

GENERAL TERMS OF SALES of TECAN US Inc.

(hereinafter referred to as "Tecan")



1. TYPE OF STATEMENT

These general terms of sales ("Terms of Sale") apply to the purchase, sale and delivery of Tecan instruments, Software (as defined in Section 4 below), components, spare parts and consumables or any combination of the foregoing, identified on the attached quote (all together hereinafter referred to as the "Products"). By signing and returning to Tecan the quote to which these General Terms of Sales are attached or by submitting a purchase order for the respective Product(s) to Tecan (whether by facsimile, mail or e-mail), the customer agrees to comply with and to be bound by these Terms of Sale. Deviations from these Terms of Sale can only be agreed on in writing by Tecan. Any additional or deviating terms submitted by the customer (including without limitation on a purchase order or otherwise) shall not be binding on Tecan unless expressly agreed to in writing by Tecan.

2. QUOTE AND ACCEPTANCE

Tecan's quote for the delivery of Products is valid for 90 days from the date of receipt of the quote by the customer. None of the offer or project documents provided by Tecan in connection with the quote shall be passed on to third parties nor copied unless Tecan explicitly agrees in writing. Upon Tecan's request, the customer shall return all offer and project documents in connection with unaccepted quotes. Once having accepted a quote or once having submitted a purchase order, the customer shall only have the right to cancel the purchase against payment of a sum equal to 20 percent of the purchase price. Should such cancellation be notified by the customer to Tecan 15 days prior to the agreed delivery date or later, the customer shall pay a sum equal to 70 percent of the purchase price.

3. PRICES AND DELIVERY

Tecan's prices in the quotes do not include VAT, local sales, use or other taxes, shipping costs, customs duty and insurance costs, which taxes, costs and duties are the responsibility of customer. Tecan arranges Product shipment and transportation insurance at its own discretion but at the costs of the customer. All Products are delivered to customer Ex-Works (Incoterms 2000) Tecan's factory. Any delivery dates indicated in the quotes are approximate and not binding on Tecan.

4. SOFTWARE LICENSE AND RESTRICTIONS

Subject to customer's payment of the price identified on the quote, Tecan hereby grants to customer a non-exclusive, non-transferable, non-sublicensable license to use the Tecan software set forth in the quote (the "Software") and all related documentation provided by Tecan (the "Documentation," and referred to collectively with the Software as the "Software Products") solely for the purpose as identified in software documentation.

Customer shall not, and shall not allow any third party to: (a) reverse assemble, decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code, or underlying ideas or algorithms of the Software; (b) provide, lease, lend, use for

timesharing or service bureau purposes or otherwise use or allow others to use the Software Products for the benefit of any third party; or (c) copy, modify, incorporate into or with other software or create a derivative work of any part of the Software Products. Notwithstanding anything to the contrary in the foregoing, customer may make one (1) copy of the Software Products for back-up purposes only, provided that customer reproduces all copyright notices and other proprietary legends on such copy.

The Software and its underlying source code, including any updates, modifications and enhancements thereto, and any and all Documentation delivered by Tecan to customer shall at all times remain the sole and exclusive property of Tecan. Customer shall not have any interest in the Software, Documentation, or any part thereof, except for the limited license rights granted to customer hereunder.

Customer understands and agrees that Tecan considers the Software Products to be the proprietary and confidential information of Tecan. Customer agrees to maintain the Software Products in confidence, and except for the right of Customer to make a copy of the Software Products, Customer agrees not to disclose, duplicate or otherwise reproduce, directly or indirectly, the Software Products in whole or in part.

5. PASSING OF RISK

The risk of Product loss or destruction passes to the customer upon departure of the shipment from Tecan's factory and/or other Tecan facility where such Product is stored. In case of delay of shipment due to circumstances for which the customer is accountable, the risk passes to the customer upon readiness of the Product for shipment.

