

## **General Purchase Conditions**

These General Purchase Conditions, hereinafter called “Conditions”, define the general terms and conditions of the purchases for all goods purchased by Prothya Biosolutions Belgium.

### **Article 1 : Definitions**

The definitions set forth in the Agreement or Purchase Order shall equally apply to these Conditions.

In addition, the following terms shall have the meaning below each time they are used herein or in relation to the implementation of these Conditions:

"Agreement" means any contract concerning Goods purchased by, and to be delivered to, BUYER or concerning any services to be provided to BUYER.

"BUYER" means Prothya Biosolutions Belgium or any other affiliated legal person or legal entity as indicated in the Purchase Order or in the Agreement.

“Delivery Address” means the place where the SELLER must deliver the Goods, as indicated in the Purchase Order, or, in the absence thereof, the registered office of the BUYER.

“Law” means all legislation, edicts, decrees, regulations, instructions, orders and any other legal acts applicable in the country of the registered office of the BUYER.

"SELLER" means the Party with whom BUYER has closed the Agreement.

“Warranty Period” means the period during which the SELLER will remedy any breach of warranty in accordance with Article 8.

### **Article 2 : Sale – Purchase**

Upon receipt of a Purchase Order from the BUYER, the SELLER will sell the Goods to the BUYER in accordance with these Conditions with the exclusion of any other conditions of the SELLER or of any third party.

The SELLER shall supply and deliver Goods of the quality and in the quantities ordered under the terms set forth in the Purchase Order, or in the absence or incompleteness thereof, under the terms set forth in the Agreement.

The SELLER is under a duty to inform and advise the BUYER appropriately in accordance with the needs expressed by the latter and to supply Goods which are fit for their intended purpose which is known by the SELLER.

The BUYER reserves the right to modify the Purchase Order issued to the SELLER.

The SELLER then has ten (10) days from the date of receipt of BUYER's modifying order to accept or refuse in writing the modification to the Purchase Order or to assess the technical and economic consequences and the effect on delivery times that it may cause. In the absence of any written response, the SELLER shall be deemed to have accepted the modifications; all other conditions of the Purchase Order shall remain unchanged.

The BUYER reserves the right to use electronic tools ("e-Procurement") developed to administer the sale and purchase electronically and the SELLER shall cooperate to implement such tools.

**Article 3 : Supply of Goods**

The supply of Goods must be in strict conformity with the requirements defined in the Agreement. Any change, even minor, must be expressly agreed in writing by the Parties.

Notwithstanding the foregoing, the supply of Goods shall in all respects conform to the Law, the soundest practice and best workmanship applicable to the Goods.

**Article 4 : Transport and packaging**

Unless expressly agreed otherwise, the SELLER will, at its expense and risk, pack, load, carry, unload and deliver the Goods to the BUYER.

The SELLER shall sufficiently and adequately pack the Goods taking into account the selected means of transport.

The SELLER shall either carry the Goods itself or entrust under its responsibility the carriage of the Goods to a legally authorised and reliable carrier.

**Article 5 : Delivery**

Unless expressly agreed to the contrary, the SELLER shall deliver the Goods "Delivered Duty Paid" ('DDP' – ICC Incoterms 2018) at the Delivery Address. It is expressly agreed that the Incoterm 'DDP' shall include the unloading of the Goods from the means of transport and the delivery of the Goods at the designated place in the reception facilities of the BUYER

Prior to such delivery, the SELLER shall provide the BUYER with any instructions or other details which are necessary to take delivery of and store the Goods. All Goods shall be supplied with full instructions for their proper use, maintenance and repair, and with the necessary warning notices clearly displayed.

**Article 6 : Late Delivery and Penalties**

The SELLER shall deliver the Goods during the normal business hours on the date or within the period stated in the Purchase Order or, in the absence thereof, the terms

and conditions of the Agreement, or, in the absence thereof, within a reasonable time taking into account the nature of the Goods and in any event limited to one (1) month from the receipt of the Purchase Order by the SELLER.

The SELLER will provide the BUYER with information on any changes in delivery periods. The SELLER will expeditiously undertake at its own cost and expense all required actions to cure any delay in delivery.

Any delivery beyond the period stated above will entitle the BUYER to apply any penalties in accordance with the terms and conditions of the Agreement and/or to claim compensation for any damage incurred as a result of late delivery and/or to terminate the Purchase Order or the Agreement in accordance with Article 14 on Termination.

#### **Article 7 : Documentation**

All shipments must be accompanied by a transport bill indicating the shipment date, the details of the Goods and the number and type of packages, the Delivery Address, the identity of the carrier, and a packing note indicating the contents of the packages, number of the Purchase Order and the job reference.

In order to avoid any ambiguity in the identification of the Goods at their reception, the description of the Goods must be identical to the description mentioned in the Purchase Order.

In the absence of any special instructions, each package shall be identified by a label clearly stating the Goods contained therein and the order number. The BUYER reserves the right to use barcode labels supplied by the BUYER as per a detailed parts list.

