

DIA.PRO Diagnostic Bioprobes S.r.l.**GENERAL CONDITIONS OF SALE****1. INTERPRETATION****1.1** In these Conditions:

"**Background IPR**" means all Intellectual Property Rights existing at the date of the Contract owned or controlled by either of the Parties and which are generated outside of the Contract but used in connection with the Contract.

"**Conditions**" means the standard terms and conditions of purchase set out in this document and includes any special conditions agreed in writing between the Customer and the Supplier.

"**Contract**" means an Order for Goods which, once accepted by the Supplier, will together with these Conditions, form the contract.

"**Customer**" means the Party placing an order for Goods

"**Delivery**" means the delivery of the Goods at the Delivery Location.

"**Delivery Date**" means the date of Delivery as specified in the Order.

"**Delivery Location**" means the Country for delivery of the Goods as specified in the Order.

"**Foreground IPR**" means all Intellectual Property Rights created by either or both Parties arising from and during the course of the Contract.

"**Intellectual Property Rights**" means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, specification rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"**Intellectual Property Right**" means any one of the Intellectual Property Rights.

"**Order**" means an order for Goods submitted by the Customer under Clause 3.

"**Goods**" means the Goods which are the subject of an Order.

"**Product Prices**" means the prices of the Goods as determined under Clause 8.1.

"**Specification**" means the specification of the Goods.

"**Supplier**" means DIA.PRO Diagnostic Bioprobes S.r.l., registered in Italy with company number IT11924660159, VAT IT11924660159 whose registered office is at Via G Carducci 27 - 20099 Sesto San Giovanni (MI).

2. FORMATION OF CONTRACT

2.1 All Orders accepted by the Supplier are subject to these Conditions. For the avoidance of doubt, any conditions of sale submitted at any time by the Customer shall not apply to this or any other Contract and any failure by the Supplier to challenge any such conditions of sale shall not imply acceptance by the Supplier.

2.2 In the event of a conflict between any of these Conditions and any specific term or condition referred to on an Order, the latter shall prevail over these Conditions (to the extent inconsistent with these Conditions only).

3. ORDERS

3.1 The Customer shall place Orders with the Supplier and the Supplier shall supply Goods per the Customer's Orders.

3.2 Each Order shall:

3.2.1 be given in writing and shall specify the type, quantity and code numbers of the Goods ordered; and

3.2.2 contain an order number assigned by the Customer and each Party shall use the relevant order number in all subsequent correspondence relating to the Order; and

3.2.3 specify the desired Delivery Date and the Delivery Location.

4. MANUFACTURE, QUALITY, PACKING AND DELIVERY

4.1 The Supplier is not bound by any delivery dates or periods quoted in the order.

4.2 The Supplier shall manufacture, pack and supply the Goods per all generally accepted industry standards and practices that are applicable, including ISO 13485 standards. The Supplier shall ensure that the Goods are properly packed and secured in such a manner as to enable them to reach their destination in good condition and shall ensure that they comply in full with any temperature-sensitive requirements relating to the Goods.

4.3 The Supplier shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Goods.

4.4 The Supplier shall obtain and maintain in force all licences, permissions, authorisations, consents and permits needed to manufacture and supply the Goods. The Supplier shall also ensure that it complies with all relevant export procedures and shall provide all necessary documentation relating to the Goods, including any certificates of origin, certificates of analysis, Instruction for Use (IFU), user manuals warranty and any other relevant documentation.

4.5 The Supplier reserves the right to charge carriage on any order.

4.6 The Supplier has the right to make additional charges to cover any changes in transport costs, import costs or exchange rates where these have increased following the placing of an order by the Customer.

4.7 Each delivery of Goods shall be accompanied by a delivery note from the Supplier showing the order number, the date of the Order, and the type and quantity of Goods included in the Order.

4.8 The Supplier is permitted to make partial shipments of product or ship the Goods ordered by the Customer in multiple shipments.

5. ACCEPTANCE AND DEFECTIVE GOODS

5.1 The Customer is deemed to have accepted any Goods upon receipt of the Goods.

5.2 If any Goods delivered to the Customer do not conform with the Contract's terms, then the Customer is permitted to reject the Goods. The Customer must notify the Supplier in writing of the rejection on the day of rejection. The goods must be returned to the Supplier premises in their original packaging. The Supplier will then review the nature of the Customer rejection. The Supplier will decide whether the complaint is valid or otherwise. The Supplier's decision regarding the validity of the complaint is final. Should the Supplier determine the claim as valid, the Supplier will replace the Goods or refund the value of the Goods by a credit note at his sole discretion. If the claim is determined not to be valid, the claim will be rejected in writing. The Supplier is not liable for damages or any other costs, expenses or losses resulting from the Supplier's delivery of Goods that are not in conformity with the terms of the Contract.