6. PAYMENTS

Payments are due thirty (30) days after the date of the invoice or, in case an Installation Qualification or an Operational Qualification is carried out and/or supported Tecan, thirty (30) days after Acceptance (as defined in Section 8 below). Upon expiration of this thirty day payment period, any unpaid amounts shall accrue interest in an amount equal to eight percent annually. Customer has no right to offsetting unless the customer's claim was explicitly approved in writing by Tecan. Customer has no right to assign any claims to a third party without the prior written consent of Tecan.

7. RETENTION OF TITLE

Tecan keeps full title in all Products delivered to the customer as long as the customer has not fulfilled all of its payment obligations in connection with the delivery of the respective Products. Until customer has paid in full all amounts owed by customer to Tecan with respect to a Product, customer shall not sell, pledge, mortgage, grant security interest or otherwise dispose of any such Product. The customer authorizes Tecan to make registrations or filings with the competent authorities that might be necessary to effect such retention of title. As security for the prompt and complete payment, performance and observance of all of customer's payment and other obligations

hereunder (collectively, the "Secured Obligations"), customer hereby pledges, hypothecates, delivers, transfers and assigns to Tecan, and grants to Tecan, a security interest in and to all of customer's right, title and interest in and to the Products, including the Software and Documentation, and all Proceeds (as defined in the North Carolina G.S. § 25-9-102), tort claims, insurance claims and other rights to payments not otherwise included in the foregoing and products of the foregoing and all accessions to, substitutions and replacements for, and rents and profits of, each of the foregoing.

8. VALIDATIONS

Depending on the Products delivered and as agreed between the parties, Tecan may perform an Installation Qualification as well as support an Operational Qualification at the premises of the customer. Installation Qualification is understood as a qualification performed at the time of installation which documents that the installation complies with the manufacturer's specifications. Operational Qualification is understood as a qualification performed subsequent to installation which documents that the supplied equipment performs consistently within limits and tolerances as jointly specified by Tecan and the customer. Customer shall sign a qualification protocol to confirm the performance of the Installation Qualification and Operational Qualification, such qualification protocol is deemed to constitute the acceptance of the Product ("Acceptance"). It is the customer's responsibility to carry out a Performance Qualification, which is understood as the qualification establishing confidence through appropriate testing and/or calibration procedures that the final result of a specified process or assay meets all release requirements with regard to proper functionality, gauging, and safety. Tecan shall only assist in such Performance Qualification if Tecan agrees to do so pursuant to terms and conditions agreed on between the parties in a separate agreement, and, unless otherwise stipulated in such an agreement, Tecan does not assume any liability for any performance parameters subject to testing in a Performance Qualification.

9. TRACEABILITY

If the customer intends to resell, lease or otherwise dispose of or relocate any Products (other than Software Products which are non-transferable in accordance with Section 4) that are subject to medical device or similar regulations in any jurisdiction to any third party or any other business unit, he/she shall inform Tecan in writing about such intention at least four weeks prior to the actual execution of such transaction or action by indicating the serial number of the Products as well as the identity, location and scope of business of the respective receiver. This obligation shall not affect the customers' general right to dispose of the Products (other than Software Products which are non-transferable in accordance with Section 4) within the boundaries of applicable law. The customer shall at all time keep appropriate records ensuring traceability of each instruments purchased from Tecan and has to allow Tecan and any competent governmental authority access to such records upon request.

10. DISCLAIMER OF WARRANTIES AND LIABILITY & LIMITATION OF REMEDIES

TECAN WARRANTS FOR THE WARRANTY PERIOD DESCRIBED IN THE NEXT PARAGRAPH THAT THE PRODUCTS MEET THE WRITTEN SPECIFICATIONS THAT MIGHT HAVE BEEN AGREED

