

1. Supply of the Products and/or Services

- 1.1 The Supplier agrees to provide the Products and/or Services to the Customer, and the Customer agrees to purchase the Products and/or Services from the Supplier in accordance with the terms of the Contract.

2. The Contract

- 2.1 An offer by Supplier will be valid for thirty (30) days and will expire automatically at the end of that period, unless stated otherwise in the relevant offer.
- 2.2 The Contract between the Supplier and the Customer will be established by the order confirmation of the Supplier.
- 2.3 The General Conditions of Sale apply to all offers, quotations, sales and deliveries of Products and/or Services of Supplier and all Contracts with the Supplier, unless explicitly agreed otherwise in writing. Deviation from the General Conditions of Sale is only possible when it has been agreed in writing.
- 2.4 If there is any inconsistency between the General Conditions of Sale and the Contract, then the Contract will have precedence to the extent of the inconsistency.
- 2.5 The Supplier reserves the right to change and/or supplement the General Conditions of Sale.
- 2.6 The applicability of any general or other terms of the Customer is explicitly excluded.

3. Price

- 3.1 Prices are quoted based on currency exchange rates at the time of the offer and/or the order confirmation of Supplier, and the exchange rate factor is documented in the offer and/or the order confirmation.
- 3.2 Currency variations between the time of the Supplier's offer and/or order confirmation and the date of the Supplier's invoice will be adjusted according to the following formula:

$$(\text{Quoted Price} / \text{Quotation Exchange Rate}) \times \text{New Exchange Rate}$$

- 3.3 All prices are quoted on INCOTERM DAP, unless otherwise expressly stated in the offer and/or order confirmation.
- 3.4 The price quoted for any Products and/or Services is exclusive of turnover tax (VAT) or any other tax imposed by law unless expressly stated otherwise.
- 3.5 The Customer must supply the Supplier with its company, business and/or tax number, and the Supplier will not supply any Products and/or Services to the Customer until the requested company, business and/or tax number is supplied to the Supplier.
- 3.6 The Supplier reserves the right, at any time prior to the supply of the Products and/or Services ordered, to increase the price of the Products and/or Services to reflect, among other things, any increase in the costs of the Supplier to supply the Products and/or Services, including, but not limited to:
 - (a) an increase in the cost of any tax or levy;
 - (b) any variation in exchange rates;
 - (c) any change in the specifications or quantities of the Products and/or Services ordered by the Customer; or
 - (d) any delay caused by a change in the instructions of the Customer.
- 3.7 Prices do not include installation, commissioning or user training unless expressly stated otherwise.
- 3.8 Prices are valid for a period of thirty (30) days from the issue of the offer by the Supplier.

4. Terms of Payment

- 4.1 The Customer must pay the Supplier's invoice within 14 days after the date of the invoice, unless the Supplier has expressly agreed to a different payment period.
- 4.2 The purchase price shall be paid with one third at the formation of the Contract and one third when the Supplier notifies the Customer that the Product(s), or the essential part of it, is/are ready for delivery. The remaining part of the purchase price shall be paid when the entire Product(s) is/are delivered.
- 4.3 The Supplier reserves the right to request prepayment of any invoice in part or in full.
- 4.4 If the Customer fails to pay by the stipulated date, the Supplier shall be entitled to claim the statutory interest from the day on which the payment was due and to compensation for recovery costs.
- 4.5 If any part of the invoice is in dispute the balance will remain due and payable within 14 days after the date of the invoice. The Customer has no right to offset any claims against the Supplier from outstanding money.
- 4.6 If the Customer:
 - (a) does not make payment by the invoice due date;
 - (b) commits any other breach of the General Conditions of Sale;
 - (c) becomes insolvent or is reasonably suspected by the Supplier to be insolvent;then the Supplier may do any of the following at her discretion and without limiting any other rights or claims available to the Supplier:
 - (d) Charge late payment fees, including statutory interest, plus an additional 6% handling charge;
 - (e) Call for the Customer's full payment of all items received even if complete delivery is not possible;
 - (f) Cancel or suspend any unfulfilled orders or cease providing any Services;
 - (g) Terminate any orders or Contracts between the Supplier and the Customer with immediate effect and request the immediate payment of all outstanding invoices;
 - (h) Cancel any discount, credit arrangement or other commercial agreement in place;
 - (i) Enter, at any time, into the Customer's premises in which the Supplier's Products are located to enable the Supplier to inspect or reclaim the Products without liability for trespass, negligence or payment of any compensation.

