

General Terms and Conditions of Sale, Delivery and Service of Vaxxinoa Autogenous Vaccines GmbH

1. Scope of Application, General Information

- (1) These General Terms and Conditions (hereinafter referred to as: "**GTCs**") apply to all business relationships of Vaxxinoa Autogenous Vaccines GmbH (hereinafter referred to as: "**Manufacturer**") with its customers. These GTCs apply in particular to contracts for the sale and/or supply of movable goods as well as for the provision of other services by the Manufacturer (hereinafter referred to as: "**Contractual Products**"). However, this does not apply to contracts relating to the production of livestock-specific (autogenous) vaccines or the commissioning of diagnostic services which are provided within this context; these are subject to alternative General Terms and Conditions of Business, which can be downloaded from www.vaxxinoa.de.
- (2) These GTCs are an integral part of all contractual offers and acceptances and apply exclusively, unless individual provisions have been concluded. The content of such individual provisions shall always be governed by a written contract or the written confirmation of the Manufacturer. Contradictory, supplementary or deviating terms and conditions of the Customer are not recognised by the Manufacturer. They shall not become an integral part of the contract even if the Manufacturer executes the delivery or service without any specific reservation in the knowledge of these terms and conditions. At the time of the acceptance of the Contractual Products at the latest, the Customer accepts these GTCs without reservation, even if the Customer has objected to them previously. These GTCs also apply to all future deliveries, services or offers to the Customer, even if the Manufacturer does not make separate reference to the validity of these GTCs again.
- (3) These GTCs shall apply only to entrepreneurs in accordance with Section 14 of the German Civil Code (*BGB*), legal entities under public law or special funds under public law within the meaning of Section 310, Paragraph 1 of the German Civil Code (*BGB*).
- (4) Legally relevant declarations and notifications which are to be submitted to the Manufacturer by the Customer after the conclusion of the contract (e.g. the setting of deadlines, notifications of defects, declaration of withdrawal or reduction) must always be made in writing in order to be valid.
- (5) The sole purpose of references to the validity of legal regulations is clarification. Therefore, even without such clarification, the statutory provisions shall apply to the extent that they are not directly changed or expressly excluded in these GTCs.

2. Contract Conclusion

- (1) All offers of the Manufacturer are subject to confirmation and non-binding, unless they are expressly marked as binding or contain a specific acceptance period.
- (2) The Customer's orders for goods shall be deemed to be a binding contractual offer.
- (3) The corresponding order forms to be used for the respective services of the Manufacturer can be downloaded from www.vaxxinoa.de (e.g. General Investigation Orders, pigs, poultry and fish, as well as collection orders for animal carcasses). Telecommunication transfer, especially by fax or email, is sufficient. Orders can be accepted by the Manufacturer within fourteen (14) days of receipt. In the absence of any specific agreement, a contract shall only come into existence upon written confirmation of the order by the Manufacturer. The scope of the supplies and services shall be exclusively based on the detailed information in the order confirmation.

3. Prices and Dispatch

- (1) All prices are quoted in euros plus VAT. They apply to the scope of performance and delivery specified in the order confirmation. Any excess or short quantities of 10% of the order volume for product-related reasons shall be accepted by the Customer. Additional or special service shall be charged for separately. Any customs duties, fees, taxes and other public charges shall be borne by the Customer.
- (2) The Manufacturer shall decide on the dispatch type and company, unless otherwise agreed. Additional costs due to special requests of the Customer, e.g. expedited dispatch (fast shipment, express delivery), special services (e.g. Saturday delivery), transport insurance, shall be charged for separately.

