



## Terms & Conditions for the procurement of Goods

of the Institute of Translational Vaccinology, established and having its office in Bilthoven. The Institute of Translational Vaccinology is part of the Ministry of Health, Welfare and Sport.

### Article 1 General provisions

1.1 In these conditions, 'the buyer' refers to the Institute of Translational Vaccinology, established and having its office in Bilthoven, and 'the seller' refers to the party which has issued an offer to the buyer or with which the buyer has concluded a (purchase) agreement which is the written agreement between the buyer and the seller to which these General Terms & Conditions Goods are applicable, which also includes a Purchase Order sent out by Buyer.

### Article 2 Applicability

2.1 These conditions apply to all legal relations with (future) suppliers, whereby the buyer acts as (aspiring) buyer and the other party as (aspiring) seller and/or supplier.

2.2 Any conditions of the seller, stated on his letter paper, order forms, order confirmations, invoices etc. are not binding on the buyer.

2.3 Where these conditions have been translated, the Dutch text is binding.

### Article 3 Changes

3.1 Any changes in the purchase agreement and any derogation from these general conditions of purchase shall apply only where they have been confirmed by the buyer explicitly in writing.

3.2 Where there is no agreement on a change in the purchase price, there is a dispute between the parties, to which art. 22 of these general conditions of purchase applies.

### Article 4 Quality / description and inspection

4.1 Having regard to the other provisions of the purchase agreement or order and to the provisions in the relevant technical specification, the goods to be supplied should:

- be in accordance with what is stated in the order and assured by the seller in all respects, in particular as regards quantity, description and quality;
- be manufactured from sound materials and be of a sound structure;
- in all respects be the same as the samples or models made available or provided by the buyer and/or the seller;
- perform (in terms of capacity, output, speed, workmanship, etc.) as described in the order;
- be entirely suitable for the purpose as stated to the seller, and possess the qualities which the buyer might expect.

4.2 Where the buyer has provided a material or other specification to the seller, the material supplied should correspond to this specification.

4.3 At the buyer's request, the product may be inspected by the buyer or a third party designated by the buyer on the seller's premises prior to delivery. However, the buyer is not obliged to carry out such an inspection.

4.4 If the buyer wishes to inspect the product:

- The seller will have the product ready for inspection at a time that allows the agreed delivery times to be met;
- The seller will, upon request and at no cost to the buyer, cooperate with the inspection and provide the buyer with a suitable location and reasonable assistance in terms of staff and materials;
- The inspection, if the seller so desires, will take place in its presence or in the presence of an expert designated by it. The associated costs will be borne by the seller.

4.5 If the buyer rejects the product to be supplied, the seller is obliged, without prejudice to all other rights or claims of the buyer, to provide without delay, at its own expense and risk, a missing, repaired or replacement product for a new inspection. The provisions of this article 4.5 apply in full.

Rejection by the buyer during the first or previous inspection will not lead to the agreed delivery period being extended.

4.6 The approval of the product by or on behalf of the buyer does not entail any recognition that the product complies with the guarantees given in accordance with article 4.

### Article 5 Offer and agreement

5.1 The buyer is free at all times to request from the seller that he produces an offer, on the basis of a technical specification, the quantities required, and the place and time of delivery as stated by the buyer, for the goods to be supplied by the seller to the buyer under an applicability statement for these General Terms & Conditions Goods.

5.2 The purchase agreement shall enter into force where the buyer places an order with the seller.

5.3 The buyer may prescribe to the seller the use of a specific form for the order confirmation, and a deadline within which this should be received back by the buyer.

5.4 Where or insofar as an order confirmation from a seller deviates in terms of price, model, composition, colour, quality, cohesion, pulling power, weight, quantity, width, finish, workmanship, delivery time, time of order and/or classification etc., the relevant deviation shall not be binding on the buyer, unless the buyer declares his agreement thereto explicitly in writing within 6 days of receipt of the order confirmation.

### Article 6 Packing and dispatch

6.1 The goods should be properly packed (unless the nature of the goods renders this impossible) and be secured in such a way that they will reach their destination in good condition by normal transport. The seller shall insure himself adequately, to the buyer's satisfaction, against any risks that might within reason be considered present during transport.

6.2 The goods shall be delivered by the seller or be dispatched for delivery to the place or places as agreed, and in the manner determined in the purchase agreement or order, or as agreed thereafter.

