



# GENERAL TERMS AND CONDITIONS

## 1. INTRODUCTORY PROVISIONS

- 1.1. General Terms and Conditions of **EXBIO Praha, a.s.**, with its registered office at Vestec, Nad Safinou II 341, Post Code 25242, Id. No.: 25548611, registered in the Commercial Register maintained by the Municipal Court in Prague, Section B, File No. 5889 (hereinafter the "**EXBIO**"), within the meaning of Section 1751 of Act No. 89/2012 Coll., the Civil Code (hereinafter the "**Civil Code**"), as set out below (hereinafter the "**GTC**"), shall apply to any and all sales of EXBIO branded products and services (hereinafter the "**Products**") by EXBIO, as seller, to any third party, as a purchaser (hereinafter the "**Purchaser**").
- 1.2. In the event of a conflict between the terms and conditions set forth herein and terms and conditions contained in a specific agreement concluded by and between EXBIO and the Purchaser (hereinafter the "**Agreement**"), terms and conditions contained in the Agreement shall prevail over the terms and conditions set forth herein.

## 2. TERMS AND CONDITIONS OF PURCHASE AND SALE

- 2.1. Any Purchaser may submit an Order for the Products to EXBIO. Any Order shall be delivered to EXBIO either by e-mail, telefax, or through e-shop available on EXBIO website: <http://www.exbio.cz> (hereinafter the "**Order**"). Each Order shall contain at least the following specifications:
  - a) a detailed specification (including the complete catalogue number) and quantity of the ordered Products;
  - b) a delivery address for delivery of the ordered Products;
  - c) a contact person plus the relevant e-mail address and phone number;
  - d) an invoice address; and
  - e) any further requirements and instructions (such as a Purchaser's order number, delivery date, specific packaging or delivery related requests, a carrier account number etc.).

### Orders contact details:

EXBIO Praha, a.s.  
Nad Safinou II 341  
252 42 Vestec  
Czech Republic

Telefax: [REDACTED]  
E-mail: [REDACTED]  
Web: [www.exbio.cz](http://www.exbio.cz)

- 2.2. All Orders delivered to EXBIO are binding on the Purchaser and may not be unilaterally changed, altered, modified or cancelled by the Purchaser.
- 2.3. By submitting any Order to EXBIO in accordance herewith, the Purchaser agrees to be bound by and accepts these GTC.

- 2.4. All Orders duly made by the Purchaser are subject to acceptance by EXBIO and no Orders are binding upon EXBIO unless and until accepted by EXBIO. EXBIO may accept Orders, upon its sole discretion (for the avoidance doubt, EXBIO is entitled not to accept any Order issued by the Purchaser), by sending an e-mail to the e-mail address indicated by the Purchaser in its Order, expressly confirming in such e-mail that it accepts the Order (hereinafter the “**Acceptance**” or, as the context may require the “**Accepted Order**”). Upon Acceptance of the Order by EXBIO, the respective Accepted Order cannot be unilaterally changed, altered, modified or cancelled by the Purchaser or EXBIO.
- 2.5. The Purchaser explicitly acknowledges that the sale of the Products by EXBIO to the Purchaser (upon its Order) is, among other aspects, always subject to the current availability. Furthermore, EXBIO is under no circumstances obliged to sell and deliver to the Purchaser the Products exceeding the quantity specified in the Accepted Order.