4. Customer's Obligations to Cooperate, Delivery and Default of Acceptance

- (1) The Customer is obliged to perform all contractually stipulated acts of cooperation or those which are required in good faith in good time.
- (2) Delivery dates and deadlines are stated in the Manufacturer's order confirmation. The information always refers to the shipping date of the Contractual Products. However, compliance with the Manufacturer's delivery obligation requires on the one hand that all actual and technical questions have been clarified and that the Customer has fulfilled all its obligations. If this is not the case, the delivery time shall be extended accordingly. This shall not apply if the Manufacturer is responsible for the delay. The Customer shall be informed immediately of foreseeable delays. On the other hand, delivery shall be made subject to the proper and timely supply by the Manufacturer's suppliers.
- (3) The Manufacturer shall be entitled to make partial deliveries to a reasonable extent.
- (4) In the case of call-off orders (partial deliveries), the Customer is obliged to submit the call-off within the agreed periods. If no particular period is specified, the Manufacturer shall be entitled to set the Customer a deadline for the call-off if the Customer does not submit a call-off within three (3) months.
- (5) The Contractual Products are dispatched at the Customer's risk. The risk of accidental loss and accidental deterioration of the Contractual Products shall pass to the transporter upon transfer of the items to be loaded (e.g. freight forwarder, carrier or the like) and to the Customer in the case of transport by the Manufacturer upon the start of the loading activities - but at the latest upon leaving the factory at the place of performance (Cuxhaven plant).
- (6) The Manufacturer shall not be liable for any impossibility of delivery or for delays in delivery, insofar as these have been caused by force majeure or other events which were not foreseeable at the time of conclusion of the contract for which the Manufacturer is not responsible. If such events make the deliveries and services significantly more difficult or impossible to render and the hindrance is not only of a temporary nature, the Manufacturer shall be entitled to withdraw from the contract. In the event of temporary hindrances, the delivery or performance deadlines shall be postponed by the period of the hindrance plus a reasonable start-up period. Insofar as the Customer cannot reasonably be expected to accept the Contractual Products as a result of the delay, the Customer may withdraw from the contract by making an immediate written declaration to the Manufacturer.
- (7) Unless expressly stipulated otherwise, the Manufacturer is not obliged to carry out advance performance, but reserves the right to perform the work concurrently in return for payment. Even if the Manufacturer is obliged to carry out performance of the work in advance in exceptional cases, he is nevertheless entitled to render the performance concurrently in return for payment or demand collateral if the Customer is in default of payment or if the Manufacturer becomes aware of circumstances after conclusion of the contract which call into question the creditworthiness of the Customer, for example default of payment by the Customer with respect to other claims arising from the business relationship, the suspension of payments by the Customer or the non-encashment of cheques submitted by the Customer.
- (8) In the event of a delay in delivery, the Customer shall only be entitled to withdraw from the contract if a reasonable period of grace set by the Customer in writing to the Manufacturer for performance has expired. In cases of doubt, a period of grace of four (4) weeks is reasonable.
- (9) If the Customer is in default of acceptance, fails to take any necessary action to cooperate or if delivery of the Contractual Products is delayed for other reasons for which the Customer is responsible, the Manufacturer shall be entitled to demand compensation for the resulting damage, including any additional expenses.

5. Items provided by the Customer and Customer Specifications

- (1) If the Customer makes available any parts or materials, in particular pathogens, to the Manufacturer for the fulfilment of the agreed deliveries and services (hereinafter referred to as: "**Items provided by the Customer**"), the Customer must itself ensure sufficient quality and suitability of the Item provided by the Customer for the further processing and manufacture of the Contractual Product and for proper packaging and transport until receipt in the Manufacturer's laboratory. The Manufacturer does not accept any responsibility in this respect, unless the lack of quality or suitability is based on the Manufacturer's specifications. The Manufacturer shall not carry out any prior testing or quality control of the Items provided by the Customer.

- (2) Ownership of the Items provided by the Customer shall be automatically transferred to the Manufacturer upon surrender. This also includes all products that may be acquired from the Items provided by the Customer. The Manufacturer is entitled to dispose freely and without restriction of the Items provided by the Customer and any products acquired, and in particular to carry out further examinations and tests that go beyond the subject matter of the contract. Unless expressly agreed otherwise, the Customer shall not be entitled to demand the return of the Items provided by the Customer or any products obtained therefrom. Furthermore, the Customer shall not be entitled – for whatever legal reason – to compensation or any kind of indemnity.
- (3) The Manufacturer shall not assume any warranty or liability for defects or reductions in the quality of the Contractual Product associated with the Items provided by the Customer or the Customer's specifications. Insofar as the order proves to be impracticable due to the properties or quality of the Items provided or due to the Customer's specifications, the Manufacturer shall be released from its performance obligation. The Manufacturer shall be entitled to invoice services that have already been rendered on a time and material basis, unless the Manufacturer is itself responsible for the impracticability of such services. If, due to the properties of the material, the order can only be carried out at additional expense, the Manufacturer shall be entitled to invoice the additional expenditure in accordance with its usual charges.
- (4) The Customer is obliged to ensure the usual safety precautions for the Items it provides, in particular for pathogens. The Customer shall be liable for all loss or damage caused by an infringement of security requirements, due to defects or any lack of suitability of the items provided by the Customer.

