



**General Purchasing Conditions with effect from 4 January 2021 ("Purchasing Conditions") of Stichting Sanquin Bloedvoorziening/Sanquin Diagnostiek B.V./Sanquin Reagents B.V./Sanquin Innovatie B.V./Sanquin Health Solutions Group B.V. ("Sanquin")**

**In the event of disputes concerning the interpretation of the English version of the Purchasing Conditions, the Dutch text takes precedence**

**1. Applicability of the Conditions and Order of Precedence**

- 1.1. The Purchasing Conditions will apply to all agreements, including any amendments and adjustments thereto, between Sanquin and the contracting party (the "Supplier") for the supply of products ("Items") and the provision of services ("Services") to Sanquin. Furthermore, the Purchasing Conditions will apply to any written order placed by Sanquin in that respect ("Order"), any written offer made by the Supplier in that respect ("Offer"), as well as any information, price enquiry and/or request for an offer submitted by Sanquin to the Supplier, hereinafter both jointly and each individually to be referred to as the "Agreement".
- 1.2. Any derogation from the Purchasing Agreement will be valid only if agreed in writing.
- 1.3. The applicability of any general terms and conditions or special conditions of the Supplier or any trade association, howsoever denominated, is explicitly rejected.
- 1.4. In the event of conflict between the Purchasing Conditions and the provisions of an Agreement, the provisions of the Agreement will prevail to the extent explicitly so provided therein.
- 1.5. The Supplier will in any event be deemed to have accepted these Purchasing Conditions as soon as first effect has been given to the supply of the Items and/or the provision of the Services.
- 1.6. If any provision is held by the court to be not applicable or to be invalid, the parties will consult in order to replace the relevant provision by a new provision, observing the intention and purport of the previous provision to the extent possible.
- 1.7. Sanquin reserves the right unilaterally to amend the Purchasing Conditions. The amended Purchasing Conditions will be sent to the Supplier not later than two months prior to the effective date.

**2. Formation of the Agreement**

- 2.1. Any Offer will be free of charge, irrevocable and valid for a period of at least sixty days calculated from the time of receipt of the Offer by Sanquin.
- 2.2. If an Order is placed by Sanquin without being preceded by an offer from the Supplier, the Agreement will be formed upon acceptance of the Order by the Supplier. Failing written acceptance by the Supplier, the Agreement will be formed upon delivery of the Items and/or provision of the Services and acceptance thereof by Sanquin.
- 2.3. Sanquin will at all times be entitled to cancel the assignment or the Order, as long as the Supplier has demonstrably not yet commenced performance of the Agreement. In such event, Sanquin will compensate the Supplier for the costs incurred, provided that such costs are demonstrable and reasonable. Such costs may be demonstrated, *inter alia*, based on invoices, Orders placed or work demonstrably performed.

### **3. Pricing**

- 3.1. The agreed prices will be fixed throughout the term of the Agreement.
- 3.2. The agreed prices will be expressed in euros, will be exclusive of VAT (unless expressly provided otherwise), and will include all costs in connection with the performance of the Supplier's obligations under the Agreement.

### **4. Invoicing and payment**

- 4.1. The Supplier will send Sanquin an invoice for each individual delivery or consignment.
- 4.2. Payment of invoices not disputed by Sanquin will be made within 45 days of the date of the invoice following final delivery and receipt of all the associated documentation in the Dutch or English language and following receipt of a proper invoice and, where applicable, following successful inspection as referred to in article 12.
- 4.3. Sanquin will be entitled, at any time, without prior notification of the Supplier, to set off any (future) invoice from the Supplier against any (future) claim that Sanquin may have, irrespective of whether such claims are already due and payable.
- 4.4. This article will apply without prejudice to any other rights that Sanquin may have pursuant to an Agreement or otherwise.

### **5. Quality, warranty and maintenance**

- 5.1. The Supplier warrants that the Items and/or Services (including installation/assembly thereof):
  - are in conformity with what has been agreed;
  - in every respect meet the requirements set by the Supplier and/or Sanquin, which are to be met by the contents and nature of the Items and/or Services (specifications);
  - are free from defects;
  - are fit for the purpose intended by Sanquin;
  - meet the highest requirements of the industry safety and quality standards or certification; and
  - meet the statutory requirements and other governmental requirements, including the European and national laws and regulations, and regulations from local authorities, including regulations as to CE marking.
- 5.2. A warranty period of at least 24 months will apply from the time of completion of delivery to Sanquin.
- 5.3. The Supplier warrants that all components and auxiliary materials made available, purchased or created by it that are necessary for the use of the Items and/or the realisation of the purpose of the Agreement will be included in the delivery, even if not specifically mentioned.
- 5.4. The Supplier warrants that all technical documentation, use instructions, instruction manuals and safety sheets that are necessary or required for the realisation of the purpose indicated by Sanquin will be included in the delivery. New versions will be promptly sent to Sanquin by the Supplier.
- 5.5. The Supplier warrants that it will maintain a stock of spare parts and consumables for the Items supplied for the customary service life (based on circumstances of normal use, and for a period of at least 10 years following the actual date of delivery or installation) and deliver same on call.

