

**Note:** this is an unofficial translation of the original (Dutch) General Procurement Terms and Conditions. In case of any discrepancy between the original (Dutch) General Procurement Terms and Conditions and this unofficial translation, the terms and conditions of the original Dutch General Procurement Terms and Conditions will prevail.

## **Pfizer General Procurement Terms and Conditions**

### **Article 1 – Definitions**

The following definitions are used in these Terms and Conditions

**Background knowledge** – The knowledge that a party already holds prior to the execution of the Contract and/or Order(s). This includes the intellectual property rights of both the parties and of any third party deployed.

**Procurement terms and conditions** – These General Procurement Terms and Conditions that apply to, and form an integral part of the Contract and/or the Order(s)

**Supplier** – Pfizer’s counterparty to the Contract.

**Offer** – Every Offer by a Supplier to Pfizer for the delivery by the Supplier to Pfizer of goods, services or a combination of these.

**Order** – Every written acceptance of an Offer for the delivery by the Supplier to Pfizer of goods, services or a combination of these.

**Contract** – the agreement whereby Pfizer grants the Supplier an Order to provide Pfizer with goods, services or a combination of these, in any way.

**Pfizer** – Pfizer or any subsidiary, within the meaning of Article 2:24a of the Dutch Civil Code, that makes use of these Procurement Terms and Conditions.

**Foreground knowledge** – the knowledge acquired by a party in relation to the execution of the Contract and/or Order(s); the results of the Order.

**Work** – The goods and/or services, and the results of the said services or a combination thereof, that the Supplier delivers or performs on the basis of the Contract or the Order.

### **Article 2 – Application**

- 2.1 These Procurement Terms and Conditions apply to and form an integral part of all requests for Offers, Orders and oral agreements and negotiations by or on behalf of Pfizer, and Contracts arising therefrom.
- 2.2 The application of any terms and conditions of the Supplier is explicitly rejected.
- 2.3 In the event of any conflict between these Procurement Terms and Conditions and the Contract, the provisions of the Contract shall prevail.
- 2.4 To the extent that one or more provisions of these Procurement Terms and Conditions prove(s) to be null and void or are overturned by a court, the other provisions of these Procurement Terms and Conditions shall remain in effect in full.

### **Article 3 – Contract negotiations**

- 3.1 Pfizer may break off negotiations at any time on a Contract still to be realised.
- 3.2 If negotiations are broken off, the Supplier can in no case require that further negotiations are conducted or that Pfizer pays any compensation for costs incurred or damages suffered or still to be suffered, regardless of what such damages comprise or how they arose.

### **Article 4 – Realisation of a Contract and/or Order**

- 4.1 A Contract between Pfizer and a Supplier is realised if Pfizer accepts an Offer in writing from a Supplier, by means of an Order for the delivery to or performance of work for Pfizer by the Supplier in any way.
- 4.2 Changes in Contracts and/or Orders are effective only if drawn up in writing and confirmed by Pfizer to the Supplier in writing.
- 4.3 The Supplier must provide Pfizer with all reports required by Pfizer. The frequency and content of management reports to be provided by the Supplier to Pfizer shall be recorded in the Contract and/or Order.
- 4.4 Approval of assets realised by the Supplier in relation to a Contract and/or Order does not oblige Pfizer to actually use the relevant asset or (result of the) service.
- 4.5 If the Supplier wishes to make use of the services of third parties in order to execute the Contract and/or Order, either through sub-contracting or through the deployment of temporary personnel, Pfizer's prior written consent is required for this. In the event of sub-contracting, the Supplier remains fully liable for compliance with its obligations to Pfizer. The Supplier guarantees compliance with these conditions by sub-contractors and shall pay compensation for all damages caused by sub-contractors.

#### **Article 5 – Delivery and transfer of ownership**

- 5.1 Delivery by the Supplier shall take place on the agreed delivery date(s), or within the agreed delivery term(s), to the delivery address provided by Pfizer. Unless explicitly agreed otherwise, the agreed delivery date(s) or term(s) are final. As a result, if the Supplier exceeds these dates or terms, it is immediately in default by law, with no notice of default required.
- 5.2 The Supplier shall owe Pfizer a penalty, payable on demand, of 1% of the full invoice value of the relevant Contract and/or Order for each day that delivery date(s) or term(s) are exceeded, to a maximum of 100%. The foregoing is without prejudice to Pfizer's other rights, including but not confined to the right to suspend or dissolve the Contract or Order and to full compensation for damages.
- 5.3 The Supplier shall notify Pfizer in writing without delay if there is a threat that an agreed delivery date will be exceeded.
- 5.4 Delivery prior to the agreed delivery date(s) or term(s) shall take place only with Pfizer's prior written consent.
- 5.5 The Supplier must obtain the required permits, licences and the like in good time before the execution of the Contract and/or Order.
- 5.6 Delivery of the work is also deemed to include delivery of all tools and documentation such as drawings, data sheets, detailed function lists, quality, inspection and guarantee certificates, maintenance and instruction booklets with the manual and all other guides required for optimal performance of the delivered goods and/or work performed. The Supplier shall provide Pfizer with updates of the materials referred to in this paragraph without delay, free of charge.
- 5.7 All risks relating to the goods to be delivered by the Supplier, as well as the ownership of such goods, shall transfer to Pfizer on delivery of the goods to Pfizer.