TO IN WRITING BETWEEN THE PARTIES, BUT MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED. IN PARTICULAR, TECAN MAKES NO IMPLIED WARRANTY OF MERCHANTABILITY OR ANY OTHER IMPLIED WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, QUIET ENJOYMENT, DATA ACCURACY AND SYSTEM INTEGRATION. TECAN SHALL NOT BE LIABLE IF THE PRODUCTS OR PARTS OF THE PRODUCTS ARE USED TOGETHER WITH INSTRUMENTS OR SOFTWARE OTHER THAN THOSE DELIVERED BY TECAN. TECAN DOES NOT GUARANTEE THAT USE OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE

THE WARRANTY PERIOD IS 12 (TWELVE) MONTHS BEGINNING WITH THE RECEIPT OF THE PRODUCTS BY THE CUSTOMER OR IN CASE AN INSTALLATION QUALIFICATION OR OPERATIONAL QUALIFICATION IS CARRIED OUT AND/OR SUPPORTED BY TECAN, 12 (TWELVE) MONTHS BEGINNING WITH THE ACCEPTANCE (AS DEFINED IN SECTION 8 ABOVE). THE CUSTOMER SHALL INSPECT THE PRODUCTS IMMEDIATELY AFTER RECEIPT FOR ALLEGED NON-CONFORMANCE WITH AGREED SPECIFICATIONS (HEREINAFTER, SUCH NON-CONFORMANCE REFERRED TO AS A "DEFECT") AND SHALL NOTIFY TECAN IN WRITING OF ANY NON-LATENT DEFECTS WITHIN 10 (TEN) DAYS AFTER RECEIPT OF THE PRODUCTS. OTHERWISE, THE PRODUCTS ARE DEEMED TO BE ACCEPTED WITHOUT RESERVATION AND ANY CLAIMS OF THE CUSTOMER AGAINST TECAN ARE WAIVED, INCLUDING ANY CLAIM OF BREACH OF WARRANTY. THE CUSTOMER MUST NOTIFY TECAN IN WRITING OF ANY ALLEGED LATENT DEFECTS IMMEDIATELY AFTER THEIR DISCOVERY, BUT IN NO EVENT LATER THAN 12 (TWELVE) MONTHS AFTER RECEIPT OR ACCEPTANCE OF THE PRODUCTS.

TECAN HAS THE CHOICE, AT ITS SOLE DISCRETION, TO EITHER REPAIR OR REPLACE ANY PRODUCT THAT CONTAINS AN ALLEGED DEFECT. IF SUCH REPAIR FAILS OR THE REPLACEMENT IS DEFECTIVE TOO, THE CUSTOMER HAS THE RIGHT TO EITHER CLAIM FOR A REASONABLE REDUCTION OF THE PURCHASE PRICE OR TO CANCEL THE PURCHASE CONTRACT AND TO RETURN THE PRODUCT(S) IN QUESTION. IN THE LATTER CASE, TECAN HAS NO OBLIGATION TO PAY ANY DAMAGES IN CONNECTION WITH THE DEFECTS, OTHER THAN THE PURCHASE PRICE. HOWEVER, IN CASE OF DEFECTS THAT ARE NOT MATERIAL, THE CUSTOMER DOES NOT HAVE THE RIGHT TO THE CANCELLATION OF THE PURCHASE CONTRACT. CLAIMS THAT ARE DUE TO ORDINARY ABRASION, IMPROPER USE, MODIFICATIONS OF THE PRODUCTS OR ALIKE ARE EXCLUDED. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY AND ALL WARRANTIES AND REPRESENTATIONS HEREUNDER WITH RESPECT TO A PRODUCT SHALL BE NULL AND VOID IN THEIR ENTIRETY IN THE EVENT ANY SUCH PRODUCT IS SERVICED, MAINTAINED, REPAIRED, ADJUSTED OR MODIFIED IN ANY MANNER OTHER THAN AS SET FORTH IN THE APPLICABLE PRODUCT MANUAL (AS DEFINED IN SECTION 13 BELOW). THIRD PARTY COMPUTERS THAT MIGHT BE PART OF A DELIVERY ARE EXCLUDED FROM ANY WARRANTY.