- 5.6. If the Items and/or Services fail to meet the requirements as set in paragraph 1 of this article, the Supplier will immediately arrange repair or replacement. The costs of repair or replacement will be payable by the Supplier.
- 5.7. If, after consultation with the Supplier, it should reasonably be assumed that the Supplier cannot, or will not, or not punctually or properly, arrange repair or replacement, Sanquin will be entitled to effectuate repair or replacement itself, or to cause third parties to do so. In such event, the costs involved will be payable by the Supplier.
- 5.8. If repair or replacement is not, or not punctually or not properly arranged, Sanquin may also decide to dissolve or terminate an Agreement immediately as described in article 17 of these Purchase Agreements, as well as to claim damages or to use any other statutory or contractual remedy that it may have.

## **6. Auxiliary materials**

- 6.1. Any materials, unused or non-processed raw or auxiliary materials, tools, drawings, models, instructions, specifications, software and other auxiliary materials made available by the Supplier or purchased or created by the Supplier at the expense of Sanquin will remain the property of Sanquin or at least will become the property of Sanquin upon payment. Without prior written consent, it will not be permitted to make any changes or alterations to Sanquin materials, nor may such materials be used for any purpose other than agreed.

## **7. Delivery, risk and ownership**

- 7.1. Delivery will be effected D.D.P. (Delivered Duty Paid) in accordance with the most recent version of the Incoterms®, to Sanquin's address at Plesmanlaan 125 in (1066 CX) Amsterdam, the Netherlands. The Supplier will provide adequate (written) instructions regarding the operation or the use and maintenance of the Items. Delivery will include commissioning or giving Sanquin control of the Items, as well as any installation and assembly of the Items, and provision of all the associated auxiliary materials and documentation to Sanquin.
- 7.2. The time and period of delivery will be firm deadlines. In the event of late delivery, the Supplier will be in default without any further notice of default being required. If the Supplier expects that delivery cannot be effected punctually and in accordance with the agreements made, it must promptly notify Sanquin thereof in writing, stating the circumstances that have given rise thereto, and immediately submitting a proposal for taking bridging measures. The Supplier will be entitled to use an alternative delivery method with Sanquin's prior written consent only. Sanquin may refuse such bridging measure as proposed by the Supplier and take a bridging measure itself, provided that Sanquin has compelling and reasonable arguments to do so. In such event, Sanquin may also demand the temporary engagement of another Supplier by way of a bridging measure. The costs of the relevant bridging measure will be payable by the Supplier. Any delay in delivery will be without prejudice to Sanquin's other contractual and statutory rights.
- 7.3. Title to and risk in respect of the Items will pass from the Supplier to Sanquin upon delivery, unless Items have been rejected (pursuant to article 12).
- 7.4. The Supplier warrants that full and unencumbered title to the Items delivered will be free from attachments.
- 7.5. The Supplier will not be entitled to suspend delivery of any Items and/or provision of any Services, unless Sanquin fails to perform any of its material obligations.

## **8. Packing and shipment**

- 8.1. The Items must be properly packed so that they will reach their destination in good order. Furthermore, they must be marked in accordance with the statutory requirements and decrees and additional requirements set by Sanquin, if any.
- 8.2. The Items must be accompanied by a packing list. In the packing list, the Supplier must also indicate whether the Items are packed in return packaging. Return packaging will be sent back at the expense and risk of the Supplier.
- 8.3. Title to all packaging (with the exception of return packaging) will pass to Sanquin upon delivery.

## **9. Confidentiality**

- 9.1. Either party will keep strictly confidential, vis-à-vis third parties any and all information about and from the other party that may, in any way whatsoever, have come, or been brought, to their knowledge, with the exception of such third parties as may be engaged in the performance of the Agreement. Neither party will disclose any information on Items delivered and Services provided to any third parties, except with the prior written consent of the other party.
- 9.2. In the event of a statutory obligation or court order to disclose information that has been received for purposes of performance of the Agreement, either party will immediately notify the other.
- 9.3. The Supplier undertakes vis-à-vis Sanquin to impose the obligations as set forth in this article on any persons charged by the Supplier with the performance of the Agreement. The Supplier warrants compliance with this obligation vis-à-vis Sanquin.