5.3 The Customer's rights and remedies under Clause 5.2 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with Product Specification, implied in the Contract.

6. INTELLECTUAL PROPERTY

6.1 Licence:

6.1.1 The Customer grants to the Supplier only to perform its obligations under the Contract, a personal, non-transferable, non-exclusive, royalty-free licence to use the Customer's Intellectual Property Rights and, where applicable, to apply the Customer's trademarks to the Goods under the Product Specification.

6.1.2 The Supplier shall only use the Customer's Intellectual Property Rights including any trademarks on or with the Goods or their labelling and packaging only in the form and manner specified in the Specification and/or by the Customer and not otherwise.

6.1.3 The Supplier shall not represent that it has any title in or any right of ownership to the Customer's Intellectual Property Rights (including the trademarks) or do or suffer to be done any act or thing which may in any way impair the rights of the Customer.

6.2 Each Party shall retain ownership of all Intellectual Property Rights in or relating to the Goods or the Specification that it owns as of the date of the Order including any Background IPR and nothing in the Contract shall transfer to or give the other Party any right, title or interest in such Intellectual Property Rights unless otherwise agreed in writing between the parties.

6.3 Each Party acknowledges that any Foreground IPR shall vest in the Supplier on the creation, and the Customer hereby assigns all such Intellectual Property Rights to the Supplier. The Customer further agrees not to use the Foreground IPR with any other third party without first obtaining the Supplier's prior written consent.

6.4 Both parties will use all reasonable endeavours to ensure that both the Background IPR and the Foreground IPR do not infringe the rights of any third party and no third party has threatened or, so far as it is aware, is currently threatening proceedings in respect of such infringement.

6.5 Each Party shall immediately give written notice to the other of any infringement or threatened infringement of, or any challenge to, the other Party's Intellectual Property Rights by a third party which comes into its knowledge.

6.6 If requested by either Party, the other Party shall forthwith do all such acts and execute all documents (including, but not limited, to, any assignment) as may reasonably be required by the other Party to perfect its title to the Intellectual Property Rights assigned, or intended to be assigned, to it under this Clause 6.

7. TITLE AND RISK

7.1 The risk of the Goods passes to the Customer on delivery.

7.2 The title to the Goods shall remain with the Supplier until the Customer has paid in full for the Goods.

7.2.1 Should the Goods (or any of them) be converted into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions, the conversion shall be effected on behalf of the Supplier and the Supplier shall have the full legal and beneficial ownership of the new Goods, but without accepting liability for such converted Goods in relation to any third party.

7.2.2 Subject to the clauses below, the Customer shall be at liberty to sell the Goods and the new goods referred to above in the ordinary course of

