

Chemspeed, Branch of Bruker Switzerland AG

Terms and Conditions of Sale

(Switzerland)



1. GENERAL

1.1 Orders are accepted by Chemspeed, Branch of Bruker Switzerland AG ("Seller") subject to these terms and conditions.

1.2 These terms and conditions apply to the exclusion of all other terms. In case of a conflict, inconsistency or addition not expressly accepted in writing by Seller, the terms and conditions of sale provided herein shall be considered as superseding the conflicting, inconsistent or additional terms stated in Buyer's purchase order, order form, contract or otherwise.

1.3 The acceptance of an order will supersede all prior communications and constitute a complete and binding contract between the party purchasing equipment hereunder ("Buyer") and Seller, which contract cannot be modified or canceled without the written agreement of both parties. For the purposes of these Terms and Conditions, the term "equipment" includes software and services.

2. OFFER / CONCLUSION OF CONTRACT

2.1 Seller's quotations shall be non-binding and subject to change unless expressly indicated otherwise.

2.2 Buyer's order constitutes a legally binding offer to enter into a contract.

2.3 The acceptance of an order shall be by way of a written contract confirmation by Seller (including by email).

3. SHIPMENT

3.1 Seller shall attempt to comply with, but will not guarantee, shipping date and loading and routing instructions. Any delivery or shipment date stated by Seller is an estimate only unless expressly designated in Seller's written quotation or order confirmation as a binding, fixed date. Seller reserves the right to allow or prorate shipments against all orders whenever, in its judgment, an oversold condition exists as to any particular product manufactured or sold by it. In the event of a default by Buyer, Seller may decline to make further shipments without waiving any of its rights under such order. If, despite such default, Seller elects to continue to make shipment, its action shall not constitute a waiver regarding, or otherwise diminish, Seller's legal remedies with respect to such default or any future default.

3.2 Delivery and performance dates shall automatically be extended by a reasonable period, and Seller shall not be in default, to the extent delay is caused directly or indirectly by (i) a Change (as defined in Section (10) (ii)), any act or omission of Buyer, including late approvals, late provision of information, failure of site readiness, or failure to perform Buyer's cooperation obligations, (iii) force majeure events, or (iv) technical issues or dependencies attributable to third-party products, interfaces, utilities, or Buyer-provided materials or requirements.

3.3 Any claims of Buyer for compensation due to the inability to deliver goods, or due to delays in delivery, shall be limited as set forth in Section 16 of these terms and conditions.

4. TITLE AND DELIVERY

Unless otherwise agreed, all sales are made DAP for North America and EMEA and CIP for all other countries, Incoterms 2020. Title and risk of loss or damage shall pass from Seller to Buyer when the risk of loss or damage passes from Seller to Buyer in accordance with the applicable INCOTERMS.

5. PRICES

5.1 Irrespective of any prices quoted by Seller or listed on Buyer's order, an order is accepted only at the prices shown on Seller's written quotation (the "Quotation"). Installation of utilities required for equipment is not included in the specified price.

5.2 Unless expressly stated otherwise in the Quotation, prices are based on the assumptions, scope, specifications, interfaces, and project conditions stated in the Quotation or otherwise reasonably underlying Seller's offer. If such assumptions prove incorrect or change, Seller shall be entitled to an equitable adjustment of price, schedule, and scope in accordance with Section 20.

6. PAYMENT TERMS.

6.1 Unless expressly agreed otherwise, payment terms shall be as set forth in Seller's Quotation.

6.2 Buyer shall be automatically deemed in default upon expiration of the applicable period for payment under the preceding paragraph (6.1) without the need for a default notice to be issued. During any period of default, the price shall bear interest at the applicable statutory rate for default interest. Seller reserves the right to claim additional damages for default.