## **10. Intellectual property**

- 10.1. Neither party will directly or indirectly use the name of the other party in any publications and/or advertisements or otherwise without the prior consent of the other party.
- 10.2. The Supplier warrants that the use of the Items and/or the Services, including the resale and/or provision thereof to third parties, or the use of the auxiliary materials purchased or created by it for Sanquin will not infringe any third-party patent rights, trademark rights, design rights, copyrights, database rights, rights on know-how or other (intellectual property) rights.
- 10.3. The party developing specific Items and/or Services for Sanquin will transfer the intellectual property right to Sanquin in advance by way of an Agreement. The Supplier will notify Sanquin of the creation of any intellectual property rights and lend its full cooperation in the proper registration of any such rights on behalf of Sanquin.
- 10.4. The Supplier will indemnify Sanquin against any and all claims that may ensue from any form of (alleged) infringement of the rights referred to in article 10.2, and will compensate Sanquin for any and all costs and damages directly or indirectly resulting from any such infringement, including legal fees. These obligations will survive termination of the Agreement.

## **11. Personal data protection**

- 11.1. The Supplier warrants that all laws and regulations on the processing of personal data have been, and will be, observed. The Supplier will promptly provide Sanquin with all such information in writing as the latter may request.
- 11.2. In the event of processing of (including access to) personal data for purposes of performance of the Agreement, the Supplier will enter into a data processing agreement with Sanquin.

## **12. Inspection and audit**

- 12.1. Sanquin will inspect whether the Items and/or Services are in conformity with the specifications, and will be entitled to conduct, or cause the conducting of, (GMP) audits at the Supplier's and/or at the manufacturer's of the Items, on such date and according to such method as is determined in consultation with the Supplier.
- 12.2. The Supplier will grant access to the places where the Items and/or components are manufactured or are stored, will lend its cooperation in the inspection or audit, and will, at its own expense, provide such documentation and information as may be necessary or requested.
- 12.3. If upon inspection all or part of the Items and/or Services are rejected, Sanquin will notify the Supplier thereof in writing and, if so requested by Sanquin, the Supplier will be under the obligation to deliver Items and/or provide Services that are in conformity with the specifications. If rejection takes place during or after delivery, title and risk of the rejected Items and/or the risk of the rejected Services will pass to the Supplier as from the date of the notice of rejection.
- 12.4. If the Supplier fails to take back the rejected Items within 10 workdays of the date of the written notice, Sanquin will be entitled to return the Items to the Supplier at the Supplier's expense.

## **13. Recall**

- 13.1. A recall will take place in connection with a discovered discrepancy in terms of quality, safety and operation or processing of the Items, as a result of which such Items do not offer the safety and/or operation that may be expected thereof. Immediately after the necessity of, or reason for a recall, or the possibility of a defect, has become known, as well as in the event of a notification from the Supplier alerting that, in certain situations, the safety or quality of a method or of the Items fails ("Field Safety Notification"), the Supplier must inform Sanquin thereof both by telephone and in writing. The Supplier must do so not later than 24 hours after the foregoing has become known.
- 13.2. When taking back the recalled Items, the Supplier must immediately deliver a suitable replacement Item that is free of defects to safeguard the continuation of Sanquin's processes.
- 13.3. All costs ensuing for Sanquin from a Safety Notification and recall will be payable by the Supplier.

## **14. Liability**

- 14.1. The Supplier will be liable for any and all direct damage suffered by Sanquin or by third parties as a result of a defect in the Items or Services and/or as a result of a failure on the part of the Supplier in the performance of the Agreement and/or as a result of wrongful acts or omissions on the part of the Supplier.
- 14.2. The Supplier will indemnify Sanquin against any claims from third parties (including subcontractors, the tax authorities or social security agencies), under any name whatsoever, in respect of damage suffered and/or payment arrears and/or costs in connection with this Agreement, and will, on Sanquin's demand, reach a settlement with such third parties or, in lieu of or together with Sanquin - all at Sanquin's discretion and subject to the latter's approval - defend any such claims in court.
- 14.3. The liability of both the Supplier and Sanquin will be limited as follows:
  - for orders with a total value of less than or equal to EUR 50,000: EUR 150,000 per event and EUR 300,000 per contract year;
  - for orders with a total value exceeding EUR 50,000 but less than or equal to EUR 100,000: EUR 300,000 per event and EUR 500,000 per contract year;

- for orders with a total value exceeding EUR 100,000 but less than or equal to EUR 150,000: EUR 500,000 per event and EUR 1,000,000 per contract year;
- for orders with a total value exceeding EUR 150,000 but less than or equal to EUR 500,000: EUR 1,500,000 per event and EUR 3,000,000 per contract year;
- for orders with a total value exceeding EUR 500,000: EUR 3,000,000 per event and EUR 5,000,000 per contract year.

