



VACGEN

VACGEN Ltd  
Unit A, Swallow Enterprise Park,  
Lower Dicker, East Sussex,  
BN27 4EL, UK  
[www.vacgen.com](http://www.vacgen.com)

## Terms and Conditions of Purchase for Suppliers

VACGEN Ltd. Registered in England and Wales No. 5361640. VAT No. GB856 1067 22

### TERMS AND CONDITIONS OF PURCHASE OF GOODS

#### 1. INTERPRETATION

**1.1** The definitions and rules of interpretation in this condition apply in these conditions.

Contract: the Order and the Supplier's acceptance of the Order. Goods: any goods agreed in the Contract to be bought by VACGEN from the Supplier (including any part or parts of them).

Order: VACGEN's written instruction to supply the Goods, incorporating these conditions.

Supplier: the person, firm or company who accepts VACGEN's Order.

VACGEN: VACGEN Limited (company number 05361640) whose registered office is at Unit A Swallow Enterprise Park, Diamond Drive, Lower Dicker, Hailsham, United Kingdom, BN27 4EL.

**1.2** A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

**1.3** A reference to one gender includes a reference to the other gender.

**1.4** Condition headings do not affect the interpretation of these conditions.

#### 2. APPLICATION OF TERMS

**2.1** Subject to any variation under condition 2.4, these conditions are the only conditions upon which VACGEN is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions.

**2.2** Each Order for Goods by VACGEN from the Supplier shall be deemed to be an offer by VACGEN to buy Goods subject to these conditions and no Order shall be accepted until the Supplier either expressly by giving notice of acceptance, or impliedly by fulfilling the Order, in whole or in part accepts the offer.

**2.3** No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance of order, specification or similar document shall form part of the



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Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.

**2.4** These conditions apply to all VACGEN's purchases and any variation to these conditions shall have no effect unless expressly agreed in writing and signed by an authorised representative of VACGEN.

### **3. QUALITY AND DEFECTS**

**3.1** The Goods shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Order and specification and/or patterns supplied or advised by VACGEN to the Supplier.

**3.2** VACGEN's rights under these conditions are in addition to the statutory conditions implied in favour of VACGEN by the Sale of Goods Act 1979.

**3.3** VACGEN shall have the right to inspect and test the Goods at all times prior to delivery of the Goods.

**3.4** If the results of such inspection or testing cause VACGEN to be of the opinion that the Goods do not conform or are unlikely to conform with the Order or to any specifications and/or patterns supplied or advised by VACGEN to the Supplier, VACGEN shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure conformity and in addition VACGEN shall have the right to require and witness further testing and inspection.

**3.5** Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

**3.6** If any of the Goods fail to comply with the provisions set out in condition 3.1 VACGEN shall be entitled to avail itself of any one or more remedies listed in condition 16.

### **4. INDEMNITY**

**4.1** The Supplier shall keep VACGEN indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by VACGEN as a result of or in connection with:

**4.1.1** Defective workmanship, quality or materials;

**4.1.2** An infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Goods; and



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**4.1.3** Any claim made against VACGEN in respect of any liability, loss, damage, injury, cost or expense sustained by VACGEN's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Supplier.

## **5. PRODUCT LIABILITY INDEMNITY AND INSURANCE**

**5.1** The Supplier shall at all times maintain product liability insurance of at least £5,000,000 (or any other currency equivalent thereof) to indemnify VACGEN and all of VACGEN's employee and representatives against all claims or proceedings brought by a third party against VACGEN in respect of:

**5.1.1** the use, operation or malfunction of Goods supplied; or

**5.1.2** defects in the Goods supplied..

**5.2** The Supplier shall provide VACGEN with a copy of the insurance policy and copies of receipts of premium within 14 days of written request to do so by VACGEN.

**5.3** The Supplier shall upon request by VACGEN take control of the defence of any claims or proceedings howsoever arising.

## **6. DELIVERY AND PERFORMANCE**

**6.1** The Goods shall be packaged in a manner suitable for transit without damage or weathering and suitable for external storage at no additional cost to VACGEN.

