

## **General Terms and Conditions of Purchase of the Curetis Group**

### **§ 1 Scope and form**

- (1) The Curetis Group (hereinafter “Curetis”) comprises Curetis N.V., Curetis GmbH, Curetis USA Inc., Curetis BeNeLux B.V., Curetis UK Ltd., Curetis France S.A.R.L. and Ares Genetics GmbH.
- (2) These General Terms and Conditions of Purchase (“GPC”) shall apply to all business relations of Curetis with our business partners and suppliers (hereinafter “Seller”). They shall only apply if the Seller is an entrepreneur (as defined in Section 14 BGB [“German Civil Code”]), a legal entity under public law or a special fund under public law.
- (3) These GPCs apply in particular to contracts for the purchase and/or delivery of movable goods (“goods”), irrespective of whether the Seller manufactures the Goods himself or purchases them from suppliers. Unless otherwise agreed, the GPC in the version valid at the time of the order or in any case in the version last notified to the Seller in text form or published on the homepage ([www.curetis.com/en/imprint-data-protection-declaration.html](http://www.curetis.com/en/imprint-data-protection-declaration.html)) shall also apply as a framework agreement for similar future contracts without us having to refer to them again in each individual case.
- (4) These GPC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Seller shall only become part of the contract if and to the extent that Curetis has expressly agreed to their validity in writing. This requirement of consent shall apply in any case, even if, for example, Curetis unconditionally accepts the Seller's deliveries in full knowledge of the Seller's General Terms and Conditions.
- (5) Individual agreements made with the Seller (including collateral agreements, supplements and amendments) in individual cases shall in any case take precedence over these GPC. Subject to proof to the contrary, the content of such agreements shall be governed by a written contract or our written confirmation.
- (6) Legally relevant declarations and notifications of the Seller with regard to the contract (e.g. setting of a deadline, reminder, withdrawal) must be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further evidence, in particular in the event of doubt as to the legitimacy of the declarant, shall remain unaffected.
- (7) References to the validity of statutory provisions are of a purely clarifying nature, as are headings in these GPC.

### **§ 2 Conclusion of contract**

- (1) Our order shall be deemed binding at the earliest upon written submission. The Seller shall notify us of obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents for the purpose of correction or completion prior to acceptance; otherwise the contract shall not be deemed to have been so concluded.
- (2) The Seller shall confirm our order in writing within a period of five working days or, in particular, carry it out without reservation by dispatching the goods on time (implied acceptance).
- (3) Late acceptance shall be deemed a new offer and must be accepted by us.

### **§ 3 Prices and terms of payment**

- (1) The price stated in the order is binding. All prices are exclusive of statutory value added tax. Value added tax shall be shown separately in the invoice, taking into account the applicable national value added tax regulations for the preparation of proper invoices (e.g. Sections 14, 14a UStG [German VAT Act]).
- (2) Unless otherwise agreed in individual cases, the price includes all services and ancillary services of the Seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including possible transport and liability insurance). In addition, Curetis shall have the right, but not the obligation, to return any type of packaging delivered to the Seller, including, upon return, proper disposal of the packaging by the Seller.
- (3) The agreed price is due for payment within 30 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. Unless otherwise agreed, Curetis shall pay by bank transfer. If Curetis pays within 14 calendar days, the Seller shall grant us a discount of 3% on the net amount of the invoice. In the case of bank transfers, payment shall be deemed to have been made in good time if our transfer order is received by our bank before expiry of the payment period; if delays arise due to the banks involved in the payment process, Curetis shall not be responsible for this.
- (4) Curetis shall not owe any due interest. The statutory provisions shall apply to default in payment.
- (5) We shall be entitled to set-off and retention rights as well as the defense of non-performance of the contract to the extent permitted by law. In particular, Curetis shall be entitled to withhold due payments as long as we are still entitled to claims against the Seller from incomplete or defective services.
- (6) The Seller shall only have a right of set-off or retention if a legally established, undisputed or recognised counterclaim exists.

### **§ 4 Delivery time and delay in delivery**

- (1) The delivery time stated by Curetis in the order is binding. If the delivery time is not specified in the order and has not been agreed otherwise, it shall be four weeks from the conclusion of the contract. The Seller is obliged to inform us immediately and in writing if it is likely that it will not be able to meet the agreed delivery times, for whatever reason.
- (2) If the Seller does not provide his service or does not provide it within the agreed delivery period or if he is in default, our rights - in particular to rescission and damages - shall be determined in accordance with the statutory provisions. The provisions in sub (3) below shall remain unaffected.

