

## General Terms and Conditions of Purchase

### 1. General

1.1 These general terms and conditions of purchase (the “**General Terms and Conditions**”) shall apply exclusively to all purchase orders (for products or services) of Nobel Biocare Holding AG, Nobel Biocare Services AG and all other companies of the Nobel Biocare group of companies (“**Nobel Biocare**”), unless explicitly agreed otherwise in writing. The General Terms and Conditions shall apply to all purchase orders, even if no specific reference is made hereto. General terms and conditions of the supplier shall be excluded in any case, even if they are not inconsistent to these General Terms and Conditions, and even if Nobel has not expressly objected thereto, except if Nobel Biocare has explicitly acknowledged them in writing.

1.2 Nobel Biocare is entitled to withdraw from a purchase order if the supplier expressly disagrees with the General Terms and Conditions. In such case, claims of the supplier are excluded.

### 2. Purchase Orders

2.1 Purchase orders and any change thereto must be made in writing.

2.2 Offers submitted to Nobel Biocare by the supplier shall be binding on the supplier for a term of at least four (4) weeks after receipt by Nobel Biocare.

2.3 Offers, cost estimates, drawings, plans and similar preliminary work made and performed by the supplier for Nobel Biocare shall trigger neither a right to be awarded a contract nor a claim of compensation.

2.4 The deliveries offered to Nobel Biocare shall include in any case all material, equipment, ancillary work and technical documents required for the complete performance under a purchase order even if such items are not specifically mentioned in the purchase order.

2.5 Nobel Biocare is at any time entitled to correct manifest errors such as typos, errors in calculation and the like that may be discovered in purchase orders, any order confirmation and similar papers.

2.6 Purchase orders are deemed to be accepted by the supplier, if the supplier does not decline the acceptance of the purchase order in writing within five (5)

working days from the receipt of the purchase order.

2.7 Prior to any change of any ordered goods, including their manufacturing process, or ordered services, irrespective of whether the functionality of goods or services is concerned, the supplier shall obtain the written approval of Nobel Biocare.

### 3. Prices

3.1 The prices in a purchase order are fixed prices. Unless expressly agreed otherwise in writing, the prices are quoted DDP (according to the INCOTERMS 2000) with carriage paid to the works of Nobel Biocare or the address specified by Nobel Biocare in the purchase order, and are deemed to include the costs of performance tests, material tests, quality checks, packaging, test certificates, acceptance reports, documentation, transport, transport insurance, transport permits and licenses, and unloading.

3.2 The supplier shall pass any decrease in prices due to market fluctuations on to Nobel Biocare in its entirety.

3.3 If the supplier grants a third party better prices or conditions for products or services under equal or similar circumstances, the supplier shall grant a corresponding price reduction to Nobel Biocare.

### 4. Execution, Delivery

4.1 Dates and quantities confirmed in a purchase order are binding. The delivery date specified in a purchase order shall be the date when the ordered goods or services must arrive at the destination specified by Nobel Biocare in the purchase order.

4.2 Nobel Biocare is only obligated to take over the quantities of goods or services ordered. Nobel Biocare is entitled to charge the supplier for extra costs of deliveries which arrive prior to the agreed delivery date or where the agreed quantities have not been observed (surplus or shortage). In such cases, Nobel Biocare is entitled to refuse acceptance of the goods, to return the goods at the risk and costs of the supplier, or to store the goods at the supplier's risk and costs.

4.3 Unless otherwise agreed in writing, the supplier is not entitled to make part deliveries. Any extra costs resulting from

part deliveries shall be borne by the supplier.

4.4 The supplier may only subcontract for the performance of a purchase order or parts thereof with the prior written consent of Nobel Biocare.

4.5 Each delivery of goods or services shall include (i) a detailed delivery note detailing the purchase order number, the type, size, quantity, country of origin, product number and part number, and (ii) a quality certificate if agreed to by the supplier and Nobel Biocare.

4.6 The delivery of initial samples and part deliveries must be clearly designated as such.

4.7 Unless otherwise agreed in writing, shipments of goods with an attached waybill note must bear a "prepaid" notice. The waybill notes shall clearly designate the shipped goods based on general rate regulations and the rail freight rate classification.

4.8 Upon shipment of goods, the supplier shall provide Nobel Biocare with the documentation required for the taxation of the shipped goods. The documentation shall comply with relevant custom and foreign trade regulations.

