

**Abbott GmbH & Co. KG**  
**Purchase Order Terms and Conditions**

**1. General**

**1.1** Abbott's Conditions of Purchase are a part of the contract between Abbott and the Supplier and shall apply if and to the extent that no other terms are agreed on for a single order. The Supplier's terms of business are only valid, if and insofar as the written agreement of Abbott is received stating direct acknowledgement of the Supplier's terms of business. In particular, any references of Abbott to correspondence from the Supplier containing or referring to the Supplier's terms of business do not constitute Abbott's acceptance of the validity of these terms of business.

**1.2** These Conditions of Purchase shall remain valid should Abbott accept any goods/services with full awareness of any terms of business of the Supplier that deviate from or are in conflict with these Conditions of Purchase.

**2. Bid**

**2.1** Bids and price quotes shall not be remunerated and shall not reflect any obligations on the part of Abbott.

**2.2** The Supplier's bid shall comply with the inquiry and he/she must report any discrepancies. If the Bidder has a better solution for an inquiry in terms of technology or economy, he/she shall additionally present this offer to Abbott.

**3. Delivery Date, Partial Delivery/Partial Provision of Services**

**3.1** The Supplier is obligated to adhere to the delivery date agreed on. Adherence to the delivery date includes delivery of the goods free of any defects to Abbott within the regular business hours accompanied by the required shipping documents to the address specified in the order ("delivery point"). If Abbott and the Supplier have agreed to a delivery inclusive of assembly/service, the handover of the goods, which are free of any defects, shall be considered punctual after the assembly/service has been carried out as agreed to. If an acceptance is stipulated by law or agreed on in a contract, the point in time specified for the acceptance shall be adhered to. Advance deliveries/provision of services or partial deliveries/partial provision of services requires prior agreement on the part of Abbott.

**3.2** As soon as the Supplier recognizes that he/she is not able to fulfil his/her contractual obligations either in full or in part, or not within the timeframe given, he/she must report this to Abbott in writing without hesitation. He/she must state the reason(s) for this delay and the predicted delay in delivery. Unconditional acceptance of a delayed (partial) delivery/ (partial) provision of services shall by no means waive any rights of Abbott related to late (partial) delivery/ (partial) provision of services.

**3.3** The Supplier must request the documents required in order to carry out the order in due time, which are to be prepared by Abbott.

**4. Safety, Health and Environment**

**4.1** The Supplier represents and warrants that it is now in compliance with, and undertakes that in performance of its obligations under any agreement, it shall continue to comply with all applicable European and local laws, regulations, directives and procedures, including industry codes of practice, in particular those related to anti-bribery and anti-corruption.

**4.2** In carrying out a contract, it is the Supplier's duty to comply with any safety, health and environmental protection measures specified by Abbott and which are stipulated in the purchase order.

**5. Quality**

**5.1** The Supplier shall carry out and maintain effective quality assurance and, if requested, demonstrate this to Abbott. The Supplier shall adhere to a quality management system as per DIN ISO 9000 ff. or to one of a similar nature upon Abbott's request. Abbott has the right to inspect this quality assurance system, either by him/herself or through third parties commissioned by Abbott.

**5.2** Any changes to the goods or services to be delivered require the prior written consent of Abbott.

**6. Testing and Inspection in the Course of Contract Fulfilment**

**6.1** Abbott has the right to carry out any tests or inspections as the contract is being fulfilled by the Supplier. Abbott is authorized to visit the Supplier's works for this express purpose during the usual business hours after giving notification. The Supplier and Abbott shall carry the costs incurred on their behalf for the inspection or for testing.

**6.2** Inspections/testing as well as the presentation of records do not have any effect on the contractual or legal rights of Abbott with regard to acceptance and defects.

**7. Use of Subcontractors**

Third parties (in particular any subcontractors) may only be used or exchanged with prior written consent from Abbott. If the Supplier intends to use subcontractors in fulfilling the contract from the beginning, the Supplier is required to inform Abbott of this when submitting his/her quotation.

**8. Shipping, Packaging, Passing of Risk**

**8.1** The delivery is to be made DDU (Incoterms 2000) to the delivery point. The delivery shall be accompanied by two copies of the delivery note, the packing slip, inspection certificates according to the specifications agreed on and all other required documents (i.e. inspection certificates according to the specifications agreed on). The following details must be given in all shipping documents as well as on the external packaging, if known: order number, gross and net weight, number of

components packaged and the type of packaging (disposable/ reusable), completion date as well as delivery point (unloading point) and recipient of goods. For projects, the complete job number and deployment building must be given as well.

