

TERMS AND CONDITIONS FOR PURCHASE ORDERS

These terms and conditions shall be applicable to and are hereby incorporated by reference into this purchase order from Novavax, Inc. ("Novavax") for goods or services ("Purchase Order"). Notwithstanding anything to the contrary contained herein, if you ("Seller") and Novavax have executed a separate agreement which governs the purchase and sale of the goods or services in issue, the terms of such agreement shall be controlling and take precedence over these terms and conditions and any additional or different terms contained in any document generated by Seller. These terms and conditions are an integral part of the Purchase Order and no other terms and conditions shall apply. Therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. ACCEPTANCE OF ORDER

Seller's return of an acknowledgement copy of an order, commencement of work on ordered goods or services or shipment of such goods, whichever occurs first, shall be deemed an acceptance of Novavax' offer to purchase contained in this Purchase Order. Any acceptance of this Purchase Order is acceptance of, and limited to, the express terms and conditions of the offer contained in this Purchase Order, including these terms and conditions. Any proposal for additional or different terms or any attempt by Seller to vary, in any degree, any of the terms of this offer in Seller's acceptance is hereby objected to and rejected, but such proposal shall not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price, or delivery schedule of the goods or services but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by the Seller without said additional or different terms. If this Purchase Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained in this Purchase Order and any additional or different terms or any attempt by Seller to vary, in any degree, any of the terms of this Purchase Order shall be deemed material and shall be rejected. However, this Purchase Order shall not operate as a rejection of the Seller's offer unless it contains variances in the terms of the description, quantity, price, or delivery schedule of the goods or services.

2. CHANGES

Novavax shall have the right, to at any time by a written notice, make changes to the specifications, designs, drawings, samples or other descriptions to which the goods or services are to conform, in the method of shipment and packaging or place of delivery. If such changes affect the cost or time required for performance of this Purchase Order, a reasonable adjustment in the price and/or delivery schedule may be negotiated but will not be binding until approved by Novavax in writing. Seller's claim for any adjustment shall be deemed waived unless Novavax receives written notice thereof within thirty (30) days of Seller's receipt of the revised Purchase Order. Nothing in this clause shall excuse the Seller from proceeding without delay to perform the Purchase Order as changed.

3. PRICES

Prices shall include all federal, state, and local sales, use, value added, excise and other taxes and government charges applicable to the purchased goods or services (including duties) at or prior to the time of purchase or as a result of this purchase. Unless otherwise specified, the price or prices as set forth in this Purchase Order shall include all charges for Seller's usual domestic packing and crating (or export packing and crating for all international shipments), freight insurance and for delivery. If the price on the face of the Purchase Order is incorrect, Seller must immediately notify Novavax in writing before processing the Purchase Order. If Seller processes any part of the Purchase Order or delivers any of the goods and/or services ordered hereunder, Seller waives any right to claim a price different from the price set forth on the face of the Purchase Order. If, prior to the termination of the Purchase Order, Seller makes a general reduction in price, at stated quantities, of any goods or services being purchased under the Purchase Order, an equivalent price reduction shall apply to the Purchase Order for similar quantities of goods and/or services placed under the Purchase Order and unshipped or unperformed at the time of such general price reduction. Such reduced prices shall apply for the duration of the Purchase Order or until such prices are further reduced.

4. PAYMENT

Unless specified otherwise on the face of this Purchase Order, Novavax shall pay Seller within forty-five (45) days of Novavax' receipt of Seller's accurate invoice. Payment is contingent upon Novavax' approval of goods delivered or services rendered in accordance with this Purchase Order, but payment is not evidence of Novavax' final acceptance of such goods or services. Any goods or services ordered hereunder which do not comply with the specifications or Seller's warranty or which are otherwise defective or damaged at the delivery point may be returned by Novavax at Seller's cost and Novavax shall be entitled to replacement goods or services or a refund of any amount paid therefor. Novavax will have no liability to pay for goods delivered to Novavax that exceed quantities specified in this Purchase Order. Novavax may, at its option retain such goods and pay for them at the unit price or reject and return such goods at Seller's expense, including transportation and freight insurance charges both ways.