6.3 All orders are subject to credit approval by Seller. The amount of any credit extended by Seller to Buyer may be changed, and such credit may be withdrawn by Seller. With respect to an order on which credit is not extended by Seller or, if extended, is subsequently withdrawn, shipment or delivery shall be made, at Seller's election, cash with order (in whole or in part), C.O.D., letter of credit or Sight Draft attached to Bill of Lading or other shipping documents, with all costs of collection for the account of Buyer. If, in the judgment of Seller, the financial condition of Buyer does not justify continuation of production or shipment on the terms of payment originally specified, Seller may require full or partial payment in advance. In the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, Seller shall be entitled, in addition to any other remedies at law, to (i) stop or divert any shipment in transit, (ii) cancel any order of Buyer then outstanding and/or (iii) receive reimbursement for its cancellation charges.

6.4 Seller shall be entitled to partial performances to the extent that (i) the partial performance can be used by Buyer in the context of the contractually intended purpose, (ii) the performance of the remaining parts is ensured and (iii) Buyer does not incur any additional costs as a result. Each shipment shall be considered a separate independent transaction, and payment therefore shall be made accordingly.

6.5 If for any reason the delivery is delayed at Buyer's request, Seller may store the goods at Buyer's expense and risk in the name of Buyer.

6.6 Unless otherwise specified in the Quotation, the contract price shall become due in milestones, including, as applicable, upon order placement, engineering release, FAT readiness, shipment, installation completion, SAT readiness, or deemed acceptance. Seller may invoice a milestone once achieved or deemed achieved, including where achievement is delayed for reasons attributable to Buyer.

6.7 Seller may invoice additional costs and expenses caused by Changes, Buyer delay, rescheduling, waiting time, remobilization, repeated testing, additional engineering, storage, or suspension of work.

7. TAXES.

Quoted prices do not include federal, state or local excise, sales, use or similar taxes. Accordingly, in addition to the prices specified on the Quotation, the amount of any applicable excise, sales, use and/or similar taxes will appear as separate items on the invoice and will be paid by Buyer unless prior to shipment Seller receives an appropriate tax exemption certificate from Buyer.

8. FACTORY ACCEPTANCE TEST ("FAT") / SITE ACCEPTANCE TEST ("SAT").

8.1 Where it has been expressly agreed that Buyer's acceptance (in the meaning of art 370 Swiss Code of Obligations) is required, then Buyer will accept the purchased equipment in accordance with the agreed SAT provisions. The parties will give priority to achieving SAT and the purchased equipment shall not be used by Buyer for material production, for development

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of new processes or for any purposes other than achieving SAT, prior to successful completion or waiver of the SAT provisions. It is the responsibility of Buyer to ensure that all the required facilities are ready and site preparation is completed for successful commencement of SAT on delivery of the equipment.

8.2 Any FAT or SAT, or comparable performance or acceptance test shall be performed exclusively in accordance with the procedures, tolerances, assumptions, and ambient, site, utility, process, sample, and interface conditions expressly defined in the Quotation, specification, or FAT or SAT protocol. Seller does not guarantee the achievement of performance values outside such agreed conditions or under Buyer-specific production conditions unless expressly agreed in writing as binding performance criteria. Minor deviations, which do not materially impair the contractual use of the equipment, shall not prevent acceptance.

8.3 In the event of a delay in acceptance despite readiness for acceptance, the goods shall be deemed accepted if a) SAT has not been commenced within 30 days after SAT readiness and completed within 60 days after SAT readiness (through no fault of Seller); or b) Buyer has started using the goods and 15 days have elapsed since delivery or (if applicable) any agreed installation; or (c) Buyer refuses acceptance without specifying a material deviation supported by the agreed acceptance criteria; or (d) Buyer fails in due time to provide the test materials, media, personnel, approvals, access, utilities, interfaces, or site conditions required for testing.

9. FORCE MAJEURE.

Seller shall not be liable for failure to perform occasioned by strikes, lockouts, labor difficulties, riots, inability or difficulty in obtaining or procuring supplies, labor or transportation, fires, storms, floods, earthquakes, explosions, accidents, acts of God, interference by civil or military authorities, whether legal or de facto, acts of the public enemy, war, rebellion, insurrection, sabotage, embargoes, orders given priority by any public authority or any other cause beyond the reasonable control of Seller if such event was not foreseeable at the time when the contract was entered into.