**8.2** For third country imports, the shipping documents must specify whether it is a delivery duty paid or duty unpaid. If the goods are delivered duty unpaid, the Supplier must submit the following customs documents to Abbott: Dispatch document T1, shipping documents, customs invoice, preference documents such as Form A, EUR.1, A.TR, as well as certificate of origin. If the goods are delivered duty paid, proof of customs clearance must be provided in the shipping documents (ATC number, tax invoice number).

**8.3** The Supplier must uphold Abbott's interests during the delivery. Goods must be packed as so to avoid damage during transport. The Supplier is liable for any damage incurred due to improper packaging. The Supplier shall pick up, upon request by Abbott, any accruing additional packaging, transport packaging and sales packaging at the delivery point or have these items picked up by a third party. The Supplier is to package, label and send hazardous products according to the pertinent national and international regulations. A safety data sheet is to be handed over to Abbott in the national language of the recipient country in accordance with Art. 31 EC Directive No. 1907/2006/EC of the European Parliament and of the Council concerning the registration, evaluation and authorization (hereinafter "REACH regulations") of hazardous products as well as of non-classified hazardous products containing hazardous components in a concentration of more than 1%.

**8.4** Up until the actual handover of the goods specified in the contract together with the documents mentioned above at the place of fulfilment, the Supplier shall bear the installation/assembly/service has been agreed on, the risk of loss passes to Abbott after the installation/assembly/service has been completed in due form and following the handover of goods. If an acceptance is stipulated by law or by contract, the deadline for acceptance shall be specified by both parties upon written request by the Supplier. The result of the acceptance shall be documented in an acceptance certificate. Risk shall not be passed before a successful acceptance has been confirmed by Abbott in the acceptance certificate. Acceptance may not take place in any other manner, especially not through inspections, expert reports, certificates or records of work. Payment of invoice balances is not an indication of acceptance.

## **9. Origin of Goods**

**9.1** The Supplier shall produce a certificate of origin about the source of the goods upon Abbott's request.

**9.2** The goods must comply with regulations for the origin of goods as per the EC's preferential agreements insofar as the delivery is within the scope of preferential trade.

## **10. Condition of the Delivery/Service, Quality Complaints, Rights in the Event of Defects**

**10.1** The Supplier is responsible for delivering goods and services free of defects and, additionally, for ensuring that guaranteed features are present. In particular, the Supplier guarantees that goods and services are delivered by qualified personnel and meet the current technical standards as well as the most widely recognized standards in plant safety, occupational medicine and hygiene. Goods and services delivered must also be in line with pertinent legal regulations, especially legal and administrative provisions, tax regulations and social security regulations, as well as regulations for work safety and environmental protection. If machines, equipment or plants constitute delivery items, they shall meet the special safety requirements applicable to machinery, equipment and plants at the time of contract fulfilment, and shall be CE marked.

**10.2** The Supplier guarantees that all materials that the goods contain have been pre-registered, registered and approved in accordance with the pertinent requirements of the REACH Directive. Furthermore, the Supplier shall ensure that all duties applicable to suppliers (in terms of Article 3 No. 32 REACH) must be fulfilled as specified in REACH in regard to the delivery of goods.

**10.3** Abbott shall report any obvious defects to the Supplier within fourteen (14) days following receipt of the goods at the delivery point. Any defects that are only identifiable at a later point in time are to be reported by Abbott within fourteen (14) days following their identification. The date of sending such notification to the Supplier shall be decisive for keeping the term. In this respect, the Supplier will waive any objection to late notification of defects.

**10.4** In the event of any defects, Abbott has the right to demand cure according to legal regulations. The mode of cure shall be at Abbott's discretion. For the purposes of the cure, the goods shall be made available to the Supplier either at the delivery point or at the location where the goods were located when defects were identified, according to Abbott's preference. The Supplier shall bear the cost incurred for cure. During the execution of the cure, the Supplier is required to adhere to Abbott's company requirements. If (i) cure has not been made within a reasonable period, (ii) cure has failed, or (iii) fixing a time limit for cure has been unnecessary, Abbott shall be entitled to claim further legal rights in the event of defects.

