

# THERMO FISHER SCIENTIFIC

## GENERAL PURCHASE TERMS AND CONDITIONS

These Terms apply to our Order for purchase of Goods, unless we have expressly agreed otherwise in writing. We do not accept, and we hereby expressly reject, any additional or different terms you submit, use or refer to. Any attempt by you to vary the terms of this Order are rejected unless we expressly agree to additional or modified terms in a duly signed writing.

**1. Orders.** We may cancel an Order prior to your acceptance. You have accepted our Order when:

- we receive a written acknowledgment (confirming price and delivery date) by the end of the third (3<sup>rd</sup>) business day following the date you receive our Order. If we do not hear from you within this time, we will treat you as having accepted the Order;
- you deliver Goods to us or our designated destination; or,
- you start work on Goods you will make specifically for us.

Once you accept our Order, you agree to sell and deliver the Goods to us according to the Order. We may request a change to our specifications, drawings, designs, shipping instructions or other terms of our Order at any time. If we request a change after you have accepted our Order, then you must notify us within 10 days of receiving our requested change and indicate whether and to what extent it will affect the price of the Goods or the time of delivery. Your opinion on this matter must be based on your best estimate of the actual time or expense required to sell and deliver the remaining Goods to us according to the modified Order. If we receive your notice within the required period, we may either cancel this Order or proceed with this Order with the changed price or terms specified by you. If we do not receive your notice within the required time, you may not change the price or time of delivery for any affected Goods.

**2. Price, Payment, Invoices.** Unless otherwise agreed or as allowed in clause 1, the price of the Goods and currency must be as set out in the accepted Order. All sums payable are exclusive of VAT and other duties and taxes. Purchase prices include all extra charges, including charges for packing, containers, insurance and transport unless we say otherwise on our Order. You must send us the invoice after the Goods have been delivered to us. Your invoice must contain sufficient detail to describe the basis for the invoiced amounts, including a reference to the applicable Order number and a description of all Goods delivered. You must also give us all information we ask for to verify the contents and accuracy of the invoice. Unless we say otherwise on our Order, we will pay undisputed amounts within 90 days of receiving your invoice. Unless required by Law, we will not pay late fees, interest, or carrying charges for late payments. We may withhold any part of any payment due under this Order to cover any damages incurred by us resulting from your breach of these Terms or to cover any amount you may owe us for any reason. We are not required to pay any invoice that we receive more than 90 days after the date of the delivery of the Goods covered by the invoice.

**3. Packing, Safety Data Sheets, Storage.** You must properly package, label, and prepare all Goods according to good commercial practices and Laws and to ensure that the Goods reach us in a good condition. Your packing list must include our Order number, our product part numbers, quantity shipped, shipment date, item weights, and such other information or other requirements as we reasonably request or as required by Law. You must mark all Goods with the appropriate country of origin. You must send us Certificate(s) of Analysis if applicable to our Order. You must send us Safety Data Sheets according to the Globally Harmonized System of Classification and Labelling of Chemicals for hazardous materials before or with the shipment. You must advise us about any precaution necessary for us to store, handle, and use the Goods. You will provide us with information about components of and materials in the Goods, so we can comply with the Safety Data Sheets and other Laws.

**4. Delivery and Title.** Unless we have agreed otherwise, you must deliver the Goods to the destination specified in the Order:

- FCA (Incoterms 2020) place of delivery to our carrier or named place.

Unless we expressly agree to include transportation charges in the Goods' price, you must ship Goods to us using our designated carrier with transportation charges billed directly to us by the carrier. We will not pay premium transportation charges unless we approved them in writing in advance. You must list all premium charges that we approved and not otherwise billed to us as a separate line item on your invoice. If you ship Goods by an unauthorized method or carrier, you will pay any resulting increased freight costs. If applicable to our Order, you will release rail or truck shipments at the lowest valuation permitted, and you will not declare value on the Goods shipped. Title and risk of loss pass to us when you deliver the Goods to our designated carrier or named place.

**5. Delivery Date.** Time is of the essence. You must not deliver Goods by installments except with our prior written approval. If the delivery is going to be delayed, you must give us notice. We will not accept early deliveries unless we have agreed in advance. If your delivery is late, we may – without limiting any other rights or remedies of ours:

- refuse to accept any subsequent delivery of the Goods;
- obtain substitute goods from an alternative supplier and recover their reasonably incurred costs in doing so from you;
- claim damages for any costs, expenses or losses resulting from your failure to provide the Goods on time;
- require a refund of any charges paid in respect of such Goods; and/or,
- cancel the Order in whole or in part without liability to us.