A series of related events will thereby be deemed to be a single event. The limitation of liability as referred to above will cease to apply (a) in the event of claims from third parties for damages as a result of death or personal injury; (b) in the event of wilful misconduct or gross negligence on the part of the other party or any staff and/or agents engaged by the other party; and/or (c) - for the Supplier's liability - in the event of infringement of intellectual property rights as referred to in article 10.4.

- 14.4. The Supplier will ensure that, during the term of the Agreement, it is adequately insured against its liability pursuant to this article. The Supplier will, at Sanquin's request, submit proof of insurance cover showing that the Supplier is adequately insured. Furthermore, the Supplier will, at Sanquin's request, submit proof of payment of the premiums due in that respect.

## **15. Force majeure**

- 15.1. In the event of force majeure, the Supplier will notify Sanquin in writing immediately following occurrence of the event giving rise to the force majeure situation, stating the cause of the force majeure situation. In the event of permanent force majeure on the Supplier's part, or if the force majeure situation has continued for a period exceeding fifteen (15) days, Sanquin will be authorized to dissolve or terminate the Agreement out of court with immediate effect, without any liability arising on its part to compensate the Supplier for damages or costs. This paragraph will apply without prejudice to Sanquin's other rights, such as the right to claim damages.
- 15.2. Force majeure will in any event not include: shortage of staff, strike, sickness of staff, shortage of raw materials, transport problems, failure or non-performance of obligations on the part of suppliers, disruptions in the Supplier's production, or liquidity or solvency problems on the part of the Supplier, or failure on the part of third parties engaged by it.

## **16. Bribery**

- 16.1. Neither party shall solicit, accept or pledge from the other party or from third parties, for themselves or for any other party, any gift, reward, compensation or benefit of any kind that could be construed as an unlawful act or unlawful practice..

## **17. Dissolution and termination**

- 17.1. Without prejudice to any other provisions in the Agreement, either party may dissolve or terminate all or part of the Agreement out of court by registered letter, without any liability arising on its part to pay damages to the other party, if the other party is in default or performance has been rendered permanently or temporarily impossible, unless the failure, given its special nature or minor importance, does not justify such dissolution/termination.
- 17.2. The Supplier will be in default, without any further notice of default or judicial intervention being required, in the following situations:
- in the event of application for a moratorium on payment of debts;
  - in the event of filing for bankruptcy;
  - in the event of attachment of assets;

- in the event of discontinuation or winding-up or a full or partial acquisition, a merger or an essential change of control of its business without Sanquin's prior approval in that respect (to which Sanquin may attach conditions);
- in the event of bribery as referred to in article 16, or if it turns out that, at the time of conclusion of the Agreement, any of Sanquin's subordinates holds a paid or unpaid ancillary position at the Supplier's, without Sanquin having been informed thereof prior to conclusion of the Agreement;
- if it turns out that (giving effect to) the Agreement is contrary to the sanction regulations of the United Nations, the European Union, or any other sanction regulations applicable to Sanquin;
- in the event that a private composition for debt restructuring purposes is offered.

In the foregoing situations, Sanquin will be entitled to dissolve or terminate all or part of the Agreement and suspend performance of the Agreement without any notice of default or judicial intervention being required. Dissolution or termination of the Agreement will be without prejudice to the right to claim damages or any other rights, and will not give rise to any liability on the part of Sanquin to pay damages.

- 17.3. Sanquin will be entitled to dissolve or terminate the Agreement without any judicial intervention being required based on a failure ensuing from article 5.6 or in the event that repair or replacement is not, not punctually or not properly, effected.
- 17.4. Sanquin will at all times be authorized to terminate an Agreement early, with due observance of a notice period of at least three months. No such termination will give rise to any liability on the part of Sanquin to pay damages to the Supplier.
- 17.5. Any obligations which, by their nature, are intended to survive termination of the Agreement will continue to be in effect following termination of the Agreement.

## **18. Applicable law and jurisdiction**

- 18.1. The Agreement and any and all agreements resulting from it will be governed by the laws of the Netherlands, to the exclusion of the UN Convention on Contracts for the International Sale of Goods 1980 (CISG).
- 18.2. Any disputes that may arise between the parties as a result of the Agreement or any Agreements resulting from it will be submitted to the exclusive jurisdiction of the competent court in the district of Amsterdam.