

General Terms of Sale, C-CIT AG Wädenswil

1. Scope

1.1 Any delivery, service and offer made by us shall be executed exclusively according to the General Terms of Sale set forth herein. These shall also apply to any future business even if not expressly stipulated otherwise. Any counter-confirmation made by a Buyer with reference to his own business or purchasing terms is hereby contradicted.

1.2 Any provision made between us and a Buyer in order to execute a contract shall be stipulated in a written contract.

2. Offer and conclusion of contract

2.1 Our quotations are non-binding, provided the binding force of a quotation was not explicitly stipulated in writing.

Your orders shall become binding only upon receipt of our written order acknowledgement.

2.2 Drawings, illustrations, weights, measures, and other performance data shall only be binding if expressly stipulated in writing.

2.3 We retain title of ownership and copyright of all tender documents, illustrations, drawings, calculations and other documents. These must not be disclosed to any third parties. This rule particularly applies to written documents which are clearly marked as "confidential". The Buyer shall, under no circumstances, disclose any of these documents to a third party, unless he has procured our express written consent.

3. Pricing, terms of payment, set-off, retention

3.1 Unless otherwise agreed, prices are quoted ex works.

3.2 Unless otherwise specified, we consider ourselves bound for four weeks by the prices quoted in our firm and binding offers commencing at the date of offering.

3.3 Prices are always quoted before VAT, which will be separately shown in the invoice at the rate that is legally binding on the date of invoicing.

3.4 Unless otherwise stipulated, our invoices shall be payable in full thirty (30) days from the date of invoice. The date of the receipt of payment at our account is decisive.

Despite any Buyer statements to the contrary, we shall be entitled to initially set payments off against previous debts. The Buyer will then be duly informed regarding settlement. Where such previous debts have incurred additional costs and interest, we shall be entitled to set due payments off against such costs in the first place, then against such interest, and finally against the primary obligation.

3.5 Any deduction of discount shall require a special written agreement.

3.6 If the Buyer defaults, we may, at our own option, charge annual interest of 8 (eight) percentage points above the respective base interest rate - as published by the Zürcher Kantonalbank from time to time - from the day on which a default situation begins. This shall not affect our right to claim further compensation of damage from the Buyer.

3.7 If circumstances become known to us, which cast doubt on the Buyer's creditworthiness, notably, if a cheque and / or a bill of exchange is not cleared, or payment discontinues, we will be within our rights to call in the total amount due, even though we may have previously accepted cheques. Furthermore, advance payment or the provision of securities may be demanded in such cases.

3.8 The Buyer shall only be entitled to claim set-off if his counter-claims have been established *res judicata* or are indisputable or are acknowledged on our part. He may only use his right of retention to the extent that his counter-claim is based on the same contractual relationship and has been established *res judicata* or is indisputable or is acknowledged on our part.

4. Delivery time, partial deliveries, default in accepting

4.1 Dates and/or periods of delivery shall require our written confirmation to be firm and binding. Unconfirmed dates and/or periods of delivery are in no case binding. All technical issues must have been settled for a quoted delivery period to begin.

4.2 We may, at any time, perform partial deliveries and render partial services.

4.3 Our compliance with contractual delivery and performance commitments shall require the timely and proper fulfilment of the Buyer's obligations.

4.4 If the Buyer defaults in accepting or fails to meet any of his obligations to cooperate, we shall be entitled to claim compensation of damages we have suffered there from, including additional expenses if any. In this case, the risk of accidental loss/destruction or accidental deterioration of sold products shall pass to the Buyer at the moment when the Buyer defaults in accepting.

5. Passing of risk

The risk of goods deliveries shall pass to the Buyer as soon as a shipment has been handed over to the person responsible for its transportation, or has left our storage facility for dispatch (shipping date). If a shipment becomes impossible through no fault of our own, the risk shall pass to the Buyer upon notification of our readiness to ship.

6. Warranty, notice of defects

6.1 It is the Buyer's responsibility to promptly give written notice of identified defects not later than one week/ five working days from receipt of delivered goods. Defects, which even a careful inspection is unable to discover within this time period, shall be notified to us in writing promptly upon identification.