**6. Accepting the Delivery.** If you deliver Goods which do not meet the details in our Order, we can reject the Goods within a reasonable time after delivery and inspection. We can then, at our option, and without affecting any of our other rights and remedies: (i) request a refund for the price we paid for the Goods, including all shipping and taxes; (ii) buy replacement goods from elsewhere and claim from you any extra expenses we have to pay for doing so; or (iii) receive from you an equitable reduction in the price of non-conforming Goods which you and we will agree to in good faith for a use-as-is condition. If we pay you before delivery, it will not affect our right to reject the

Goods and reclaim the payment from you. If we accept any Goods under this Order, it will not mean we have to accept future shipments or give up any rights to return Goods we have already accepted. Our acceptance of Goods will not affect our right to make a warranty claim under clause 18 below.

**7. On-Premises Safety Regulations.** If you deliver Goods to our premises, carry out services, or install equipment at our premises, you must comply with our safety regulations and all applicable Standards.

**8. Specifications, Quality, and Records.** All Goods must meet all applicable specifications and all quality requirements, including source, origin and country of manufacture, stated in our Order and be identical to those in our previous Order for such Goods. You must provide us with proof that you have met these requirements upon our request. If you wish to make a change to the quality, quantity or any specification of the Goods, or to the production equipment, production process, location change, country of origin, labeling and primary packaging, product contact, shelf life, product form, fit or function, storage or distribution concerning the Goods, you must give us adequate notice to review such change(s), and you must not implement the change(s) without our written permission. Please deliver your written change notice and request, with a complete copy of the Order, to the email address of the person who placed the Order. You agree to maintain, and to supply to us upon request, objective quality evidence for the Goods you supply to us according to ISO 9001 requirements or the requirements of a substantially equivalent quality system. You must also maintain and preserve your inspection and process control systems records for as long required by Laws and provide them to us upon request.

**9. Confidentiality.** You must treat our Order including all information we have given you for this Order, including but not limited to technical and commercial information, as confidential. In particular, you must not use our name (or the name of any associated companies) for publicity purposes unless you get our written permission. You may only use technical information to manufacture the Goods and not for the benefit of any third party. If we ask, you must return to us any property, designs, or other information and any copies we have given you in connection with this Order. You acknowledge that we will rely upon information you provide to us. Unless we have agreed separately in writing with you, any knowledge or information that you disclose to us will not be considered confidential or proprietary, and we may use it without restriction.

**10. Spares Support.** We are placing this Order for Goods on the condition that parts, or identical replacements, are available for at least 5 years from the date of delivery of this Order. You must give us at least 12 months' notice in writing if the parts will no longer be available.

**11. Free Issue Material.** When you give us material on a 'free issue' basis you agree to replace, at your cost, any such material scrapped in excess of any scrap allowance given. All 'free issue' material belongs to us, and all work carried out on it vests in us. You must keep a record of all 'free issue' material used and in stock.

**12. Our Property.** Our property includes all tooling, dies, parts, schedules, specifications and all related reproductions, and any other property that we furnish to you or that you create for us under this Order. We own all of our property but if we provide property to you to use in your performance of this Order, you must use it only as necessary to fulfill our Order as we direct you. You assume all liability for loss of, and damage to, our property while in your control, and you must, unless we direct you otherwise in writing, insure our property in an amount equal to its replacement cost with loss payable directly to us. We may remove (or have removed) our property at any time upon notice to you.

**13. Subcontracting Rights under this Order.** If you use a subcontractor or any other manufacturers to carry out any of your obligations under this Order, you will be fully responsible for their actions and mistakes and for the actions and mistakes of their employees. There will be no contractual relationship between any subcontractor and us. You will make sure that any subcontractor or other manufacturer treats all of our information as confidential. We may perform any of our obligations or exercise any of the rights under these Terms through any of our affiliates.

**14. Intellectual Property.** Except as we expressly agree otherwise in writing, we do not grant you any rights to any of our patents, trademarks, copyrights, trade secrets or other property rights. You will not use or incorporate any third-party intellectual property in the Goods without the third party's written permission. Without limiting our rights to seek other remedies at law and equity, if our use of the Goods is likely to infringe a third party's property, you will, at our sole option and at your sole expense, obtain the right for us to:

- continue using the Goods or part;
- replace the Goods or part with a non-infringing equivalent while keeping comparable or better performance; or,
- remove the Goods, refund the purchase price and reimburse us for any related costs we incur because the Goods infringed or were alleged to infringe on another's rights.

If you place a trademark that we own on any Goods, or if the Goods are unique to us, then those Goods will not bear your name or trademark, and you will not sell them to anyone else.