**6.2** The Goods shall be delivered, carriage paid, to the place of delivery specified by VACGEN in the Order. The Supplier shall off-load the Goods at its own risk as directed by VACGEN.

**6.3** The date for delivery shall be specified in the Order, or if no such date is specified then delivery shall take place within 28 days of the Order.

**6.4** The Supplier shall invoice VACGEN upon, but separately from, despatch of the Goods to VACGEN.

**6.5** The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note which shows, inter alia, the Order number, date of Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

**6.6** The Supplier shall at no additional cost to VACGEN provide a certificate with each delivery of Goods, certifying that the goods supplied are in every respect as specified in the order, including results of electrical, electronic, mechanical, cure dates, shelf life and/or chemical tests as applicable.

**6.7** Time for delivery shall be of the essence.



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**6.8** Unless otherwise stipulated by VACGEN in the Order, deliveries shall only be accepted by VACGEN in normal business hours.

**6.9** If the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, VACGEN reserves the right to:

**6.9.1** Cancel the Contract in whole or in part;

**6.9.2** Refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

**6.9.3** Recover from the Supplier any expenditure reasonably incurred by VACGEN in obtaining the Goods in substitution from another supplier; and

**6.9.4** Claim damages for any additional costs, loss or expenses incurred by VACGEN which are in any way attributable to the Supplier's failure to deliver the Goods on the due date.

**6.10** If the Supplier requires VACGEN to return any packaging material to the Supplier that fact must be clearly stated on any delivery note delivered to VACGEN and any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

**6.11** Where VACGEN agrees in writing to accept delivery by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Supplier to deliver any one instalment shall entitle VACGEN at its option to treat the whole Contract as repudiated.

**6.12** If the Goods are delivered to VACGEN in excess of the quantities ordered VACGEN shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.

**6.13** VACGEN shall not be deemed to have accepted the Goods until it has had 28 days to inspect them following delivery. VACGEN shall also have the right to reject the Goods as though they had not been accepted for 28 days after any latent defect in the Goods has become apparent to VACGEN.

## **7. SPARES**

For a period of not less than ten years from the last delivery of the Goods under the Order:

**7.1** The Supplier shall make available to VACGEN on demand sufficient quantity and range of spare parts and components for the Goods comprised in the Order; and

**7.2** If such spare parts or components are not available, or the price (or other terms of supply) for those spare parts is not acceptable to VACGEN, the Supplier shall provide (free of charge) sufficient information and technical data to enable VACGEN to manufacture or obtain spare parts without delay or abnormal difficulty.



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## **8. RISK/PROPERTY**

**8.1** The Goods shall remain at the risk of the Supplier until delivery to VACGEN is complete (including off-loading and stacking) when ownership of the Goods shall pass to VACGEN.

## **9. SUBCONTRACTING**

**9.1** No part of an Order shall be subcontracted without VACGEN's written approval. All requests for such approval shall specify the goods or services to be covered and the indemnity of the subcontractor.

**9.2** If VACGEN agrees to the subcontracting, the Supplier shall ensure that the agreement between the Supplier and the subcontractor gives VACGEN the same rights of inspection and rejection as are contained in these terms.

**9.3** A copy of any such subcontract must be forwarded to VACGEN on demand.

**9.4** Any approval of sub-contracting shall not vary the obligations of the Supplier under these terms, and the Supplier shall be liable for any act or omission of a subcontractor as if it were the act or omission of the Supplier itself.

## **10. PRICE**

**10.1** The price of the Goods shall be stated in the Order and unless otherwise agreed in writing by VACGEN shall be exclusive of value added tax but inclusive of all other charges.

**10.2** No variation in the price nor extra charges shall be accepted by VACGEN.

## **11. PAYMENT**

**11.1** VACGEN shall pay the price of the Goods within 45 days of delivery of the Goods to VACGEN, but time for payment shall not be of the essence of the Contract.

**11.2** Without prejudice to any other right or remedy, VACGEN reserves the right to set off any amount owing at any time from the Supplier to VACGEN against any amount payable by VACGEN to the Supplier under the Contract.

