

Terms of Purchase for Goods

Version as of July 2023

1. GENERAL PROVISIONS

- 1.1 These Terms of Purchase for Goods form the legal basis of any transaction concerning the purchase of goods concluded with an Austrian Affiliate of the Sandoz Group, in particular Sandoz GmbH, as buyer (BUYER). They are considered approved by and agreed with the seller (SELLER) upon i) confirmation of the order by the SELLER or ii) at the latest with the commencement of the delivery/performance by the SELLER. Any alterations or amendments to these Terms of Purchase for Goods apply only if they have been explicitly accepted by the BUYER in writing and for such specific business case, only. In particular, contractual performance actions by the BUYER shall not be qualified as consent to any conditions deviating from these Terms of Purchase for Goods.
- 1.2 If a framework agreement exists between the BUYER and the SELLER or if the Purchase of Goods falls in the scope of a framework agreement, the provisions of this framework agreement shall take precedence over any other provisions in the present Terms of Purchase for Goods. This precedence of application of the framework agreement concluded between the BUYER and the SELLER shall also apply in particular if the BUYER subsequently refers to the validity of its Terms and Conditions of Purchase for Goods in a specific order or in a negotiation protocol.
- 1.3 General Terms of Sale of the SELLER attached to its offer or its offer confirmation or to which otherwise reference is made are in no event accepted by the BUYER and are therefore not valid.
- 1.4 Multiple conclusions of contracts with a specific SELLER shall not constitute a continuing obligation or any other claim to renewed conclusion of an agreement.
- 1.5 If one of the following provisions conflicts with an Incoterm provision agreed in an individual contract or stated in an order, the respective Incoterm provision agreed in an individual contract or stated in an order shall prevail.
- 1.6 Should individual provisions of these Terms of Purchase for Goods be ineffective in full or in part, this shall not affect the validity of the remaining provisions and the order concluded on the basis thereof. The fully or partially ineffective provision shall be replaced by a provision which reflects as closely as possible to the intended economic meaning and purpose of the ineffective provision.

2. OFFERS AND CONCLUSION OF CONTRACT (ORDER)

- 2.1 The SELLER may not claim compensation for any costs incurring from making offers, concepts, fee estimates or plans. Such offers, concepts, fee estimates or plans will always be made free of charge.
- 2.2 The BUYER shall only be bound by written orders, offers and acceptances (including orders transmitted via email or telefax). This also applies to additional and subsequent orders as well as to the modification of orders. Oral agreements (this includes telephone calls, video conferences, team-meetings) require a written confirmation (this can also be done by email or fax). The SELLER undertakes to provide the BUYER in each case at no cost with a calculation of the expenditure necessary for the implementation of a modification of an order, which takes into account the effects of the modification on service dates, prices and resources used.
- 2.3 The BUYER shall only be bound by written orders and offers (including orders transmitted via email or fax) if SELLER confirms/accepts such order in writing (including such written confirmations transmitted via email or fax) within 10 working days from the transmission of a written order by the BUYER.

3. USE OF SUBCONTRACTORS, DUE DILIGENCE AND MONITORING

- 3.1 The SELLER shall not be entitled to sublicense or sub-contract its contractual obligations to others, even in part, without the prior written consent of the BUYER, which the BUYER shall decide on at its sole discretion.
- 3.2 Even if the BUYER gives the consent pursuant to the Section 3.1 of these Terms of Purchase for Goods: (i) the SELLER shall nevertheless remain fully liable for the performance of its obligations under this contract/order; (ii) the SELLER will include in its subcontracts, with any subcontractor approved pursuant to these Terms of Purchase for Goods, obligations which are consistent with the relevant obligations from Terms of Purchase for Goods; (iii) the SELLER shall be exclusively responsible for all costs incurred in connection with such subcontracting or subcontracting, and (iv) the SELLER undertakes to put in place and maintain for the duration of the contract/order an ongoing monitoring program of any approved subcontractors. In the event where an alert arises as part of the monitoring process, the SELLER will notify the BUYER in writing as soon as possible and in any event no later than seven (7) days of the alert having arisen.
- 3.3 The SELLER warrants and represents to the BUYER that it has implemented a reasonable and appropriate due diligence process to assess any potential sublicensee/subcontractor, and that such due diligence process has been applied to the sublicensee/subcontractor being the subject of the request to the BUYER without any negative findings.
- 3.4 The SELLER acknowledges and agrees that failure to comply with this Section 3 shall constitute a material breach of these Terms of Purchase for Goods and entitle the BUYER to immediately terminate the contract/order by written notice without compensation.

4. ASSIGNMENTS

- 4.1 The SELLER may not assign his contractual rights and obligations without prior written consent of the BUYER. Such consent shall be at the sole discretion of the BUYER.