- (3) If the Seller is in default, Curetis may - in addition to further legal claims - demand lump sum compensation for our damage caused by default amounting to 1% of the net price per completed calendar week, but not more than a total of 5% of the net price of the goods delivered late. Curetis reserves the right to prove that higher damages have been incurred. The Seller can prove that no damage at all or only considerably less damage has been incurred.

#### **§ 5 Performance, delivery, transfer of risk and default in acceptance**

- (1) Without our prior written consent, the Seller shall not be entitled to have the performance owed by him performed by third parties (e.g. subcontractors). The Seller bears the procurement risk for his services, unless otherwise agreed in individual cases (e.g. limitation to stock).
- (2) Unless agreed otherwise, delivery within Germany shall be free to the place specified in the order. If the place of destination is not specified and nothing to the contrary has been agreed, delivery shall be made to our registered office in Holzgerlingen. The respective place of destination shall also be the place of performance for the delivery and any subsequent performance (obligation to deliver).
- (3) Each delivery shall be accompanied by a delivery note stating the date (issue and dispatch), contents of the delivery (article number and quantity) and our order identification (date and number). If the delivery note is missing or incomplete, Curetis shall not be responsible for the resulting delays in processing and payment. Irrespective of the delivery note, the Seller must send us a corresponding dispatch note (at the latest on the day of dispatch) with the same contents. Any additional costs incurred by Curetis as a result of non-compliance with the above provision or delays in processing shall be borne by the Seller.
- (4) The risk of accidental loss and accidental deterioration of the goods shall pass to us upon handover at the place of performance. If acceptance has been agreed, this shall be decisive for the transfer of risk. The statutory provisions of the law governing contracts for work and services shall also apply mutatis mutandis to acceptance. If Curetis is in default of acceptance, the transfer or acceptance shall be deemed to have taken place.
- (5) The statutory provisions shall apply to the occurrence of our default of acceptance. However, the Seller must also expressly offer his services to us if a specific or determinable calendar period has been agreed for an action or cooperation on our part (e.g. provision of material). If Curetis is in default of acceptance, the Seller may demand reimbursement of his additional reasonable expenses in accordance with the statutory provisions (Section 304 BGB). If the contract relates to a custom made item, the Seller shall only be entitled to further rights if Curetis undertook to contribute and culpably failed in doing so.
- (6) Part consignments only on express prior agreement. Any outstanding items shall be explicitly indicated in the delivery note.
- (7) In case of an early delivery without the Seller having informed us immediately of this, Curetis reserves the right to return the goods at Seller's expense. However, Curetis may at its sole discretion store the goods for the time at the expense and risk of the Seller instead of returning them.
- (8) Should Curetis not be able to accept a delivery for a longer period due to force majeure (e.g. natural disasters, fire, lightning, war, riots, etc.), may withdraw from the contract, either in whole or in part, provided Curetis immediately informs the supplier of the circumstances and, if necessary, returns products already received.

#### **§ 6 Confidentiality, retention of title and Seller guarantees**

- (1) Curetis retains any and all rights to illustrations, plans, drawings, calculations, implementation instructions, product descriptions and other documents. Such documents shall be used exclusively for the contractual performance and shall be returned to us after completion of the contract. In addition, these documents shall be treated as strictly confidential. The Seller undertakes to restrict access to these documents within his company on a "need-to-know basis" and to such staff which is subject to a comparable and not-less stringent confidentiality obligation, by way of employment or otherwise. The documents must be kept secret from third parties, even after termination of the contract. The confidentiality obligation shall not expire until and to the extent that the knowledge contained in the documents provided has become generally known without breach of duty by receiver. The above-mentioned obligation to maintain secrecy includes in particular business and trade secrets.
- (2) The above provision shall apply mutatis mutandis to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items provided by Curetis to the Seller for manufacturing. Such objects shall - as long as they are not processed - be kept separately at Seller's expense and insured to an appropriate extent against destruction and loss.
- (3) Any processing, mixing or combination (further processing) of items provided to Seller shall be carried out on our behalf. The same shall apply to further processing of the delivered goods by us, so that Curetis shall be deemed the manufacturer and shall acquire ownership of the product in accordance with the statutory provisions at the latest upon further processing.
- (4) The transfer of ownership of the goods to us must take place unconditionally and regardless of the payment of the price. If, however, Curetis accepts an offer by the Seller to transfer ownership conditional on the payment of the purchase price in an individual case, the Seller's retention of title shall expire at the latest upon payment of the purchase price for the delivered goods. In the ordinary course of business, Curetis shall remain authorised to resell the goods, even before payment of the purchase price, with advance assignment of the claim arising therefrom (alternatively validity of the

