

GENERAL PURCHASE TERMS ^[1]

1. Definitions

“Contract” means the agreement between Novartis Pharma N.V. (“Novartis”) and the Supplier, which shall consist of the Order, these general purchase terms (“Purchase Terms”) and/ or other terms referred to in the Order.

“Deliverables” means the goods and/or services described in the Order.

“Order” means the order placed in Novartis’ purchase order form for the supply of the Deliverables.

“Supplier” means the party specified in the Order to deliver the described Deliverables.

2. Precedence and validity

2.1. The Contract will only be valid if an Order has been made, bearing the Novartis purchase order number (PO Number).

2.2. If there is any conflict or inconsistency in or between any parts of the Purchase Terms and the Order, the Purchase Terms shall prevail. The Contract can only be modified by a written agreement signed by both Parties. No terms or conditions of the Supplier appearing on any order confirmation, invoice, delivery note or other documentation relating to the Deliverables shall form part of the Contract and the Supplier waives any rights that it might otherwise have to rely on such terms and conditions.

3. Warranties

3.1. Suppliers warrants that it shall provide the Deliverables:

- in a timely and professional manner and respect any deadlines communicated by Novartis;
- in conformance with Good Industry Practice being understood as the exercise of that degree of skill, care, diligence, prudence, timeliness, efficiency, foresight and judgement

which would reasonably be expected from appropriately skilled, experience and competent suppliers in the provision of similar Deliverables under similar circumstances;

- in case of goods, free from all visible and hidden defects, of satisfactory quality, suitable for Novartis' intended purposes to the extent that such purposes are known or ought reasonably be known to the Supplier, in conformity with the stipulations of the Contract and free from liens, sureties and privileges;
- in compliance with all applicable laws, regulations and guidelines and;
- in compliance with the Novartis Third Party Code (and any published updates) available here <https://www.novartis.com/our-company/corporate-responsibility/reporting-...> [2] and on request.;

3.2. Supplier warrants that it is presently, and shall remain, for the term of this Contract, free from any commitments that would create a conflict of interest impeding the completion of Supplier's obligations hereunder. Supplier shall require its subcontractors or sub-subcontractors assisting with the provision of the Deliverables to maintain itself free from conflicts of interest by agreeing to substantially similar terms to those set forth in this Section.

3.3. Supplier's breach of any obligation set forth in this section shall constitute a material breach of the Contract.

4. Delivery and receipt

4.1. The Supplier shall deliver the Deliverables at the delivery address ("Delivery Address") and on the date stated on the Order. The dates of delivery stated on the Order shall be observed at all times.

4.2. Unless stated otherwise in the Order, the Deliverables shall be delivered DDP (Delivered Duty Paid) at the risks and at the costs of the Supplier to the Delivery Address, including off-loading and stacking (Incoterm 2020). Ownership of the Deliverables shall be transferred at the delivery.

4.3. The Deliverables shall be accompanied by a note identifying the Supplier's full name and address, the PO number, the description of the Deliverables, the quantity delivered per box and per pallet, as well as all markings required by Belgian and European regulations.

4.4. The acceptance of the delivered Deliverables shall only take place after full inspection by Novartis and shall be notified by Novartis. The simple taking of delivery by the reception service cannot be regarded as acceptance.

5. Remedies, limitation of liability and indemnification

5.1. In the event that the Supplier does not comply with, all or a part of, its obligations under the Contract ("Breach"), without prejudice to any other right or remedy Novartis may have, Novartis shall be entitled to claim one or more of the following remedies: (1) total or partial refusal or return, at the Supplier's expense, of the Deliverables failing to meet the requirements stated in the Order ("Rejected Deliverables"); (2) obtain the replacement of the Rejected Deliverables as soon as possible, at the Supplier's cost and risk; (3) obtain a refund, a compensation or damages for the Breach; (4) execute any extra works, at the Supplier's expense, necessary to remedy the Breach and; (5) terminate the Contract in accordance with Clause 8 (Duration and Termination).

5.2. Neither Party shall be liable under or in connection with the Contract for any indirect loss or damage.

5.3. Subject to Clause 5.2, and to the extent permitted by law, Novartis' liability will be limited to the total amount of the Order.

5.4. Supplier agrees to indemnify, defend and save Novartis (including officers, directors, employees and agents of Novartis) from and against any and all claims, suits, and liabilities to the extent they arise out of or are attributable to the wrongful act or omission, or to the gross negligence of Supplier (including, but not limited to, Supplier's employees, subcontractors or agents) or to a Breach by the Supplier.

6. Payment and invoices

6.1. Invoices shall be addressed to the company address identified on the Order or any other address notified by Novartis.

6.2. Novartis shall pay the invoice within sixty (60) calendar days of receipt by Novartis of a valid invoice containing at least the company name and address, VAT number, invoice number, date, PO number, currency and line items per the Order.

6.3. Novartis may withhold payment or part of a payment on the due date due to a disputed invoice until the dispute is resolved.

