

GENERAL TERMS AND CONDITIONS
of NIZO food research B.V. domiciled at Ede, The Netherlands
filed at the Chamber of Commerce and Industry at Arnhem on February 20, 2004

Article 1. General

- 1.1 These General Terms and Conditions of NIZO food research (NIZO) are applicable to the preparation and realization of advisory, research and production work commissioned by a principal.

Article 2. Assignment

- 2.1 A written offer including the price and the project plan is made to the principal, unless urgent work or work on a limited scale is involved, in which case an offer can be made verbally.
- 2.2 An order is effected if NIZO has received a written acceptance by the principal within the term indicated in the offer. If an offer is made verbally its acceptance can also take place verbally, but the completion of the order shall be confirmed in writing by NIZO.
- 2.3 By accepting an order for the execution of work related to research, NIZO commits itself to no more than aiming at results that are workable for the principal.

Article 3. Project Plan

- 3.1 The offer for work includes a project plan in which the work, the investments, (intermediary) decisions and - if possible - the expected results are described. A detailed project plan may be omitted, however, if an offer is made verbally.
- 3.2 After the order is effective, changes may be made in a project plan in writing only after mutual agreement of the principal and NIZO.
- 3.3 If no agreement on making a change can be reached, the original project plan shall be followed as far as possible. If the principal or NIZO does not agree to this, a dispute in the sense of article 11.5. has arisen.
- 3.4 The project plan or the plan of work described in the offer, including drawings, models and calculations, remain the property of NIZO, unless arranged otherwise in Article 8.

Article 4. Indemnity and payment

- 4.1 The price for the work included in the offer can be:
- a. a fixed price for the execution of the work, or
 - b. a basic price for the work to be determined by subsequent calculation. In the execution of the work the basic price may exceed maximal 10% without prior approval of the principal being necessary, unless the principal has agreed with a possible bigger overspending,
 - c. supplementary payments in the form of a down payment, a bonus or a royalty.
- 4.2 After the principal has accepted the offer, NIZO shall send as soon as possible an invoice of 35% of the price meant in article 4.1 excluding VAT and, after payment of this invoice, NIZO shall start as soon as possible with the work. Invoices for the remaining costs shall be sent periodically to the principal as agreed in the offer after the costs of the execution of the project has consumed the advance payment,
- 4.3 Invoices shall be paid within 30 days after the invoice date. The principal is also obliged to pay accrued interest and costs of collecting the payments if, after having received a written summons, he exceeds the term stated therein.
- 4.4 Unless stated otherwise, all amounts mentioned in the offer by NIZO or agreed upon verbally are exclusive of VAT.
- 4.5 Supply of products within the framework of the work takes place "ex-works NIZO". Costs of transport of (hazardous) waste and residues are expressly at the expense of the principal.

Article 5. Secrecy, Confidentiality

- 5.1 The principal shall keep secret all know-how and data of NIZO mentioned in the project plan for the duration of the project and three (3) years afterwards or three (3) years from the date of the offer, whichever is last. NIZO shall keep secret all know-how and data that has been provided in writing by or on behalf of the principal and which have been characterized as explicitly confidential, for three (3) years from the date on which its know-how and data meant have been provided.
- 5.2 Work executed is kept secret, unless its development has not been part of the order. This obligation to secrecy is not applicable if NIZO, pursuant to what has been laid down in articles 9.2 and 9.3. will proceed to submit (a) patent application(s). This obligation to secrecy holds for a period of three (3) years after the date of sending the written report, as meant in article 7,1, unless NIZO and the principal have agreed on another term.
- 5.3 The obligation to secrecy described in articles 5.1 and 5.2 is not applicable to:
- (a) know-how, data and results that are already in the possession of the receiving party at the moment the receiving party is informed of the know-how and data concerned,
 - (b) know-how, data and results that were or have become publicly known without being the result of any action or failure or breach of the receiving party,
 - (c) know-how, data and results that have been lawfully obtained from a third party by the receiving party,
 - (d) know-how and data that have been obtained through NIZO's own research without making use of know-how. Data and results to be kept secret that have been provided by the principal,
 - (e) that part of the results that refers to the analysis or measuring methods, methods of working, techniques, arithmetic models and/or software, unless the principal has been given right of exclusive use with regard to such results.
- 5.4 The principal shall keep secret that part of the results that refers to measuring methods, methods of working, techniques, arithmetic models and/or software, unless the principal has been given right of exclusive use of such results.

Article 6. Obligations of the principal

- 6.1 The principal shall, as soon as possible after completion of the order meant in article 2.2 give NIZO all information and possible materials, raw materials and instruments NIZO needs for performing the work free of charge. The principal shall supply all Information regarding materials and raw materials that is of importance for preventing injury or damage with special emphasis on the hazardous and dangerous aspects.
- 6.2 The principal, or his authorized representative can be present at the execution of the work, if this has been agreed on in advance by NIZO and the principal

Article 7. Reporting

- 7.1 The execution of the work will be concluded by a written report to be sent by NIZO to the principal and describing the results and conclusions from the work.

Article 8. Rights to results

- 8.1 The principal will be the sole owner and will have the exclusive, transferable right for use of the results as described in the project plan in so far as the results consist of data.
- 8.2 All data, methods and technologies that NIZO possessed at or before the start of the project belong to NIZO and NIZO will remain the sole owner. If needed, the principal may obtain a license for use on conditions to agree upon.

