

# GENERAL TERMS AND CONDITIONS OF PURCHASE

## **Medcor Pharmaceuticals B.V.**

Artemisweg 232  
8239 DE Lelystad



Chamber of Commerce number: 39072043 0000

### **Concepts**

*Other party:* Any natural or legal person, from whom Medcor Pharmaceuticals (hereinafter: Medcor) in any way procures goods, with whom it enters into purchase agreements, to whom it grants orders or otherwise;

*Goods:* All that which Medcor obtains from the relevant other party, being goods, services or otherwise.

### **1. General**

1.1 These General Terms and Conditions of Purchase apply to all agreements (requests for quotation, offers or acceptances) whereby Medcor purchases goods or services from a third party or otherwise issues an order to that third party (hereinafter referred to as "the other party"), all in the broadest sense of the word.

1.2 The applicability of deviating or additional general conditions or other stipulations, to which the other party refers in its offer, order confirmation, correspondence, invoice or otherwise, is expressly rejected, unless the relevant conditions have been expressly accepted by Medcor in writing.

### **2. Offer; Conclusion**

2.1 A quotation, price quote or other offer made by the other party is an irrevocable offer. Unless Medcor expressly states otherwise, every request for a quotation, price quote or other offer made by Medcor is revocable.

2.2 Medcor is only bound by an order it has given if that order has been given or confirmed in writing by an authorised Medcor employee.

2.3 If the counterparty performs or makes preparations for a performance before having received a written order or order confirmation from Medcor as referred to in Article 2.2, it does so at its own expense and risk.

### **3. Prices; Payment**

3.1 Unless otherwise agreed in writing, all agreed prices are exclusive of VAT, cannot be changed unilaterally and are inclusive of all costs for the execution of the agreement, including costs for transport, insurance, packaging and any packaging taken back by the other party, as well as costs relating to import and export.

3.2 Price changes only come into effect 60 days after written agreement by Medcor.

3.3 The other party must draft an invoice in the language of the order and send it to the address stated in the order, stating the credit card number, the order number and an accurate specification of the goods delivered or the order carried out.

3.4 Payment shall be made, after delivery and after receipt of the invoice, not earlier than 30 days after final approval of the goods, services and/or works, and not earlier than 30 days after receipt of the invoice, whichever of these two dates is later.

3.5 For commissions for which Medcor is jointly and severally liable for the payment of social security contributions and income tax, Medcor is entitled to deduct the relevant amounts from the agreed price and pay them directly to the implementing body or tax authority.

#### **4. Performance; Warranty and Safety**

- 4.1 The other party shall perform an agreement entered into with Medcor punctually and without deviation. The goods delivered, works carried out and orders placed shall comply with the agreement and have the promised properties and quality. The other party shall under no circumstances deviate from the requirements specified in the agreement, nor deviate from the specifications in any other way, without obtaining prior written and express permission from Medcor.
- 4.2 The other party guarantees the absence of any visible or invisible shortcomings during the agreed guarantee period or, in the absence thereof, the guarantee period customary in the sector. The guarantee period will be extended by a period equal to the period(s) during which the goods have not been used or could not be fully used due to a shortcoming as referred to in this provision. New guarantee periods equal to those mentioned above will apply to the goods provided as replacement and to replaced or repaired parts of those goods, including those parts of the goods on which replaced or repaired parts may exert influence.
- 4.3 If a shortcoming arises during the guarantee period, Medcor shall be entitled either to return the goods and demand immediate repayment of the payment made for those goods, or demand that the counterparty, at Medcor's first request, repairs all defects occurring during the guarantee period at its own expense and risk and/or replaces the goods or defective parts thereof, without prejudice to Medcor's right to compensation for further damage (including consequential damage) and damage suffered by third parties.
- 4.4 The other party shall comply with all statutory regulations - by whatever name - as applied by the inspection authorities, which in connection with quality, environment, safety and health, for example, must be observed during the execution of the agreement.
- 4.5 The personnel and/or auxiliary persons engaged by the other party in the execution of the agreement shall comply with the special requirements set by Medcor and, in their absence, with the general requirements of professional competence and expertise.
- 4.6 When performing work at the premises of Medcor or third parties, the other party must in any case observe the safety regulations applicable there, including regulations issued by Medcor or third parties.

#### **5. Delivery**

- 5.1 Unless otherwise agreed in writing, the counterparty is not entitled to make partial deliveries or set partial prices. Medcor is entitled, without prior notice, to return partial deliveries that have not been agreed upon and/or goods that have been delivered in excess at the expense and risk of the other party.
- 5.2 Delivery of goods takes place free domicile (DDP location Medcor in accordance with Incoterms 1990), according to Medcor's transport instruction, at the time and place indicated by Medcor and in proper packaging with presentation of all necessary documents, such as consignment note, government approvals and documentation, packing list and border crossing documents. The order number, the department where the goods are to be delivered and all other relevant information must be clearly stated on the outside of the packaging.
- 5.3 Returnable packaging shall be returned to the other party at the other party's expense and risk. The other party is obliged to take back packaging and/or waste free of charge.
- 5.4 Medcor is entitled not to accept the goods to be delivered if the aforementioned regulations and provisions have not been complied with.
- 5.5 Unless otherwise stipulated in writing, the agreed delivery or performance period shall be regarded as a deadline. If it is foreseeable that the deadline will not be met, the other party shall inform Medcor immediately. In such a case, Medcor has the right to dissolve the contract without prior warning or notice of default, or to set an extended deadline for delivery, without prejudice to its right to compensation for damages. If the other party fails to give such notice, it shall lose the right to invoke force majeure and shall remain bound to deliver at the agreed time.