#### **Article 6 – Price and payment**

- 6.1 Pfizer is required to pay only the amounts agreed in the Contract and/or Order. Any amounts in excess of these shall be borne by the Supplier.
- 6.2 The Supplier shall invoice Pfizer monthly, unless otherwise agreed in writing.
- 6.3 Invoices must contain a detailed breakdown of the work performed, with a separate statement of VAT, and must show the procurement number(s) (PO number(s)) corresponding with the Contract and/or Order.

- 6.4 On receipt of a proper invoice, stating PO (Purchase Order Number) Pfizer shall provide for its payment within 60 days of receipt of invoice or in the next semi-monthly payment run thereafter. On settlement of the invoice, the Supplier has no further claim against Pfizer for the work specified therein. In the event of late payment, the Supplier may claim only interest at the statutory rate, pursuant to Article 6:119 of the Dutch Civil Code.
- 6.5 Without prejudice to the provisions of Article 7, the Supplier shall invoice for any additional work separately, following its completion. The nature and scale of the additional work performed shall be explicitly stated in the invoices and analysed on the basis of authenticated documents.

#### **Article 7 – Additional work**

- 7.1 Additional work qualifying for payment exists only if the work that the Supplier must deliver on the basis of the Contract and/or Order is demonstrably increased or expanded through additional requirements of Pfizer. If the Supplier takes the view that additional work must be performed, it shall notify Pfizer of this in writing at the earliest opportunity. Additional work does not include additional work that the Supplier could or should have foreseen on Contracting of the Contract and/or Order.
- 7.2 Before commencing the additional work, the Supplier shall issue a written Offer relating to the scale of the additional work expected by the Supplier as a result of this change, and the associated costs. The Supplier shall not commence the additional work until a written Order has been received from Pfizer. In issuing the Offer for additional work, the Supplier shall not impose any additional or stricter conditions than those in the original Contract and/or Order.

#### **Article 8 – Guarantees**

- 8.1 During the term of the agreement and/or Order, and for 24 months after its/their termination, the Supplier guarantees, without prejudice to any further agreed guarantees, that:
- a. It is entitled, registered or qualified to do business, in accordance with local laws, regulations, policy and administrative Orders, and to the extent required by the applicable law, has acquired the licences, permits or authorisations, or has made the registrations or notifications required or laid down in law for the delivery of the work, and the delivery of the goods or services is not in breach of any of the Supplier's other obligations;
  - b. It has not directly or indirectly made an Offer or payment, or has granted consent for such an Offer or payment of an amount of money or other valuable consideration in Order to attempt to influence a government official or any other person in an inappropriate or corrupt manner to obtain an inappropriate business advantage, and shall not do so, and has not accepted any such payment and shall not do so in the future;
  - c. Its employees and third parties that it deploys comply with the agreed qualification requirements with regard to training, expertise and experience and that this shall remain the case for the term of the Contract and/or Order;
  - d. The work it is to provide shall be performed in a professionally skilled manner;
  - e. The work delivered complies with the Contract and/or Order and the usual quality requirements, is new, is free of defects in design, construction, materials and manufacturing defects and is fit for the purpose for which the work is intended;

- f. It shall not inform third parties of the properties of Pfizer products and competing products;
- g. The work that it provides in relation to the Contract and/or Order shall not infringe any third party (intellectual and/or industrial) property rights, including third party personality rights, and the use of such work does not represent any infringement of third party rights. The Supplier indemnifies Pfizer and its clients against all claims resulting from such (alleged) infringements;
- h. It is adequately insured against liability, for a sum of at least €1,000,000 (one million euros) per incident, and shall present the insurance policy to Pfizer for inspection at Pfizer's earliest request;
- i. In the event of software, and without prejudice to the other guarantees, this contains no undefined functionality, diseases or viruses and the technical and functional requirements comply with the agreed specifications.