## 5. Shipment of hazardous goods

5.1 Prior to confirming a purchase order, the supplier shall check whether any ordered goods or parts thereof have to be classified as hazardous goods according to the relevant laws and regulations (e.g. paints, adhesives, chemicals, inflammable, oxidising, explosive, combustible, poisonous, radioactive, caustic, or self-heating goods). If an ordered good or parts thereof have to be classified as hazardous, the supplier shall inform Nobel Biocare in writing about the classification.

5.2 The supplier shall complete all necessary binding declarations correctly and shall return signed copies of the binding declarations to Nobel Biocare.

5.3 The supplier shall observe all relevant national and international laws and regulations for the shipment of hazardous goods (e.g. UN/ICAD, IATA, EVO/RID, KVO/ADR), including the applicable laws and regulations of the recipient's country.

5.4 The supplier shall be liable for all costs or damages arising out of or in connection with incorrect binding declarations or non-compliance with applicable laws and regulations.

## 6. Late delivery

6.1 If the supplier realizes that an agreed delivery date cannot be met or the agreed quality cannot be maintained for whatever reason, it shall immediately inform Nobel Biocare in writing, stating the reasons and the expected duration of the delay.

6.2 In the event that the supplier exceeds the delivery date agreed in a purchase order, it shall pay to Nobel Biocare a lump-sum compensation of 0,5% of the total order value per calendar day, or any fraction thereof, of the delay, however, at most ten per cent (10%) of the total order value, unless the supplier can prove a minor damage. However, Nobel Biocare does not waive its right to demand performance of the purchase order. Further claims for damages caused by the delay shall remain unaffected.

6.3 Following the fruitless expiry of a grace period set by Nobel Biocare, Nobel Biocare is entitled, irrespective of any other rights of Nobel Biocare, to rescind the purchase order, or to request performance of the purchase order. Nobel Biocare is also entitled to rescind the purchase order only to a part of the deliveries, whether delivered or not. Nobel Biocare may have any part of a purchase order that was not performed by the supplier carried out by a third party at the cost of the supplier.

6.4 Acceptance of a late delivery or part delivery does not constitute a waiver of any rights or claims of Nobel Biocare arising from the late delivery.

## 7. Invoicing, Payments

7.1 Invoices have to be submitted to Nobel Biocare in duplicate. The invoices shall include the purchase order number, the date of the purchase order, the quantity of goods and services ordered and delivered, the country of origin, the delivery note number, the date of delivery, the designation of the goods with a goods/item/product/identification number of Nobel Biocare, and, in case of services, the relevant expenses, detailing wages, materials and value added tax separately.

7.2 Unless otherwise agreed in a purchase order, payments shall be made within ninety (90) days after complete delivery of the goods or services, Nobel Biocare accepted the delivery without any objections and claims and received a properly issued invoice. To the extent that the supplier has to furnish reports on material tests, inspection protocols, documents showing quality assurance or any other documentation, the delivery shall be deemed complete only after receipt of

all such documents. If payment is made within thirty (30) days after receipt of goods and invoice, Nobel Biocare is entitled to a discount of three (3) percent from the invoiced amount. Any payment shall be deemed to be executed on the day Nobel Biocare's bank has received the transfer order.

7.3 Payments shall not be deemed as acknowledgement that the good or service is in accordance with the purchase order or free of defects. In case that a good or service is defective or incomplete, Nobel Biocare may, without prejudice to any other rights of Nobel Biocare, withhold payment until all defects have been remedied or the delivery is completed, respectively.

7.4 The supplier may assign any claims or amounts due only with the prior written approval of Nobel Biocare. The supplier explicitly waives any right of retention, pledge, lien or other encumbrance whatsoever.

7.5 The supplier or any other authorized party may not set off or net any amounts, on whatever legal grounds they are based, against claims vis-à-vis Nobel Biocare. Nobel Biocare is entitled to set off claims of any company of the Nobel Biocare group of companies against payment obligations vis-à-vis the supplier.

## **8. Place of Performance, Passing of the Risk, Retention of Title**

8.1 The place of performance for the deliveries of the supplier shall be the delivery address designated in the purchase order, in absence thereof the registered office of the Nobel Biocare entity issuing the purchase order.