5. The Products

- 5.1 The Customer warrants and agrees that:
- (a) it has not relied on the advice of the Supplier in determining whether the Products are fit for the purpose for which they are ordered and/or comply with the required statutory or other specifications for the Products (the Product Specifications);
 - (b) it undertakes to comply with applicable local laws with regard to the Products at all times;
 - (c) the Supplier will not be liable to the Customer or any third party for the failure of the Products to be fit for the purpose for which they are ordered and/or meet the Product Specifications;
 - (d) it indemnifies the Supplier against any loss that the Supplier or Customer suffers, incurs, or is liable for as a result of the failure of the Products to be fit for the purpose for which they are ordered and/or meet the Product Specifications;
 - (e) the Supplier may, in its sole discretion, make any changes to the Products to ensure that they meet the Product Specifications and, pursuant to sub-clause 3.5, the Customer agrees to pay for any price increase associated with these changes;
 - (f) the Customer cannot rely on any representation, promise, statement or description made by the Supplier other than those set out in writing as part of the offer;
 - (g) Once the Supplier has accepted a purchase order it cannot be cancelled by the Customer without written approval by the Supplier;
 - (h) the supply of Products and Services is subject to availability. The Supplier reserves the right to suspend or discontinue the supply of Products or Services at any time;
 - (i) if the Supplier is unable to completely fulfil the order confirmation, the Customer has to accept part fulfilment and these General Conditions of Sale apply to the items actually delivered;
 - (j) The Supplier reserves the right to refuse quotation or delivery against any orders placed if:
 - (a) the Supplier has reasonable doubt of lawful product use or;
 - (b) if the Supplier has any other concerns about the Customer's integrity. The Supplier is not required to specify the reason for refusing quotations or deliveries.

6. Delivery of the Products

- 6.1 Subject to sub-clauses 5.1, the Supplier agrees to provide the Products and deliver them to the Customer:
- (a) at the Customer's premises, as specified in the order confirmation (the OC Delivery Address);
 - (b) in accordance with the date specified in the order confirmation (the OC Delivery Date), or otherwise in accordance with this clause.
- 6.2 The Supplier's services explicitly exclude any form of onsite transportation.
- 6.3 If the Supplier cannot deliver the Products on the OC Delivery Date and/or to the OC Delivery Address for any reason, the Supplier will:
- (a) notify the Customer that it cannot deliver the Products to the Customer on the OC Delivery Date and/or to the OC Delivery Address; and
 - (b) deliver the Products to the Customer on the first possible date after the OC Delivery Date and to an alternate address nominated by the Customer to the Supplier in writing.
- 6.4 If, due to any act, matter or thing beyond the control of the Supplier, the OC Delivery Address is unattended, delivery cannot otherwise be effected or the Products cannot be dispatched, the Supplier may (in its sole discretion) store the Products or take such other steps it considers appropriate at the Customer's risk and expense.
- 6.5 Upon delivery of the Products to the Customer, the Customer:
- (a) agrees that it must immediately unload the Products; and
 - (b) has seven (7) days to report any alleged transport damage to the Supplier in writing and (quoting the Supplier's Invoice), if the Customer does not notify the Supplier within that period, the Customer will be deemed to have accepted the Products.
- 6.6 The Supplier may withhold delivery of the Products if:
- (a) the Supplier, in its sole discretion, considers that the financial position of the Customer is sufficiently uncertain to warrant the Supplier withholding delivery to protect the Supplier's interests;
 - (b) subject to clause 4, the terms for payment for the Products have not been strictly adhered to.

7. Software

- 7.1 The Customer acknowledges that whenever any software products (the Software) are incorporated or form part of the Products:
- (a) the Software is licensed and not sold to the Customer;
 - (b) words in either the purchase order, order confirmation, invoice or otherwise such as "purchase" or "sell" are understood to mean "license";
 - (c) The Supplier is granting the Customer a royalty free, non-exclusive and non-transferrable licence for the Software;
 - (d) the Customer is not entitled to sublicense the Software;
 - (e) the Software is solely supplied for the Customer's internal use; and
 - (f) the Customer is not to make the Software available to third parties.