**15. Compliance with Laws.** You must adhere to and fully comply at all times with all Laws and Standards applicable to the Goods in this Order and our use including all import and export Laws and Standards. You will also provide us with all required information or documents that we need to comply with all requirements for our receipt of the Goods. You must mark all Goods with the appropriate country of origin in accordance with all applicable Laws and Standards. For more information regarding certain regional requirements applicable to you as our supplier, please see [www.thermofisher.com/suppliers](http://www.thermofisher.com/suppliers).

**16. Review and Audit of Records and Premises.** We (or any person, firm or organization authorized by us) has the right to enter your premises to:

- inspect the manufacturing facilities and equipment you use to manufacture the Goods;

# THERMO FISHER SCIENTIFIC

## GENERAL PURCHASE TERMS AND CONDITIONS

- audit all records you maintain in relation to the supply of the Goods;
- inspect and take samples of raw materials, the packaging and the Goods; and,
- inspect stock levels or raw materials, packaging and the Goods.

Each inspection will take place during business hours and on reasonable notice (except in the case of an emergency when no notice will be needed). Any inspection will be subject to your reasonable confidentiality, health and safety, and security requirements. Our inspection will not constitute final acceptance of Goods.

### 17. Cancelling an Order

*If you breach* – If you breach these Terms, including if you fail to deliver on time, we can cancel this Order, reject all or any of the Goods delivered, and either tell you to remove the Goods from our premises or return them to your premises and you must pay our costs for doing this.

*Without cause* – We can cancel this Order at any time by giving you notice in writing. When you receive our notice, you must stop producing the Goods or providing the services covered by this Order. We will pay a fair and reasonable price for all work delivered (or ready to be delivered) on the date we give you notice, together with any other reasonable charges we directly cause by cancelling this Order.

*Insolvency* – We can cancel this Order immediately if:

- a petition is presented against you to wind up your business;
- a liquidator is appointed over your business or you go into voluntary liquidation (other than for the purpose of reconstruction);
- an administration order is applied for or a receiver (including an administrative receiver) is appointed over the whole or any part of your property; or,
- you have any form of diligence linked to your Goods (where a creditor arranges to seize and sell your Goods to enforce a debt).

**18. Warranty.** As well as any warranty which applies by Law, you represent and warrant that the Goods are and will be free from built-in defects in design, workmanship and materials and that they meet all specifications, drawings, and approved samples, if any, which may apply. You also represent and warrant that the Goods are fit and suitable for the purpose intended and are fit to be sold, that all services are performed using all due care, skill and effort in line with the generally accepted standard in the industry, and that our title to all Goods and deliverables that you create for us are free from all claims and encumbrances. If we pay for the Goods or inspect or test them, or make future orders, it does not mean we will not enforce this warranty in the future if the Goods do not meet the conditions of the warranty. Without affecting any of our other rights, you must either repair or replace the Goods, carry out the services again or refund the cost of the Goods which are faulty, at our option. This applies for 18 months from the date of our receipt or within the shelf life of the Goods shown in this Order (whichever period is longer). You will refund any transport or other charges paid by us for Goods which are defective.

**19. Indemnity.** You will indemnify and hold us and our affiliated entities harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business and similar losses) costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by us as a result of or in connection with:

- any alleged or actual infringement of any third party's intellectual property rights or other rights arising out of the supply or use of the Goods;
- any claim made against us or any of our affiliated entities by a third party for death, personal injury or damage to property arising out of, or in connection with, defective Goods, to the extent that such defect in the Goods is attributable to the acts or omissions of you, your employees, agents and subcontractors;
- your failure or delay in your performance of the Order or your breach of any material representation or warranty under or related to the Order;
- your negligence or willful misconduct; or,
- any recall of any Goods, except to the extent a recall or withdrawal of the Goods is solely the result of our modifications to the Goods or your compliance with a design we directed you to use.

**20. Insurance.** You must maintain appropriate insurance against any claims about the development, manufacture, sale, distribution, provision or use of the Goods. You will give us proof of this insurance upon request.

**21. Circumstances Beyond Your or Our Control (Force Majeure).** If you or we cannot carry out our responsibilities under an Order due to circumstances beyond our or your reasonable control, neither will be liable to the other. This clause will not apply when the circumstances stop affecting the performance. If the circumstances continue to apply for 30 days or longer we may cancel all affected Orders without any liability to us.

**22. No Assignment.** You may not assign this Order or any right or obligation in it without first receiving our written consent. Any purported assignment without our prior written consent shall be null and void.

**23. Data Protection.** You represent and warrant that you will comply at all times with the *Data Protection Standards* for this Order found at [www.thermofisher.com/suppliers](http://www.thermofisher.com/suppliers) on the date of this Order.