### **3. PRICE AND PAYMENT TERMS AND CONDITIONS**

- 3.1. The Products shall be sold by EXBIO to the Purchaser at the prices listed for the particular region (selected by the Purchaser) in a price list available at the EXBIO website: <http://www.exbio.cz> at the time the respective Order is duly made and delivered to EXBIO (hereinafter the “**Price List**”). The prices in the Price List are exclusive of any value added tax (hereinafter the “**VAT**”), and the Purchaser shall be obliged to pay the applicable VAT in addition to the price for the Products. EXBIO shall be entitled to change, alter, modify or replace (either entirely or partially) the Price List and any and all prices contained therein unilaterally anytime upon its discretion.
- 3.2. The prices set out in the Price List are exclusive of any freight or insurance charges in connection with any Products, or any taxes, excises, duties, tariffs or other charges which may be collected by any government body in connection with any Products, or any costs and charges due to specific packaging requests (e.g. dry ice) made by the Purchaser (hereinafter the “**Charges**”). The Purchaser shall be responsible for payment of all such Charges, and any specific tailor-made packaging shall be charged to the Purchaser in addition to the price for the relevant Products. The prices contained in the Price List include costs of packaging for the most commonly used package sizes and types.
- 3.3. EXBIO will provide the Purchaser upon its written request specific price offers (CQ) including certain discounts applicable for ‘BULK’ Orders (i.e. Orders for Products in bulk quantities) or multiple packages of individual Products (hereinafter the “**CQ**”). In order to apply the relevant CQ discount, the Purchaser shall indicate the unique CQ number (provided to it by EXBIO in the specific price offer) in its Order, otherwise the prices set out in the applicable Price List shall apply. For avoidance of any doubts, the CQ discounts cannot be claimed retroactively.
- 3.4. The prices for the Products are payable by the Purchaser on the basis of invoices (tax documents) issued by EXBIO in compliance with the applicable legislation. EXBIO shall issue and send the invoices in respect of purchases of the Products by the Purchaser to the delivery address as specified in the relevant Order.
- 3.5. All invoices shall be due and payable by the Purchaser to EXBIO within 30 (thirty) days of invoice (issuance) date. The price is payable (i) by a wire transfer to EXBIO bank account set out in the relevant invoice, or (ii) by a cheque. In case of payment by wire transfer to the relevant bank account of EXBIO, all the cost of bank transfers shall be borne by the Purchaser, so that EXBIO receives the entire price in full without any deductions.

- 3.6. The Purchaser shall, in relation to any payment for the Products indicate (irrespective of whether the payment is being made by a wire transfer or by a cheque) the EXBIO invoice number mentioned on the relevant invoice, allowing EXBIO to match the payment to the relevant invoice. Without undue delay after each payment is made, the Purchaser shall provide EXBIO with confirmation of the payment issued by the bank in order to enhance the process of identification of the relevant payment.
- 3.7. EXBIO shall be entitled, at its sole discretion, to require on a case by case basis pre-payment (advance payment) of the price for the Products. In such cases, after confirmation of receipt of the respective Order by EXBIO, EXBIO shall provide the Purchaser with the advance invoice containing all the relevant payments details including the due date. Without undue delay after the payment is made in accordance with the advance invoice, the Purchaser shall provide EXBIO with confirmation of the payment issued by the bank in order to enhance the process of identification of the relevant payment. EXBIO shall not be obliged to accept the Order before the advance payment is fully credited to the relevant bank account of EXBIO.
- 3.8. If the Purchaser is in delay with the payment of any invoice, EXBIO shall be entitled to claim an interest on late payments corresponding to 0.05 % of the amount due for each and every day of delay.