5. THIRD PARTY CODE

- 5.1 Sandoz has put in place a Third Party Risk Management framework which is aimed at promoting the societal and environmental values of the United Nations Global Compact with specific third parties that Sandoz deals with. In connection with the above, SELLER shall:
 - a) comply with the Third Party Code (and any published updates) which can be viewed and downloaded from <https://www.novartis.com/our-company/corporate-responsibility/reporting-disclosure/codes-policies-guidelines> (you may request a copy free of charge from BUYER);
 - b) having regard to Section 12.6 of the Third Party Code, provide information/documentation on reasonable request to the BUYER, its affiliated companies and respective representatives to allow them to verify compliance with the Third Party Code in the form requested;

- c) to rectify identified non-compliances with the Third Party Code (where capable of remedy) and report remediation progress to the BUYER, its affiliated companies and respective representatives on request;
- d) ensure that where SELLER affiliates and/or subcontractors/agents of the SELLER and its affiliates have been pre-approved by the BUYER (in accordance with these Terms of Purchase for Goods Agreement) to provide the goods/services/deliverables, that such third parties also comply with the above requirements relating to the Third Party Code, and

- e) where required by the BUYER, its affiliated companies or respective representatives fully cooperate (at its own expense) with the BUYER, its affiliated companies and respective representatives in completing and returning, as reasonably instructed, any Questionnaire for Third Parties (and any requested updates to the same during the term of the respective transaction). The SELLER warrants and represents that the information provided in any Questionnaire for Third Parties means any questionnaire for third parties relating to compliance topics including, without limitation, anti-bribery compliance that the SELLER has received from the Third Parties (whether provided before or during the term of the contract/order, including updates to the same) is accurate and complete (and such information shall be treated as being part of these Terms of Purchase for Goods). For the avoidance of doubt, this subparagraph applies to the SELLER only, and not to any subcontractor engaged by it in accordance with these Terms of Purchase for Goods. For the purposes of these Terms of Purchase for Goods the term "Questionnaire for Third Parties" means any questionnaire for third parties relating to compliance topics including, without limitation, anti-bribery compliance that the SELLER has received from the BUYER or its respective representatives as part of its Third Party Risk Management processes at any time and any updates of such questionnaires.

The SELLER acknowledges and agrees that the Third Party Code forms an integral part of these Terms of Purchase for Goods and understands that failure to adhere to these standards and/or obstructing/refusing the BUYER's audit rights as stated in the Third Party Code shall constitute a material breach of these Terms of Purchase for Goods and entitle the BUYER to immediately terminate the contract/order by written notice without compensation.

- 5.2 The BUYER may terminate the contract/purchase order of which these Terms of Purchase for Goods form an integral part at any time, with immediate effect, by written notice to the SELLER, in the event that the SELLER breaches Section 5.1 of these Terms of Purchase for Goods.

6. PRICES, RETENTION RIGHTS

- 6.1 The price specified in the order is binding and includes, unless agreed otherwise, all agreed and usually expected services and ancillary services of the SELLER (such as assembly, installation and maintenance) as well as all ancillary costs such as, in particular the due packaging and the transport to the place of delivery as specified in the order. If a delivery arrives at the place of delivery in damaged packaging, the BUYER is entitled to reject the shipment in its entirety without inspecting the contents. The SELLER shall bear the costs of any return delivery. The same applies if a delivery is handed over in damaged packaging to a transport/forwarding company designated by the BUYER (if this type of delivery has been agreed upon in the contract). Any services, expenses or costs of the SELLER not expressly agreed upon in the contract (e.g. travel times, travel costs, accommodation, meals, etc.) will not be separately remunerated or reimbursed.
- 6.2 Unless agreed otherwise, the purchase price for the ordered goods shall be due and payable within 60 days from receipt of the goods. If and insofar justified (i.e., in case of notified defects) the BUYER may hold back a respective portion of payments and/or withdraw from the transaction upon the lapse of a 10-working-day remedy period following notification thereof.
- 6.3 Any assignment or set-off with respect to the purchase price claimed by the SELLER requires the BUYER's prior written approval.
- 6.4 Any prepayment made by the BUYER shall be kept separately from the SELLER's other assets and may not be mixed with SELLER's other assets. The BUYER retains the ownership over any such prepaid amount of money (or shall receive, in case that applicable law should prohibit this, a lien (*Pfandrecht*) on such prepaid money) until the BUYER has received the full and complete delivery of non-deficient goods.
- 6.5 The BUYER may balance without any further agreement or unilaterally set off any claims of SELLER with claims of the BUYER or of its affiliates against the SELLER.