### Article 7 Storage

7.1 Where, for whatever reason, the buyer is unable to take delivery of the goods at the time agreed and they are ready for dispatch, the seller, provided that he has sufficient storage facilities, shall store and secure the goods at the buyer's request, and take any reasonable measures to prevent a deterioration in their quality until they have been delivered to the buyer.

7.2 The buyer is obliged to the seller to pay the storage costs at the seller's normal rate or, in the absence thereof, at the normal rate applied by the sector, from the moment when the goods are ready for dispatch or, where this is a later time, from the delivery date agreed in the purchase agreement or order.

### Article 8 Transfer of title and risk

8.1 Subject to the provisions in paragraph 2 of this article, the title to and risk in respect of the goods shall be transferred to the buyer on delivery.

8.2 Where the seller, at the buyer's request and in accordance with the provisions of art. 7, postpones dispatch, the title to the goods shall be transferred to the buyer on the date as agreed between the two parties, and the seller shall store the goods separately from that date, as recognisable property of the buyer. Nevertheless, the goods shall remain at the seller's risk, as holder of the goods, in this case, until the goods have been delivered to the buyer at the place or places referred to in art. 6 paragraph 2.

### Article 9 On-Time Delivery, In-Full Delivery

9.1 Seller is not entitled to split deliveries (not in quantity and not in time), unless mutually agreed upon in advance.