## **6. Risk; Transfer of Ownership**

6.1 The risk for goods to be delivered shall only pass to Medcor upon delivery, provided that the goods have been approved by Medcor and comply with the agreement. Damage caused during transport, loading or unloading shall be borne by the other party at all times.

6.2 The ownership of goods shall pass to Medcor at the time of delivery, provided that they have been approved and comply with the agreement.

## **7. Documentation; Instruction**

7.1 The other party must submit all quality and guarantee certificates, inspection data, (Dutch) user manuals, instruction manuals, drawings, specifications, technical and revision data, and - if necessary - an EC declaration of conformity, as well as the relevant file, at the same time as the delivery of goods and/or the completion of works. These documents are part of the delivery.

7.2 If Medcor deems it desirable in view of the nature of the delivered goods or work, the other party must give an instruction to Medcor free of charge.

## **8. Testing: Inspection**

8.1 Medcor is at all times entitled, but never obliged, to ascertain, by inspecting and testing the nature and progress of the production process, the deliveries or the implementation of the agreement and the machines and raw materials used in the process. Medcor has the right to return rejected goods at the expense and risk of the other party.

8.2 The other party shall cooperate fully with any inspection or testing by or at the request of Medcor. At Medcor's first request, the counterparty will provide information about the contents or components of the goods to be delivered and used, about the packaging and the production process.

8.3 If the goods are examined by an independent testing institute with a negative result, the costs of the examination shall be for the account of the other party.

8.4 Inspections within the meaning of this article shall not release the other party from any obligation or liability.

## **9. Intellectual Property**

9.1 The other party guarantees that the performance of the agreed work and its normal use, all this in the broadest sense of the word, will not infringe any patent, copyright, trademark, logo or other absolute right belonging to third parties. The other party shall indemnify Medcor against any claims in this respect.

9.2 All industrial and intellectual property rights to or in connection with goods or methods of working specifically designed and/or produced for or on behalf of Medcor, and to the drawings, texts, models, manuals, samples, tools, calculations, software and other documents and data carriers produced or used for this purpose by Medcor or the other party, belong to Medcor. The other party undertakes, insofar as necessary, to cooperate in the transfer of the aforementioned (intellectual) property rights and shall hand over the (auxiliary) goods to Medcor after completion of the assignment. The other party shall not use the aforementioned data, goods and methods for any other purpose than for the execution of the agreement with Medcor and shall make no copies thereof without the written permission of Medcor.

## **10. Obligation to provide information; Confidentiality**

10.1 If the other party foresees or should reasonably foresee that it will fall short in the fulfilment of one or more of its obligations, including the failure to deliver and/or defective and/or untimely delivery, as well as any change in the composition or characteristics of the goods to be delivered, the other party is obliged to inform Medcor immediately and in advance in writing, giving reasons and the anticipated duration of the delay.

10.2 During as well as after termination of the agreement, the other party is obliged to keep the existence and contents of the agreement and all know-how and data received from Medcor confidential and shall, if requested, oblige the employees and/or third parties involved in the execution of the agreement to the same confidentiality in writing.

## **11. Obligations under social insurance laws and wage tax**

11.1 The other party is not authorised to have any part of the contract carried out by third parties or to make use of workers that have been made available ("contracted in"), unless Medcor has given its prior written approval. The other party shall indemnify Medcor against any claim by implementing body/bodies and/or tax authorities on the basis of recipient's and/or chain liability.

11.2 The other party guarantees Medcor that it will fulfil all its obligations arising from tax and social insurance legislation in good time in respect of the employees it employs or who are to be employed within the framework of the performance of the contract.

11.3 The other party is obliged to provide Medcor at its first request with the name and address of the implementing body with which the other party is registered, the affiliation number under which the other party is registered with that implementing body (according to a valid proof of registration) as well as its wage tax number. The counterparty is also obliged to provide Medcor, at its first request, with a copy of the permit as referred to in Article 16a(2)(a) of the Social Security (Coordination) Act (*Coördinatiewet Sociale Verzekering* - "CSV").

11.4 The counterparty is obliged to provide Medcor each time at its first request with a recent declaration of payment status from the implementing body and the tax authorities, which must not be older than three months.