7. CONDITIONS OF DELIVERY

- 7.1 Unless expressly agreed otherwise, the BUYER may determine the mode of transportation as well as the carrier for all shipments and will inform the SELLER accordingly in writing. All delivery times and periods are binding and are calculated from the date of the order.
- 7.2 Delivery is at the expenses and risk of the SELLER. In addition, the SELLER shall pack the goods at its own expense as customary in business and adequately and protect them against transport damage.
- 7.3 Deliveries shall be deemed to have been fulfilled when the goods concerned are lawfully transferred into the possession of the BUYER at the agreed place of delivery at the agreed time of delivery and with all agreed or customarily required documents (including invoices, certificates of origin, transport documents, certificates of analysis and other documents required to be supplied in accordance with applicable regulations on Good Laboratory Practice (GLP), Good Manufacturing Practice (GMP) and Good Distribution Practice (GDP)). Only at this point in time shall the risk pass to the BUYER. Partial deliveries require the prior written consent of the BUYER.
- 7.4 The delivery times and dates specified in the order are fixed dates and are calculated from the day the order is concluded. If the SELLER cannot deliver the ordered goods within the agreed periods or on the agreed dates or expects that this is not possible, the SELLER shall notify the BUYER in writing of the reasons and the expected duration of the delay. In case of a (total or partial) delay in delivery, the BUYER is entitled to
 - a) withdraw from the delayed contract/order in full or in part without setting a grace period and refuse acceptance of the goods;
 - b) adhere to the contract/order while setting an appropriate grace period and demand or withhold a contractual penalty in the amount of 1% of the agreed price per day of the delay;
 - c) cover any urgent need for goods by entering into a respective contract with third parties (covering purchase), while the SELLER shall bear the additional costs incurred.
- 7.5 During any assembly works at one of the (branch) locations of the BUYER, the SELLER shall at all times comply with the BUYER's safety regulations and the applicable legal provisions and shall ensure that any vicarious agents or other third parties commissioned

- by the SELLER also comply with all said safety regulations and the applicable legal provisions at all times.
- 7.6 If a certain part of the order or the order in its entirety is performed by a third party, SELLER shall be liable for defects or default on the part of this third party, its suppliers or other vicarious agents as it would for its own defects or default. Prior to appointing a third party to fulfil the SELLER's obligations, the SELLER must obtain the written consent of the BUYER.
- 7.7 Ownership of the goods shall be transferred to the BUYER unconditionally and regardless of the payment of the price. In particular, this excludes all forms of simple, extended or prolonged retention of title.
- 7.8 Each individual shipment and each individual package shall be labelled in accordance with applicable law and shall especially contain:
- Order number of the SELLER (the order number shall also appear on all invoices and delivery notes);
 - Detailed description of the contents;
 - Quality specifics;
 - Batch number and manufacturing details;
 - Net weight;
 - Name of the manufacturer/SELLER.
- 7.9 If the scope of delivery includes plans or documentation (e.g. construction plans, drawings, drafts, technical descriptions, etc.), the BUYER shall acquire rights of use in these plans or documentation without separate remuneration, unlimited in terms of location, time and content, and freely transferable and sublicensable within the companies of the Sandoz Group.
- 7.10 The SELLER shall prepare all technical documentation (e.g. hazard analyses, risk assessments, operating instructions, validation documents, manufacturer/installation/conformity declarations, safety data sheets, etc.) required by the European directives and regulations, harmonized standards and the provisions of Austrian law implementing these directives, regulations or standards applicable to the delivery/service, and shall hand over these documents in German to the BUYER without delay with the delivery/service.
- 7.11 Insofar as the SELLER's deliveries/services generate waste within the meaning of the provisions of the Austrian Waste Management Law, the SELLER undertakes to take the waste generated with him and to hand it over to a waste processor of his choice for environmentally compatible recycling or disposal. Upon the BUYER's request, the SELLER shall provide the BUYER with evidence of the environmentally sound recycling or disposal of the waste.
- 8. INSURANCE**
- 8.1 The SELLER shall obtain adequate transport insurance at its own expense and shall bear any customs duties.
- 8.2 The SELLER is obliged to obtain an adequate business liability insurance in relation to the volume of the order and the risks associated with the provision of the delivery/service and has to prove its existence to the BUYER on her request before the start of the performance of the contractual deliveries/services.
- 9. REPRESENTATIONS AND LIABILITY**
- 9.1 SELLER represents and warrants (by way of an abstract guarantee pursuant to Section § 880a half sentence 2 of the Austrian Civil Code (ABGB)) that all delivered goods
- have been manufactured in accordance with all applicable provisions (including GMP and/or GDP, GLP, GCP if applicable), statutory regulations and requirements outlined by authorities and professional associations as well as the BUYER's standards;
 - are state of the art;
 - are free from defects; and
 - comply with all specifications and all standards, that have been explicitly laid down in offers, invoices or individual agreements with the BUYER or that – if not agreed – conform to the typical market standards.
- 9.2 In case the delivered goods are defective, SELLER shall, at the sole option of the BUYER, replace the defective goods, repair them as soon as technically possible and, at the latest within 10 working days from the defect notice, restore the agreed state free from defects or refund all payments made with respect to the delivery of such goods immediately and without deduction. The BUYER may also annul the agreement immediately (redhibition). In cases of urgency, the BUYER retains the right to have such goods revised by itself or by third parties or to have replacements shipped by third parties at the expense of SELLER (substitute performance, *Ersatzvornahme*).
- 9.3 The BUYER shall notify visual defects of the delivered goods within 60 calendar days of receipt of the goods, all other defects within 60 calendar days of their discovery. The payment by the BUYER shall not be qualified as unconditional acceptance of the goods.
- 9.4 SELLER shall indemnify and hold the BUYER fully harmless for all damages (including all consequential damages as well as lost profits) which are connected to defect goods, defect labelling or late delivery (including the accompanying documentation and costs for return delivery of the goods) and shall be fully liable in this respect.
- 9.5 SELLER represents and warrants (by way of an abstract guarantee pursuant to Section § 880a half sentence 2 of the Austrian Civil Code (ABGB)) that the production, import, storage, sale or use of the delivered goods does not infringe any third-party rights, particularly industrial property rights such as trademark, design and patent rights and other intellectual property rights. The SELLER provides the BUYER with the delivered goods free of any third-party rights that could impair the BUYER's contractual legal position agreed upon. The SELLER shall indemnify and hold the BUYER fully harmless in case third parties raise claims based on the alleged infringement of their rights in connection with the goods delivered by the SELLER.
- 10. LIABILITY OF THE BUYER**
- 10.1 The BUYER's liability vis-à-vis SELLER shall be excluded, to the extent legally permissible.