10. PROJECT EXECUTION / CHANGE MANAGEMENT / DEVELOPMENT PROJECTS

10.1 Buyer Cooperation Obligations. Buyer shall, in a timely manner and at its own expense, (a) provide complete, accurate, and sufficiently detailed specifications, requirements, data, samples, and other information, (b) ensure site readiness, utilities, interfaces, infrastructure, environmental conditions, access rights, and any third-party deliverables, (c) provide timely decisions, approvals, feedback, and acceptance participation, and (d) designate competent contact persons with authority to act on Buyer's behalf. Seller shall be entitled to rely on all information and items provided by Buyer.

10.2 Consequences of Buyer Delay or Non-Compliance. If Buyer fails to comply with its obligations, Seller may extend schedules, resequence work, suspend performance, and invoice any resulting additional costs, including waiting time, idle time, re-testing, storage, remobilization, and third-party costs. Any such failure by Buyer shall not constitute a breach or delay by Seller.

10.3 Changes. Any change to the scope, specifications, interfaces, performance requirements, documentation, delivery schedule, services, site conditions, or project assumptions (a "Change") shall require a prior written change order. Seller shall be entitled to adjust the price, delivery schedule, milestones, and other contractual terms to reflect the impact of any Change. Seller shall not be obliged to implement a Change before the parties have agreed in writing on the relevant adjustments. In the absence of such written agreement, Seller shall continue to perform only the originally agreed scope.

10.4 Assumptions-Based Contracting. Seller's offer and performance are based on the assumptions set out in the Quotation, specification, project documentation, and other circumstances reasonably underlying Seller's offer. If any such assumption proves incorrect, incomplete, or changes after

contract conclusion, Seller shall be entitled to equitable adjustments in price, schedule, and scope. Seller shall not be liable for any failure to meet delivery dates or specifications to the extent caused by incorrect assumptions not attributable to Seller.

10.5 Development / Custom Projects. In development, customization, or integration projects, the parties acknowledge that technical feasibility, performance, and timing may depend on factors that cannot be fully determined at the outset. Unless expressly agreed otherwise in writing, Seller does not undertake an unconditional guarantee of technical success or achievement of a specific performance result. Seller may structure such projects in phases with interim reviews and decision gates. If it becomes apparent that agreed objectives cannot be achieved or can only be achieved with materially increased effort, Seller may propose an adjusted scope, specification, timeline, or price. If the parties do not reach agreement on such adjustment within a reasonable period, Seller may terminate the affected part of the project and Buyer shall compensate Seller in accordance with Section 13. Where development or custom project services are offered based on estimated effort (hourly basis), the Seller reserves the right to invoice the Buyer upon reaching the maximum agreed effort. The Seller shall notify the Buyer in advance if the estimate is expected to be exceeded, and further work shall require mutual agreement.

10.6 Proofs of Concept. Where the parties have agreed on one or more proofs of concept, feasibility studies, pilot tests, process trials, or similar preliminary validation activities (each a "POC"), Seller's offer, pricing, specifications, schedule, and performance obligations shall be subject to the outcome, findings, and learnings of the POC. Following completion of the POC, Seller may adjust the price, scope, specifications, schedule, milestones, and other contractual terms as reasonably required to reflect the outcome, findings, technical feasibility, effort, risks, and learnings of the POC. Alternatively, Seller may, without suggesting adjustments, within fifteen (15) days after completion of the POC, terminate the contract in whole or in part without further liability by written notice to Buyer. If Seller communicates a price adjustment after completion of the POC and such adjustment is not acceptable to Buyer, and the parties are unable to agree on the adjusted price within fifteen (15) days after Seller's communication of the price adjustment, Buyer may terminate the contract without further liability by written notice to Seller; provided, however, unless expressly stated otherwise in the Quotation, that Buyer shall remain obliged to pay Seller for all work performed, services rendered, materials used or procured, and costs incurred by Seller in connection with the POC.