6.2 Where we are shown to be responsible for a defect in sold products or services, the Buyer shall be entitled to claim defect removal or replacement according to Art. 205 OR.

In the event of defect removal, we shall bear all expenditure that is necessary to remove the given defect(s), notably transportation, travel, work and material costs, unless such costs are not further increased due to a relocation of sold products or contractual services to a site other than the place of fulfilment.

6.3 If defect removal fails within a reasonable time and/or no replacement can be provided or appears unreasonable, the Buyer may, at his discretion, demand a reduction in the sales price or cancel the contract. Damages may only be claimed in accordance to the provisions of paragraph 7, of this General Terms of Sale.

6.4 Insignificant defects shall void any warranty.

6.5 Additional warranty terms for software:

For software provided to the Buyer, we warrant compliance with our program specifications, if such software is installed in equipment as designated by us and in accordance with our guidelines. Warranty shall only be accepted for software faults that can be reproduced at any time. We warrant that any fault or defect which is non-insignificant for intended software use will be removed under these warranty terms, but reserve the right to eliminate software defects according to a priority scale of our choice. This shall be done by installing an enhanced software version and giving advice on workarounds or a method to eliminate the fault. We cannot warrant the software to run faultlessly in any user-selected combinations which have not been specified by us.

6.6 Failure to observe our operating or maintenance instructions, or changes in delivered goods or rendered services, or replacement of parts or the use of consumables which do not meet original product specifications, shall void any warranty.

6.7 Warranty claims may solely be put forward by the contractual Buyer. They are not assignable to third parties without our written consent.

6.8 Unless otherwise stipulated, warranty period will be 12 (twelve) months for instruments and 3 (three) months for consumables, starting at the date of delivery.

6.9 For correct storage of consumables each shipment is provided with a data storage advice within the "CITSens Bio" manual

6.10 The foregoing warranty terms cover all commitments to provide warranty for delivered products or services. No warranty claims of any other kind will be accepted. The legal provisions concerning the purchase of consumer goods shall remain unaffected.

7. Limited liability

7.1 Any liability for damages – without consideration of its kind and/or legal nature – as well as reimbursement of expenses shall be excluded unless such damage can be proven to be the result of deliberate acts or gross negligence or careless failure to meet essential contractual obligations.

7.2 The foregoing liability restriction clause shall not be applicable where liability claims are based on guarantees or on fraudulent intent. If we are responsible for a personal injury or an injury of health we shall be liable also for negligence.

7.3 Our liabilities under the Product Liability/Warranty Act shall in any case remain unaffected.

7.4 For eventual partial or full loss of data or damage we don't assume any liability.

7.5 If an essential contractual obligation is violated through our own fault, liability will be restricted to typical contractual damage.

7.6 Unless warranty claims are covered by one of the foregoing terms, they are excluded – without consideration of their legal nature. Especially, we shall not be liable for damages which were not caused to the item of delivery itself; particularly, we shall not be liable for loss of profit or other damage caused to the Buyer's assets.

8. Retention of title

8.1 Pending the settlement of any receivables (including current account balance claims) from the Buyer at present or in the future - on whatever legal grounds - the following securities shall be provided to us. We shall relinquish these wholly or partially on request if their value clearly exceeds the value of receivables by more than 20%.

8.2 Shipments shall remain our property (goods sold subject to retention of title). Reprocessing or reshaping of goods shall always be regarded as performed on our behalf, but with no obligation on our part. We shall be entitled to co-ownership of the new property inasmuch as the value of goods sold with retention of title (invoiced value) relates to the new property. The Buyer will be responsible for holding such new property in safe custody on our behalf and at his own expense. If the Buyer chooses to resell the new property, subparagraph 8.3 shall be applicable.