9.2 The seller shall deliver the goods at the time as agreed.

- 9.3 All the delivery dates agreed are fixed dates on demand, i.e. the goods should be ready for dispatch on the delivery dates agreed. Subsequent delivery times, no matter how common these are with regard to the relevant goods, are ruled out and shall not be accepted by the buyer.
- 9.4 As soon as the seller knows or expects that it will not be possible to deliver the goods on time, he shall notify the buyer forthwith. The seller is liable for any damage suffered by the buyer as a result of the delay and as a result of late notification of the (anticipated) delay.
- 9.5 Where the seller does not deliver the goods on time, he shall be in default automatically – which means that no proof of default is required – and the buyer shall have the right to dissolve the agreement (or purchase order) unilaterally and immediately, without prejudice to his right to compensation for all damage.
- 9.6 Unless otherwise agreed explicitly in writing, the following regulation applies to an order on demand: the seller should dispatch the goods, where necessary making use of a reputable transport company, within 24 hours of receipt of the demand from the buyer.
- 9.7 Where the seller fails to dispatch the goods after the aforementioned demand within the period referred to above, the provision of paragraph 4 shall apply.
- 9.8 In the event of the dissolution of the purchase agreement, the buyer shall be authorised to return, at the seller's expense and risk, those goods that had already been delivered on the basis of the same purchase agreement but can no longer be used effectively. He shall also have the right to reclaim any payments he has made for these goods.
- 9.9 In the event of the dissolution of the purchase agreement, the seller shall be obliged to pay to the buyer any further damage the buyer might suffer, e.g. through substitute purchase or loss of profit.
- 9.10 In the event of failure to deliver on time, the buyer shall also be entitled to claim compensation, to be fixed at 25% of the sale value of the goods (excl. VAT), which could have been produced from the material that has not been delivered on time, without prejudice to the right to claim full compensation.
- Article 10 Warranty**
- 10.1 The seller is liable for any damage to and caused by the goods, occurring during the warranty period stated in the purchase agreement or order or, failing which, during a reasonable period, unless the damage is the consequence of a design error made by the buyer or an error made by the buyer in the use and operation of the goods.
- 10.2 In order to comply with his liability obligations, the seller is obliged to repair the goods or the faulty parts thereof free of charge within a reasonable period of time, or to replace them. The seller remains liable for any further damage.
- 10.3 Sellers/suppliers remain liable for the goods supplied by them at all times, even where these goods are added to a new product as raw material, ingredient or semi-finished product.
- Article 11 Warranty statement**
- 11.1 Where required by the buyer, the seller, on delivery of the product, should issue a (guarantee) statement about the safety of the product and/or the elements thereof. The seller is liable for any damage suffered or to be suffered by the buyer as a consequence of incomplete and/or incorrect statements on his part.
- Article 12 Certificate of Origin**
- 12.1 Insofar as legally required or required by the buyer, a Certificate of Origin is required for all deliveries. This certificate should be sent to the buyer at the same time as the relevant invoice and the packing list.
- Article 13 Damage or loss as a result of or during transport**
- 13.1 The seller shall repair or replace any goods that have been damaged or lost during transport free of charge, within a reasonable period of time, provided that the buyer has notified the seller thereof within a period which is such that the seller will be able to do so.
- Article 14 Prices and payment conditions**
- 14.1 Unless agreed to the contrary, the purchase price includes the price of the goods, the packing costs, transport and the costs of delivery to a place as indicated by the buyer.
- 14.2 Unless otherwise agreed in writing, invoices shall be paid within 1 month of receipt of the invoice.
- 14.3 Where payment is made by the buyer within 14 days of receipt of the invoice, a deduction of 4% from the invoice amount shall be applied.
- 14.4 Invoices should be sent to the buyer on the date of dispatch of the relevant goods. Two copies of the invoice and the packing list should be sent with the dispatch, unless otherwise indicated by the buyer.
- Article 15 Advance**
- 15.1 If it has been agreed that, for the purpose of performing a (purchase) agreement, the buyer should make one or more payments prior to the Delivery of the goods/or product, it may require the seller to issue the buyer with a 'stand-by' bank guarantee prior to making the payment(s) in question, to the value of the payment(s) in question. The 'stand-by' bank guarantee will be issued by a bank approved by the buyer. The buyer is not required to pay any of the cost of the guarantee.
- 15.2 If, on account of any failure on the part of the seller, a Product that complies with a (purchase) agreement is not delivered to the agreed address within the agreed period, the Seller is liable to pay the statutory interest on the advance for as long as the failure persists.
- Article 16 Complaints**
- 16.1 The following regulation applies with regard to complaints by the buyer, on the basis of the principle that:
- a) the seller, by accepting the order, guarantees that the goods to be supplied shall be supplied in accordance with the samples, models etc. and the specifications regarding weight, composition, colour, measurements, etc. as stated on the order; and
- b) the seller shall supply the goods ordered without any defects. Insofar as visible defects are concerned, he will be able to identify these sooner (and better) than the buyer. The seller is therefore deemed to have inspected the goods carefully before dispatch, so that they can be processed immediately after receipt. Nonetheless, the buyer shall accept them on the basis of a complaints period, provided that such a period has been established, so that the buyer, partly in connection with his business management, shall not be faced with any problems.
- 16.2 Visible defects are defects that can be noticed without difficulty with the naked eye, i.e. without manipulation, treatment or sampling. Insofar as such defects in the goods, as they have been prepared, are noticeable, a complaints period shall apply of 2 months following receipt of these goods, and a period of 4 months shall apply insofar as such defects can be observed only after breaking the packaging.
- 16.3 Concealed defects are any defects which are not immediately noticeable with the naked eye, but the observation of which requires a form of manipulation, research or sampling.
- 16.4 With regard to the assessment of a complaint based on concealed defects, the seller may not appeal to the fact that the relevant defects also occur (are thought to occur) in the model or purchase sample produced by him.
- 16.5 The buyer is not obliged to inspect any material for concealed defects.
- 16.6 The buyer may submit any complaints regarding concealed defects within 3 months of processing, and in any case within 2 years of delivery of the goods. The legal period of expiry of the right to claim is excluded.
- 16.7 In the event of a well-founded complaint, the buyer's rights shall include the right to return the relevant goods at the seller's expense and risk, and to demand full or partial faultless redelivery within a short fixed period to be determined by the buyer and/or to cancel the relevant agreement in whole or in part, including the part that has already been delivered. By submission of a complaint, the payment obligation of the buyer relating to the relevant goods shall be postponed, while retaining the payment discount as agreed.
- Article 17 Relations between parties**
- 17.1 Each Party will designate a contact to maintain contacts in relation to the performance of a (purchase) agreement. The Parties will notify each other in writing of the person they have appointed as their contact.
- 17.2 All notifications given by the parties on the basis of a (purchase) agreement must be in writing.

