.
10. If the Vendor is insolvent or breaches any of its obligations under this Purchase Order, Roche may terminate it, in whole or in part, without compensation to Vendor, and will be entitled to recover from Vendor any resulting damages. Roche may, at any time and at its sole discretion, terminate this Purchase Order in whole or in part, without cause, upon written notice to the Vendor. In such event, Roche's liability will be limited to payment of the price of Goods

and/or Services delivered on the termination date in accordance with this Purchase Order; calculated, in the case of Services, in proportion to the state of completion in accordance with the Purchase Order. Roche will not be liable for any other claims or expenses arising from termination including, without limitation, loss of anticipated profit. In no event will Roche's liability under this Purchase Order exceed the Purchase Order price.

11. Overruns or underruns are to be shown as a separate item on the invoice. Unless otherwise stated herein, overruns or under-runs must not exceed the following: 10 percent overrun on quantities of less than 5,000; 5 percent overrun for quantities between 5,001 and 100,000; 2 percent overrun for quantities in excess of 100,001.

12. No change may be made to the Purchase Order without the prior written approval of a Roche purchasing agent.

13. Vendor confirms having read and agrees to comply with the Roche Supplier Code of Conduct which is incorporated in this PO by reference and forms an integral part of the Purchase Order:

https://www.roche.com/sustainability/suppliers/supplier_code_of_conduct.htm

14. Export control (only for Goods)

14.1 Vendor agrees that all Goods delivered under this Purchase Order may be subject to foreign trade controls. Vendor shall strictly comply with all applicable national and U. S. laws and regulations for the control of import, export/re-export, transfer, brokering and transit. Prior to any transfer of Products, Vendor shall in particular guarantee that all necessary import and/or export licenses are obtained as may be required throughout the duration of this Purchase Order.

14.2 In any case, as applicable, Vendor shall inform Roche about the respective number of the products according to the EU Dual-Use Regulation, the Commerce Control List (CCL) of the U. S. Department of Commerce and/ or the U. S. Munitions List (USML) of the U. S. Department of State. Additionally, Vendor shall provide technical specifications of the products to enable Roche to classify the products according to the relevant foreign trade control and customs regulations.

14.3 Vendor shall be obliged to declare the origin of goods under customs law pursuant to the export and customs regulations applicable in each case, e. g. on the invoice, by means of a certificate of origin or a long-term declaration. Vendor shall promptly notify Roche unrequested in writing of any change of origin. Where the products fall within the scope of a convention for the granting of tariff preferences, Vendor shall be obliged to issue a written declaration pursuant to the relevant free trade agreement, e. g. a long-term supplier declaration or, in individual cases, a declaration of origin on the invoice.

14.4 In the event that for the import or export of goods additional official documents are required for the designated use of the products, Vendor shall be obliged to promptly procure or, respectively, to provide these documents to Roche. Roche shall inform Vendor of the applicable requirements.

14.5 Any costs incurred from the obligations in this section 14 shall be borne by Vendor.

Vendor declarations of all kind and specifications for a classification of the products are to be sent to the following address:

Roche Diagnostics GmbH
Import/Export Compliance
Sandhofer Str. 116
68305 Mannheim / Germany

14.6 Vendor shall be liable for any damage and/or expenses (in particular punitive tariffs, legal costs, etc.), which Roche incurs from incomplete and/or inaccurate information in connection with the obligations of Vendor under this section "Foreign Trade" and shall fully indemnify Roche of such damage/expenses.

15. Export Control (only for for Software/digital solutions/software as-service/platform-as-service/infrastructure-as-service)

15.1 Export control classification number

Vendor Solution service provider recognizes that it is Roche policy to comply with all applicable laws, regulations, permits and consent orders as they apply to the sale, re-sale, export, re-export, transfer and re-transfer of, or granting

access to items, including software as well as technology, and to act in a proper and ethical manner.

The Parties agree that all items, including software and technology, delivered under this Agreement may be subject to foreign trade controls.

Vendor /solutions service provider will provide Roche with:

- the “Export Control Classification Number “(ECCN)
- according to the U.S. Commerce Control List (CCL) of the U. S. Department of Commerce and / or the U. S. Munitions List (USML) of the U. S. Department of State if the item, including software or technology is subject to the U.S. Export Administration Regulations (ECCN or EAR99)

And

- the ECCN
 - according to the EU Dual-Use Regulation, if the item, including software or technology is subject to EU rules (ECCN or ‘no control’), or
 - According to the Swiss Goods Control Ordinance (GKV), if the item, including software or technology is subject to Swiss rules (ECCN or ‘no control’).