8. Risk and Title

- 8.1 The risk of loss or damage to the Products passes to the Customer on dispatch of the Products, and from that time the Customer assumes all risk of loss and damage to the Products including, but not limited to, damage caused by unloading the Products after delivery.
- 8.2 Notwithstanding any other provisions in these General Conditions of Sale, and notwithstanding that the Customer has possession of the Products, title to the Products will remain with the Supplier (and no legal or equitable interest or property in the Products will pass to the Customer) until:
- (a) the Customer has paid in full the invoice relating to the Products; and
 - (b) the Customer has paid any amounts outstanding under any previous invoices issued to the Customer by the Supplier.
- 8.3 Until title to the Products passes to the Customer, the Customer holds the Products as bailee of the Supplier and must:
- (a) not encumber the Products;
 - (b) store, mark and/or handle the Products in such a way that they are at all times easily identifiable and distinguishable from the Customer's other goods and property or the goods and property of any other third party;

- (c) allow the Supplier full and free access to the Customer's premises where the Products are located for the purpose of the Supplier retaking possession of the Products if the Customer is in breach of any of these General Conditions of Sale;
- (d) not dispose of the Products unless and until all of the following conditions are satisfied:
 - (i) the Products are disposed of to a bona fide and law obeying sub-purchaser in the country in which the Products are delivered by Supplier and in the ordinary course of the Customer's business;
 - (ii) the Contract has not been terminated by the Supplier for any reason;
 - (iii) the Customer holds all moneys received from a sub-purchaser of the Products in trust for the Supplier and in a separate bank account until the Customer has paid the full amount for the Products to the Supplier.

9. Export restrictions

9.1 The Customer acknowledges that:

- (a) all Products supplied by the Supplier are intended for use within the country in which the Products are delivered by the Supplier;
- (b) the Products must not be re-exported out of the country in which the Products are delivered without prior consent of the Supplier;
- (c) the Supplier accepts no liability for any re-exports of the Products.

10. The Services

10.1 The Customer warrants and agrees that:

- (a) it has not relied on the advice of the Supplier in determining whether the Services are fit for the purpose for which they are ordered and/or will produce an outcome that is compliant with the required statutory or other specifications for the Services (the Services Specifications);
- (b) the Supplier will not be liable to the Customer or any third party for the failure of the Services to be fit for the purpose for which they are ordered and/or meet the Services Specifications;
- (c) it indemnifies the Supplier against any loss that the Supplier or Customer suffers, incurs, or is liable for as a result of the failure of the Services producing an outcome that is not fit for the purpose for which they are ordered and/or meet the Services Specifications;
- (d) the Supplier may, in its sole discretion, make any changes to the Services to ensure that they meet the Services Specifications and, pursuant to sub-clause 3.5, the Customer agrees to pay for any price increase associated with these changes.

11. The Supplier's Installation Service

11.1 The Customer acknowledges that:

- (a) if the Supplier's staff or authorised representatives attend any Customer premises as directed by the Customer to install Products or perform any Services, the Customer will ensure appropriate policies and procedures are in place and followed, according to good industrial practice;
- (b) it is the Customer's responsibility to prepare the installation site and to provide any services required such as electricity, water, wastewater, air conditioning and compressed air lines;
- (c) the Supplier's services do not include any form of site preparation or services provision;
- (d) any cost for special equipment or handling support associated with the installation will be in addition to the Customer's account.

12. Provision of the Services

12.1 Subject to sub-clauses 12.2, the Supplier agrees to provide the Services in accordance with the Contract.

12.2 If the Supplier cannot deliver the Services in accordance with the Contract for any reason, the Supplier will:

- (a) notify the Customer that it cannot provide the Services in accordance with the Contract; and
- (b) provide the Services as soon as practicable and as close as practicable to the terms of the Contract.

13. Warranty and Liability

13.1 Subject to any condition, warranty or right implied or imposed by any law that cannot be excluded by agreement, or any express provision in the General Conditions of Sale; the Supplier warrants new Products for 12 months from the date of the invoice against defective parts and faulty workmanship.

13.2 The Supplier warrants consumable items (such as vacuum gauge filaments, electron sources and the like) for 6 months from the date of the invoice.