- business on the basis that the proceeds of sale shall belong to the Supplier to whom the Customer shall account.
- 7.2.3 The Customer's power of sale shall automatically cease if a Receiver is appointed over any of the assets or the undertaking of the Customer, or a winding up order is made against the Customer, or the Customer goes into voluntary liquidation (otherwise than for reconstruction or amalgamation) or cause a meeting of, or makes any arrangement or composition with creditors or commits any act of bankruptcy, or allows distress to be levied against any of its or his Goods.
- 7.2.4 Upon determination of the Customer's power of sale under the terms above, the Customer shall place the Goods and the new Goods at the Supplier's disposal and the Supplier shall be entitled to using such force as is reasonably necessary to enter upon any premises of the Supplier for the purpose of removing such Goods and new goods from the premises (including severance from the realty where necessary).
- 8. PRODUCT PRICES**
- 8.1 The Product Prices shall be the price agreed between the parties as stated on the Order, subject to clause 4.
- 8.2 Unless otherwise agreed in writing, the Product Prices are exclusive of VAT (or such other applicable sales taxes) insurance and carriage of the Goods but inclusive of the costs of packaging.
- 9. TERMS OF PAYMENT**
- 9.1 If a Party fails to make any payment due to the other under the Contract by the due date for payment ("**due date**"), then, without limiting the other Party's remedies under Clause 12.1, the defaulting Party shall pay interest on the overdue amount at the rate of 2 % per annum above Euribor base rate from time to time. Such interest shall accrue daily from the due date until the actual payment of the overdue amount, whether before or after judgment. The defaulting Party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting Party disputes in good faith.
- 9.2 If the Customer disputes any invoice or other statement of monies due, the Customer shall immediately notify the Supplier in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Customer shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. The Supplier is not obliged to supply the Goods whilst any payment is in a payment dispute and until final payment has been received by the Supplier for all goods whatsoever supplied (and all services rendered) at any time by the Supplier to the Customer.
- 10. INDEMNITY**
- 10.1 The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with:
- 10.1.1 any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the supply or use of the Goods;
- 10.1.2 any claim made against the Supplier by a third party arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Customer, its employees, agents or subcontractors; and
- 10.1.3 any claim made against the Supplier by a third party for death, personal injury or damage to property arising out of, or in connection with, defective Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Customer, its employees, affiliates, agents or subcontractors.
- 11. LIMITATION OF LIABILITY**
- 11.1 Nothing in the Contract shall limit or exclude the liability of either Party for death or personal injury resulting from negligence, fraud or fraudulent misrepresentation; or breach of the terms implied according to the applicable laws; or the indemnities contained in Clause 11; or the deliberate default or wilful misconduct of that Party, its employees, affiliates, agents or subcontractors.
- 11.2 Without prejudice to Clause 11.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any special, indirect or consequential damage or loss suffered by the Customer that arises under or in connection with the Contract.
- 11.3 Without prejudice to Clause 11.1 or Clause 11.2, the Supplier's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited to the Product Prices paid during the year in which the breach occurred.
- 12. TERMINATION**
- 12.1 A Party shall be entitled to terminate the Contract with immediate effect by giving notice in writing to the other Party if:
- 12.1.1 the other Party fails to pay any undisputed amount due under the Contract on the due date for payment and remains in default not less than 30 calendar days after being notified in writing to make such payment; or
- 12.1.2 the other Party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within a period of 15 working days after receipt of notice in writing requiring it to do so; or
- 12.1.3 the other Party commits a series of persistent minor breaches which, when taken together, amount to a material breach; or
- 12.1.4 any encumbrancer takes possession of or a receiver, administrative receiver or similar officer is appointed over any of the property or assets of the other Party or if the other Party makes any voluntary arrangement with its creditors or becomes subject to an administration order or has an administrator appointed or goes into liquidation or has a resolution for its winding up passed or anything analogous to any of these events under the law of any jurisdiction occurs about the other Party or if the other Party ceases or threatens to cease to carry on business; or
- 12.1.5 any Force Majeure Event (as defined in Clause 13.3) prevents the other Party from performing its obligations under the Contract for any continuous period of **three** months.
- 12.2 Termination of the Contract shall not prejudice any of the Parties' rights and remedies accrued as of the termination.
- 13. FORCE MAJEURE**
- 13.1 Neither Party (or any person acting on its behalf) shall have any liability or responsibility for failure to fulfil any obligation under the Contract so long as, and to the extent to which, the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event, except as provided in Clause 13.
- 13.2 A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:
- 13.2.1 notify the other Party of the nature and extent of such Force Majeure Event; and
- 13.2.2 use all reasonable endeavours to remove any such causes and resume performance under the Contract as soon as feasible.
- 13.3 For this Clause 13, a "**Force Majeure Event**" means an event beyond the reasonable control of a Party (or any person acting on its behalf), which by its nature could not have been foreseen by such Party (or such person), or, if it could have been foreseen, was unavoidable, and includes acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism.
- 14. GENERAL**
- 14.1 If any provision of these Conditions shall be held to be invalid or unenforceable in whole or in part, the unaffected provision shall remain in full force and effect.
- 14.2 No waiver of or delay or failure by the Supplier to exercise any rights or remedies shall prejudice any future or further exercise thereof.
- 14.3 All notices to be served on the Supplier by the Customer shall only be valid if addressed to the **Purchasing Manager** and/or **Financial Director** of the Supplier.
- 14.4 The Customer shall not without the prior written consent of the Supplier sub-contract or assign all or any part of the Contract.
- 14.5 The Customer has no any permission to resell the Goods outside the Delivery Location
- 14.6 The Customer shall keep as confidential all information disclosed to it by or on behalf of the Supplier which could reasonably be considered confidential. This shall include, but not be limited to, all information disclosed by the Customer which comprises intellectual property or know-how belonging to the Supplier and all information relating to the Supplier's business which is not in the public domain. The Supplier shall not use any information provided to it other than to enable it to perform its obligations under the Contract.
- 14.7 A person who is not a Party to the Contract shall have no rights according to the Contract.
- 14.8 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed under Italian law.
- 14.9 The parties irrevocably agree that the court of Milan, Italy shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).