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## **Terms and Conditions of Sale**

### **Preamble**

The present terms and conditions of sale are concluded between SARL PROPEP, whose headquarters are located at **5-7 Rue Le Sueur, 75116 PARIS**, n°SIREN 524991361, hereafter referred to as the " Seller" and the "Client" which refers to both direct buyers of goods and services from the Seller as well as all other legal or natural persons to whom the Seller's goods are resold. "Goods and Services" are the items sold and the services provided by Propep SARL.

### **1. Scope of Application**

**1.1** - All deliveries, services and quotations are based exclusively on these general terms of sales and delivery (referred to as "Terms and Conditions"). The Terms and Conditions are an integral part of all contracts concluded between the Seller and its contractual partners (referred to as "the Client") with respect to the Seller's deliveries and services. The same applies to orders of goods and services placed and confirmed via telephone, facsimile or email.

**1.2** - None of the Client's terms or conditions that are in conflict with the Terms and Conditions of the Seller or those that contain supplementary terms will under any circumstances become an integral part of the contract. This will apply even if an order is carried out without any reservations and full awareness of the conflicting or supplementary terms of the Client. Particularly, any acknowledgement is explicitly denied if the Seller refers to a letter containing terms and conditions of the Client or any third party, or which makes reference to such terms and conditions.

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**1.3** - These Terms and Conditions also apply to all future contracts concluded between the Seller and the Client with regards to the Seller's goods and services, even if not separately agreed upon anew. They replace any terms and conditions that may have formerly been agreed upon between the Client and the Seller.

## **2. Orders and Contracts**

Orders are binding only upon acceptance by the Seller. Orders can be given in written form (letter, facsimile or email), or through shipping the merchandise or providing service after receiving a signed agreement from the client.

## **3. Prices and Invoices**

**3.1** - If no differing prices for instruments, parts or services are negotiated, prices will be as per the Seller's actual price list for instruments, parts, consumables and services on the day of ordering.

**3.2** - Price lists are published at [www.propeps.com](http://www.propeps.com) for download.

Prices are in EURO, exclusive of any applicable Value Added Tax (VAT), exclusive of customs duties (for non EU countries) and exclusive of packaging and shipment expenses.

**3.3** - Invoices are sent along with the delivery of goods or are generated after on-site or in-house servicing. Invoicing partial deliveries or service is admissible. The invoicing for service contracts is done at the beginning of the service period.

Invoices for maintenance or repair are based on the service report. The service report will be filled out by the field engineer and must be signed by the customer or an authorised person (as a sign of acceptance of the provision of services). Service reports for in-house repairs will be given together with the instrument and will carry only the signature of the in-house engineer.

**3.4** - Quotes for maintenance or repair of instruments or parts are subject to charge without notice as the final cost can only be determined during the actual repair or a detailed inspection.

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## **4. Payment**

**4.1** - Unless otherwise agreed, the Seller's invoices are due for payment within 30 days of the date of invoice, net without any discounts. Customers cannot take their own charges (e.g. bank fees) into account when paying invoices.

**4.2** - If the Client is in default of payment, he must pay interest on the outstanding amount of 5% above the base rate of the European Central Bank during the default period. This does not affect any further claims for damages caused by the default.

**4.3** - The Client may only set off counterclaims if they are non-appealable or undisputed or have been accepted by the Seller. The customer may only assign his claims with the Seller's written consent.

## **5. Terms of Delivery of Services**

**5.1** - Terms of delivery and delivery dates are not binding and are only approximate, unless a binding term or date is explicitly agreed upon. As far as shipment is agreed upon, the terms of delivery and delivery dates refer to the time of handing over to the forwarding agent, the carrier or any other company entrusted with the transport. In all other cases, the timely readiness to deliver suffices for the fulfilment of the terms of delivery and delivery dates on condition that the Client is notified thereof.