11.5 At Medcor's first request, the other party shall, before the commencement of the performance of the contract and from week to week during the performance of the contract, provide a written statement of all employees who have been or will be employed by Medcor or a third party engaged by Medcor within the framework of the performance of the contract, including their surnames, first names, address and place of residence, date and place of birth and social security number, as well as a copy of a document as referred to in Article 1 of the Dutch Compulsory Identification Act (Official Gazette 1993, 660) for all these employees. For employees who are nationals of a non-EU state, the other party must also provide a copy of their work permit and their conditions of employment. For employees from an EU state, the other party must provide a posting certificate.

11.6 Upon first request, the other party will repeatedly provide Medcor with the pay slips of the aforementioned employees for perusal, as well as a week-by-week written statement of the location(s) where the work was carried out by those employees and of the hours worked by those employees at that location/those locations. The other party guarantees that its employees and/or the employees of any third party brought in by the other party for the purposes of the agreement can at all times identify themselves to Medcor upon request.

11.7 The counterparty will have to demonstrate to Medcor's satisfaction that it, or the third party engaged by it in the execution of the contract, maintains sufficient records from which it can be clearly derived what amounts for wage tax and social security contributions are due with respect to the employees engaged in the execution of the contract.

11.8 In the event that Medcor is held liable for contributions or taxes owed by the other party on the basis of the prevailing fiscal or social insurance legislation, or if there is a chance that this will happen, the other party is obliged to provide Medcor with all the necessary information to enable Medcor to prove that the non-payment of such debts is not due to it, the other party or any subcontractor engaged by the other party.

11.9 Medcor is authorised to suspend the fulfilment of any obligation towards the other party, on any grounds whatsoever, if Medcor has reasonable grounds to believe that the other party is not fulfilling or has not fulfilled its obligations as referred to in this Article. Medcor is at all times entitled to set off its debt to the other party against its recourse claim on the other party as referred to in Article 16g CSV or Article 56 of the Collection of State Taxes Act 1990 (*Invorderingswet*), regardless of whether this recourse claim is payable or subject to immediate settlement.

## **12. Failure to perform; Dissolution; Liability; Insurance**

12.1 If the other party fails to comply with one or more obligations under the agreement, Medcor has the right, without prior warning, notice of default or judicial intervention, and without being obliged to pay any compensation, and without prejudice to all its other rights, to dissolve the agreement in whole or in part by means of a declaration to that effect and/or to oblige the other party either to remedy the performance at its own expense, or to undo the performance at its own expense and risk, or to allow Medcor to redo or undo the performance at its own expense and risk. Force majeure or lack of culpability of the other party for its shortcoming shall not prevent the powers referred to in this paragraph from being exercised.

12.2 In the event of bankruptcy, suspension of payment, shutting down, liquidation of the other party or transfer of its business, as well as in cases where a considerable part of the assets belonging to the other party are seized, and are not released within a reasonable period of time, Medcor has the right to dissolve the agreement without judicial intervention by means of a corresponding declaration.

12.3 Without prejudice to its other rights, Medcor has the right to suspend its obligations under an agreement entered into with the other party in the situations described in clauses 12.1 and 12.2.

12.4 Product liability in respect of goods delivered or used, whether or not these are processed, rests entirely with the other party. The other party shall indemnify Medcor against third party claims resulting from or related to the goods delivered or used by the other party and/or services rendered.

12.5 The other party is liable for and shall indemnify Medcor against any claim by third parties concerning damage, which is directly or indirectly the result of an attributable shortcoming in the fulfilment of obligations towards Medcor or of unlawful acts or omissions by the other party. The other party is responsible for its own actions or omissions as well as those of its personnel or of third parties engaged in the execution of the contract.

12.6 The other party shall take out adequate insurance against the liabilities arising from these General Terms and Conditions of Purchase.

### **13. Fine; Costs**

13.1 Without prejudice to the provisions of Article 12, in the event of attributable failure to perform, the other party shall owe Medcor an immediately payable penalty in the amount of 10% of the total order amount at once or, in the event of late performance, 0.5% of that amount for each day that the delay lasts, all without prejudice to Medcor's right to further compensation for damages.

13.2 All costs, both extrajudicial and judicial, including but not limited to the costs of legal assistance, which Medcor incurs to enforce its rights against the other party, shall be borne by the other party.

### **14. Transfer of rights and obligations**

14.1 Without the prior written consent of Medcor, the other party is not permitted to transfer the agreement or its obligations to third parties, or to have third parties execute the agreement. The other party remains fully responsible and liable for actions carried out by third parties in connection with the order.

14.2 The claims of the other party against Medcor cannot be transferred or pledged.

### **15. Applicable law and jurisdiction**

15.1 Dutch law shall apply to the contract. The applicability of the 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

15.2 The court in Medcor's place of business has exclusive jurisdiction over disputes, unless the law prescribes otherwise. Nevertheless, Medcor has the right to submit the dispute to the competent court according to the law.

15.3 The parties will only appeal to the court after they have made every effort to settle a dispute in mutual consultation.

### **16. Location and modification of conditions**

1. These conditions have been filed at the Chamber of Commerce in Lelystad under number 39072043 0000

2. The most recently filed version or the version that applied at the time of the conclusion of the legal relationship with Medcor applies.

3. The Dutch text of the general terms and conditions shall always be decisive for the interpretation thereof.