

# Terms & Conditions of Sale - United Kingdom

## All Policies

1. Applicability; Conclusion of a Contract. These terms and conditions of sale (these "Terms") are the only terms which govern the sale of instruments, hardware and consumable products ("Products") and related training and installation services ("Services") by us to the purchaser of our Products and Services ("Customer"). These Terms and the accompanying quotation, sales confirmation, bill of lading and/or invoice document (collectively, the "Contract") comprise the entire agreement between Customer and us, and supersede all prior or contemporaneous understandings, agreements, representations and warranties, and communications, whether written or oral. These Terms prevail over any Customer general terms and conditions of purchase, whether such terms are additional to or different from these Terms, and regardless of whether or when Customer submitted its purchase order or such terms. Fulfilment of Customer's order does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms, and Customer's terms and conditions are expressly rejected. Customer's acceptance of any quotation is expressly subject to Customer's assent to these Terms, and Customer's assent to these Terms shall be conclusively presumed from Customer's submission of its purchase order to us.
2. Pricing.
  - 2.1 Unless otherwise expressly stated, all price quotes are valid for thirty (30) days only. Our prices are exclusive of any value added and sales tax payable in the country of original delivery. Unless otherwise quoted, the cost

of distribution, freight, handling and/or installation will be added to the price at the rate which is valid at the date of shipment. Prices are subject to adjustment on account of specifications, quantities, raw materials, cost of production, shipment arrangements (including without limitation, shipping outside of the country of original delivery), Customer's delays in delivery, or other terms that were not part of the original quotation.

2.2 All orders once placed are non-cancellable unless we consent to such cancellation in writing and Customer pays any applicable cancellation and/or restocking charges.

### 3. Conditions of Payment.

3.1 Customer shall pay all invoiced amounts due to us within thirty (30) days after the date of our invoice. Payments shall be made directly to us without deduction.

3.2 In the case of Customer being in default with payment, we are entitled to charge interest on demand at the rate of 8% over the official dealing rate as published by the Bank of England from time to time. The charging of interest is without prejudice to any other rights or remedies that we may have.

3.3 Set-off or application of any right of retention arising out of counterclaims by Customer which are disputed by us and not res judicata are excluded. The application of any right of retention is also excluded where the counterclaims of Customer do not arise under the Contract.

### 4. Inspection and Acceptance.

4.1 Customer shall inspect Products immediately upon receipt and shall, within five (5) business days of receipt (the "Inspection Period"), give written notice to us of any claim that Products shipped constitute Nonconforming Products. "Nonconforming Products" means only the following: (i) Product shipped is different than specified on Customer's purchase order; or (ii) Product is visibly damaged. Customer will be deemed to have accepted Products unless it notifies PerkinElmer in writing of any Nonconforming

Products during the Inspection Period and furnishes such written evidence as required by PerkinElmer. If Customer receives Products where defects or nonconformities are not apparent upon initial examination, or whose defects or nonconformities are not discovered until after the Inspection Period has passed, such Products shall be subject to the warranty provided by PerkinElmer in Section 9 below.

4.2 If Customer notifies PerkinElmer of any Nonconforming Products in writing within the Inspection Period, PerkinElmer shall, in its sole discretion, (i) replace such Nonconforming Products, or (ii) credit or refund the payments made for such Nonconforming Products. PerkinElmer will provide to Customer a return authorization number that must be included with the return packaging for a return to be accepted. Customer shall ship, at our expense, Nonconforming Products to the facility designated by us. If we exercise our option to replace Nonconforming Products, we shall, after receiving Customer's shipment of Nonconforming Products, ship to Customer the replaced Products to the Delivery Point (as defined in clause 6.2 below). Customer acknowledges and agrees that the remedies set forth in this Section are Customer's exclusive remedies for the delivery of Nonconforming Products. Customer will be liable for restocking charges in the event Products are returned to us which are not Nonconforming Products.

4.3 Except as provided in the Contract, Customer has no right to return Products to PerkinElmer.

## 5. Delivery, Packing and Risk of Loss.

5.1 All orders will be delivered duty paid destination (DDP - Incoterms 2010) and may include a freight and handling fee to cover the cost of pick-up, transportation, insurance and delivery.

5.2 Delivery of the Products shall take place at road level, front door steps at Customer's premises or any other address specified in the Contract ("Delivery Point").