#### **4. DELIVERY TERMS AND CONDITIONS**

- 4.1. EXBIO shall label and package the Products. EXBIO shall accompany the Products with the relevant instruction manuals.
- 4.2. EXBIO shall deliver the Products to the Purchaser in accordance with the Accepted Order. Unless it is set forth in the Accepted Order otherwise, the Products shall be delivered to the Purchaser by courier services (e.g. UPS, FedEx, TNT or DHL) in accordance with CPT clause (Incoterms 2010). For avoidance of doubts, the cost of transportation is not included in the price of the Products and shall be paid by the Purchaser to EXBIO in addition to the price of the Products. The shipment of Products is not insured by EXBIO using this mode of transport, unless explicitly requested in writing by the Purchaser in its respective Order and paid by the Purchaser.
- 4.3. Orders will be dispatched within 3 days following the Acceptance of the Order, unless it is set forth in the Accepted Order otherwise. EXBIO shall be entitled to extend the period specified in the previous sentence, provided that EXBIO notifies the Purchaser on such extension and indicates reasons for such extension.
- 4.4. Provided that the Purchaser notifies to EXBIO its account number at certain international carrier (courier), the relevant shipment of the Products will be dispatched and delivered on its account (FCA clause according to Incoterms 2010, Vestec, Czech Republic). The shipment of Products is not insured by EXBIO using this type of transport, unless explicitly requested in writing by the Purchaser in its respective Order and paid by the Purchase.
- 4.5. EXBIO shall be entitled to make a partial delivery of the Products and the Purchaser shall be obliged to accept and take over the partial delivery of the Products.
- 4.6. Risk of damage or loss of the Products, regardless of the cause, shall pass to the Purchaser no later than on passage of the Products to the first carrier or at the moment the Products are made available for disposition to the Purchaser in accordance with the Accepted Order, unless a different mechanism of the passage of risk of damage or loss

of the Products arises from the content of the agreed delivery clause (INCOTERMS 2010).

## **5. LIABILITY FOR DEFECTS**

- 5.1. EXBIO shall deliver the Products to the Purchaser in the agreed quantity and corresponding to its specification contained in the Product Datasheet/Instructions for Use for the period indicated on the Products and/or its packages (hereinafter the “**Expiration Period**”).
- 5.2. The Purchaser shall be obliged to inspect the Products immediately after delivery thereof.
- 5.3. The Purchaser shall notify the defects of the Products to EXBIO in writing without undue delay after its detection, nevertheless within the Expiration Period. The notification shall include at least description of the claimed defects, the Accepted Order number, invoice number, the Products catalogue number and the batch of the relevant Products, and shall be accompanied with evidence of such defects. Together with the notification of defects, the Purchaser shall also indicate to EXBIO which one of the claims provided in Clause 5.5 hereof would prefer; this is however without prejudice to EXBIO’s sole right to chose one of the claims.
- 5.4. Without prejudice to the Purchaser’s obligation to duly notify any defects as set out in Clause 5.3 hereof, in order to allow EXBIO to duly assess the relevant warranty claim, the Purchaser shall submit to EXBIO the complete documentation in accordance with requirements made by EXBIO’s Technical support personnel/department. Without serving such documentation to EXBIO, the respective claim will be declined.
- 5.5. In the event the claim is approved by EXBIO, the Purchaser shall be entitled to (i) the replacement of the defective Product at the EXBIO’s costs and expenses, or (ii) reimbursement of the relevant Product’s price; the choice to be at the sole discretion of EXBIO. EXBIO shall be entitled to request the relevant Product in respect of which the claim was approved to be returned to EXBIO by the Purchaser, according to the EXBIO’s instructions and at EXBIO’s costs. EXBIO shall not be liable for any damages and costs incurred by the Purchaser or any third party due to use of the Product in respect of which the claim was made.
- 5.6. EXBIO shall not be liable for any defects of the Products caused by or arising from:
  - a) improper transport and/or storage and/or handling and/or use of the Products;
  - b) any change or modification to the Products that was carried out by the Purchaser or any third person;
  - c) the external factors outside of the control of EXBIO.
- 5.7. Only those Products which have been used in conformity with the relevant Product Technical Documentation issued by EXBIO may be subject to claims. Other use of the Products shall exclude any claims whatsoever.

## **6. LIABILITY**

- 6.1. EXBIO shall not under any circumstances be liable to the Purchaser and/or any third party for consequential, incidental, special, punitive, indirect or exemplary damages of any kind, arising out or related to any breach by EXBIO of its obligations hereunder and/or under the applicable Agreement (and/or under any Accepted Order), including

but not limited to loss of profits or loss of business (hereinafter referred to as the “**Consequential Damages**”).