**10.5** If (i) the Supplier does not fulfil his/her duty to rectify defects as specified without rightfully refusing to provide cure, (ii) risk of accidental loss or deterioration. If a delivery inclusive of the Supplier seriously and irrevocably refuses to provide cure, (iii) cure has failed, (iv) there are fears of a loss of use of the goods, or (v) cure may not be further postponed due to other reasons, Abbott has the right to remedy the defects him/herself at the cost and liability of the Supplier, or allow this work to be undertaken by third parties. Abbott is in this case entitled to demand compensation from the Supplier for the required measures. The legal regulations shall apply in all other cases. Additional rights of Abbott from liability for defects or any guarantees remain unaffected.

**10.6** Claims under warranty become time-barred thirty (30) months subsequent to the passing of risk unless a longer expiration period is prescribed by the law. A waiving of claims under warranty on behalf of Abbott shall only come into effect if expressly presented in writing.

## **11. Infringing Property Rights**

It is the Supplier's responsibility to ensure that the delivery and/or services provided and use thereof according to the contract does not infringe on any patent laws, copyrights or other proprietary rights of third parties. Notwithstanding legal claims, the Supplier shall indemnify Abbott from any third party claims Abbott may be held liable for based on infringing on property rights. The Supplier shall bear the cost of any licensing fees, expenses and fees incurred by Abbott in preventing and/or rectifying infringements on property rights.

## **12. Insurance**

**12.1** The Supplier shall maintain sufficient liability insurance at his/her own expense for damage for which he/she or his/her servants or agents of vicarious liability are responsible. Evidence of the amount of insurance coverage for each occurrence of damage is to be produced to Abbott upon request. The Supplier's contractual and legal liability remains unaffected by the extent and amount of his/her insurance coverage.

**12.2** Abbott shall insure items either on loan or rented from the Supplier against damage caused by fire and explosion.

## **13. Invoicing, Payment**

**13.1** The prices agreed to are net costs plus any statutory value-added tax amounts. Invoices are to be issued for deliveries made and services provided. These invoices shall comply with the relevant statutory invoicing requirements according to the national value-added tax legislation to which the deliveries/services being invoiced are subject. When using self-billing (evaluated receipt settlement), the Supplier must transfer to Abbott all data required as per the applicable value-added tax legislation specified in advance.

**13.2** The invoice must include Abbott's full order number and, if applicable, the Supplier's delivery note number. Certificates of work completed and any other records are to be submitted with the invoice. Invoices must correspond to the information in the purchase order in respect of the goods described, price, quantity, the order of the items and item numbers. Invoices are to be sent to the billing address specified by Abbott in the purchase order.

**13.3** The payment period commences as soon as the invoice, which adheres to the aforementioned requirements, has been received at the billing address given by Abbott in the purchase order. In the case of self-billing, the payment period commences the day the credit memo is issued. Payment will be made subject to verification of the delivery/service provided.

**13.4** Payment is not an indication of acceptance of conditions or prices, and thus it shall have no effect on Abbott's rights as regard deliveries made/services provided that differed from those as agreed upon, Abbott's rights to inspection, and the right to find fault with an invoice due to other reasons.

**13.5** If Abbott is obligated to bear the cost of licensing fees for foreign Suppliers, the Supplier is required to submit a certificate of exemption pursuant to § 50 (a) of the German Income Tax Act.

## **14. Assignment of Purchase Orders, Transfer, Change of Company Name, Offsetting, Retention**

**14.1** The Supplier may transfer the rights and responsibilities stipulated in the contract with Abbott to third parties only with the prior written consent of Abbott.

**14.2** The Supplier is required to notify Abbott in writing of any passing of contract by virtue of law and any change of his/her company's trade name without further hesitation.

**14.3** Abbott may transfer the rights and responsibilities stipulated in the contract with the Supplier to Abbott Laboratories, USA or to any affiliated company as defined by the German Stock Corporation Act at any time without the Supplier's prior agreement.

**14.4** The Supplier is only permitted to offset claims that are undisputed or determined by law. The Supplier is only granted the right of retention if the claim, due to which the right of retention shall be deemed valid, has its origins in the same contractual relationship.