**24. Supplier Code of Conduct and the Code of Business Conduct and Ethics.** You acknowledge that you have reviewed and agree to comply at all times with our *Supplier Code of Conduct* and our *Code of Business Conduct and Ethics* for this Order, including any documents, policies and codes included or referenced in the same, as they may be amended from time to time. Both documents are available at [www.thermofisher.com/suppliers](http://www.thermofisher.com/suppliers).

**25. Notification of Debarment or Suspension.** By accepting our Order, you certify that neither you, nor your employees or principals, are debarred, suspended, or are proposed for

debarment by any Authority. If you are subject to investigation by an Authority which could lead to debarment, or if you, or any of your employees or principals, are debarred, suspended, or proposed for debarment, you will notify us in writing immediately.

### 26. U.S. Government Requirements.

**This paragraph applies to our Order if it was issued from a location within the United States:** We are an equal opportunity employer and a federal contractor or subcontractor. So, both parties to this Order agree, as applicable, to abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a). **These regulations are incorporated by reference in these Terms and our contract with you. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.** You also agree with us, as applicable, to abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws. You will notify us in writing whether or not the Goods are compliant with the Buy American Act (FAR 52.225-1). The Thermo Fisher *Government Contracts Addendum* found at [www.thermofisher.com/suppliers](http://www.thermofisher.com/suppliers) on the date of this Order, whether or not attached to this Order, is incorporated by reference as if fully included in these Terms and our contract with you.

**This paragraph applies to our Order if it was issued from a location outside of the United States:** You will notify us in writing whether or not the Goods are compliant with the Buy American Act (FAR 52.225-1). The Thermo Fisher *Government Contracts Addendum* found at [www.thermofisher.com/suppliers](http://www.thermofisher.com/suppliers) on the date of this Order, whether or not attached to this Order, is incorporated by reference as if fully included in these Terms and our contract with you.

**27. Enforcing the Terms.** If we cannot enforce any of the Terms, it will not affect the other remaining conditions.

**28. Special Conditions.** If there are special conditions shown on the front of this Order, they will apply equally with these Terms. However, if there is any difference between these Terms and the special conditions, the special conditions will apply.

**29. Independent Contractor.** You are an independent contractor. Nothing in these Terms or an Order is intended to, or will operate to, create a partnership between you and us, or to authorize either party to act as an agent for the other, and neither party will have the authority to act in the name of, on behalf of, or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

**30. Notices.** Except the supplier change notification requirement described in clause 8, if you need or are required to notify us regarding this Order, please send your notice to our representative identified on the face of this Order.

**31. Law.** This Order is governed by the Laws of the jurisdiction (country, state or province) where our principal office is located, without reference to any conflict of laws provisions. Both parties hereby consent to the venue and jurisdiction of the courts of such jurisdiction. Neither the United Nations Convention on Contracts for the International Sale of Goods, nor the Contracts (Rights of Third Parties) Act (or the applicable regional equivalent), nor any implementing legislation of either, will apply.

### 32. Definitions.

- **We, us, our, ours** – the Thermo Fisher Scientific legal entity identified in the Order.
- **You, your** – the legal entity offering the Goods for sale to us as identified in the Order.
- **Terms** – the general terms and conditions set out in this document.
- **Goods** – the materials, products or services we are buying from you as listed on the face of the Order.
- **Order** – our written offer to purchase Goods from you, including any other documents we attach to the Order, and any landing pages, documents, terms and information we refer to in these Terms.
- **Authority** – any relevant federal, state, or local government agency or any equivalent foreign governmental authority.
- **Law(s)** – any applicable statute, law, regulation, ordinance, rule, judgment, order, decree, directive, guideline, or policy of any Authority, or court, and any governmental requirement or other governmental restriction or similar form of decision or determination, and any interpretation or administration of any of the foregoing by any Authority, or court, whether now or later in effect.
- **Standards** – any and all standards, safety requirements, and certifications that you and Goods are (a) required to comply with or obtain by any Laws or Authorities, or (b) requested by us to comply with or obtain to ensure compliance with specifications of the Goods or an Order, or to enable us to comply with Laws or other requirements relating to our products or services incorporating or using the Goods. "Standards" may include, but are not limited to, certifications in accordance with EN, UL, and CSA standards, CE and TÜV certifications, all electro-magnetic interference (EMI) and electro-magnetic compatibility (EMC) clearances, the E.U. Regulation REACH, RoHS, WEEE, or ElectrolG/AlteRG certifications, reporting and recordkeeping requirements, product take-back compliance, material origin requirements (e.g., Conflict Minerals), wood packaging requirements, and any clearances, certifications, disclosures, or labels that may be required by Authorities, and their respective rules and regulations.

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