

GENERAL TERMS AND CONDITIONS OF SALE

GENERAL PROVISIONS

1 GENERAL

These General Terms and Conditions of Sale ("Conditions") apply to any provision of services ("Service") and sale and delivery of goods ("Products") by Paul Scherrer Institute ("PSI"), unless PSI expressly agrees in writing to exclude application thereof. Neither Contractual Partner's conditions of purchase, nor changes or additions to these Conditions are effective unless expressly agreed to by PSI in writing.

2 CONTRACT FORMATION

A binding agreement under these Conditions is formed by (i) a signed agreement of the parties specifying the exchanged Services or Products, commercial conditions and possible differences or additions to these Conditions, (ii) a written acceptance by the Contractual Partner of an offer made by PSI or (iii) the execution of an order of the Contractual Partner by PSI.

3 SUBCONTRACTING

PSI shall be entitled to perform the Services or supply the Products through sub-contractors or other third-party service providers.

4 OBLIGATION OF CONTRACTUAL PARTNER

Contractual Partner shall provide any material, all necessary information and documents, within due time in an adequate as well as complete form and without having to explicitly request them so that PSI may fulfil its obligations.

5 EXPORT CONTROL LAW

Certain Products or Services may be subject to export control regulations of Switzerland, the United States, the European Union, and/or other countries. Contractual Partner shall comply with such export laws and obtain any license or permit required to transfer, export, re-export or import the Products or Services. Contractual Partner shall not export or re-export the Products or Services to any country or entity to which such export or re-export is prohibited, including any country or entity under sanction or embargoes administered by Switzerland, the United States, European Union or other countries. Contractual Partner shall not use the Products or Services in relation to chemical, biological or nuclear weapons, rocket systems or unmanned air vehicles capable of delivering same, or in the development of any weapons of mass destruction.

6 PRICES

Unless otherwise agreed in written form, the prices quoted by PSI are exclusive of VAT or any other governmental taxes and duties. If PSI is liable for such tax or duty, the amount thereof is additional to the price and is payable by Contractual Partner to PSI.

7 PAYMENT CONDITIONS

7.1 Unless otherwise agreed, all payments shall be made in Swiss Francs.

7.2 PSI invoices must be paid within thirty (30) days of the invoice date. Contractual Partner shall be deemed to have performed its payment obligation when the respective amounts have been received in full in PSI's bank account as specified by PSI.

7.3 If Contractual Partner does not call off the Services or Products at the agreed time, PSI remains entitled to invoice Contractual Partner for the Services or Products and to demand payment of the amount as agreed in the agreement.

7.4 Offsetting by the Contractual Partner is not permitted.

8 DEFAULT OF PAYMENT

8.1 In case of a delay in payment or other breach in payment by Contractual Partner, or if Contractual Partner, in PSI's opinion, is in financial difficulties or may otherwise be or become unable to perform the contractual obligations, PSI may, without liability or prejudice to its other rights, terminate or suspend performance of its Services, recall the Products in transit, withdraw any credit granted for deliveries already made, demand payment in advance before making further deliveries and/or defer or cancel further deliveries to Contractual Partner.

8.2 Contractual Partner shall, without prejudice to other rights of and without notice by PSI, pay interest on any overdue amounts at the statu-

tory overdue interest rate applicable in Switzerland and reimburse PSI for its costs of collecting overdue amounts.

9 CHANGE REQUESTS

9.1 Any substantial change to the Services/Products must be agreed prior in writing by PSI and Contractual Partner.

9.2 PSI promptly notifies Contractual Partner in writing of any change to Services/Products that PSI reasonably determines is necessary. Such notice shall specify (i) the particular elements of Services/Products for which PSI is seeking a change, (ii) the reason for the requested change, and (iii) the impact, if any, that the requested change will have on the price, time for performance or any other terms or conditions of any agreement.

9.3 In the event of a change request by the Contractual Partner PSI shall report within ten (10) working days whether the requested change is possible and what effects it has on the agreement, especially price and time for performance.

10 DELAY AND NON-DELIVERY

In case of delay in delivery or non-delivery of any Product or Services, PSI's liability is limited to demonstrable and reasonable, direct losses of Contractual Partner not exceeding ten percent (10%) of the price of the relevant Product or Services. Any claim for delay or non-delivery has to be made within one (1) month from the agreed delivery time. By way of derogation from section 23, failure to give such claim within the said time shall be deemed an absolute and unconditional waiver of the claim. The remedies under this section are exclusive of any other remedy for delay or non-delivery.