8.3 The Buyer may reprocess or resell goods under retention of title in normal business operations, as long as he is not defaulting. He shall be prohibited from pledging or depositing such goods for collateral security. Furthermore, the Buyer shall be responsible for insuring goods shipped with title reservation against all common risks. For reasons of safety, the Buyer immediately assigns to us any receivables resulting from a resale or other legal grounds (insurance, unlawful acts) in connection with goods under retention of title (including any current account balance claims) in their full amount. The Buyer is hereby revocable authorised to collect such receivables he has assigned to us on our account, but on his own behalf. This collection authority can only be revoked if the Buyer does not meet his payment commitments in due course.

8.4 If a third party gains access to or a hold on goods shipped with retention of title, notably in the case of hypothecation, the Buyer shall clearly indicate to such third party that these are our property, delivering prompt notice thereof, in order to enable us to enforce our own

property rights. Where such third party is unable to refund our costs in connection with necessary court or out-of-court proceedings, the Buyer shall be held liable therefore.

9. Industrial property and copyrights

- 9.1 In the event of claims on the Buyer because of breach of an industrial property right or a copyright in using our deliveries or services during one year from the delivery date, we shall be responsible to obtain justice for the Buyer to continue using such deliveries or services, always providing that the Buyer gives immediate written notice of such third-party claims. We reserve our right to take appropriate defensive and out-of-court actions in such cases. If, despite such defensive actions, it proves impossible to continue using our deliveries or services under reasonable economic conditions, it shall be understood as agreed that we may, at our discretion, modify or replace the particular delivery or service for removal of a legal deficiency, or reship such delivery or service and refund the sales price previously paid to us less a certain deduction to account for the age of the particular product or service.
- 9.2 No claim against us shall be accepted if a law is infringed due to the use of our deliveries or services in any other way than quoted by us or due to combined use with other products than our deliveries or services. The terms of paragraph 7 shall generally apply.
- 9.3 We shall assume no liability in the case of a breach of law by deliveries or services which have been created or rendered in accordance with engineering design documents or other specification requirements of the Buyer.

10. Software rights

- 10.1 The Buyer is granted a non-exclusive, non-assignable, unlimited (in time) right to use the software, including any of its updates, amendments, extensions and related documentation, which are part of our product deliveries or are delivered at some later date, for no other purpose than that of operating the product.
- 10.2 Except for what is quoted in subparagraph 10.1 above, the Buyer shall have no further rights in software and documentation. Notably, we shall remain the sole owner of intellectual property rights. The Buyer shall not disclose any software, documentation, including subsequently provided updates, amendments or extensions, to a third party, unless our prior written approval has been obtained, nor shall he change, copy or otherwise multiply these, unless such multiplying is done to create a backup copy which must then be clearly marked as a backup copy.
- 10.3 Delivered program codes may be re-translated into other code forms (decompilation) if necessary to achieve interoperability between independently created software and the contractual software. Interfacing particulars required to achieve interoperability are available from us at minimal cost.
- 10.4 The concurrent storing, maintaining or application of software on more than one hardware product shall not be allowed. If the Buyer intends to operate given software on several hardware configurations at the same time, for example, in a multi-operator scenario, he shall acquire the corresponding number of program packages.
- 10.5 The Buyer shall take adequate precautions to prevent unauthorised access to software and documentation by third parties. He shall be responsible for keeping all delivered original data carriers and the backup copy in a place which is safe from access by third parties. The Buyer shall hold us harmless in the event of damage due to a breach of this obligation. He shall also properly instruct his personnel about the need to comply with these contractual requirements and the provisions of intellectual property law.

11. Secrecy

Unless otherwise explicitly agreed in writing, no information provided to us in connection with product or service orders shall be considered as confidential.

12. Applicable law and legal venue

- 12.1 These terms of business and all legal relations with the Buyer shall be governed by the law of Switzerland, to the

exclusion of the UN-Convention on Contracts for the International Sale of Goods.

- 12.2 For Buyers who qualify as a merchant as defined by the Commercial Code or a legal person under public law, our company's registered place of business shall be the exclusive legal venue for any dispute arising from, or in connection with, this contractual relationship - whether directly or indirectly - unless legal requirements prescribe an alternate legal venue as compulsory.