- 8.3 The principal may obtain a right for special use of bacterial strains from NIZO's culture collection on terms to agree upon, but NIZO will remain the sole owner of such bacterial strains.
- 8.4 The principal will get a non-exclusive, non-transferable right for use of methods and technologies (e.g. measuring methods, methods of working, techniques, arithmetic models and/or software) unless the development of these methods and technologies are the explicit aim of the project plan. NIZO shall have the right to use the methods and technologies for itself and for third parties. In case NIZO and the principal have agreed that the principal has the right to an exclusive, transferable use of results of the project plan, NIZO has the right to use the results exclusively for itself. Both during and after the period during which NIZO, pursuant to article 5.2, is obliged to secrecy, NIZO has the right to use for itself.
- 8.5 If the principal will make use of his right to grant sublicenses to third parties as described in article 8.4., a compensation to agree upon shall be paid to NIZO.
- 8.6 The right of use as meant in article 8.1. and 8.4. is only applicable from the time when NIZO has received complete payment for the work executed.
- 8.7 Both during and after the period during which NIZO, pursuant to article 5.2., is obliged to secrecy, NIZO has the right to use for itself and third parties, or put at the disposal of third parties:
- know-how and data present at NIZO on acceptance of the order;
 - results of the work outside the area of the order;
 - know-how, data and results of the work with regard to which, pursuant to what has been laid down in article 5.3, no obligation to secrecy is applicable.
- 8.8 The principal is not allowed to use results from and reports of work done by NIZO (i) for submitting a claim for damages against third parties, (ii) for starting legal proceedings and the preparatory actions connected with them and (iii) for advertising nor (iv) to use the name of NIZO in any connection, unless after prior written permission from NIZO.
- 8.9 Reports, drawings and other tangible matters resulting from the work done for the principal are the property of the principal, but NIZO keeps the copyright and other intellectual rights of ownership with regard to a-fore-mentioned reports, drawings and other tangible matters. The principal will refer to / mention the relevant authors from NIZO in publications.

Article 9. Protection of know-how

- 9.1 The principal has the right to apply for patent protection in his name and at his expense for the results meant in article 8.1. The principal shall mention in the patent application(s) as inventor(s) all the relevant NIZO employees who have been involved with the work.
- 9.2 NIZO has the right to apply for patent protection in its own name and at its own expense for the results meant in article 8.4, unless NIZO and the principal have agreed otherwise.
- 9.3 If the principal makes no use of his right pursuant to article 9.1, he shall inform NIZO in writing within three (3) months in which case NIZO may file such a patent application in its own name and at its own expense, unless principal can clearly demonstrate that such a patent application seriously impairs his business objectives.

Article 10-Liability

- 10.1 NIZO is liable only for the direct damage that the principal suffers through an accountable shortcoming of NIZO in the execution of the work however only to maximally the amount that is reclaimable by NIZO from its liability insurance covering the case concerned.
- 10.2 The completion of the order as meant in article 2.2 implies that the principal has renounced any right to appeal to any further liability of NIZO, other than is described in article 10.1. The principal also indemnifies NIZO from any claims against third parties, unless gross debt and/or evil intent of NIZO is proven.

- 10.3 NIZO does not accept any liability for damages that arise from results that are not eligible for patenting, or because in application of the results the intellectual property or license rights of third parties are infringed.
- 10.4 NIZO does not accept liability for damages of the principal or his staff occurring during the stay on the NIZO premises, unless gross debt or evil intent of NIZO is proven.
- 10.5 NIZO does not guarantee the completeness of the search for (patent) literature it carries out in conjunction with an offer or work,
- 10.6 Claims towards NIZO of direct damage in connection with an order carried out by NIZO expire if NIZO has not been notified of such a claim in writing within a year after sending the written report, unless the principal proves it was impossible for him to comply with his duty to report within the term stated.

Article 11 - Special arrangement, disputes

- 11.1 If the work ordered by the principal is prematurely terminated by mutual agreement, the provisions in articles 8, 9 and 10 apply to the results obtained until then. All expenses incurred until then are for account of the principal.
- 11.2 If it is proven by NIZO that during the execution of work aimed at the manufacturing of products unforeseen losses of raw materials occur and/or products are obtained of considerably less quality than usual, NIZO has the right to terminate the work immediately. The principal is immediately informed of this. Continuation of the work shall in that case take place only if the principal has declared himself in writing that he is in agreement with the unforeseen extra costs following from the unforeseen losses or inferior quality meant.
- 11.3 If an exemption or permit necessary for the execution of the work is revoked, the execution of the work is terminated. In that case the principal owes the costs incurred to the moment of termination. The damage suffered by the principal as a result of such a termination is for account of the principal.
- 11.4 If the principal does not fulfill any essential obligation that is imposed on him pursuant to these General Terms and Conditions and, after having been declared in default for that, has still not complied within a reasonable term mentioned in the proof of default, he loses any right to the results following from the work done by NIZO, without prejudice to the right of NIZO to claim compensation of the damage suffered and still to be suffered.
- 11.5 Disputes between NIZO and the principal that are connected with the work done and that cannot be solved by mutual agreement, shall be brought before the competent Court at Arnhem, the Netherlands.
- 11.6 To the agreement concluded verbally or in writing between the principal and NIZO as regards the work to be done and the work proceeding, Dutch law is applicable.
- 11.7 These General Terms and Conditions are considered to be part of the agreement meant in the preceding paragraph. Provisions deviating from these General Terms and Conditions shall be laid down in writing.