11 REPRESENTATIONS

PSI makes no representation or warranty of any kind, express or implied, that the use of the Products sold or Services performed, either alone or in conjunction with other material, will not infringe any patent, trademark or other intellectual property rights of any person, it being understood and agreed that Contractual Partner shall be solely responsible for and shall assume all liability for such infringement.

12 FORCE MAJEURE

12.1 PSI is not liable for a failure or delay to perform any of its obligations arisen from circumstances beyond its control, including but not limited to, strike, embargo, lock-out, or other industrial action; fire; convulsion of nature such as flood, hurricane, typhoon, earthquake; accident; inability to obtain necessary labor; shortage, loss, breakdown or similar malfunction of any production equipment; loss or shortage of power, fuel, energy, raw materials or means of transportation; measures of authorities; terrorism, war, riots, as well as any failure of its suppliers or subcontractors to perform their obligations, provided that such failure is due to circumstances constituting force majeure under this section.

12.2 The time for performance of Services or deliver Products, except with respect to payment obligations, shall be extended by a period equal to the effect of such cases.

12.3 PSI promptly notifies Contractual Partner of the occurrence of the force majeure, stating the nature of the event and its expected duration and takes all steps reasonably necessary to mitigate the effects of the force majeure event.

12.4 PSI and Contractual Partner shall settle the further performance of any agreement through negotiations. If any of the above circumstances lasts for more than three (3) consecutive months, either party is entitled to terminate the agreement by giving not less than fourteen (14) calendar days written notice.

13 CONFIDENTIALITY

13.1 PSI and Contractual Partner agree that information or know-how may be exchanged, whether orally, in writing, electronic or through any other means of communication, by or on behalf of the disclosing party and that is designated as 'confidential' or can be identified by its nature as clearly confidential ("Confidential Information").

13.2 Confidential Information includes but is not limited to all information and documentation whatever the subject (technical, industrial, financial, commercial or other nature), the nature (including but not limited to know-how, data, contracts, manuals, presentations, business plans, formulas, methods, processes, products, design, algorithm), the

form (including but not limited to documents, technical specifications, unpublished patent specifications, data, photographs, databases, computer software, disk, cassette, tape or electronic form and any item of IT hardware) and the mode of transmission (e.g. written, oral, computer, including networks and/or electronic mail).

13.3 The receiving party shall limit disclosure of any Confidential Information to its directors, officers, employees, agents or representatives who have a need to know such Confidential Information and only for the purpose of the agreement. The receiving party shall instruct those personnel of the obligations under the agreement and require them to keep the Confidential Information confidential. The receiving party agrees to hold confidential the Confidential Information and shall not release or disclose it to third parties without the prior written consent of the disclosing party. The receiving party shall use the Confidential Information solely in accordance with the terms of the agreement. Each party agrees to adopt all measures as reasonably required to keep confidential all Confidential Information but not less than the degree of care used by it in safeguarding its own confidential information. The receiving party shall not reproduce, nor copy, nor duplicate in any manner, in whole or in part, the Confidential Information supplied to receiving party by disclosing party.

13.4 The obligations apply to all Confidential Information whether the Confidential Information was in or comes into possession of a party before or following any agreement. Such obligations shall remain in effect for a period of five (5) years following the termination of an agreement.

13.5 Upon termination of any agreement, the terminating party, at its sole discretion, may decide that Confidential Information be returned, destroyed or scrapped, as applicable, at the terminating party's premises or at the premises of a third party. Any costs or expenses associated with such return, destruction or scrapping shall be charged to relevant party. Upon request, such destruction or scrapping shall be certified in writing. Each party may retain a copy of each document containing Confidential Information for legal or audit purposes or to comply with its document retention policies.

13.6 These obligations set out above will not apply to Confidential Information that (i) was already known or becomes rightfully known to the receiving party without any restriction on its disclosure as demonstrated in written records; (ii) is or becomes public knowledge without breach of any agreement; (iii) is made available to the receiving party by a third party without violation of any contractual or legal obligation; (iv) is independently developed by the receiving party without the use of Confidential Information or breach of the agreement; or (v) is required by law, regulation, subpoena, government order or judicial order to be disclosed, provided that the receiving party provides the disclosing party with prompt written notice of the order to disclose and cooperates with the disclosing party to obtain a protective order or other appropriate remedy.