8.2 In case of deliveries including mounting/installation/assembly, the risk of accidental destruction or damage and accidental deterioration shall only pass to Nobel Biocare upon proper acceptance, whereas in case of deliveries not including mounting/installation/assembly, the risk shall pass upon Nobel Biocare taking delivery of the goods. Such passing of the risk shall apply irrespective of the trade clause (INCOTERMS) agreed upon.

8.3 The supplier may solely deliver goods to which it holds good and valid title, free from any restrictions or other third party rights. Nobel Biocare does expressly not consent to the agreement of retention of title by the supplier. If Nobel Biocare takes delivery of goods or services offered subject to retention of title, this cannot be deemed approval of any retention of title.

## **9. Acquisition of ownership**

Nobel Biocare shall become legal owner of the goods immediately after delivery of the goods to the delivery address as mentioned in the respective purchase order.

## **10. Warranty**

10.1 The supplier guarantees and warrants that all contractual goods and services comply with state-of-the-art technology, the relevant, statutory provisions, standards, regulations, provisions and directives set forth by authorities as well as the EC, professional associations and trade associations. Furthermore, the supplier guarantees and warrants that all goods and services are free from defects, comply with the requirements of Nobel Biocare and are suitable for the respective application purpose as well as the place of application.

10.2 The inspection of the incoming ordered goods and services by Nobel Biocare shall be restricted to an inspection whether the delivered goods and services (i) correspond to the ordered quantities of the goods and services, (ii) have apparent, externally visible transportation damages, and (iii) correspond to the ordered products and services (identity). For all the aforementioned defects, a complaint period of three (3) weeks shall apply. For all other open defects as well as hidden defects, a complaint period of three (3) weeks upon discovery shall be effective. Any further obligations of complaint and inspection by Nobel Biocare are excluded.

10.3 Defects, including any non-conformity with guaranteed properties, must be eliminated by the supplier immediately and cost-free upon request, including any additional costs, at the option of Nobel Biocare by means of rework or subsequent delivery (supplementary performance) or reimbursement by means of a credit of the purchase price or remuneration. In urgent cases or with small defects, Nobel Biocare may carry out the rework by itself or have it done by third parties, without restricting the rights of Nobel Biocare under this warranty. Nobel Biocare is entitled to invoice the costs for the rework from the supplier.

10.4 After fruitless expiry of a period of grace set by Nobel Biocare for rework or supplementary delivery, Nobel Biocare is entitled to all statutory rights, especially withdrawal, reduction, reimbursement of expenses and compensation in damages instead of performance. The supplier undertakes to compensate all damages accrued to Nobel Biocare through defective goods or services even without a previously set deadline.