6.4. Interest on late payment is calculated at the statutory rate and may only be charged after the Supplier has formally notified Novartis. No other amount shall be due in relation to late payment.

7. Notices

Any notice shall be deemed to have been properly served if delivered by hand, or sent by registered mail, to the party to be served at the address specified by such party for that purpose, or, if no such address is specified, at the address given at the head of this Contract.

Notices sent by post shall be deemed to have been delivered within 7 (seven) days after the date of posting.

8. Duration and termination

8.1. This Contract is concluded for a fixed duration, starting on the date of the Order and expiring automatically upon completion of the services and/or delivery of the goods described in the Order. Novartis may terminate this Contract (or any part of it) at any time on written notice on the date specified in such notice. In such event, Novartis will be liable to pay the fees to Supplier on a pro-rata basis so that Novartis is only obliged to pay Supplier for the Services effectively provided to Novartis in accordance with the Agreement or the relevant part of it at the date of termination.

8.2. If either Party commits a material breach of the Contract, the other Party will have the right to terminate the Contract (or any part of it) immediately if: (1) such a breach is an irremediable breach of the terms of the Contract; (2) such breach is capable of remedy and the relevant Party has failed to remedy such breach within ten (10) business days after the issue of a written notice requiring it to do so or; (3) the other Party is involved in fraud, dishonesty, serious misconduct, liquidation or bankruptcy.

8.3. Novartis may terminate the Contract (or any part of it) immediately, subject to a prior written notice, if: (1) Supplier is in persistent breach of the Contract (or any part of it) which in aggregate constitute a material breach; (2) Supplier is prevented from performing substantially all of its obligations by a force majeure event for a continuous period of more than fifteen (15) days or; (3) Supplier's ownership or control is changed.

8.4. Upon termination of the Contract, the Supplier will return to Novartis all Novartis Data. "Novartis Data" means all information, data and writings provided to the Supplier by and/or on behalf of Novartis in connection with the Contract, in any form whatsoever, which were owned by or licensed to Novartis prior to being provided to the Supplier.

9. Confidentiality

Each Party agrees not to publish, disclose or use for any purpose other than the execution of this Contract any confidential information disclosed by the other Party. This obligation of confidentiality shall continue to apply until this information becomes public otherwise than through unauthorized disclosure. The Supplier shall not, without Novartis' prior written agreement, announce or provide to any other party, information relating to the existence of the Contract or use Novartis' name in any format for any promotion, publicity, marketing or advertising purpose.

10. Intellectual Property

10.1. All Novartis Data shall remain the property of Novartis. Supplier shall acquire no right,

title or interest in the Novartis Data.

10.2. All Works shall be the sole and exclusive property of Novartis. Novartis shall be the sole owner of all the rights to such Works in any form and in all fields of use known or hereafter existing. Novartis may transfer such Works or use the Works for any purpose without further payment to the Supplier. "Works" means information, data, writings, inventions and other work products, in any form whatsoever, both tangible and intangible, developed as a result of Supplier's provision of the Deliverables.

10.3. Each Party shall retain ownership of the IPR existing prior and/or developed independently from this Contract ("Background IPR"). "IPR" means any invention or discovery (whether patentable or not), copyright (rights of reproduction, publication, representation, adaptation, and modification), design and model right or confidential know-how or other intellectual property conceived, produced, or reduced to practice by the Parties. Novartis shall however have a non-exclusive, irrevocable, perpetual, worldwide, royalty-free license to use Supplier IPR incorporated into, and/or necessary for the non-infringing use of any Work.

10.4. Supplier represents that it owns or has the right to use all IPR to the intellectual property which it shall use to provide the Deliverables under the Contract.

11. General

11.1. The Supplier shall not assign or sub-contract any of its rights or obligations under the Contract without Novartis' prior written consent. The Supplier shall remain liable for the acts and omissions of its subcontractors as if such acts and omissions had been performed by the Supplier.

11.2. The invalidity or unenforceability of any term or provision of the Contract shall not affect the validity or enforceability of any other term or provision hereof.

11.3. Supplier shall execute the Contract as an independent contractor and, as such, neither the Supplier nor its employees shall be entitled to any benefits applicable to employees of Novartis. Neither Party is authorised or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty or representation as to any matter. Neither Party shall be bound by the acts or conduct of the other.

11.4. The failure of a party to enforce a provision of the Contract shall not constitute a waiver or affect its right to enforce such provision.

12. Competent court and applicable law

Belgian law governs the Contract. All disputes relating to the Contract shall exclusively be within the competence of the tribunals and courts of Brussels.

Accordion Type:
Collapsible

Source URL: <https://www.novartis.be/nl/general-purchase-terms>

Links

[1] <https://www.novartis.be/nl/general-purchase-terms>

[2] <https://www.novartis.com/our-company/corporate-responsibility/reporting-disclosure/codes-policies-guidelines>