5. DELIVERY

Time is of the essence in this Purchase Order. All goods specified in the Purchase Order shall be delivered to the address designated by Novavax F.O.B. Destination. Except as specifically provided herein, delivery shall be strictly in accordance with any specified delivery schedule; any

deviation therefrom must be approved in writing by Novavax. If to comply with Novavax' required delivery date it becomes necessary for Seller to ship by a more expensive means than specified in this Purchase Order, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited delivery has been caused by Novavax subsequent to acceptance of this Purchase Order. If delivery of goods or rendering of services is not completed by the specified delivery date, Novavax reserves the right, without liability and in addition to its other rights and remedies, to (a) terminate this Purchase Order effective when notice of such termination is received by Seller, (b) purchase substitute goods or services elsewhere and hold Seller liable therefor or (c) require delivery by the fastest method, whereupon Seller shall pay the premium for such transportation. Any provisions herein for delivery of goods or the rendering of services by installments shall not be construed as making the obligations of Seller severable. Novavax reserves the right to hold Seller liable for damages resulting from Seller's failure to meet the required delivery date.

6. BLANKET ORDER

If the Purchase Order has multiple shipment dates ("Blanket Purchase Order"), Novavax may cancel the Blanket Purchase Order at any time as to all or any part of the goods or services ordered and not yet shipped or rendered to Novavax by giving written notice to Seller consistent with the provisions in Clause 11 (Cancellation). At the time of Blanket Purchase Order acknowledgment, Seller will identify in writing any non-standard materials required to complete the Blanket Purchase Order along with its procurement lead times. Novavax will not be liable for standard products not yet shipped to Novavax; Novavax' liability is limited to actual costs incurred to date plus cost of non-standard materials irrevocably procured by Seller in accordance with the procurement lead time.

7. PACKING AND SHIPPING

Packing shall be suitable to protect the goods against damage in shipment and storage. The goods shall be accompanied by all necessary schematics, charts, diagrams, plans, wiring diagrams, block diagrams, and any and all other papers, booklets or other material to ensure proper set up and operation of such goods ("Instructions"), as appropriate. Any failure by Seller to include Instructions shall be deemed to be a defect in the goods and Novavax shall be entitled to reject the goods in accordance with Clause 8 (Inspection and Acceptance) below. Packing lists showing Novavax' Purchase Order number shall accompany each shipment. Novavax' records will be accepted as final and conclusive with respect to all shipments which are not accompanied by invoices or shipping documents indicating Purchase Order number, Novavax' part number and quantities specified on the face of the Purchase Order. Seller will not declare a value for goods that result in additional shipping charges.

8. INSPECTION AND ACCEPTANCE

All goods or services purchased hereunder are subject to inspection at Novavax' destination either before or after payment or before or after acceptance, at Novavax' option. Novavax shall be under no duty to inspect goods prior to any processing or altering thereof. Novavax' examination, processing, altering or otherwise dealing in goods shall not be deemed an acceptance of the goods which would in any matter limit or modify any rights of Novavax hereunder. Novavax reserves the right to reject goods or services which do not comply with the Purchase Order including excess quantity, or non-compliance with Seller's warranties (express or implied). Rejected goods will be returned to Seller for full credit or replacement at Novavax' option and at Seller's risk and expense, including transportation and freight insurance charges both ways. No replacement of rejected goods or re-performance of rejected services shall be made unless agreed to by Novavax in writing. Acceptance of any part of the goods or services shall not bind Novavax to accept future shipment of goods or performance of services, nor deprive it of the right to return goods or services already received but not accepted. Acceptance of all or any part of the goods or services shall not waive Novavax' right to cancel or return all or any portion of the goods or services because of failure to conform to this Purchase Order, or by reason of defects, latent or patent, or other breach of warranty, or to make any claim for damages, including manufacturing costs, damage to materials or articles caused by improper boxing, crating or packing, and other incidental or consequential damages suffered by Novavax. Novavax shall provide Seller with notification of any complaint, claim, notice of any defect, or notice of breach within thirty (30) days of Novavax' awareness of such defect or breach. If the goods purchased under the Purchase Order are industry standard or "off the shelf" goods or services, Novavax reserves the right to return them to Seller for full refund within thirty (30) days of date of receipt of delivery. Such rights shall be cumulative and in addition to any other remedies provided by law or in equity.