### **Article 9 – Complaints**

- 9.1 If, according to Pfizer, the delivered work does not comply, fully or in part, with the Contract and/or the Order (non-conformity), including the guarantee obligations described in Article 8, Pfizer shall notify the Supplier of this in writing, within ten working days of the delivery. In that case, Pfizer is authorised to issue written warning to the Supplier to repair or replace the delivered work.
- 9.2 If the Supplier fails to meet Pfizer's requirements, as referred to in Article 9.1, within the term set in the written warning, Pfizer has the right, at its own discretion, without the intervention of a court and without prejudice to all its other statutory rights or rights pursuant to the Contract and/or Order, to:
  - a. Provide for the repair or replacement of the work in question by a third party at the Supplier's expense, or
  - b. Return the work in question at the Supplier's risk and expense and dissolve the Contract and/or Order, with crediting of the price already paid for the work in question.
- 9.3 In no case is the Supplier entitled to suspend its obligations if it takes the view that Pfizer has failed to comply with its obligations. In such a case, it is entitled only to claim compliance.
- 9.4 Payment by Pfizer for delivered work is without prejudice to its powers pursuant to this Article.

### **Article 10 – Inspection and acceptance**

- 10.1 The Supplier must check the quality of the work continually and with care in order to ensure that the work complies with the requirements that can be imposed for it pursuant to the Contract and/or the Order. The Supplier must give Pfizer or Pfizer's representative an opportunity to inspect all aspects of the Contract and/or the Order, including at the offices of the Supplier or of a third party deployed by the Supplier, at Pfizer's earliest request. Failure to conduct such an inspection does not relieve the Supplier of any obligation or liability pursuant to the Contract and/or the Order.
- 10.2 Pfizer has the right to (arrange to) test/certify the work. If Pfizer assesses the work as inadequate on the basis of a test, the performance will not be accepted. Work that is not delivered on time is deemed not to have been accepted. If the work is not accepted pursuant to the provisions of this Article 10.2, Pfizer has the right to:
  - a) Give the Supplier an opportunity to make delivery in accordance with the Contract and/or the Order within a reasonable term, or

- b) Have the work redelivered, or
  - c) Dissolve the Contract and/or Order, in part or in full, without further notice of default,
- without prejudice to all Pfizer's other rights, including the right to compensation for damages. Payment of the invoices underlying the work in no way implies acceptance of the work.

#### **Article 11 – Intellectual property**

- 11.1 Background knowledge and any intellectual property rights based on this are and shall remain the property of the party that makes these available. As a result, the Supplier grants Pfizer a non-exclusive, non-cancellable and perpetual licence to use the background knowledge referred to in this paragraph undisturbed, including the inclusion of (technical) documents and extracts from these in Pfizer's business documents.
- 11.2 Pfizer acquires all intellectual property rights relating to the foreground knowledge, including all data, results, instructions, reports, documents and the information they contain that the Supplier has produced or will produce for the execution of the Contract and/or Order. To the extent possible, the Supplier transfers these worldwide intellectual property rights to Pfizer in advance, including all statutory powers granted to it, or to be granted to it in relation to the work to be performed for the Contract and/or the Order and the accompanying documents.
- 11.3 With regard to the foreground knowledge, the Supplier explicitly waives all personality rights, within the meaning of Article 25 of the Copyright Act and Article 5 of the Neighbouring Rights Act, to the extent permitted in law.
- 11.4 At Pfizer's request, the Supplier undertakes to confirm the transfer and waiver of rights referred to in Article 11.2 in a deed within 14 days of the receipt of such a request.
- 11.5 The Supplier guarantees this it has not contracted any agreement with its employees leading to a departure from Article 7 of the Copyright Act.
- 11.6 The Supplier's obligations pursuant to this Article extend to all rights of any third party or sub-contractor deployed by the Supplier for compliance with its obligations pursuant to the Contract and/or Order.
- 11.7 The parties may agree that intellectual property rights arising from a specific Contract and/or Order shall not be transferred to Pfizer. The departure shall take place in such a way that a Pfizer employee authorised for that purpose provides written notice of such consent, clearly stating the relevant Contract and/or Order. In that case, Pfizer receives the usufruct free of charge, through a non-exclusive, non-cancellable, perpetual worldwide licence.

#### **Article 12 – Confidentiality**

- 12.1 Both during and following the termination of the Contract and/or Order, the Supplier is not permitted to provide any third party with information on the existence, content or execution of a Contract and/or Order without Pfizer's prior written consent.
- 12.2 The provisions of Article 12.1 apply likewise for confidential information and data, including data concerning the features and properties of medicines, know-how, marketing and distribution ideas, plans, specifications, software, technology, drawings, processes, equipment and intellectual property rights, business details etc. that the Supplier or its employees or professional consultants obtain in relation to the Contract and/or Order, if and to the extent that such information and data were not already in the public domain on the Contracting of the Contract and/or Order. The

foregoing is without prejudice to the fact that the Supplier may continue to use its own knowledge and know-how, not including foreground information, at all times, including for third parties.