**5.2** - As far as there are circumstances on the Seller's side for which it cannot be held responsible and which materially hinder the delivery or performance or make delivery or performance impossible, the Seller is entitled to withdraw from the contract if the hindrance is not temporary. If the Seller's performance becomes impossible, it will notify the Client immediately as well as immediately refund any consideration that may already have been obtained. In the event of a temporary hindrance the term of delivery and the term of performance are extended by the period of the hindrance plus a reasonable additional period of time.

If acceptance of the delivery is no longer feasible for the Client due to the delay, he is entitled to withdraw from the contract with respect to that part of the contract that is being delayed. A prerequisite of the Client's withdrawal is that he has given the Seller a reasonable extension time in writing. Claims for damages on grounds of breach of obligations are excluded, even if such claims have arisen before withdrawal from the contract.

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## **6. Shipment, Passing of Risks and Transport Insurance**

**6.1** - Regardless of the Individual transportation fee agreement, the risk of accidental loss and/or accidental damage to the goods is transferred to the Client upon delivery of the consignment to the forwarding agent, carrier or any other company entrusted with the transport. This also applies to partial deliveries.

**6.2** - In case of the Client's default of acceptance the goods, they will nevertheless be deemed as having been handed over.

**6.3** - Only when explicitly ordered by the Client the consignment will be covered by Insurance for damage during the shipping. Insurance fees will be paid by the Client.

## **7. Retention of Title**

**7.1** - The Seller retains title to any products delivered by the Seller, including packaging, until all claims against the Client arising from the ongoing business relation have been satisfied in full.

**7.2** - In the event of third parties attaching goods such as spare parts to the title which has been reserved by the Seller, the Client must inform the third party of the title which has been reserved by the Seller and notify the Seller immediately. The Client and the third party are jointly liable for all the expenses related to a possible lawsuit.

**7.3** - If the value of the securities due to the Seller from retention of title exceeds the Seller's overall claim against the Client by more than 20%; the Seller is obliged upon request of the Client to release such securities arising from the agreement at the Seller's own choice up to the said limit.

## **8. Warranties on goods and services and exclusions**

Warranty is limited exclusively to goods delivered and services provided.

The validity of the warranty is always subject to regular maintenance and conformity with the manufacturer's recommendations; normal use of the item by the Client, in accordance with existing instruction manuals.

In order to avoid invalidating the warranty, any claim regarding a product bought from, or a service provided by the Seller must be brought to the attention of SARL PROPEP immediately either by recorded letter or by email with return receipt. For the implementation of the warranty you must provide the invoice and the service report or the delivery form.

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In addition, the Client must do everything in his power to immediately enable the Seller to fully appreciate the origin and implications of the claim; otherwise the Seller will decline all liability.

## **8.1 - Warranties applicable to sold goods and exclusions**

### **8.1.1 - Warranties:**

If no other statement is given in written form, the Seller warrants all products to meet the specification of the original manufacturer or the Seller's product specifications at the time of the transfer of risk to the customer and the following 90 days.

For consumables and reagents the warranty is limited to the manufacturer's specifications, the expiry date and correct storage conditions before delivery.

### **8.1.2 - Exclusions:**

- Any problems which arise because the user has not followed the manufacturer's instructions or not taken due care and attention when using the sold product are excluded from the warranty.
- Any problems linked to reagents which arise when they have been contaminated by another chemical product or any other element after delivery or when the Client has failed to comply with the conditions of conservation, storage or use of the reagents are excluded from the warranty.
- In more general terms, problems which arise due to an omission by the Client (such as inadequate care for the product, a modification of the product or abnormal usage), by a third party (such as subsequent intervention by a third party), or any other cause external to the Service provided by the Seller are excluded from the warranty.

## **8.2 - Warranties applicable to services and exclusions**

### **8.2.1 - Warranties:**

Warranty on service, repair and refurbishment is limited to the problem being solved or the part being repaired. Upon the Seller's discretion, the Seller will either repair the defective product or will replace it. The Seller does not pay for other cost (e.g. The Seller's or third party labour or travel expenses) than supplying the needed parts for repair or replacement. If afterwards quality specifications are still not met, the client can ask for a reduction in price, or cancellation of the contract. Any further claims of the client, of any kind, especially for damages or compensation are excluded. This exempts eventual rights according to section 9 of these Terms and Conditions.