6. Application Specifications and Information Obligations

- (1) The Contractual Products may only be used by the respective customer or a person commissioned with such work by him/her.
- (2) Insofar as the Manufacturer submits specifications for the application and/or storage of Contractual Products in written or spoken form, these must be complied with. The Customer shall be solely responsible for checking and deciding on the application and correct use of the Contractual Products. Insofar as application or storage specifications are not complied with, any warranty or liability shall lapse unless the defect is not due to the infringement. The burden of proof for correct storage shall lie with the Customer.
- (3) In the relationship between the Customer and the Manufacturer, it is the task of the Customer to monitor the Contractual Products delivered by the Manufacturer after they have been launched on the market (hereinafter referred to as: "**Product Monitoring Obligation**") and to react to any dangers or hazards. The Customer is obliged to inform the Manufacturer's Customer Service (Telephone: +49 4721 300 5550; email: order@vaxxinoa.de) immediately of all errors, problems and/or dangers in connection with the Contractual Products delivered. Insofar as damage or injuries are caused by an infringement of the Product Monitoring Obligation, the Customer shall be exclusively liable for this.

7. Terms of Payment

- (1) Invoice amounts are to be paid within fourteen (14) days of the date of invoicing without any deductions, unless otherwise agreed in writing. The date of receipt by the Manufacturer shall be the deciding factor for calculating the date of payment. Payment by cheque shall be excluded, unless it is agreed separately in individual cases. The Customer shall be in default upon expiry of the aforementioned payment period. The purchase price shall bear interest during the period of delay at the applicable statutory default interest rate. The Manufacturer reserves the right to assert any further claims for loss or damage caused by delay.
- (2) If, after the conclusion of the contract, it becomes apparent (e.g. as a result of an application for the opening of insolvency proceedings) that the Manufacturer's claim to the purchase price is placed at risk by the Customer's inability to perform, the Manufacturer shall be entitled to rescind from the contract in accordance with statutory provisions on refusal of performance – if applicable after the setting of a new deadline.
- (3) Any offsetting against counterclaims of the Customer or the retention of payments due to such claims is only permissible if the counterclaims are undisputed or legally binding.

8. Customer's Claims for Defects

- (1) The statutory provisions shall apply to the Customer's rights in the event of material defects and defects of title, unless otherwise stipulated below.
- (2) The basis of the manufacturer's liability for defects is above all the agreement concluded on the properties of the Contractual Products. Insofar as the properties have not been agreed, an assessment shall be carried out in accordance with the statutory provisions as to whether a defect exists or not.
- (3) The Customer's claims for defects presuppose that the Customer has complied with his/her/its statutory inspection obligations and obligations to give notice of defects. If a defect becomes apparent upon delivery, during an inspection or at any time thereafter, the Manufacturer must be notified of this immediately in writing. In all cases, obvious defects must be notified in writing within five (5) working days of delivery, and defects that are not apparent during the inspection within the same period of time after their discovery. If the Customer fails to perform the due and proper inspection of the goods and/or submit any notification of defects, the liability for defects that have not been reported, have not been notified in time or not in the correct manner shall be excluded in accordance with the statutory provisions. Notes on delivery notes shall not be deemed to be a notice of defects. Individuals performing the transportation of such items are not entitled to receive notices of defects. Clearly identifiable transport damage must be reported immediately in writing.
- (4) The Manufacturer shall be entitled to make any subsequent performance owed dependent on the Customer paying the purchase price that is due. However, the Customer shall be entitled to retain a portion of the purchase price that is proportionate to the defect. Furthermore, the Customer must also allow the Manufacturer the time and opportunity required for the subsequent performance owed - and in particular to submit the rejected Contractual Products for inspection purposes. In the event of a replacement delivery, the Customer must return the defective item to the Manufacturer in accordance with the statutory provisions.
- (5) Any claims of the Customer for compensation for damages or the reimbursement of futile expenditures shall also apply with respect to defects only in accordance with Section 9 of these GTCs and are excluded in all other respects.