- 10.5 The warranty period shall be twenty-four (24) months after delivery of goods and services. This warranty period and any rights and claims of Nobel Biocare within this period shall not be limited by prescription which is explicitly extended to such period.
11. **Devices**
- 11.1 Tools, production machines, equipment, materials, samples, models, drawings, plans, patterns, information and other documents provided to the supplier by Nobel Biocare for the execution of a purchase order (the “**Devices**”) shall remain the property of Nobel Biocare. The Devices may only be used for the purpose specified by Nobel Biocare. The supplier may not make available the Devices to any third party. Devices that are made at the expense of Nobel Biocare shall become the property of Nobel Biocare upon their payment.
- 11.2 All such Devices shall be marked in a suitable manner as property of Nobel Biocare and shall be protected against unauthorized inspection or use. They shall automatically be returned upon delivery or cancellation of the purchase order, free of charge, or shall be destroyed at the request of Nobel Biocare. The supplier shall have no right of retention, pledge, lien or other encumbrance with regard to the Devices.
- 11.3 The supplier is obligated to hand over to Nobel Biocare any and all receipts, confirmations and documents required to document Nobel Biocare’s title to the Devices vis-à-vis third parties. If insolvency proceedings (bankruptcy, compromise, settlement or similar proceedings) are opened against the supplier or if a petition to open insolvency proceedings is denied for lack of assets, the supplier is obligated to advise Nobel Biocare thereof without delay and to take any and all measures required or helpful to assert Nobel Biocare’s claims for separation and recovery of the Devices.
12. **Product Liability**
- 12.1 Irrespective of any other obligations, the supplier shall fully indemnify and hold Nobel Biocare harmless from and against any and all product liability claims of third parties with regard to the goods supplied by the supplier. The supplier shall in any case be obligated to reimburse Nobel Biocare for any and all costs incurred by Nobel Biocare due to any claims raised against Nobel Biocare. Nobel Biocare is entitled to reimbursement of all expenses that may arise in connection with necessary recalls of products. Nobel Biocare reserves the right to assert any further statutory claims.
- 12.2 The above provision shall also apply to the extent that delivered goods are the result of goods/services from sub-suppliers and sub-contractors of the supplier.
13. **Intellectual Property Rights**
- 13.1 The supplier guarantees that the goods and services are free of any third party intellectual property rights and that there are no other rights that restrict or exclude any use of the goods or services. The supplier guarantees that the delivery and use of the goods and services does not violate any patents, design rights, copyright, trademark rights, licenses or other property rights of third parties.
- 13.2 The supplier shall indemnify Nobel Biocare against any claims by third parties concerning violations of third party intellectual property and similar rights upon first request and shall bear all costs and expenses of Nobel Biocare arising out of or in connection with such claim.
- 13.3 Nobel Biocare is immediately entitled to obtain, at the supplier’s costs, the approval for using the respective goods or services as well as a license for the use of the respective goods or services from the third party holding such rights.
14. **Confidentiality**
- 14.1 If, and for as long as, the supplier and Nobel Biocare have not entered into a separate confidentiality agreement, the following provisions shall apply.
- 14.2 The supplier shall keep any and all information received from Nobel Biocare confidential and may use such information exclusively for the performance of its obligations under the purchase order(s). The supplier is not allowed to make such information available in any form whatsoever to third parties or to exploit such information in any other form.
- 14.3 If it is mandatory or indispensable for the performance under a purchase order that information be passed on to a third party, the supplier shall in advance impose confidentiality obligations at least as strict as under these General Terms and Conditions on the third party in a legally binding manner.
- 14.4 The supplier shall not include Nobel Biocare in its reference list or marketing material, including, but not limited to, its website, without the explicit written approval of Nobel Biocare. The supplier is not entitled to use the trademarks or other

signs protected for Nobel Biocare or the Nobel Biocare group of companies.

## **15. Termination of purchase order**

15.1 Irrespective of any other rights, Nobel Biocare may terminate a purchase order with immediate effect, if

- (i) the supplier has committed a material breach of the purchase order or these General Terms and Conditions; or
- (ii) bankruptcy proceedings have been initiated against the supplier; or
- (iii) the opening of bankruptcy proceedings has been denied for lack of assets; or
- (iv) a petition for settlement proceedings has been filed.

15.2 In the event of a termination of a purchase order in accordance with clause 15.1, Nobel Biocare may, at its sole discretion, either keep any goods or services against payment of a pro rata consideration or return the goods or services at the supplier's expense. The supplier shall reimburse Nobel Biocare for any damages, loss or disadvantages sustained by Nobel Biocare due to the termination of the purchase order.

15.3 Nobel Biocare may cancel a purchase order at any time, in full or in part, even without any fault on the supplier's part. In such case, the supplier is only entitled to payment of any goods supplied and services provided up to the date of the cancellation of the purchase order, with proof of such supplies or services to be furnished to Nobel Biocare, but may not charge any lost profit. Any savings or benefits achieved or achievable by the supplier shall be taken into consideration. After having received notice of the cancellation of the purchase order, the supplier is obligated to use its best efforts to minimize the costs.

## **16. Miscellaneous**

16.1 All documents, correspondence and invoices of the supplier relating to a purchase order shall include the purchase order number and the goods/item/product/identification number of Nobel Biocare. Notices, deliveries, invoices etc. without this information are deemed not to have been received by Nobel Biocare as they cannot be handled properly.

16.2 The place of jurisdiction shall be the place of business of the company within the Nobel Biocare group of companies issuing the respective purchase order. However,

Nobel Biocare may also take legal action against the supplier at the supplier's place of business.

16.3 These General Terms and Conditions and the legal relationship between the supplier and Nobel Biocare shall be governed by Swiss substantive law to the exclusion of the international conflict of laws provisions thereof and to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

16.4 If any provision of these General Terms and Conditions is invalid, the validity of the remaining provisions shall not be affected thereby. The invalid provision shall be replaced by a valid provision that comes as close as possible to the intended objective and commercial purpose of the invalid provision.

16.5 Any modification of or amendment to these General Terms and Conditions shall only be valid if confirmed in writing by Nobel Biocare.