Should Vendor /Solution service provider not know the ECCN, Vendor / solution service provider should provide technical specifications of the products to enable Roche to classify the Products according to the relevant export control regulations.

Vendor / solution service provider will inform Roche about / publish on its publicly available website any alterations to these characteristics and any change in the applicable export control regulations.

15.2 Origin of the Software/Solution

Vendor declares that the origin of the software is: (insert country).

For the purpose of the declaration, origin of the software refers to the geographic location/country, where all or the majority of the following activities are happening:

- The registered seat of the headquarter of the supplier/solution provider;
- Roadmap for the software/solution release is developed;
- The Graphical user interface GUI is developed;
- The specification and architecture for the software product is developed and written;
- The source code is programmed;
- The source code is methodically converted into standalone lines, routines and subroutines of software object code that can be run by a computer;
- Reuniting code that was developed by different teams and working out incompatibilities or bugs by re-writing or correcting programming and object code;
- All executable software files in all their versions, languages and combinations are made;
- The installation package that the end user- will be able to install is created;
- The final media e.g. CD-ROM or files for a download website are created.

15.3 US content and direct product declaration

Vendor shall declare whether the software/solution IS / IS NOT a direct product of US software or technology.

For the purpose of the declaration, the term “direct product” means the immediate product (including processes and services) produced directly by the use of technology or software as defined by Title 15 § 734.3 (a) (4) of the US Export Administration Regulations /EAR.

Vendor shall further declare whether the software /solution IS / IS NOT commingled or incorporates any, or is bundled with any US origin software/solution.

For the purpose of the declaration, the term commingled with/incorporates means non-US origin software/solution that

is based on or utilizes US origin software /solution, as defined by Title 15 § 770.3 (c) (1) and (2) of the US Export Administration Regulations /EAR, respectively.

For the purpose of the declaration, the term “bundled with” means software that is reexported together with the item and is configured for the item, but is not necessarily physically integrated into the item, as defined by Title 15 Notes (2) to § 734.4 (c) (1) and (d) (1) of the US Export Administration Regulations /EAR, respectively.

For software/solution commingled with/incorporating, or bundled with US origin software, Vendor shall further declare the percentage % value of such US origin incorporated/commingled/bundled software/solution in relation to the final software /solution value provided to Roche.

15.4 Encryption Declaration

Vendor shall declare that the software/solution/Service CONTAINS / DOES NOT CONTAIN encryption functionality.

For software/solution/Service containing encryption functionality, supplier/solution/Service provider shall declare the type of encryption functionality (synchronous/asynchronous/hash algorithm), the relevant bits length and the purpose/use of the encryption.

The description of the purpose / use of encryption functionality in the software/solution service shall specify whether the encryption functionality is used solely for the purpose of data confidentiality, including any of the following:

- authentication,
- digital signature,
- data integrity,
- non-repudiation,
- Digital rights management, including the execution of copy-protected software,
- Encryption or decryption in support of entertainment, mass commercial broadcasts or medical records management; or
- Key management in support of any of the data confidentiality function described above.

15.5 Receipt of supplier statements

Vendor statements on export control classification number ECCN, origin of software/solution, US content and US direct product statements and all kind of technical specifications for the classification of the products are to be addressed to Roche simultaneously to all of the following email addresses:

basel.classification_data@roche.com
diagnostics.export-control@roche.com

15.6 Commitments of the parties

Roche agrees not to reverse engineer, disassemble, or otherwise seek to obtain the source code or non-public APIs to the software/solution/service.

Vendor provider guarantees not to tender / subcontract any services if any of the parties involved in the service are listed on any of the applicable national or international sanctioned party lists/SPL published by federal agencies.

Vendor provider agrees to allow Roche and its designated Chief Export Control Officer employees access to its competent personnel and their relevant records for determining compliance with the terms of this Purchase Order and all applicable laws and regulations.

Notwithstanding anything to the contrary contained herein, Roche may terminate this Purchase Order immediately in the event that Vendor breaches the terms of this paragraph.

Vendor shall be liable for any damage and/or expenses (in particular punitive tariffs, legal costs, etc.), which Roche incurs from incomplete and/or inaccurate information in connection with the obligations of Vendor under this section „Foreign Trade“ and shall fully indemnify Roche of such damage/expenses.