#### **Article 8 : Acceptance of the Goods**

Upon delivery of the Goods, the SELLER will allow the BUYER to inspect the Goods for any loss and/or damage or non-compliances with the requirements of the Agreement and the Purchase Order, and to sign the transport bill for receipt.

In case of any visible loss and/or damage or non-compliances, the BUYER shall notify the SELLER thereof within two (2) working days following the delivery date.

In case of any invisible or hidden loss and/or damage or non-compliance, the BUYER shall notify the SELLER thereof within fifteen (15) working days following the date the invisible or hidden loss and/or damage or non-compliance has been discovered.

The BUYER shall be entitled to reject any Goods, found to be damaged or non-compliant, and shall advise the SELLER in writing of such rejection within the aforesaid delays.

The SELLER shall remove at its risk and expense any rejected Goods within seven (7) working days after the notice of rejection sent by the BUYER.

If the SELLER does not remove the rejected Goods within this period, the BUYER shall be entitled either to remove the rejected Goods itself and charge the SELLER with the costs and expenses incurred as a result of such removal or to organise a salvage sale of the rejected Goods and keep the sale proceeds thereof by way of compensation for the inconveniences caused by the rejection and the failure of the SELLER to remove the rejected Goods.

Anyway the BUYER is entitled to claim compensation from the SELLER for any damage incurred as a result of any loss and/or damage or non-compliances with the requirements of the Agreement and the Purchase Order,

**Article 9 : Transfer of title and risk**

Notwithstanding any other provision to the contrary and regardless the applicable Inco-term, title to and the risk of loss of or damage to the Goods shall pass from the SELLER to the BUYER at the acceptance of the Goods by the BUYER.

**Article 10 : Price – Invoice - Payments**

Upon acceptance of the Goods by the BUYER, the SELLER shall invoice to the BUYER the price of the accepted Goods in accordance with the terms and conditions of the Agreement.

No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the BUYER.

The SELLER expressly authorizes the BUYER to set off any amounts of whatever nature due by the SELLER to the BUYER in accordance with the Agreement against the amounts due by the BUYER to the SELLER. In case of any set-off by the BUYER, the SELLER will issue a credit note in favour of the BUYER.

The SELLER shall issue any invoice or credit notes in one original and two (2) copies.

Each invoice shall in all respects comply with the Purchase Order and will mention, besides any mandatory mentions, the following :

- number of the Purchase Order;
- number of the Agreement;
- description and quantity of the Goods;
- total value of the Goods without value added tax, the amount of the value added tax, the total amount including value added tax, all amounts expressed in Euro.

The invoices, including any annexes thereto clarifying the invoice, shall be sent to the BUYER, unless expressly stated otherwise in the Purchase Order.

The BUYER shall be entitled to reject and return to the SELLER any invoice not issued in accordance with the provisions mentioned above.

Without prejudice to any of its rights under the Agreement, the BUYER shall settle any invoice by bank transfer within sixty (60) days from the end of the month during which the invoice was received.

In case of late payment by the BUYER, without justified reason, only interest shall be charged to the BUYER as from the fifteenth day after a notice of default in writing addressed to the BUYER, at the interest rate fixed in accordance with Article 5 of the Act of 2 August 2002 on Combating Late Payment in Commercial Transactions, with the exclusion of any other interest, penalty or compensation.

### **Article 11 : Warranties**

The SELLER warrants that :

- (i) it has title to the Goods and will deliver the Goods free and clear of all liens, claims and encumbrances arising prior to the transfer of title to the BUYER;
- (ii) the Goods are in compliance with the requirements defined in article 3 and are free from any defects, whether hidden or apparent, in design, materials and workmanship.

In case of a breach of warranty during the Warranty Period, the SELLER shall at its costs and expenses repair any of the Goods found to be in breach with the aforesaid warranty and/or replace such Goods and repair the damage incurred as a result thereof.

Unless expressly agreed to the contrary, the Warranty Period will commence on the date of acceptance of the Goods and last two (2) years. This Warranty Period will be extended with the period needed for the repair or replacement of the Goods. If any of the Goods is to be replaced, a new Warranty Period will commence as of the date of the replacement.

If the SELLER is unable to repair or replace any of the Goods found to be in breach with this warranty, the BUYER shall be entitled to return such Good to the SELLER who will refund the original purchase price thereof.

Following the expiration of the Warranty Period, the SELLER shall offer repair and maintenance services to the BUYER in accordance with the Agreement.

The SELLER warrants that any repair and maintenance service will be performed in accordance with the Agreement and in strict compliance with the Law, the soundest practice and best workmanship by appropriately qualified and trained personnel, using due care and diligence.

### **Article 12 : Intellectual Property Rights**

All documentation delivered by the BUYER to the SELLER shall be and remain the exclusive property of the BUYER, and the SELLER shall only have a non-exclusive, non-transferable right to use such documentation only in as far as strictly necessary for the execution of the Agreement.

The SELLER shall transfer integrally, definitively and exclusively to the BUYER all intellectual property rights (including copyright) on the Goods, from such moment when said rights come into being, in the fullest manner possible.