17.3	Oral communications, undertakings or agreements have no legal force unless confirmed in writing.		
17.4	'In writing' is understood to include 'electronically', provided: a. the notification can be consulted by the addressee; b. the authenticity of the notification is sufficiently guaranteed; and c. the identity of the sender can be determined with sufficient certainty.	19.5	The seller shall take responsibility for the necessary insurance policies against product liability and, if required, have a statement included at the buyer's request to the effect that any payments by the insurance company shall be made directly to the buyer or, at his choice, to the person who has actually suffered the damage.
17.5	The seller will not divulge in any way any information that is provided by the buyer or that is made known to it or comes to its knowledge, which it knows or may reasonably suspect to be confidential, except in so far as it is compelled to divulge such information under a statutory regulation or court ruling.	19.6	At the buyer's request, any documents serving as proof of adequate insurance or the payment of premium shall be presented to him.
17.6	The seller will impose the duty of confidentiality referred to in this article on all staff it engages in the performance of a (purchase) agreement and will ensure that this duty is observed.		
17.7	The seller will not issue press releases or make other public statements about a (purchase) agreement except with the prior consent of the buyer.		
17.8	If the seller breaches its duty of confidentiality, the buyer may impose a penalty, as laid down in these General Conditions. Payment of the penalty, which is payable forthwith, does not discharge the seller from its liability for indemnifying any loss caused by the breach.		
	<b>Article 18 Legal requirements, vaccination policy and safety</b>		
18.1	The seller guarantees that the design, composition and quality of the goods, to be supplied on the basis of the order, shall comply with all the relevant applicable requirements, laid down in laws and/or other relevant regulations issued by the government, which are in force at the time when the agreement is concluded.		
18.2	The provision of paragraph 1 also applies to the normal use of the goods.		
18.3	Seller's personnel (including subcontracted or hired personnel), to the extent involved in the performance of activities on Buyer's premises, should observe all the access and safety procedures. If the respective member of staff has not fulfilled his obligations resulting from this, for instance the one with regard to the vaccination obligation and the possession of a valid proof of identity, the respective member of staff will be refused access. The costs and consequences resulting from this will be at the expense and risk of Seller. The vaccination obligation relates in principle to DTaP-IPV (diphtheria, tetanus, acellular pertussis, poliomyelitis), MMR (mumps, measles, rubella) and an annual check-up for TBC. With regard to activities in specific building sections the vaccination programme/schedule may be adjusted. If required by the applicable vaccination policy or rules, vaccination can take place on Buyer's premises in which case vaccines will be provided by Buyer at no cost. Vaccination elsewhere will be on the account of Seller. If Seller (including its personnel) does not observe the vaccination policy and/or programme/schedule, Seller's personnel may be refused access and Buyer will be compensated by Seller for the losses resulting from this. In addition, Seller will indemnify Buyer for losses resulting from Seller's (including personnel) lack of compliance with the vaccination policy and/or programme/schedule.	20.1	<b>Article 20 General liability</b> If the seller imputably fails to discharge its obligations the seller is liable to the buyer for any loss incurred by buyer.
	<b>Article 19 Product liability</b>		
19.1	With regard to the nature and purpose of the goods supplied, the seller guarantees explicitly that the goods supplied are safe and will not give rise to any claims based on liability for the safety of products or on product liability.	21.1	<b>Article 21 Infringements on patents etc.</b> The seller shall indemnify the buyer against any claims by third parties due to any infringement claimed by third parties on patents, models or other rights regarding intellectual property they are entitled to.
19.2	The seller is responsible for any defect in the products resulting from their design, construction, manufacture or inspection, or any other causes, with the exception of force majeure.	21.2	Where any patent or licence regarding the design for goods supplied falls to the seller, the buyer, when using or repairing these goods, or having these goods used or repaired, shall not be deemed to infringe on the patent or licence in any way. The seller guarantees this to the buyer.
19.3	The seller shall assume full responsibility and liability from the buyer and the users with regard to any damage which is the consequence of a lack of safety or a defect in the product, irrespective of the nature of the damage, including any damage (with no limit) resulting from death or injury, loss of profit, loss of contracts, loss of interest or any other form of loss.		
19.4	The buyer shall try to limit his liability towards his clients (principals), without altering the seller's responsibility and liability, in particular as regards the liability resulting from EEC directives as regards product liability and product		
		22.1	<b>Article 22 Dissolution</b> Without prejudice to the provisions of art. 9, 10, 13, 15 and 16, the purchase agreement shall be dissolved, without court intervention and without any proof of default being required, at the moment when the seller is declared bankrupt, applies for a moratorium, or loses his power of decision as regards his property or parts thereof through confiscation, a legal restraint or in any other way, unless the trustee or administrator recognises the obligations resulting from the purchase agreement as property debt and the buyer chooses to maintain the agreement.
		22.2	As a result of dissolution, any existing claims shall become payable on demand on both sides. Art. 9 shall apply accordingly.
			<b>Article 23 Compensation</b>
		23.1	The seller shall fully indemnify the buyer against any damage to goods or persons that might affect the buyer, his personnel, any third parties brought in by him or his clients, as a result of or due to any actions that might be regarded as a form of default or an unlawful action carried out by the seller, his personnel or any other persons involved by the seller in the execution of the order.
		23.2	The seller shall fully indemnify the buyer against any claims by third parties for damage compensation as referred to in paragraph 1. Where a third party submits a claim against the buyer in this respect, the buyer shall notify the seller forthwith, sending the relevant information.
			<b>Article 24 Force majeure</b>
		24.1	In the event of temporary force majeure, the seller will immediately notify the buyer in writing after the circumstances bringing about force majeure have occurred, stating the cause of the force majeure. The Buyer then has the right to choose between: a. allowing the seller to defer compliance with its obligations under a (purchase) agreement for a reasonable period of up to four weeks. If the seller is still unable to fulfil its obligations under a (purchase) agreement when this time limit expires, the buyer has the right to dissolve the (purchase) agreement with immediate effect out of court, without being obliged to pay compensation or any costs to the seller; or b. dissolution of the (purchase) agreement with immediate effect out of court, without being obliged to pay compensation or any costs to the seller.
		24.2	In the event of long-term force majeure on the part of the seller, the seller will immediately notify the buyer and the buyer has the right to dissolve the (purchase) agreement with immediate effect out of court, without being obliged to pay compensation or any costs to the seller.
		24.3	The term 'force majeure' is in any event understood not to include: staff shortages, strikes, staff illness, shortages of raw materials, transport problems, breach of obligations by sellers, failures in the sellers production process and liquidity or solvency problems on the part of the seller, or failures on the part of third parties engaged by the seller.