**11.3** If any sum under the Contract is not paid when due then, without prejudice to the parties' other rights under the Contract, that sum shall bear interest from the due date until payment is made in full, both before and after any judgment, at 8% per annum over Barclays Bank plc's base rate from time to time. The Supplier is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

## **12. SITE WORK**



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**12.1** Where the Order requires the Supplier, its employees, subcontractors or agents to carry out work on any site or premises, the Supplier shall ensure that all relevant statutory rules and regulations are complied with, and that the instructions of those in charge of the premises or site are followed in the carrying out of this work.

**12.2** All surplus material, must be removed, and all damage or disruption must be rectified or removed promptly and at the Supplier's expense.

### **13. CONFIDENTIALITY**

The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by VACGEN or its agents and any other confidential information concerning VACGEN's business or its products which the Supplier may obtain and the Supplier shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to VACGEN and shall ensure that such employees, agents or subcontractors are subject to like obligations of confidentiality as bind the Supplier.

### **14. VACGEN PROPERTY**

**14.1** All jigs, tools, dies, moulds, material and other such items supplied to the Supplier by VACGEN or obtained by the Supplier at VACGEN's expense (VACGEN Property) shall remain VACGEN's property.

**14.2** The Supplier shall ensure that all VACGEN Property is clearly marked as being the legal property of VACGEN and is stored separately from all other property in the Supplier's possession, and that the VACGEN Property is not used in relation to any supply to a third party.

**14.3** The Supplier shall be liable for any loss or damage to VACGEN Property in its possession, custody or control from time to time.

**14.4** Any scrap material generated from VACGEN Property shall remain the property of VACGEN who may direct its return or credit against the cost of executing the order.

**14.5** The Supplier shall return all VACGEN Property to VACGEN immediately on demand and at the Supplier's own expense, whether before or after termination of the Contract.

### **15. TERMINATION**

**15.1** VACGEN shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work on the Contract shall be discontinued and VACGEN shall pay to the Supplier fair and reasonable compensation for work carried out and for Goods delivered prior to the date of notice, but such compensation shall not include loss of anticipated profits or any consequential loss.



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**15.2** VACGEN shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract forthwith if:

**15.2.1** The Supplier commits a material breach of any of the terms and conditions of the Contract; or

**15.2.2** Any distress, execution or other process is levied upon any of the assets of the Supplier; or

**15.2.3** The Supplier (being an individual) has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Supplier or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Supplier or for the granting of an administration order in respect of the Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier, or any event or circumstance occurs in any jurisdiction that is analogous to any of the previous events; or

**15.2.4** The Supplier ceases or threatens to cease to carry on its business;

or

**15.2.5** The financial position of the Supplier deteriorates to such an extent that in the opinion of VACGEN the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy.

**15.3** The termination of the Contract, however arising, shall be without prejudice to the rights and duties of VACGEN accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

## **16. REMEDIES**

Without prejudice to any other right or remedy which VACGEN may have, if any Goods are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Contract VACGEN shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by VACGEN:

**16.1** to rescind the Order;



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**16.2** to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier;

**16.3** At VACGEN's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;

**16.4** To refuse to accept any further deliveries of the Goods but without any liability to the Supplier;

**16.5** To carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract; and

**16.6** To claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Contract.

## **17. ASSIGNMENT**

**17.1** The Supplier shall not be entitled to assign the Contract or any part of it without the prior written consent of VACGEN.

**17.2** VACGEN may assign the Contract or any part of it to any person, firm or company.

## **18. FORCE MAJEURE**

VACGEN reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of VACGEN including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

## **19. GENERAL**

**19.1** Each right or remedy of VACGEN under the Contract is without prejudice to any other right or remedy of VACGEN whether under the Contract or not.

**19.2** If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

**19.3** Failure or delay by VACGEN in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.





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**19.4** Any waiver by VACGEN of any breach of, or any default under, any provision of the Contract by the Supplier shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

**19.5** The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

**19.6** The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

## **20. COMPLIANCE**

**20.1** VACGEN makes every effort to ensure that our products comply with current legislation including: recent. UK, (Sanctions) Russia (EU Exit) Regulations 2019. The Council Regulation (EU) No 833/2014, Article 3g, Annex XVII concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.