11. PATENTS.

11.1 If a third party claims that the purchased equipment infringes that party's patent or copyright or other intellectual property right, Seller will defend Buyer against that claim and will pay all costs, damages and attorneys' fees that a court finally awards, provided that Buyer: (a) promptly notifies Seller in writing of the claim, and (b) allows Seller to control, and cooperates with Seller in, the defense and any related settlement negotiations.

11.2 If such a claim is made or appears likely, Seller, at its option, may obtain a license to enable Buyer to continue to use the product, may modify the product or may replace it with one that is functionally equivalent. If Seller is unable to do either of these things within a reasonable time, Buyer may rescind the contract or claim a reasonable reduction of the purchase price.

11.3 Seller shall not be liable for any claim based on (i) anything Buyer provides which is incorporated into a product, (ii) Buyer's modification of a product or use thereof other than in its specified operating environment, or (iii) the combination, operation or use of a product with products provided by other manufacturers or other products not provided by Seller as a system.

11.4 Any claims of Buyer for compensation shall be limited as set forth in Section 16 of these terms and conditions.

11.5 Sale of products or parts thereof does not confer on Buyer any license relating to (a) the structure of any devices to which the products or parts may be applied or (b) a process or machine in connection with which they may be used.

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12. RESCHEDULING.

If Buyer has been granted by Seller any rescheduling rights, any rescheduling requested by Buyer and accepted by Seller shall entitle Seller to adjust the delivery schedule and to recover any costs and losses caused by such rescheduling, including storage, procurement, remobilization, and idle capacity costs.

13. CANCELLATION.

13.1 Except as agreed in writing by Seller, Buyer shall have no right to cancel the contract for convenience.

13.2 Seller may suspend performance in whole or in part if Buyer breaches any contractual duty, fails to make a due payment, fails to perform its cooperation obligations, or if continued performance is rendered commercially unreasonable by circumstances beyond Seller's reasonable control. Seller may terminate the contract in whole or in part if such event is not cured within a reasonable period set by Seller or, in the case of payment default, immediately, where permitted by law.

13.3 Upon suspension or termination under this Section, Buyer shall pay Seller for all work performed, all milestones achieved or deemed achieved, all non-cancellable commitments and procurement costs, and all additional costs and reasonable termination charges incurred by Seller, including costs resulting from demobilization and reallocation of resources. In case Seller terminates the contract because of a breach of contract by Buyer, Seller shall be entitled to full indemnity.

14. ASSIGNMENT.

Buyer shall not assign this order or any portion thereof without the prior written consent of Seller.

15. WARRANTY ("Gewährleistung" in terms of Swiss Code of Obligations).

15.1 Unless these terms and conditions (including Sections 11 and 16) provide otherwise or specify additional terms, the relevant statutory provisions shall govern Buyer's rights in the case of material or legal defects ("*Sach- und Rechtsmängel*").

15.2 No warranty shall be provided for standard wear and tear for this type of contract.

15.3 No warranty shall be provided for all used equipment, including demo equipment.

15.4 No warranty shall be provided for equipment and system failures resulting from (i) abuse, misuse, modification or mishandling; (ii) damage due to forces external to the machine including, but not limited to, acts of God, flooding, power surges, power failures, defective electrical work, transportation, foreign equipment/attachments or Buyer-supplied replacement parts or utilities or services; (iii) improper operation or maintenance; or (iv) failure to perform preventive maintenance in accordance with Seller's recommendations (including keeping an accurate log of preventive maintenance). In addition, this warranty does not apply if any equipment or part has been modified without the written permission of Seller or if any Seller serial number has been removed or defaced.