9. WARRANTIES

Seller expressly warrants that:

- a) all goods delivered hereunder will be new, of merchantable quality, fit for their intended use, free from defects and of good materials and workmanship;
- b) all goods and services delivered or rendered hereunder will be in compliance with all applicable laws and regulations and will conform with all applicable specifications, drawings, data and samples whether set forth in this Purchase Order or in Seller's sales or technical literature or in other documents furnished or agreed to by Seller;

- c) all services provided hereunder will be performed in a competent, professional and workmanlike manner in accordance with the applicable specifications set forth this Purchase Order, or if there are no such specifications, the highest industry standards, without faults or defects;
- d) all goods delivered hereunder shall be free and clear of all security interests, liens or other encumbrances or claims of any kind; and
- e) possession, use or any permitted transfer of such goods and/or services will not subject Novavax to any liability for infringement of any patent or other intellectual property rights.

Said warranties shall not be deemed to limit any warranties of additional scope given to Novavax by Seller, nor to limit Novavax' rights or Seller's obligations under any other provision of this Purchase Order, at law or in equity. No warranties are waived by Novavax supplying or approving plans, specifications or data, or inspecting or accepting the goods.

Goods or services that do not comply with Seller's warranties or which are otherwise damaged or defective may be rejected. In addition to any other remedies, Novavax shall be entitled to receive credit, reimbursement or replacement for the rejected goods or services at Novavax' option, plus all shipping and related costs paid by Novavax in connection with the rejected goods or services. All rejected goods will be held for inspection, pickup, disposal or return shipment at Seller's expense for a period of thirty (30) days after delivery of notice of rejection. Goods thereafter remaining unclaimed may be disposed of by Novavax. Seller will be liable for all costs of shipping any replacements to Novavax and all costs of disposal of the rejected goods.

10. MATERIALS; RESULTS; CONFIDENTIAL AND PROPRIETARY INFORMATION

If Novavax provides samples, specifications, data, technical information or other materials to Seller for performance of services ("Materials"), Seller shall use such Materials solely for performance of the services and compliance with all applicable statutes and regulations ("Permitted Use") and no other purpose. **MATERIALS ARE NOT FOR USE IN HUMAN SUBJECTS.** Materials are the property of Novavax and no option, license, or conveyance of rights to Seller is granted or implied as a result of this Purchase Order or any transfer of Materials hereunder. Seller may not distribute Materials to any other party without Novavax' prior written consent. Upon Novavax' request, Seller shall promptly destroy or return to Novavax all unused Materials. Seller understands that Materials may be experimental in nature and may have hazardous properties. NOVAVAX MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF MATERIALS WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.

Seller will promptly and fully disclose to Novavax any information, data, results, reports, specifications and conclusions obtained or generated in the course of the services ("Results"). Results are the property of Novavax and Novavax and Seller hereby assigns all right, title and interest in and to such data and information and any and all intellectual property rights claiming or covering the foregoing. Seller agrees to give Novavax or designees all assistance necessary to perfect such rights. Seller will have no rights to use Results for any purpose, except as expressly permitted by Novavax in writing.

Seller shall keep Results, Materials and other proprietary information of Novavax confidential and restrict access thereto to its employees having a need to know. No use, disclosure or reproduction of any part thereof for the benefit of anyone but Novavax may be made except by written authorization of Novavax. Upon completion or termination of this Purchase Order, or upon Novavax' request, Seller shall, at Seller's expense, promptly return these items (to the extent not destroyed in production) to Novavax in as good condition as when received, normal wear and tear excepted, except for any copy of any document required to be retained for legal recordkeeping purposes. Any information which Seller may disclose to Novavax with respect to the design, manufacture, sale or use of the goods or services covered by the Purchase Order shall be deemed to have been disclosed as part of the consideration for the Purchase Order, and Seller shall not assert any claim against Novavax by reason of Novavax' use thereof.

11. CANCELLATION

Upon written notice, Novavax may at any time, and without liability and in addition to any other remedies of Novavax, cancel this Purchase Order in whole or in part if Seller breaches any of the terms and conditions of this Purchase Order or if Novavax reasonably concludes that Seller will not be able to properly perform under this Purchase Order. Novavax may also with written notice cancel this order in whole or in part for convenience without liability hereunder except for reasonable expenses incurred to date and any reasonable expenses incurred in terminating production and Novavax shall be entitled at Novavax' request to all materials and information purchased, developed or prepared prior to or in connection with such termination for which Novavax makes payment. Notwithstanding the foregoing, payments made under this clause shall not exceed the aggregate price specified in this Purchase Order. Payment made under this clause will constitute Novavax' only liability in the event this Purchase Order is cancelled for convenience hereunder.