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## 8.2.2 - Exclusions:

The warranty for services provided does not apply to parts damaged following a shock, an external event or through general wear and tear of the said parts. In more general terms, problems which arise due to an omission by the Client (such as inadequate care for the product, a modification of the product or abnormal usage), by a third party (such as subsequent intervention by a third party), or any other cause external to the Service provided by the Seller are excluded from the warranty.

## 9. Liability

PROPEP is only involved in the instruments' mechanical aspects and can not change or influence research results. In the event of an error, for any reason whatsoever, PROPEP is not liable for any changes to results or their interpretation.

**9.1** - The Seller is liable according to the statutory law subject to the Client asserting claims for damages due to intent or gross negligence, including intent and gross negligence by the Seller's representatives or various agents. The liability for damages is limited to the reasonably foreseeable at time of conclusion of the contract and typically occurring damage, unless the Seller is accused of intentional breach of contract.

**9.2** - The Seller is liable according to statutory law for any culpable violation of a material contractual obligation by the Seller; however, also in this case, liability for damages is limited to reasonably foreseeable at the time of conclusion of the contract and typically occurring damage. The delivery of a defective Product does not by itself constitute the breach of such material contractual obligation.

**9.3** - The Client may claim compensation instead of performance. The Seller's liability is limited to damage reasonably foreseeable at the time of conclusion of the contract and typically occurring. The Seller will not compensate for consequential and indirect damages or loss of profit linked, for example, to the mishandling of a device. Any handling of the device is the Client's responsibility.

**9.4** - The contract parties agree that the damage volume reasonably foreseeable at the time of the conclusion of the contract is in no case higher than the value of the order.

Liability for culpable damages to life, body or health remains unaffected the same applies to compulsory liability according to the French Product Liability Act.

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Except for cases of intent or gross negligence, the Seller's liability is limited to the amount covered by the Seller's liability insurance.

**9.5** - Upon request the Seller will grant the Client permission to inspect its' liability insurance policy. The Seller will maintain the liability insurance to the extent mentioned above during the whole duration of the contract. As far as the insurance does not cover damages in a particular case, the Seller will answer to those damages directly.

**9.6** - Claims for damages of the Client become statute-barred after one year from the date of the delivery of the goods or fulfilled service or repair. The statute of limitation of claims based on tortuous acts remains unaffected.

**9.7** - Any further liability-whatever the legal nature of the claim- is excluded. This applies in particular to claims for damages on grounds of culpable behaviour in connection with the conclusion of the contract, other violations of obligations or claims for damages based on tortuous acts relating to material damages in terms of the French Civil Code.

As far as the Seller's liability for damages is excluded or limited, the same applies to the personal liability for damages of any employees, co-operators, representatives and vicarious agents.

## **10. Miscellaneous**

**10.1**- Special arrangements and subsidiary agreements will only become valid if the Seller confirms them in writing.

In the case that one of the above Terms and Conditions is invalid or incomplete; the validity of all other Terms and Conditions shall remain untouched.

These Terms and Conditions are subject to the law of the Republic of France Application of the United Nations Convention on the International Sale of Goods is excluded.

**10.2** - Information related to the Client will be processed in order to manage the goods and services which the Client receives. The Seller will ensure that all customer related data remains confidential and that it is processed, stored, transferred and used in accordance with French Law. In accordance with the modified « Informatique & Libertés » law of 6th January 1978, the Client can ask to access, amend or delete their own personal information, or request not to receive offers from the Seller by contacting the Management.

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**10.3** - The place of jurisdiction for all disputes arising from or in connection with this agreement is the Seller's place of business in Paris. The Seller is free to bring an action against the Client at its place of residence or at its registered offices or the premises of a branch.