simple reservation of title extended to the resale). This excludes all other forms of retention of title, in particular extended retention of title, forwarded retention of title and retention of title extended to further processing.

- (5) The Seller is aware that the goods delivered by him to Curetis may under certain circumstances be used as components of Curetis in in-vitro-diagnostic products which are sold worldwide. The Seller represents that the products supplied are suitable for these purposes.
- (6) The Seller undertakes to ensure that no rights of third parties are infringed in connection with his delivery. This applies in particular, but not limited to property rights of third parties from the EU or the USA. Should claims of third parties be asserted against Curetis on the basis of such an infringement, the supplier shall be obliged to indemnify Curetis against such claims at Curetis' first written request, provided that the supplier is to blame for the infringement. The Seller's obligation to indemnify also includes any reasonable expenses incurred as a result of or in connection with the assertion of claims by third parties. Any further claims shall remain unaffected. Curetis shall not be entitled to enter into any agreements with the third party without Seller's consent, in particular to conclude a settlement.
- (7) The Seller shall ensure that any software used is always up to date (regular updates) and is sufficiently protected against malware or unauthorised intrusion attempts (encryption, firewall, virus and malware protection, etc.).

#### **§ 7 Defective Delivery and defect investigation**

- (1) The statutory provisions shall apply in the event of material defects and defects of title of the goods (including incorrect and short delivery as well as improper assembly, defective assembly, or operating instructions) and in the event of other breaches of duty on the part of the Seller, unless otherwise stipulated herein.
- (2) In accordance with the statutory provisions, the Seller shall be liable in particular for ensuring that the goods have the agreed quality when the risk passes to us. Any product descriptions which - in particular by designation or reference in our purchase order - are the subject matter of the respective contract or have been included in the contract in the same way as these GPC shall be deemed to be an agreement on the quality. It makes no difference whether the product description originates from us, the Seller or the manufacturer.
- (3) Contrary to Section 442.1 sentence 2 BGB, we shall still be entitled to make unrestricted claims for defects if the defect remained undetected at the time of formation of the contract due to gross negligence on our side.
- (4) The statutory provisions (Sections 377, 381 HGB [German Commercial Code]) shall apply to the obligation to inspect and give notice of defects with the following proviso: our obligation to inspect shall be limited to defects which come to light during our incoming goods inspection, including the delivery documents (e.g. transport damage, wrong and short delivery) or which are identifiable during our quality inspection by random sampling. If formal acceptance has been agreed, there shall be no obligation to inspect. Otherwise, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects discovered later shall remain unaffected. Notwithstanding our obligation to inspect, our complaint (notice of defects) shall be deemed to be immediate and timely if sent within five working days of discovery or in the case of obvious defects of delivery. Quality control agreements concluded between Curetis and the Seller shall be given priority.
- (5) If defective goods are delivered as part of a partial delivery and it can be concluded from this that future deliveries of the outstanding part will also be defective, Curetis may reject these.
- (6) Subsequent performance shall also include the removal of the defective goods and their reinstallation if the goods have been installed in another item or attached to another item in accordance with their nature and purpose of use. This shall not affect our statutory claim to reimbursement of corresponding expenses. The Seller shall bear the expenses necessary for the purpose of inspection and subsequent performance even if it turns out that no defect actually existed. Our liability for damages in the event of an unjustified demand to remedy defects shall remain unaffected; in this respect, however, Curetis shall only be liable if Curetis has recognised or grossly negligently failed to recognise that no defect existed.
- (7) Irrespective of our statutory rights and the provisions in § 5 above, the following shall apply: If the Seller does not fulfil his obligation to subsequent performance - at our option by remedying the defect (subsequent improvement) or by delivering a defect-free item (replacement delivery) - within a reasonable period set by us, Curetis shall be entitled to remedy the defect itself and demand reimbursement from the Seller of the expenses required for this or an appropriate advance payment. If subsequent performance by the Seller has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline need be set; Curetis shall inform the Seller immediately of such circumstances.
- (8) Otherwise, in the event of a material defect or defect of title, Curetis shall be entitled to reduce the purchase price or withdraw from the contract in accordance with the statutory provisions and shall be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.