9. Liability

- (1) Unless otherwise stated in these GTCs, the Manufacturer shall be liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- (2) The Manufacturer shall be liable for damages - irrespective of the legal basis - within the scope of liability for culpable intent and gross negligence. In the case of simple negligence, the Manufacturer shall only be liable for loss or damage resulting from injury to life, limb or health, subject to a lesser degree of liability in accordance with statutory provisions (e.g. for diligence in one's own affairs)
 - a. for damage resulting from injury to life, limb or health;
 - b. for loss or damage resulting from any not inconsiderable breach of an essential contractual obligation (obligation, the fulfilment of which makes the proper execution of the contract possible in the first place and on whose observance the contractual partner regularly relies and may trust); in this case, however, the liability of the Manufacturer shall be limited to the compensation of the foreseeable, typically occurring loss or damage.

Furthermore, liability for lost profits shall be excluded in these cases.

- (3) The limitations of liability resulting from Paragraph 2 shall also apply to breaches of duty by or in favour of persons whose fault is attributable to the Manufacturer according to statutory provisions. Furthermore, they shall not apply if the Manufacturer has fraudulently concealed a defect or has assumed a guarantee for the properties of the Contractual Products and for claims of the Customer in accordance with the German Product Liability Act (*ProdHaftG*) and the German Medicinal Products Act (*AMG*), as well as any other mandatory statutory provisions.
- (4) As a result of a breach of duty that does not consist of a defect, the Customer may only withdraw from or terminate the contract if the Manufacturer is responsible for the breach of duty.

10. Statute of Limitations

The limitation period for claims for defects is twelve (12) months after the time of delivery of the Contractual Products. The statutory limitation periods shall apply to claims for damages due to defects. The aforementioned limitation period shall also apply to contractual and non-contractual claims for damages by the Customer that are based on a defect of the Contractual Products, unless the application of the standard statutory limitation period (Sections 195, 199 of the German Civil Code (*BGB*)) would lead to a shorter limitation period in an individual case. Claims for damages of the Customer according to Section 9, Paragraph 2 Sentence 1 and Sentence 2 a. of these GTCs, as well as under the German Product Liability Act (*ProdHaftG*) or the German Medicinal Products Act (*AMG*) or other mandatory legal standards, shall however be subject to the statute of limitations exclusively in accordance with the statutory provisions of limitation.

11. Exchange or Withdrawal

- (1) Except for the exercising of statutory rights of withdrawal, rights of withdrawal based on these GTCs or a justified return due to defects, the exchange or return of the Contractual Products is not possible.
- (2) In particular, the Manufacturer is not obliged to accept or take back Contractual Products which are returned without its prior consent or to arrange for their storage. There shall be no replacement option due to the impending expiry of the minimum durability date of a Contractual Product.

12. Retention of Title

- (1) The following retention of title serves to secure all current and future claims of the Manufacturer against the Customer arising from the business relationship that exists between the contracting parties (including balance claims from a current account relationship that is limited to this business relationship).
- (2) The Contractual Products delivered to the Customer by the Manufacturer shall remain the property of the Manufacturer until all secured claims have been paid in full. The Contractual Products, as well as the goods which are subject to the retention of title in accordance with the following provisions, are referred to in the following as "**Goods Subject to the Retention of Title**".
- (3) The Customer is entitled to process and sell the Goods Subject to the Retention of Title in the normal course of business until the enforcement of retained ownership (Paragraph 9). Pledging and assignments by way of security are only permitted for the Customer with the prior written consent of the Manufacturer.
- (4) If the Goods Subject to the Retention of Title are processed by the Customer, processing shall be deemed to take place in the name of and for the account of the Manufacturer as a processor within the meaning of Section 950 of the German Civil Code (*BGB*) and the Manufacturer shall immediately acquire co-ownership (fractional ownership) of the newly created items in the ratio of the value of the Goods Subject to the Retention of Title to the value of the newly created item if the processing is carried out using materials of several owners or if the value of the processed items is higher than the value of the Goods Subject to the Retention of Title. In the event that no such acquisition of ownership occurs on the part of the Manufacturer, the Customer hereby transfers its future ownership or - in the above-mentioned ratio - co-ownership of the newly created item as security to the Manufacturer. If the Goods Subject to the Retention of Title are combined or inseparably mixed with other items to form a single item and one of the other items is to be regarded as the main item, the Manufacturer shall, insofar as the main item belongs to the Manufacturer, transfer to the Customer the pro-rata co-ownership of the single item in the ratio specified in Sentence 1.
- (5) In the event of the resale of the Goods Subject to the Retention of Title, the customer hereby assigns the resulting claim against the purchaser - in the case of co-ownership of the Manufacturer of the Goods Subject to the Retention of Title in the ratio of the co-ownership share
- to the Manufacturer by way of security. The same applies to other claims, which are replaced by the Goods Subject to the Retention of Title or otherwise arise with regard to the Goods Subject to the Retention of Title, such as, for example, insurance claims or claims arising from tortious acts in the event of loss or destruction. The Manufacturer hereby revocably authorises the Customer to collect the claims assigned to the Manufacturer in its own name. The Manufacturer may revoke this direct debit authorisation only in the case of an enforcement event.