13.3 The Supplier warrants service and repair work that it performs for:

- (a) 3 months for regular service work; and
- (b) 12 months from the date of the invoice for warranty work.

13.4 The Supplier warrants preventative and repair service work:

- (a) 12 months on parts used for the work; and
- (b) 3 months for labour.

13.5 The Supplier warrants turbo pumps for a period of 12 months for parts and labour where:

- (a) the turbo pumps have undergone a vibration test before and after service; and
- (b) the vibration test must have indicated 100% compliance with the official Pfeiffer Vacuum test criteria.

13.6 The Supplier's liability for any breach of any implied or imposed condition, warranty or right in relation to the supply of the Products and/or Services is limited to one or more of the following (at the sole discretion of the Supplier):

- (a) in the case of the Products:
 - (i) replacement of the Products, or supply of products equivalent to the Products;
 - (ii) repair of the Products;
 - (iii) payment of the cost of replacing the Products or acquiring products equivalent to the Products; or
 - (iv) payment of having the Products repaired. Where the Supplier elects to replace the Products, the Customer will return the original Product to the Supplier.
- (b) in the case of the Services:
 - (i) providing the Services again, or providing services equivalent to the Services;
 - (ii) payment of the cost of providing the Services again, or acquiring services equivalent to the Services;

- 13.7 Subject to clauses 13.1 and 13.2 of the General Conditions of Sale, and despite any implication arising from any other provision of the General Conditions of Sale:
- (b) to the fullest extent permitted by law, the Supplier will only be liable for a defect in the Products if:
 - (i) the Customer notifies the Supplier in writing of that defect within 5 business days after the date on which the Products are received by the Customer; and
 - (ii) the Supplier accepts liability for that defect in writing;
 - (c) the Supplier is not liable to the Customer, its servants, agents or contractors: in respect of, any indirect or consequential loss or damage including, but not limited to financial loss or expense, including loss of opportunity, loss or profits or loss of goodwill arising directly or indirectly out of, or attributable in any way to:
 - (A) the Products and/or Services or the supply of the Products and/or Services; or
 - (B) the performance of the Contract;
- 13.8 The Customer indemnifies the Supplier against any loss that the Supplier suffers, incurs or is liable for in connection with:
- (a) any breach of the General Conditions of Sale;
 - (b) negligence by the Customer; or
 - (c) the Supplier exercising any of its rights under the General Conditions of Sale.
- 13.9 Warranty only applies to Products which were used as intended and in compliance to the manufacturer's user manual.
- 13.10 The Customer acknowledges that any tampering with, non-user manual complaint use or attempted repair by the Customer of the Products will void the Supplier's warranty.

14. The Supplier's Obligations

- 14.1 Notwithstanding any other provisions of the General Conditions of Sale, the Supplier is not:
- (a) bound to perform its obligations under the Contract where the Customer breaches a term of the Contract unless and until that breach is remedied in full;
 - (b) liable for any failure to observe its obligations under the Contract where such failure is wholly or substantially due to a force majeure event, which includes any event beyond the control of the Supplier; including but not limited to strike, industrial action, war, sabotage, terrorist activity, national emergency, blockade, government action, inaction or request, fire, seizure, currency and export restrictions, epidemics, natural disasters, extreme natural events and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this clause.

15. Termination by the Supplier

- 15.1 Without prejudice to any of its rights, powers or remedies, the Supplier:
- (a) may cancel any order for the supply of Products and/or Services and terminate a Contract governed by the General Conditions of Sale if:
 - (i) the terms of payment for any Products and/or Services delivered to the Customer by the Supplier have not been strictly adhered to by the Customer;
 - (ii) the Customer defaults under any of its obligations under the General Conditions of Sale; or
 - (iii) the Customer suffers an Insolvency Event; and in each case, the Supplier will be released from all liability under the Contract;
 - (b) will be entitled to payment for all Products and/or Services delivered up to the effective date of termination; and termination of the Contract under this clause will be without prejudice to any rights of the Supplier accruing up to the date of termination.