12. LIMITATION OF NOVAVAX LIABILITY; SELLER'S INDEMNIFICATION

In no event shall Novavax be liable for loss of anticipated profits or any other incidental, special, exemplary or consequential damages. To the maximum extent permitted by applicable law, Seller hereby agrees to defend, indemnify, and hold harmless Novavax, its affiliates, and the officers, directors and employees of each of them, from and against any and all damages, losses, expenses, costs, claims, judgments and liabilities including, without limitation, reasonable attorneys fees and court costs, incurred by Novavax (unless primarily caused by the gross negligence or intentional misconduct of Novavax) arising from or in connection with (i) claims that possession, use or sale of the goods or services ordered hereunder by Novavax, its affiliates or their customers violates any applicable federal, state, or local laws, rules or regulations; (ii) the breach of any representation or warranty of Seller contained herein or in any other document furnished or agreed to by Seller in connection with this Purchase Order, (iii) any bodily injury or property damage caused by Seller's rendering of the services or Novavax' use or possession of the goods; (iv) the negligence or intentional misconduct of Seller or its representatives and/or (v) a recall of the goods. During the period in which Seller defends Novavax against a claim of infringement, Seller shall, at its own expense, procure for Novavax the right to use such good or service, replace or modify it to avoid infringement or have such good or service returned and refund its purchase price (including transportation and installation costs) to Novavax less a reasonable amount for depreciation.

13. INSURANCE

Seller shall obtain and maintain in effect with reputable insurers all appropriate insurance coverage with regard to the goods and services being furnished hereunder, including without limitation, general commercial liability, product liability and/or professional liability and workmen's compensation insurance.

14. MISCELLANEOUS

- (a) **Debarment.** Seller represents it has not been debarred under the provisions of the Generic Drug Enforcement Act of 1992, including without limitation, 21 U.S.C. Section 335a. Seller represents and warrants that it will not use in any capacity, in connection with any services to be performed under this Purchase Order, any individual who has been debarred pursuant to the aforementioned act, or excluded from a federal healthcare program. If at any time Seller (a) becomes debarred, or (b) receives notice of action or threat of action with respect to its debarment, Seller shall notify Novavax immediately. In the event that Seller becomes debarred, this Agreement shall automatically terminate upon receipt of such notice without any further action or notice by Novavax.
- (b) **Advertising.** Seller shall not advertise, publish or in any manner disclose the existence of this Purchase Order or any other matter relating thereto without the prior written consent of Novavax.
- (b) **Set Off.** Novavax shall be entitled at all times to set off any amount owing at any time from Seller to Novavax or any of its affiliated companies against any amount payable at any time by Novavax or any of its affiliated companies to Seller.
- (c) **Assignment.** Seller may not assign this Purchase Order or any of its rights or obligations therein or any payment due or to become due hereunder, without the prior written consent of Novavax.
- (d) **Applicable Law.** This Purchase Order shall be deemed to be made in and subject to the local laws of the State of Maryland, without regard to principles of conflicts of law. All actions arising out of or under this Purchase Order shall be adjudicated in the Federal District Court in Maryland or, if such court does not have jurisdiction, the state courts in Montgomery County, Maryland and each party hereto hereby agrees to the exclusive jurisdiction of such courts. This Purchase Order is expressly not subject to the UN Convention the International Sale of Goods.
- (e) **Force Majeure.** Neither party shall be liable for delays or defaults due to causes beyond its control and without its fault or negligence, including but not limited to fires, floods, Acts of God, strikes, employees' disputes, casualties, wars, civil unrest, delays in transportation, shortages of cars, or inability to obtain necessary materials or machinery, provided however, that as soon as Seller has reason to believe that goods or services will not be delivered when scheduled, written notice setting forth the cause of the anticipated delay must be given immediately to Novavax. If Seller's delay or default is caused by the delay or default of a subseller, such delay or default shall be excusable only if it arose out of causes beyond the control of both Seller and the subseller and without the fault or negligence of either of them and the goods to be furnished or services to be rendered were not obtainable from other sources in sufficient time to permit Seller to meet the required delivery or performance schedule. Novavax may terminate this Purchase Order effective immediately upon written notice if Seller is unable to resume full performance within ten (10) days after the onset of such delay.
- (f) **Integration.** Unless the parties have entered into a separate purchase or supply agreement, this Purchase Order contains the entire and only agreement between the parties respecting the purchase and sale specified in this Purchase Order and supersedes all pre-existing agreements or arrangements between the parties. No waiver, alteration or modification of any of the provisions hereof shall be binding unless in writing, signed by a duly authorized representative of Novavax.