11. LIMITATION OF LIABILITY

IN ALL CIRCUMSTANCES THE EXTENT OF TECAN'S LIABILITY IS LIMITED TO THE PURCHASE PRICE OF THE PRODUCT(S) IN QUESTION. IN NO EVENT SHALL TECAN BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, LOST SALES, INJURY TO PERSON OR PROPERTY OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS.

12. INTENDED USE AND CUSTOMER'S LIABILITY

To the extent required by applicable medical devices law or similar law governing the use of the Products, the Products shall only be used consistent with the purpose, specifications, and fields of application as defined in the quote and/or product description issued by Tecan ("Intended Use"), and shall not be modified or combined with other items in a way not compliant with their Intended Use. The Intended Use also includes a designation of a Product as a single-use device, or a research-use-only product, or general laboratory equipment. Tecan shall not be liable for and does not warrant legal or regulatory compliance for Products operated and/or modified and/or combined with other items beyond their Intended Use. In any event, Tecan's Products are only components and Tecan cannot assume any responsibility or accept liability when the customer or end user uses the Product as a component of an integrated system for a specific application. It is the customer's or user's sole responsible to comply with regulatory guidelines to include maintaining records and performing required validations.

If the customer operates and/or modifies the Products and/or combines them with other items beyond their Intended Use, the customer shall indemnify and hold Tecan harmless from any third parties' claims, including actions taken by public bodies, to the extent such claims or actions arise in connection with customer's operations, modifications, or combinations of the Products beyond their Intended Use. This also applies in case of a resale of Products modified or combined with other items beyond their Intended Use by the customer to third parties.

13. REGULATORY COMPLIANCE OF THE CUSTOMER AND NOTIFICATION OF COMPLAINTS

The customer undertakes to only use, service and maintain the Products in full compliance with all applicable laws and regulatory requirements and any instruction given in Tecan's manuals accompanying the Products (the "Product Manuals"). The customer shall be responsible for complying with all applicable laws and regulations including, but not limited to, any applicable reporting and recordkeeping requirements. The customer shall notify Tecan within a reasonable period of time of any complaints involving the Products and shall cooperate with Tecan in the investigation of complaints and the execution of field actions. The customer shall ensure maintenance of the Products by qualified personnel only. Upon request of Tecan, the customer shall provide Tecan with all relevant service documentation. If the customer fails to ensure legal or regulatory compliance with respect to the use, service and maintenance of the Products, or does not ensure that Products are maintained by qualified personnel, the customer shall indemnify and hold Tecan harmless from damages, losses, claims and expenses to the extent such damages, losses, claims and expenses arise in connection with the customer's failure to

ensure legal or regulatory compliance or the customer's failure to ensure that Products are maintained by qualified personnel.

14. PLACE OF JURISDICTION AND APPLICABLE LAW

Any dispute or any claims arising out of this Agreement shall be exclusively brought before and decided by the U.S. District Court for the Eastern District of North Carolina, or such other jurisdiction as the parties may mutually agree upon. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina (excluding the choice of law rules thereof). The Vienna Convention on Contracts for the International Sales of Goods is excluded.

15. MISCELLANEOUS

Should any provision of the these Terms of Sales or any other contractual arrangement between the parties referring to these Terms of Sales be or become invalid, the other provisions shall not be affected and the parties shall use their reasonable endeavours to reach agreement to have the invalid provision replaced by a valid arrangement which comes as close as possible to the purpose of the invalid provision and to the intention of the parties related to such provision. These General Terms of Sale and the quote to which they are attached constitute the entire agreement between and understanding of the parties, and supersede all prior agreements or understandings, whether written or oral, with respect to this subject matter. Except as expressly stated herein, no terms, conditions, or warranties, other than those written in these Terms of Sale, and no amendments or modifications of these Terms of Sale will be binding on the parties unless in writing and signed by Tecan and customer.

Customer's acceptance:

(Place and date)

(Customer's name)

(Signature)