## **15. Cancellation, Rescission**

**15.1** The agreement may be cancelled without notice for just cause. Reasons for just cause are, in particular:

- A serious breach of duty by the Supplier which is not remedied within a set period of time defined by Abbott after the written complaint is received
- An application for bankruptcy proceedings has been filed for the assets of the other contract party, or if the other contract party is insolvent, facing threatening insolvency or ridden by debt as defined by §§ 17 to 19 of the German Insolvency Act. Alternatively, the other contract party cannot fulfil his/her obligation to pay taxes or social security contributions.
- The purchase or use of the goods or the service is or will be either entirely or partly impermissible due to legal or official regulations.

If Abbott cancels a contract for just cause and if additional existing contracts with the Supplier cannot be maintained for the same grounds for just cause, Abbott is also entitled to cancel other contracts existing at the time of cancellation and contracts which have not yet been fulfilled on a pro-rata basis. In such events, the Supplier is not entitled to any further claims for damages, reimbursement of expenses or remuneration.

**15.2** In the event of contract cancellation, the Supplier must hand over any documents, records, plans or drawings acquired within the scope of the contract and/or for the purpose of fulfilling or due to the contract without further hesitation to Abbott.

**15.3** These requirements apply likewise in the event of rescission.

## **16. Documents, Confidentiality, Rights of Use, Data Protection**

**16.1** The Supplier shall submit to Abbott any plans, calculations or other documents owed in the quantity agreed to in due time so as not to exceed the contract fulfilment period.

**16.2** The review of documents by Abbott has no effect on the responsibilities of the Supplier.

**16.3** Any models, samples, drawings, data, materials and other documents provided to the Supplier by Abbott (hereinafter "Abbott Documentation") remain the property of Abbott and must be returned to Abbott at his/her request at any point in time. The Supplier is barred from the right of retention to Abbott Documentation. The Supplier must observe the proprietary rights of Abbott to Abbott Documentation.

**16.4** The Supplier shall keep confidential all technical, scientific, commercial and other information obtained either directly or indirectly within the scope of the contract, in particular the information given in Abbott documentation (hereinafter "Confidential Information"). The Supplier may not exploit Confidential Information for commercial purposes, make it the object of industrial property rights, pass it on or make it accessible to third parties in any way, or use it for any purpose other than fulfilling the contract. This obligation shall be subject to disclosure requirements of a legal, judiciary or official nature. The aforementioned confidentiality obligation also applies after the contract has ended. This confidentiality requirement shall not include any information that the Supplier lawfully possessed prior to Abbott's disclosure of such information, or is lawfully known to the public, or has been lawfully obtained from a third party. Also excluded from this confidentiality requirement shall be information that is disclosed to persons subject to a legal obligation to confidentiality, whereas the Supplier shall not release such a person from his/her obligation to confidentiality. The burden of proof for such an exception lies with the Supplier. The Supplier shall ensure that his/her employees and vicarious agents subject to this confidentiality agreement are obliged to confidentiality according to the rules set forth in these Conditions of Purchase by means of appropriate contractual agreements, too. Upon request, the Supplier shall demonstrate compliance with these obligations to Abbott in writing. The Supplier shall specifically undertake all required, appropriate precautions and measures to effectively protect the Confidential Information obtained at all times against loss or against unauthorized access. This includes in particular the creation and maintenance of appropriate, required access and entry precautions for facilities, repositories, IT systems, data storage devices and other information storage devices, especially those which contain Confidential Information. This also includes informing and instructing those people who are granted access to Confidential Information pursuant to this section. The Supplier is required to promptly notify Abbott in writing in the event that Confidential Information is lost and/or accessed by unauthorized parties.

**16.5** The duty to preserve the confidentiality of commercially sensitive information as defined by the Energy Industry Act and the duty to disclose non-discriminating information that may be commercially advantageous as defined by the Energy Industry Act are not affected by the aforementioned requirements.

**16.6** Abbott collects and processes personal information (such as name, contact details and other information that may have been disclosed to Abbott) about its customers, vendors, business partners and their staff necessary to conduct its business, comply with applicable legal and regulatory requirements. Abbott may share this information with service providers, affiliated companies or as required by law. This personal information may be transferred through Abbott's accounting system for payment and related accounting purposes to the USA, where data protection laws may not provide the same level of protection as German laws, although Abbott takes appropriate measures to protect the information concerned. If Supplier does not accept this collection and processing of this personal information, Supplier will not be able to conduct business with Abbott. To access or rectify personal information or to have this information removed, please contact Abbott GmbH & Co. KG, c/o Datenschutzbeauftragter, Max-Planck-Ring 2, 65205 Wiesbaden, Germany or send an email to [datenschutz.de@abbott.com](mailto:datenschutz.de@abbott.com).