15.5 Unless acceptance (in the meaning of art 370 Swiss Code of Obligations) has been expressly agreed, Buyer has a duty to visually inspect the boxes and crates of the delivered goods promptly after they are delivered to Buyer or any third party nominated by it, and promptly report any visible damages. Art 201 Swiss Code of Obligations and the terms of this subsection shall apply to goods inspections and defect notifications, the latter prevailing in case of conflict. The requirement of prompt notification shall be deemed satisfied if a notice of defects is sent, at the latest, within

five (5) working days of delivery or, if the defect was not evident at the time of the goods inspection, at the latest within three (3) working days after the defect is identified. Seller assumes no warranty and accepts no other liability for defects if Buyer has failed to properly inspect the goods and/or report defects.

15.6 Buyer must give Seller an opportunity to review the complaint, particularly by making available respective goods and their packaging to Seller for inspection. At Seller's request, the goods subject to complaint must be sent back to Seller. Buyer must contact Seller in advance for authorization to return equipment and must follow Seller's shipping instructions. Freight charges and shipments to Seller are Buyer's responsibility. In the event of a justified defect complaint, Seller shall reimburse the costs of the least expensive shipping method; this shall not apply if the shipping costs are increased because the goods are located somewhere other than the place where the goods originally have been shipped to.

15.7 If the goods are in fact defective, Seller will cover the necessary expenses for the purpose of examining the goods and effecting supplementary performance, particularly including transport, infrastructure, labor and material costs. Supplementary performance shall not include either dismantling and removing the defective item or re-installing a non-defective item if Seller had no installation obligation originally. However, if Buyer's request to remedy a defect proves to be unjustified, Seller may require Buyer to reimburse Seller's costs.

15.8 If the delivered goods are defective, Seller shall – to the exclusion of any other remedies of Buyer provided for by the Swiss Code of Obligations – be entitled to its choice of supplementary performance ("*Nacherfüllung*"), either by rectifying the defect (repair) or by providing a new, non-defective item (replacement).

15.9 If it is not possible to effect supplementary performance or if the attempt to supplementary performance is unsuccessful, or if the reasonable period for effecting supplementary performance has expired without result, Buyer may, at its election, rescind the contract or reduce the purchase price. However, there is no right of rescission in the case of minor defects.

15.10 Any claims of Buyer for compensation shall be limited as set forth in Section 16 of these terms and conditions.

15.11 Unless expressly agreed otherwise in writing, all specifications, capacities, throughput figures, recovery rates, cycle times, or other performance data are target values to be verified solely under the agreed acceptance conditions and with reference to the agreed scope. Seller does not warrant compatibility with Buyer's broader process environment, downstream or upstream systems, or Buyer-specific production results unless expressly stated as binding in the Quotation.

15.12 In development, customization, integration, or prototype projects, Seller does not warrant that every technical objective is achievable. Seller's obligation is limited to performing with due care and professional diligence consistent with industry standards, unless the parties have expressly agreed binding performance criteria in writing.

16. LIMITATION OF LIABILITY.

16.1 Claims by Buyer, particularly for damage compensation in place of performance and compensation for other direct or indirect loss – including accompanying or consequential loss, regardless of legal grounds – are hereby excluded. This shall not apply if:

(a) The damage is due to intent or gross negligence on the part of Seller and its officers (whereas, for clarity, in case the damage is due to intent or gross negligence of Seller's vicarious agents, subcontractors or other auxiliary persons the exclusion of further claims shall fully apply); or

(b) A culpable breach of obligations on the part of Seller or its officers or vicarious agents has led to personal injury or damages to health.

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16.2 The provisions of Section 15.1 shall apply correspondingly to any direct claims by Buyer against Seller's officers and vicarious agents.

16.3 Contractual penalties (penalties for non-performance, flat-rate damages, etc.) to which Buyer is subject by a third party can only be claimed as damage compensation from Seller – regardless of the other requirements – if this has been expressly agreed in advance between Buyer and Seller or if Seller has been expressly informed in writing of a potential contractual penalty agreed between Buyer and a third party before the conclusion of the contract with Seller.