5.3 Except where otherwise expressly stated in the Contract, all delivery and shipment dates are approximate and subject to our availability schedule. We will make reasonable efforts to meet the delivery date(s) quoted. However, we will not be liable for any failure to meet the quoted delivery dates or for any delay in performance under the Contract caused by Excusable Delays (as defined in clause 15.2). Customer will be informed of the beginning and ending of these Excusable Delays as soon as practicable.

6.4 We may make partial shipments of Products, subject to our internal procedures and approvals.

## 6. Taxes.

6.1 Customer is responsible for the payment of all taxes which may be assessed or levied on or on account of the Products sold to Customer, including, without limitation, all value added and sales taxes.

6.2 Where Customer claims that a transaction is not subject to any such tax or that we are not required to collect such tax, Customer must provide us with all documentation necessary to support such a claim and allow us to document any decision we may make not to collect such tax(es). Customer maintains full liability for, and holds us harmless against, any expenses incurred or action raised as a result of our reliance upon Customer's statements and documents.

## 7. Installation and Site Preparation.

7.1 Installation Services are included in the purchase price of the Products only if expressly so stated in the Contract. Except as expressly stated in the Contract, installation Services will only be performed in the country of original delivery. Completion of any installation Services shall not be a condition precedent to Customer's obligation to make payments hereunder.

7.2 It is the responsibility of Customer to prepare appropriate environmental conditions at the site and to provide the required services for the duration of the installation, including, whatever is required to uncart and

transport the Products to their appropriate location for use. Failure to do so will result in a service charge by us to cover the lost time of our service personnel. If any installation Services are to be carried out on a Customer's computer system, Customer has the full responsibility to perform an adequate data back-up to preserve the integrity of existing data. If PerkinElmer is unable to perform installation Services within three (3) months of a Product's shipment date as a result of Customer's failure to prepare the site as required, Customer will be responsible for any costs associated with such delay, including without limitation, any required hardware, software and firmware updates. Delay of the installation will not extend the contracted warranty period.

7.3 Customer hereby undertakes to maintain its premises in a safe condition and to comply with all applicable laws governing workplace health and safety. Customer hereby accepts full responsibility for any harm or injury to, or liability arising from work performed by, our service personnel while on Customer's premises, except to the extent caused solely by the gross negligence or wilful misconduct of our service personnel.

7.4 Installation Services will be invoiced on the basis of the time worked and material used unless otherwise agreed with Customer in writing. We will charge the then applicable hourly rate for work, travel and waiting time as well as any additional costs identified in the Contract.

7.5 Customer shall provide us with written acceptance of the installation Services. Acceptance shall be deemed to have been given if Customer has not provided us with such written acceptance within two (2) weeks after completion of the installation Services and, within that time, has not reported any defects in the installation Services.

8. Software. "Software" means the object code form of PerkinElmer's software and documentation related thereto, including without limitation any control or instrument software included with the Product. PerkinElmer provides all Software by license only and subject to Customer's assent to the end user

license agreement provided with the Software. Customer understands and agrees that the Software is not being provided as a “work for hire” under any applicable local, state, federal, international or other laws and this is not an agreement for the sale of the Software. By downloading, installing, using, unwrapping, or issuing a purchase order for the license of the Software, Customer agrees that the Software is accepted as delivered and agrees to the terms of the applicable end user license agreement.

9. Limited Warranty. The warranties set forth in this Section 9 are the sole and exclusive warranties provided by us in connection with Products and/or Services provided hereunder and shall only apply to Customer as the original purchaser. The “Warranty Period” shall be the period of time that the warranty is valid as specified for each of the warranties listed below.

9.1 Instruments. PerkinElmer warrants that its instrument Products will substantially conform to PerkinElmer's published specifications in effect as of the date of shipment and will be free from defects in materials and workmanship, when subjected to normal, proper and intended usage, except that no warranty is provided for any used, refurbished or previously owned Products. Unless a different period is specified in the applicable quotation, the Warranty Period shall be (i) one (1) year from the date of delivery to Customer, or (ii) if the Product requires installation by our certified service engineers, the earlier of (x) one (1) year from the date of installation or (y) fifteen (15) months from the date we ship the Product to Customer. This warranty applies only to Products within the country of original delivery.

9.1.1 Spare Parts. Parts replaced during a warranty repair may be retained by PerkinElmer and shall become the sole and exclusive property of PerkinElmer upon repair or replacement. We warrant replacement parts for the longer of (i) the remaining term of the original Warranty Period of the Product in which the part is installed or (ii) thirty (30) days from the date of replacement. This warranty applies only to parts installed by us or a third party authorized by us.