**Article 25 Assignment of rights and obligations under a (purchase) agreement**

- 25.1 Neither party is entitled to transfer rights and obligations arising from the purchase agreement to third parties without the written consent of the other party. The other party will not withhold its consent without reasonable grounds. It may attach conditions to its consent.
- 25.2 Notwithstanding section 25.1, buyer may assign this purchase agreement, without any prior written consent of seller, to an entity that acquires all or substantially all of its business or assets to which this purchase agreement pertains, whether by merger, reorganization, acquisition, sale or otherwise.

**Article 26 Insurance**

- 26.1 The seller has taken out and will retain adequate insurance cover for business liability, including liability, inter alia product liability, for damage caused to persons or the buyer's property.
- 26.2 At the buyer's request, the seller will immediately present either the original or a certified copy of the policies and proof of the payment of premium for the insurance referred to in paragraph 1, or a statement from the insurer to the effect that the insurance exists. The seller will not terminate or alter the insurance contract without the buyer's prior written consent. The seller has no right to change the insured sum to the buyer's disadvantage without the buyer's prior written consent. The insurance premiums owed by the seller are deemed to be included in the agreed prices.
- 26.3 The seller assigns to the buyer in advance all rights to the payment of insurance proceeds as referred to in paragraph 1, in so far as such proceeds relate to damage for which the seller is liable to the buyer under the (purchase) agreement. The seller is obliged to notify its insurance company in writing of this assignment and to send a copy of this written notice to the buyer, without prejudice to the buyer's right to notify the insurer itself. Any insurance proceeds paid directly by the insurer to the buyer seller is required to pay to the buyer in respect of the insured event.

**Article 27 Bribery and conflicts of interest**

- 27.1 The parties will not offer to each other or to third parties, or ask for, accept or obtain a promise of, from each other or third parties, whether for themselves or for any other party, any gift, reward, compensation or benefit of any form whatsoever if this could be construed as constituting an illicit practice. Such a practice may constitute grounds for dissolving the (purchase) agreement either in full or in part.

**Article 28 Invalidity**

- 28.1 If one or more provisions of these Purchasing Conditions or the (purchase) agreement are found to be invalid or are nullified by a court, the remaining provisions will retain their legal force. The parties will consult on the former provisions in order to make alternative arrangements. The alternative arrangements must not undermine the purport of these Purchasing Conditions or the Contract.

**Article 29 Follow-up order**

- 29.1 The Contract does not entitle the Supplier to any follow-up orders.

**Article 30 Disputes and applicable law**

- 30.1 All disputes arising out of or in connection with the Contract shall, at Contracting Authority's sole discretion, be finally settled by the competent court in The Hague, the Netherlands or under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The language of arbitration will be English. The place of arbitration will be The Hague, the Netherlands. The Parties shall accept the arbitral award as final.
- 30.2 The Contract is governed by Dutch law.