16.4 Without limitation of the foregoing, Seller shall not be liable for any failure to meet delivery dates, milestones, or specifications to the extent such failure results from (i) Buyer's acts or omissions, including failure to perform cooperation obligations, (ii) Changes, (iii) incorrect assumptions, information, samples, or requirements provided by Buyer, (iv) delays in FAT, SAT, shipment, installation, or commissioning not attributable to Seller, or (v) technical limitations and uncertainties inherent in development, customization, or integration projects.

17. LIMITATION PERIOD

17.1 In deviation from art 210 para 1 Swiss Code of Obligations, the limitation period for claims based on material defects ("*Sachmängel*"), including those not based on the contract, shall be 12 months from the date of delivery; however, the foregoing shall not apply in the cases that Seller willfully misled Buyer or Buyer is a consumer. The applicable statutory limitations period shall apply in those cases. If an acceptance in the meaning of art 370 Swiss Code of Obligations has expressly been agreed, the periods shall begin upon acceptance.

17.2 The limitation periods set forth in art 210 para 2 Swiss Code of Obligations shall remain unaffected.

17.3 Claims based on legal defects ("*Rechtsmängel*"), including those not based on the contract, shall be considered forfeited by Buyer, if Buyer does not notify Seller thereof in writing within 12 months from the date of delivery.

18. COMPLIANCE WITH LAWS.

18.1 The performance of each party hereunder is subject to compliance with all applicable laws.

18.2 Buyer understands that exports and re-exports of Seller's products and any related software, service, technical assistance, training and related technical data, and any media in which any of the foregoing is contained (the "Items") may be subject to German, European, U.S. and foreign trade controls, customs, anti-boycott and economic sanctions laws, regulations, rules and orders (the "Export Laws"). In addition to any other remedy it may have, Seller may suspend or cancel the export, delivery, installation, or any maintenance or repair service of any Item if (a) Seller has not received all export-related documentation requested by Seller, including end-user

certificates, (b) Seller has not received the governmental approvals that Seller deems to be required, or (c) Seller believes that such activity may violate any Export Laws or Seller's own compliance policies.

18.3 Buyer shall only use the Items for non-military, peaceful purposes. Buyer shall not export, re-export or otherwise transfer or provide any Item in contravention of any applicable Export Law or any end-user certificate provided by Buyer, including to an embargoed or otherwise sanctioned country, to anyone listed on any applicable prohibited persons list published by the U.S., the UN, the EU or the OSCE, or for a prohibited end-use (such as research on or development of chemical, biological, or nuclear weapons, unmanned air vehicles or missiles, or nuclear explosive or fuel cycle activities). Buyer must notify Seller before providing any technical data to Seller that is controlled under any applicable Export Law. Seller will not be liable to Buyer for any loss or expense if Buyer fails to comply with any Export Law.

18.4 Buyer will comply with all applicable import laws or other restrictions or conditions respecting the import of Items that are now in effect or are hereafter imposed by any government or other applicable jurisdiction. Buyer shall be responsible for obtaining any necessary import permit, license or authorization at its sole cost and expense. Buyer shall immediately notify Seller if an import permit, license or other authorization is required in connection with any such import.

19. APPLICABLE LAW / PLACE OF JURISDICTION

19.1 The contract created hereby and the entire relationship of the Parties shall be governed by and interpreted and construed in accordance with the laws of Switzerland, without regard to the choice of law provisions thereof and not including the U.N. Convention on Contracts for the International Sale of Goods (CISG).

19.2 The place of exclusive (and international) jurisdiction for any and all disputes arising out of or in connection with Seller's business relations with Buyer shall be the place of Seller's registered office. However, Seller may also sue Buyer in the place of its domicile.

20. SEVERABILITY CLAUSE.

If individual provisions of these terms and conditions should be void, unenforceable or invalid in whole or in part, this shall not affect the validity of the remaining provisions. In place of any provisions which are void, unenforceable or invalid or not incorporated into the contract, the Parties shall agree upon a valid provision to replace the void, unenforceable, invalid or missing provision which reflects as closely as possible the original economic purpose, provided a supplementary interpretation of the contract does not have precedence or is not possible.