13.7 If the Contractual Partner or a third party commissioned by him violates the above obligation to maintain confidentiality, the Contractual Partner shall pay PSI a contract penalty unless he can prove that neither he nor the third party involved was at fault. This shall amount per case to an annual payment at the time of the violation of a maximum of CHF 50'000 per case. Payment of the contract penalty does not discharge from the obligation to maintain confidentiality; the right to assert damage claims remains intact, the contract penalty shall be deducted from damages owing.

14 PUBLICATIONS

14.1 Subject to the confidentiality provisions of these Conditions, PSI may publish any information relating to its performance of Services. On request of Contractual Partner, PSI may provide to Contractual Partner for review one copy of a substantive draft of any publication ("manuscript") and each subsequent material change to it.

14.2 Contractual Partner may review the manuscript for (i) proper use of its name, trademark, intellectual property, (ii) and (non-) inclusion of Confidential Information. Contractual Partner shall notify PSI of any objection. In the event of an objection, PSI agrees to make reasonable changes requested by Contractual Partner.

14.3 In case a patent application can be harmed by such publication PSI agrees to delay publication, until the earlier of (i) the first filing of a pa-

tent application, or (ii) six (6) months after the date any result or outcome is disclosed to Contractual Partner.

14.4 No objection raised by Contractual Partner within thirty (30) days after receiving the manuscript is considered as approval for publication.

15 INTELLECTUAL PROPERTY RIGHTS

15.1 Each party remains the owner of any results whether or not patentable, which it held before it signed the agreement or which it obtains outside the scope of such agreement.

15.2 All intellectual property rights relating to Products/Services, or created out of the manufacture of Products and provision of Services are the sole property of PSI.

16 LIMITATION OF LIABILITY

16.1 Regardless of the legal reason, PSI is not liable to Contractual Partner for any loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of the performance of Services or providing of Products, except to the extent such damages were caused by the gross negligence or wilful misconduct of PSI or to the extent prohibited by applicable law.

16.2 To the extent permitted by applicable law, PSI's liability for direct damages is limited to the amount of (i) the foreseeable damage typical for the contract or (ii) the respective agreed price for the Services/Products by Contractual Partner, whichever is the lower amount.

16.3 PSI will not be held responsible for any consequences arising out of any inaccuracies or omissions of any work performed or any information given to Contractual Partner unless such inaccuracies or omissions are the result of gross negligence or wilful misconduct of PSI.

16.4 Neither shall PSI be liable for damages to materials or products received from the Contractual Partner, or if provided to use by PSI, to remain in the original condition.

16.5 PSI will be liable for nuclear damages according to applicable Swiss law.

17 TERMINATION

Without affecting any other rights that it may be entitled to, PSI is entitled to terminate any agreement with immediate effect in case of, without limitation: (i) default in the payment and such default shall continue for a period of sixty (60) days; (ii) Contractual Partner commits a material breach of any agreement and fails to remedy the same within sixty (60) days after receiving written notice thereof from PSI; (iii) and the liquidation or bankruptcy or insolvency of Contractual Partner, whether voluntary or involuntary, or if its business or assets are seized or confiscated by judicial or administrative process, if Contractual Partner has a receiver, liquidator, administrative receiver, administrator, trustee or other similar officer appointed over the whole or part of its assets, or an order is made or a resolution is passed for the winding up of Contractual Partner (save for a solvent winding up as part of a bona fide reconstruction or amalgamation) or if Contractual Partner makes an arrangement or assignment for the benefit of its creditors or if any analogous event to any of the foregoing occurs or, (iv) change in control of Contractual Partner whereas change of control means transfer of all or a substantial and cohesive part of its assets, or transfer of all or a substantial and cohesive part of the business conducted by Contractual Partner.

18 INSURANCE

PSI has policies of insurance and bonds of the type and in the amounts customarily carried by persons conducting businesses or owning assets similar to those of PSI.

19 HIERARCHY OF DOCUMENTS

19.1 All annexes to any agreement shall be an integral part of such agreement. In the event of inconsistencies between the contract elements, the contractual document (signed agreement or offer of PSI, cf. section 2) shall take precedence over these Conditions. These Conditions take precedence over the specifications requirement.

19.2 These Conditions exist in two different languages (German and English). In the event of inconsistencies between the two different versions, the German version shall prevail.

20 RELATIONSHIP

20.1 Neither agreement makes either party hereto the employee, agent or legal representative of the other party for any purpose whatsoever. In fulfilling its obligations pursuant to any agreement, each party hereto shall act as an independent contractor.