16. Intellectual Property

- 16.1 The supply of Products and/or Services by the Supplier to the Customer does not constitute a transfer of any intellectual property rights in the Products and/or Services (the IP Rights), and:
- (a) the Customer must not do anything that is inconsistent with, or an infringement of, the IP Rights; and
 - (b) the Supplier does not warrant that the supply by it of the Products and/or Services will not infringe the IP Rights of any third party.
- 16.2 Drawings, technical documents or other technical information the Customer received from the Supplier shall not, without the consent of the Supplier, be used for any other purpose than that for which they were provided. They may not, without the consent of the Supplier, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

17. Miscellaneous Provisions

- 17.1 The Contract and the General Conditions of Sale are governed and construed in accordance with the laws of Netherlands.
- 17.2 All disputes arising out or in connection with the Contract and/or the General Conditions of Sale shall be resolved by the Court in Gelderland, Arnhem.
- 17.3 The:
- (a) parties agree to execute all documents and do all other things necessary; and
 - (b) Customer agrees to cooperate and work with any third party suppliers to the Supplier to the extent necessary; to give effect to the Contract and the General Conditions of Sale.
- 17.4 The Supplier reserves the right to engage or retain other persons or entities to supply the Products and/or Services or any part of the Products and/or Services.
- 17.5 The Customer may only assign its rights or novate its rights and obligations under the Contract with the prior written consent of the Supplier.
- 17.6 The parties agree that:
- (a) a provision of the General Conditions of Sale, or a right created under them, may not be waived except in writing signed by the parties;
 - (b) a failure or delay by the Supplier to exercise a right arising under the General Conditions of Sale does not constitute a waiver of that right;
 - (c) the Supplier's consent to a breach of the General Conditions of Sale is not a consent to any subsequent breach; and
 - (d) if a provision of the General Conditions of Sale is unenforceable for any reason, it will be read down to the point of severance, and any provision of the General Conditions of Sale must not be construed to the Supplier's disadvantage because they were prepared on behalf of the Supplier.
- 17.7 In the General Conditions of Sale, the singular includes the plural and vice versa.

18. Definitions

18.1 In the General Conditions of Sale:

- (a) the Customer means any person, body corporate or entity that purchases or orders Products and/or Services from the Supplier;
- (b) the Contract means the agreement between the Supplier and the Customer for the supply of the Products and/or Services;
- (d) the General Conditions of Sale means these terms and conditions for the supply of the Products and/or Services by the Supplier to the Customer and amended or varied in writing by the Supplier from time to time.
- (e) Insolvency Event means, in respect of either the Customer or Supplier (a Party):
 - (i) an application or order is made for the appointment of an administrator, a provisional liquidator, liquidator, official manager or receiver or receiver and manager or another external administrator in respect of that Party (and, in the case of an application only, that application is not withdrawn or dismissed within 14 days);
 - (ii) an application or order is made for the winding up of that Party, and, in the case of an application only, that application is not withdrawn or dismissed within 14 days;
 - (iii) a resolution is passed, or a meeting is convened, to consider a resolution for the winding up of that Party;
 - (iv) a receiver or manager (or both) is appointed to, or a mortgagee takes possession of, all or any part of the business or the assets of the Party;
 - (v) that Party is, or states that it is, unable to pay its debts when they fall due, or is deemed to be unable to pay its debts, or must be presumed by a court to be insolvent, under any applicable legislation;
 - (vi) that Party enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, any of its creditors generally or any class of its creditors;
 - (vii) that Party proposes a reorganisation, moratorium or other form of administration involving any such arrangement, composition, compromise or assignment, or begins any negotiations for any such purpose or for the purpose of re-scheduling or re-adjusting all, or a material part, of its debts;
 - (viii) that Party takes any steps to obtain protection, or is granted protection, from its creditors under the laws of any applicable jurisdiction;
 - (ix) an external administrator is appointed to that Party over any of that Party's assets or that Party requests such an appointment;
 - (x) that Party is deregistered in the jurisdiction in which it was registered;
 - (xi) that Party stops, or threatens to stop, carrying on its business or a material part of it; or
 - (xii) anything analogous or of similar effect to any of the above events occurs under the law of any applicable jurisdiction.
- (f) Products means all products supplied by the Supplier to the Customer pursuant to the Contract;
- (g) Services means all services supplied by the Supplier to the Customer pursuant to the Contract;
- (h) Supplier means Holland Green Science Europa B.V.