11. DATA PROTECTION

- 11.1 SELLER shall ensure that all employees and contractors engaged for the performance of the contract/order shall comply with the statutory data protection provisions.
- 11.2 SELLER shall deploy, for the performance of its services, only such personnel who have been committed in writing to maintain confidentiality of any personal data. SELLER shall provide evidence of this upon the BUYER's request.
- 11.3 SELLER shall ensure that the BUYER is informed about all circumstances which the BUYER must be aware of for data protection or confidentiality reasons. In particular, SELLER shall inform the BUYER immediately of any data security and data privacy breach in writing. Further SELLER shall inform the BUYER immediately of any request of a data subject to access, rectify or erase its personal data. In case SELLER is obliged to disclose the personal data by virtue of an order of a competent authority or a court, it shall, where permissible, inform the BUYER in writing as soon as possible about such order to disclose.
- 11.4 The BUYER shall be entitled to terminate the contract/order for good cause and with immediate effect partially or in its entirety in the event that SELLER shall negligently not fulfil its data protection obligations within a reasonable period of time set by the BUYER or in the event of SELLER's grossly negligent or willful breach of its data protection obligations.
- 11.5 SELLER undertakes to keep all information and documents provided to him by the BUYER confidential. Excluded from this are only information and documents that are publicly known or made public without SELLER's assistance.

12. PLACE OF PERFORMANCE, CHOICE OF LAW AND VENUE

- 12.1 Unless otherwise agreed or stated in a specific order, the place of performance for all deliveries/ services provided on the basis of these Terms of Purchase is the registered office of the Austrian Sandoz Group company acting as the BUYER.
- 12.2 The substantive laws of the Republic of Austria apply exclusively, except for principles on conflicts of laws of private international law and the United Nations Convention on Contracts for the International Sale of Goods.
- 12.3 The place of jurisdiction for the entire business transaction and for all disputes or claims arising from or in connection with these Terms of Purchase and any business or legal transaction included therein, including disputes regarding their validity, violation, dissolution or nullity is the relevant and local competent court for the registered office of the Sandoz company acting as the BUYER. Nevertheless, the BUYER is entitled to file a suit with the court responsible for the SELLER's registered office. The BUYER is entitled at its sole discretion to initiate a final dispute settlement in accordance with the arbitration rules of the International Arbitration Court of the Austrian Chamber of Commerce (Vienna Rules) by one or three arbitrators appointed in accordance with these rules. The place of arbitration in this case is Vienna (Austria). The language of arbitration is English. Each party consents to the jurisdiction of such a court or dispute settlement through an arbitral tribunal and waives the objection to this.

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