## **17. Rights to Results of Contractual Services**

The Supplier hereby grants to Abbott a worldwide, unlimited and freely transferable right to unrestricted use and exploitation of the results of the services to be performed under the agreement.

## **18. Storage and Review of Documents**

Abbott has the right to view and make copies or duplicate for his/her own purposes all documents in connection with the provision of services during usual business hours. This right remains valid for the safekeeping period as defined by the law – at least three (3) years starting from the date of acceptance or delivery. The Supplier is obligated to provide assistance with reviews. To the extent to which these documents contain confidential information about the Supplier such as company internal calculations, agreements or confidential information about business partners and/or employees, Abbott's viewing rights shall be barred.

## **19. Environmental, Labor and Social Standards**

Abbott conducts its business in accordance with the principles of sustainable development and complies with internationally recognized fundamental environmental, labor and social standards. Should Abbott discover that the Supplier is in breach of these standards, Abbott reserves the right to cancel this contract – without notice, if necessary. Furthermore, the Supplier on his part shall ensure that its subcontractors and subordinate contractors observe these standards likewise.

## **20. Debarment and Exclusion**

The Supplier represents and warrants that neither Supplier itself nor any of its employees or agents performing services under the agreement, have ever been, are currently, or are the subject of a proceeding that could lead to that party becoming, as applicable, a Debarred Entity or Individual, an Excluded Entity or Individual or a Convicted Entity or Individual. The Supplier further covenants, represents and warrants that if, during the term of the agreement, the Supplier itself or any of its employees or agents performing services under the agreement, become or are the subject of a proceeding that could lead to that party becoming, as applicable, a Debarred Entity or Individual, an Excluded Entity or Individual or a Convicted Entity or Individual, the Supplier shall immediately notify Abbott, and Abbott shall have the right to immediately terminate the agreement. This provision shall survive termination or expiration of the agreement. For purposes of this provision, the following definitions shall apply:

- a.) A "Debarred Individual" is an individual who has been debarred by the FDA pursuant to 21 U.S.C. §335a (a) or (b) from providing services in any capacity to a person that has an approved or pending drug product application.
- b.) A "Debarred Entity" is a corporation, partnership or association that has been debarred by the FDA pursuant to 21 U.S.C. §335a (a) or (b) from submitting or assisting in the submission of any abbreviated drug application, or a subsidiary or affiliate of a Debarred Entity.
- c.) An "Excluded Individual" or "Excluded Entity" is (i) an individual or entity, as applicable, who has been excluded, debarred, suspended or is otherwise ineligible to participate in federal health care programs such as Medicare or Medicaid by the Office of the Inspector General (OIG/HHS) of the U.S. Department of Health and Human Services, or (ii) an individual or entity, as applicable, who has been excluded, debarred, suspended or is otherwise ineligible to participate in federal procurement and non-procurement programs, including those produced by the U.S. General Services Administration (GSA).
- d.) A "Convicted Individual" or "Convicted Entity" is an individual or entity, as applicable, who has been convicted of a criminal offense that falls within the ambit of 21 U.S.C. §335a (a) or 42 U.S.C. §1320a - 7(a), but has not yet been excluded, debarred, suspended or otherwise declared ineligible.

**21. Publicity Ban, Severability Clause, Applicable Law, Place of Jurisdiction**

**21.1** The Supplier may not refer to the business relationship with Abbott.

**21.2** The invalidity or unenforceability of any provision or part of a provision of this contract shall not affect the continued existence of the entire contract.

**21.3** The contractual relationship is subject to the substantive law of the Federal Republic of Germany with the exception of the United Nations Convention on Contracts for the International Sale of Goods (CISG) adopted 11 April 1980 and the German rules on the conflict-of-laws.

**21.4** At Abbott's option the place of jurisdiction shall be either the court functionally responsible for Abbott's registered office or the court responsible for the applicable general legal regulations.

Status: 2014