- 6.2. Furthermore, to the maximum extent allowed by the applicable law, EXBIO shall not be liable to the Purchaser for any other damages (i.e., other than Consequential Damages) arising out or related to any breach by EXBIO of its obligations hereunder and/or under the applicable Agreement (and/or under any Accepted Order), unless such damages are incurred as a direct consequence of the willful misconduct or gross negligence of EXBIO.
- 6.3. For avoidance of doubt, EXBIO shall under no circumstances be liable to any third party for any damages caused to such third party by Purchaser’s breach of its’ obligations hereunder and/or under the applicable Agreement (and/or under any Accepted Order) and/or under the applicable law, including, without limitations, resulting from:
- a) breach of transport or storing conditions by the Purchaser,
  - b) use of unapproved version of any (technical) material by the Purchaser,
  - c) any interference with labelling or integrity of the Product by the Purchaser.

In all such cases, the Purchaser shall be fully liable for any damages caused to or incurred by any third party.

- 6.4. Furthermore, EXBIO shall not under any circumstances be liable for any damages caused by misuse or misapplication of the Product(s) by any third party. Any deviation from the relevant instruction manual, non-compliance with storage and safety instructions and rules by end-user especially (but not exclusively) constitute misuse or misapplication of the Product(s) within the meaning of the previous sentence of this Clause.
- 6.5. Without prejudice to any other provisions hereof, EXBIO shall be liable to the Purchaser for damages (other than Consequential Damages which are entirely and unconditionally excluded) arising out or related to any breach by EXBIO of its obligations hereunder and/or under the applicable Agreement (and/or under any Accepted Order) up to the price paid by the Purchaser for the Products delivered pursuant to the Agreement (or the Accepted Order) in relation to which the damage was caused. The limitation of liability for damages pursuant to the previous sentence of this Clause shall be considered as absolute irrespective of whether damages are claimed by the Purchaser at once or in several claims.
- 6.6. EXBIO makes no warranties or representations, express or implied or statutory in relation to the Products.

## **7. RETENTION OF TITLE TO THE PRODUCTS**

- 7.1. All Products shall remain the sole and exclusive property of EXBIO until the relevant payment of the price for such Products and all applicable Charges (i.e. Charges due and payable by the Purchaser) are fully credited to the relevant bank account of EXBIO, however under no circumstances before the Purchaser accepts (takes over) the Products.

## **8. PROHIBITION OF RESALE OF THE PRODUCTS; PROHIBITION OF MODIFYING THE PRODUCTS**

- 8.1. All Products sold by EXBIO are for the exclusive use of the Purchaser and are not to be resold or otherwise disposed of, unless there is an express written agreement in effect between EXBIO and the relevant Purchaser acting as the distributor of the Products.
- 8.2. The Products cannot be under any circumstances modified in any way, especially shall not be used to develop and produce any product, unless agreed in writing between EXBIO and Purchaser otherwise.

## **9. INFORMATION**

- 9.1. The Product Data Sheets and other information regarding the Products provided to the Purchaser are deemed to be accurate, however such Product Data Sheets and other information and Products are provided with no warranty or guarantee, since the ultimate condition of use of the Products and the variability of the materials are beyond the EXBIO's control. EXBIO shall not be liable for any errors or omissions in such Product Data Sheets or information. EXBIO shall not be responsible for and does not intend the Products or the related information to be used for patent infringement and other violations of third party rights.