- 12.3 If the Supplier is requested to disclose confidential information in connection with legal proceedings or in connection with a request from the supervisory authority, the Supplier shall notify Pfizer of this in writing, without delay, at a time such that Pfizer can intervene in the case or join in talks with the supervisory authority.
- 12.4 Notification by the Supplier of a select number of relevant employees and professional consultants shall not be regarded as a breach of this obligation by the Supplier, provided that this takes place subject to a (perpetual) confidentiality clause.
- 12.5 On termination of the Contract, or at Pfizer's earliest written request, the Supplier shall return to Pfizer the confidential information made available within ten (10) working days and/or shall remove or delete it from its (electronic) files and destroy it (with written confirmation to Pfizer of its destruction).
- 12.6 In the event of a breach of the obligations described in Article 12.1 to 12.5, the Supplier owes Pfizer a penalty, payable on demand, of €50,000 per incident, without prejudice to the Supplier's obligation to settle the full damages caused by such a breach.

#### **Article 13 – Liability and indemnification**

- 13.1 Pfizer is in no case liable for indirect damages, consequential loss, loss of earnings, missed savings, reduced goodwill or damages as a result of the stagnation of operations suffered by the Supplier.
- 13.2 Without prejudice to the provisions of Article 13.1, each party is liable for the damages that the other party, including its subordinates or assistants, suffers or has suffered through or in connection with attributable shortcomings by the former party in compliance with the Contract and/or Order.
- 13.3 Each party indemnifies the other against all third party claims in connection with damages arising through or in connection with the shortcomings referred to in Article 13.2

#### **Article 14 – Force majeure**

- 14.1 '*Force majeure*' refers to all circumstances beyond the control of a party, its Suppliers and/or its subordinates that make or will make it impossible to comply with the Contract and/or Order without shortcomings. Such a party may not invoke *force majeure* if the circumstances causing the *force majeure* arise after compliance should have taken place.
- 14.2 In the event of *force majeure*, the relevant party is not liable. In the event of temporary *force majeure*, the obligations of the relevant party pursuant to the Contract and/or Order are suspended, to the extent that these are the result of the *force majeure*; in the event of permanent *force majeure*, in any event including *force majeure* lasting for more than 60 calendar days, each party has the right to dissolve the relevant Contract and/or Order, to the extent that this is affected by the *force majeure*, without obligation to pay compensation for damages.

#### **Article 15 – Termination**

- 15.1 Further to the statutory dissolution rights pursuant to Article 6:265 of the Dutch Civil Code, Pfizer has the right to dissolve the Contract, partially or in full, with immediate effect, without prior notice of default or the intervention of a court, through written notification, if the Supplier applies for a moratorium on payments, provisional or

otherwise, or applies for or is issued with a mandatory liquidation Order, if the Supplier's business is liquidated, the Supplier discontinues its current business, a significant proportion of the Supplier's assets or operations are garnished, or the Supplier must be deemed to be no longer able to meet its obligations under the Contract and/or the Order for other reasons.

- 15.2 Pfizer may cancel Contracts and/or Orders contracted for longer periods, for example in relation to regular deliveries of work, at any time, in observance of a reasonable notice period of a maximum of two months. This applies for both fixed-term Contracts and/or Orders and for indefinite Contracts and/or Orders.
- 15.3 In no case shall Pfizer be held liable for damages due to a termination pursuant to the Article 15.
- 15.4 Obligations that are by their nature intended to continue after the dissolution of the Contract and/or Order shall continue to exist after the dissolution of the Contract and/or Order.

#### **Article 16 – Disputes**

- 16.1 All lawful actions between Pfizer and the Supplier are governed by Dutch law, with the exclusion of the application of the United Nations Convention on Contracts for the International Sale of Goods.
- 16.2 Any disputes arising between the parties in relation to these Procurement Terms and Conditions, a Contract or an Order, shall in the first instance be submitted solely to the competent court in the district of Rotterdam, without prejudice to Pfizer's right to submit a dispute to a different competent court.

#### **Article 17 – Miscellaneous**

- 17.1 Pfizer may alter these Procurement Terms and Conditions. Each alteration is binding from 30 days after the Supplier has been notified of the alteration.
- 17.2 The Supplier shall not transfer or pledge the rights and obligations arising from the Contract and/or the Order to a third party without Pfizer's prior written consent. Pfizer has the right to transfer the rights and obligations arising from the Contract and/or the Order to third parties.