The SELLER shall and shall procure that its employees waive their rights to be identified as the author of the any of the works, preparations, creations, studies, research, experiments, inventions or others, done or carried out within the scope of the Agreement.

If a third party claims that any of the Goods supplied by the SELLER infringes its intellectual property rights, the SELLER will defend and hold the BUYER harmless from and against that claim at its expense and pay all damages, indemnities, cost and expenses (including attorney's fees) which a Court finally awards or which are included in a settlement approved by the SELLER, provided that the BUYER promptly notifies the SELLER in writing of such claim and allows the SELLER to control, and cooperates with the SELLER in the defence and any related settlement negotiations.

If such a claim is made or appears likely to be made, SELLER shall enable the BUYER to continue to use the Goods, or to modify it, or to replace it with goods which are at least functionally equivalent. If the SELLER determines that none of these alternatives is reasonably available, the SELLER will then pay to the BUYER an indemnity enabling the BUYER to purchase functionally equivalent goods.

**Article 13 : Liability – Insurance**

*a. Liability*

Either Party will only be liable towards the other Party for any material damage caused by its fault or neglect or the fault or neglect of any of its employees, agents, temps, subcontractors or any other person acting under its authority.

In any event, the liability of either Party will be limited to an amount of 7.500.000,00 EUR (seven millions five hundred thousand Euros ) per occurrence.

Neither Party shall be liable towards the other Party for any damage related to the death, personal injury or illness of any person employed by the latter Party, and both Parties hereby expressly mutually waive any right of recourse for such damage.

The above limitations of liability do not apply in case of damage caused intentionally by or caused by the gross negligence of any Party.

Either Party will defend and hold the other Party harmless from and against any claim by a third party in relation to the execution by the former Party of its obligations under the Agreement and these Conditions, and will indemnify the other Party for any

damage, loss, claim, indemnities, costs and expenses incurred as a result of such third party claim.

Either Party will inform its underwriters of the contents of the present liability clause.  
*b. Insurance*

Prior to undertaking the supply of the Goods, the SELLER shall subscribe and maintain in force for the term of the Agreement, including, for the avoidance of doubt, any Warranty Period :

- (i) the insurance covers imposed by the Law :
  - 1) Worker's Compensation Insurance in accordance with the Law covering its employees against any industrial accident or any accident on the way from or to the work place;  
  
This Worker's Compensation Insurance shall include a clause whereby the underwriters agree to waive any recourse against the BUYER;
  - 2) Motor Vehicle Insurance covering the liability arising out of the ownership, use and maintenance of motor vehicles operated by the SELLER and having access to the facilities of the BUYER.
- (ii) Comprehensive General and Products Liability Insurance covering the liability towards third parties for any material and immaterial damage for an insured amount of not less than 7.500.000,00 EUR (material and immaterial damage combined) per occurrence.

Prior to undertaking the supply of the Goods, the choice of the insurance companies as well as the terms and conditions of the policies subscribed to by the SELLER must be approved by the BUYER, who may not refuse such approval but for valid motifs, without such approval affecting the liability of the SELLER nor engaging the liability of the BUYER.

The SELLER shall transmit to the BUYER at first request copies of the policies or insurance certificates and premium receipts. The SELLER shall ensure that its underwriters will not modify or cancel the policies underwritten without a thirty (30) days prior notice to the BUYER by registered mail.

The subscription by the SELLER of the above mentioned insurance policies will not in any way relieve it of the liabilities it must assume by virtue of the Law or this Contract Agreement.

#### **Article 14 : Safety, Health and Environment**

In respect of the supply of Goods and any services in connection therewith, the SELLER will in all respect comply with any applicable SHE regulations of the BUYER, local standards, and legislation.

## **Article 15: Applicable Law and Jurisdiction**

Any Agreement between the Parties is governed exclusively by the Belgian law, with regard to its coming into effectiveness, validity, construction, performance and termination. The Dutch-speaking Courts of Brussels shall have exclusive jurisdiction to examine disputes relating to the coming into effectiveness, the validity, the construction, the performance and the termination of the Agreement.

## **Article 16: Confidentiality**

All information of a commercial and/or technical nature (all data, in whatever form, including, without being limited to this, the passwords, documents, drawings, plans, prototypes, figures) that come to the attention of Supplier relating to this Purchase Contract and/or the Purchase Orders (the “Confidential Information”) shall remain the property of Prothya Biosolutions Belgium.

Supplier undertakes the following:

- To keep the Confidential Information strictly confidential and not to divulge it to any third party without the prior written consent of Prothya Biosolutions Belgium;
- To use the Confidential Information for the only purpose of the Agreement;
- To divulge the Confidential Information only to members of staff, subcontractors and/or appointees necessary for the performance of the Agreement, and this insofar these members of staff, appointees and/or subcontractors have given the same undertaking as the present confidentiality undertaking;
- To return the Confidential Information, together with any copies of it, on the simple request of Prothya Biosolutions Belgium.

In the event of breaches to this confidentiality clause, Prothya Biosolutions Belgium reserves the right to unilaterally terminate the Agreement with immediate effect, without owing any compensation and without prejudice to its right to compensation for.