## **10. PRODUCT USE LIMITATIONS**

- 10.1. All Products are "**FOR RESEARCH USE ONLY**" and are not intended for diagnostic, therapeutic or any *in vivo* use in human subjects, unless explicitly indicated in the relevant technical documentation or at the Product's package otherwise.
- 10.2. The Products labelled as "**CE IVD**" are intended for *In Vitro Diagnostic* use in laboratories outside the USA and Canada, and shall be designated as CE IVD reagents in the DIRECTIVE 98/79/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 October 1998 on in vitro diagnostic medical devices.
- 10.3. EXBIO MAKES NO REPRESENTATION OR WARRANTIES RELATING TO ANY PRODUCTS SOLD BY EXBIO, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND INFRINGEMENT, OR ANY WARRANTY OF THE QUALITY, FUNCTIONALITY, USE OR PERFORMANCE OF THE PRODUCTS.

## **11. FINAL PROVISIONS**

- 11.1. EXBIO shall be entitled to change, alter or amend the GTC. The amended GTC shall become applicable and binding vis-à-vis the Purchaser upon the receipt by the Purchaser of the amended GTC by e-mail or otherwise in writing, unless the Purchaser rejects the amended GTC by sending the written rejection to EXBIO within 1 (one) week following the receipt thereof. In case of such rejection, EXBIO shall be entitled to terminate this Agreement and/or any Accepted Order with immediate effect by serving written notice to the Purchaser.
- 11.2. Without prejudice to Clause 1.2 above, any matters not covered herein (or in the Agreement and/or any Accepted Order) shall be governed by laws of the Czech Republic, especially by the relevant provisions of the Civil Code. All Agreements and the relations arising therefrom shall, in all respects, be governed by laws of the Czech Republic, especially by the relevant provisions of the Civil Code. Applicability of United

Nations Convention on Agreements for the International Sale of Goods shall be excluded.

- 11.3. The Courts of the Czech Republic shall have exclusive jurisdiction over any matters arising from or in connection with relationship between EXBIO and the Purchasers.
- 11.4. As far as the Purchaser's general terms and conditions are inconsistent with these GTC, their application shall be subject to explicit written approval by EXBIO.
- 11.5. Both the Purchaser and EXBIO confirm that they are entrepreneurs entering into contractual relationship(s) within the scope of their business activities and, therefore, provisions of Section 1793 of the Civil Code (disproportionate reduction) and Section 1796 of the Civil Code (usury) shall not apply thereto.
- 11.6. No waiver, alteration, variation or addition to any Agreement shall be effective unless made in writing on or after the date of signature of the Agreement by both the Purchaser and EXBIO and accepted by an authorized signatory of both the Purchaser and EXBIO.
- 11.7. The invalidity, ineffectiveness, or unenforceability of any provision of the Agreement shall be without prejudice to the other provisions thereof. Both the Purchaser and EXBIO shall endeavor to replace the invalid, ineffective, or unenforceable provision in good faith with a valid, effective, and enforceable provision whose purpose shall correspond to the purpose of the provisions and aim of the Agreement as much as possible. If any of the provisions of the Agreement is or becomes null (void), the effect of such nullity on other provisions of the Agreement shall be assessed under Section 576 of the Civil Code *mutatis mutandis*.
- 11.8. Neither the Purchaser nor EXBIO wish any rights and obligations, beyond the scope of the express provisions contained herein or the respective Agreement (and/or any Accepted Order), to be inferred (derived) from existing or future practice established between them or custom (usage) maintained either generally or in the business area related to subject of their relationship, unless the Agreement expressly set forth otherwise. In addition to the above, the Purchaser and EXBIO acknowledge and confirm that they are not aware of any custom or practice established between them yet.
- 11.9. The Purchaser and EXBIO agree and acknowledge that the provisions of Section 1799 and Section 1800 of the Civil Code are excluded and shall not apply hereto and to any rights and obligations arising herefrom or in connection herewith.
- 11.10. The Purchaser shall not be entitled to assign the Agreement (and/or the Accepted Order) and/or any of its rights and obligations arising therefrom or in connection therewith to any other person without prior written consent of EXBIO.
- 11.11. These GTC are valid as of February 24-th 2015 and replaces all previous terms and conditions.