20.2 Neither party hereto is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party.

20.3 In all matters relating to any agreement, each party shall be solely responsible for the acts of its own employees and agents.

21 ASSIGNMENT, TRANSFER, PLEDGE

Contractual Partner may not assign, transfer or pledge any agreement or any right or obligation arising from the contractual relationship, by operation of law or otherwise without prior written consent of PSI, which shall not be unreasonably withheld.

22 COUNTERPARTS

The parties may sign any agreement in several counterparts, each of which will be deemed an original but all of which together will constitute one instrument.

23 WAIVER

A party's failure to exercise or delay in exercising any right, power or privilege under any agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

24 SEVERABILITY

24.1 If any provision of these Conditions or of agreement is held to be invalid or unenforceable and can be deleted without altering the essence of, this provision will be severed and the remaining provisions will remain in full force or effect.

24.2 In the event that such a provision cannot be deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

25 APPLICABLE LAW AND PLACE OF JURISDICTION

25.1 These Conditions, any provision of Services or any sale of Products by PSI, as well as any contractual or non-contractual obligation are governed by the laws of Switzerland, without regard to its conflict of law principles, and excluding the provisions of the Wiener Kaufrecht (United Nations Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11/4/1980).

25.2 Any dispute shall be finally settled in accordance with the ordinary courts of Aarau, Switzerland. Notwithstanding the preceding provision, PSI is entitled to apply for interim measures at any competent court having jurisdiction.

SPECIAL PROVISIONS FOR THE DELIVERY OF PRODUCTS

26 PLACE OF PERFORMANCE AND PASSING OF RISK

Place of performance shall be Villigen. Risk of loss and benefit shall pass to the Contractual Partner at the place of performance.

27 INCOTERMS

Any reference made to delivery term is deemed to be made to the relevant term of Incoterms published by the International Chamber of Commerce and in force at the formation of the agreement. Unless otherwise agreed, delivery of Products shall be "Ex Works, Villigen" (EXW Villigen, Incoterms 2010).

28 RETENTION OF TITLE

28.1 Ownership of the Products shall remain with PSI until PSI receives full payment owed by Contractual Partner to PSI under any agreement.

28.2 In the event of Contractual Partner entering into liquidation or dissolution or becoming subject to any restructuring or bankruptcy application or proceeding or subject to any other similar proceedings or arrangements, Contractual Partner shall immediately cease any use, sale and other disposal of any Product to which PSI has legal title and make

such Product available for collection by PSI and allow PSI all access and assistance for the purpose of such collection.

29 DEFECTS

29.1 Contractual Partner shall examine the Products and notify PSI of any defect in writing as soon as possible. By way of derogation from section 23, Contractual Partner loses its right to rely on a defect if PSI does not receive notice of the defect together with a claim within fourteen (14) days from the date of receipt of the Products.

29.2 Contractual Partner is not entitled to make any claim due to non-substantial defects.

29.3 Provided that PSI receives notice of the defect and related claim within the set forth in time limit and the claim is found justifiable, PSI shall at its option (i) replace the Product with a non-defective Product, (ii) reimburse to the Contractual Partner the price paid for the defective Product, or (iii) repair the defect within a reasonable period of time and bear all costs incurred. The remedies under this section are exclusive of any other remedy for defect.

30 REPRESENTATIONS

30.1 All express and implied conditions, warranties and representations, statutory or otherwise, as to the quality or fitness of the Products for any purpose or other matters, are disclaimed and excluded to the fullest extent permitted by law. Contractual Partner is responsible for compliance with all laws and regulations applicable to any use or other disposal of the Products.

30.2 Provided that PSI has expressly agreed in writing to be bound by a written product specification, PSI warrants that the Products in question complies, at the time of delivery, in all material respects with such specification.

SPECIAL PROVISIONS FOR THE PERFORMANCE OF SERVICES

31 REPRESENTATIONS

31.1 PSI will carry out the Services with care and observing recognized scientific standards.

31.2 Contractual Partner is aware of the risk associated with research work. By virtue of the research nature of the Services, PSI does not warrant, and does not undertake that activities carried out will lead to any particular result or outcome, nor is the success of such Services guaranteed. PSI shall not be liable for reaching or obtaining a certain result.

31.3 Technical advice provided by PSI and all technical and commercial information issued by PSI relating to Products and its suitability and use thereof is given to the best knowledge of PSI based on PSI's research and experience, but is given without liability.