- (6) The Customer is obliged to carefully store the Goods Subject to the Retention of Title in the (co-)ownership of the Manufacturer at its own expense, to insure them carefully against theft, breakage, fire, water and other damage, and to provide proof of the conclusion of the insurance upon request. The Manufacturer may at any time demand that the Customer record an inventory of the Goods Subject to the Retention of Title that it has delivered at their respective storage location and mark the Goods Subject to the Retention of Title as being the property of the Manufacturer. The Customer assigns insurance claims and claims against third parties for damage, destruction, theft or loss of the Goods Subject to the Retention of Title to the Manufacturer by way of security. The Manufacturer hereby accepts this assignment.
- (7) If third parties access the Goods Subject to the Retention of Title, in particular by means of attachment, the Customer shall immediately inform them of the Manufacturer's ownership and inform the Manufacturer thereof in order to enable the Manufacturer to enforce its property rights. If the third party is not able to reimburse the Manufacturer for the judicial or extrajudicial costs arising in this connection, the Customer shall be liable for this to the Manufacturer.
- (8) The Manufacturer shall release the Goods Subject to the Retention of Title and the goods or claims taking their place, provided that their value exceeds the amount of the secured claims by more than 20 %. The selection of the items to be released accordingly shall be the Manufacturer's responsibility.
- (9) Insofar as the Manufacturer withdraws from the contract in the event of a breach of contract on the part of the Customer - in particular a case of default of payment - the Manufacturer shall be entitled to demand the return of the Goods Subject to the Retention of Title.

13. Processing and Labelling

The Customer is exclusively responsible for the proper packaging, further processing, labelling and fulfilment of all legal requirements for placing on the market. The Customer shall be liable to the Manufacturer for all loss or damage resulting from the infringement and shall indemnify the Manufacturer against all possible claims of third parties.

14. Intellectual Property

All industrial property rights, copyrights and all know-how, all patentable inventions as well as documentation, reports and records created in conjunction with the provision of the deliveries and services in accordance with the provisions of this contract or these GTCs are the exclusive property of the Manufacturer.

15. Final Provisions

- (1) The place of performance for all services under this contract is the Manufacturer's place of business in Cuxhaven (Vaxxinova Autogenous Vaccines GmbH, Anton-Flettner-Strasse 6, 27472 Cuxhaven).
- (2) Insofar as a provision of the contract or these GTCs is or becomes invalid or unenforceable in whole or in part, this shall not affect the validity of the remaining provisions of the contract or these GTCs. In such a case, the parties to the contract undertake to replace the invalid or unenforceable provision with a valid or enforceable provision that corresponds as closely as possible to the economic purpose and meaning of the provision. This also applies to any omissions in the contract or in these GTCs.
- (3) The contractual relationship between the Manufacturer and the Customer shall be governed exclusively by the law of the Federal Republic of Germany to the exclusion of the conflict of laws and the UN Convention on Contracts for the International Sale of Goods (CISG).
- (4) The place of jurisdiction for all disputes arising from or in connection with this contractual relationship is Cuxhaven. However, the Manufacturer shall in all cases be entitled to take legal action against the Customer at his/her/its general place of jurisdiction. Priority statutory provisions, in particular with regard to exclusive responsibilities, remain unaffected.
- (5) These GTCs are drafted in the German and English language. Both language versions are available at www.vaxxinova.de. However, the English version is only a convenience translation of the German version. In case of any discrepancy between the English and German version, the German version shall prevail.