#### **§ 8 Supplier regress**

- (1) In addition to the claims based on defects we shall be entitled to our legally determined recourse claims within our supply chain (supplier recourse pursuant to Sections 445a, 445b, 478 BGB) without restriction. In particular, Curetis shall be entitled to demand from the Seller exactly the type of subsequent performance (rectification of defects or replacement delivery) Curetis owes to its customer. Our statutory right of choice (Section 439.1 BGB) shall not be restricted thereby.
- (2) Before Curetis recognizes or fulfils a claim for defects asserted by a customer (including reimbursement of expenses pursuant to Section 445a.1, 439.2 and 3 BGB), Curetis shall notify the Seller and request a written statement, briefly

explaining the facts of the case. If a substantiated statement by Seller should not be made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by Curetis shall be deemed to be owed to our customer. In such case, the Seller shall be responsible for providing proof to the contrary.

- (3) Our claims arising from supplier recourse shall also apply if the defective goods have been further processed by us or another entrepreneur, e.g. by installation in another product.

#### **§ 9 Producer liability**

- (1) If the cause of a product damage, a breach of public safety regulations or of national or foreign product liability regulations is within the control of the Seller, the Seller shall indemnify us against such claims by third parties upon first request.
- (2) The Seller's obligation to indemnify also includes any reasonable expenses made by Curetis in connection with the assertion of claims by third parties according to sub (1) above or in connection with a recall action carried out by us, cf. Sections 683, 670 BGB. Curetis will inform the Seller upfront - as far as possible and reasonable - about the content and scope of any recall measure and give him the opportunity to comment. Further legal claims remain unaffected.
- (3) The Seller shall maintain, and on request shall provide us with evidence on, a product liability insurance with an insured sum in sufficient amount per personal injury/property damage.

#### **§ 10 Statute of limitations**

- (1) The mutual claims of the contracting parties shall become time-barred in accordance with the statutory provisions, unless otherwise specified below.
- (2) Notwithstanding Section 438.1 no. 3 BGB, the general limitation period for warranty claims shall be 3 years from the date of passing of risk. If formal acceptance has been agreed, the limitation period shall commence upon acceptance date. The three-year limitation period shall also apply mutatis mutandis to claims arising from defects in title, whereby the statutory limitation period for claims in rem for surrender by third parties (Section 438.1 no. 1 BGB) shall remain unaffected; furthermore, claims arising from defects in title shall not become time-barred under any circumstances as long as the third party can still assert the right against us, in particular in the absence of a limitation period.
- (3) The limitation periods of sales law including the above extension shall apply - to the extent permitted by law - to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (Sections 195, 199 BGB) shall apply, unless the limitation period of sales law would lead to a longer period.

#### **§ 11 Choice of law and place of jurisdiction**

- (1) The laws of the Federal Republic of Germany shall apply to these GPC and the contractual relationship between us and the Seller, without giving effect to principles of conflict of laws and excluding the UN Convention on Contracts for the International Sale of Goods in particular.
- (2) If the Seller is a merchant, a legal entity under public law or a special fund under public law, the exclusive - also international - venue for any claim, dispute or difference arising out of or in connection with the parties' relationship shall be Stuttgart, Germany. Same applies if the Seller is an entrepreneur within the meaning of Section 14 BGB. Notwithstanding the aforementioned, Curetis shall also be entitled to choose a venue according to the place of performance of the delivery obligation, in accordance with these GPC, or according to a prior individual agreement, or else at the Seller's general place of jurisdiction. Superior statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

#### **§ 12 Severability clause**

If, and to the extent that, a provision of this GPC or part thereof should be or become invalid, illegal or unenforceable it shall be ineffective only to the extent of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or the remaining provisions of the GPC, unless this would constitute a disproportionate hardship for either party. To the extent any provision or part thereof should be invalid or unenforceable the parties shall use their best efforts to negotiate, in good faith, a substitute, valid and enforceable provision which most nearly reflects the intent of the invalid or unenforceable provision. Same applies mutatis mutandis to unintentional gaps herein.