**9.2 Reagents, Consumables, & Other Goods.** For Products that are consumables, reagents or other goods, we warrant that, at the time of shipment, all such Products shall conform to our published specifications. Unless otherwise set forth in the Product documentation, quotation or price list, the Warranty Period shall be for the longer of: (a) thirty (30) days from the date of delivery of such Products; (b) the expiration or “use by” date listed on the Product; (c) the half-life of the radioisotope contained in the Product; or (d) the Product’s specified number of uses. This warranty shall only be valid if such Products are stored in accordance with our instructions and used in accordance with the published specifications.

**9.2.1 Custom Reagents.** PerkinElmer shall use commercially reasonable efforts to meet all specifications requested by Customer for Products delivered pursuant to its custom labeling/synthesis service offerings and the nature of the request.

**9.3 Software & Firmware.** We warrant that Software (as defined in clause 13.1 below), whether embedded in a Product or licensed separately, and firmware will substantially contain the functionality described in our program manuals and, when properly installed and operated on a computer meeting the specifications specified therein, will substantially perform in accordance therewith; provided, however, that we do not warrant that the operation of the processor, Software or firmware will be uninterrupted or error-free. The Warranty Period shall be for ninety (90) days from the date of delivery.

**9.4 Exclusions.** The following are excluded from the warranties in Sections 9.1 through 9.3:

**9.4.1** A Product's loss, damage, defect or failure to perform due to: (i) any installation, modification, calibration, repair, or servicing of the Product, including but not limited to modifications, repairs to or servicing of any hardware, firmware or Software incorporated in or connected to the Product, not performed by us or a third party authorized by us; (ii) any accidents occurring at Customer’s site, including but not limited to, those caused by

flood, fire, or other acts of nature; (iii) the negligence or wilful misconduct of Customer or a third party; (iv) any movement of a Product to a location other than the location of original installation, unless such move is performed by us; (v) improper or inadequate maintenance; (vi) Customer or third party supplied hardware, software, interfaces, reagents, parts, consumables or other supplies; (vii) any combination or use of the Products with any incompatible equipment or ancillary products that may be connected to such Products; (viii) use or operation of a Product: (a) outside of the applicable Product specifications, or (b) inconsistent with the user manual provided with the Product; or (ix) improper site preparation.

9.4.2 We provide no warranties on any third party manufactured products. To the extent legally permissible, we will pass through to Customer any warranties provided by a third party manufacturer.

9.4.3 Any consumable or customer maintained components, including without limitation, chromatography columns, filaments, energy sources, lamps, power amplifier tubes, graphite tubes, sample cell holders, burner and furnace chambers, nebulizers, items in the sample path, valves, tips and tubing, other similar parts with limited life expectancy referenced in the Product's applicable operating manual, or any other item intended to be replaced by a customer.

## 9.5 Remedies.

9.5.1 We shall not be liable for breach of the warranties set forth in Sections 9.1 through 9.3 unless: (i) Customer gives prompt written notice and a reasonable description of the defective Products to us during the applicable Warranty Period; (ii) if applicable, we are given a reasonable opportunity after receiving the notice to examine such Products and Customer (if requested to do so by us) returns such Products to our place of business at our cost for the examination to take place there; and (iii) we reasonably verify Customer's claim that the Products are defective.

9.5.2 As Customer's sole and exclusive remedy for breach of the

warranties in Sections 9.1 through 9.3, we agree either to repair or replace, at our sole option, any part or parts of such Products or Software which prove(s) to be defective within the applicable Warranty Period. Alternatively, we may at any time, in its sole discretion, elect to discharge our warranty obligations hereunder by accepting the return of any defective Product or Software pursuant to the terms set forth herein and refunding the purchase price paid by Customer, pro-rated over the lifetime of the Product or Software license term.

9.5.3 THE REMEDIES SET FORTH ABOVE SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND OUR ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN SECTIONS 9.1 THROUGH 9.3.

9.6 Correction of Defects during Warranty Period.

9.6.1 We may attempt to diagnose and resolve defects over the telephone or electronically. Customer must follow the problem determination, resolution, and procedure that we specify. If applicable, we may require the return of a specific part to its depot for service or to assist in problem determination. If we determine on-site work is required, a service technician will be scheduled. If Customer requests on-site work when a defect could have been remedied remotely, or if we respond to Customer's notice of defect and no defect covered under the applicable warranty is found, we are entitled to compensation at our then standard rates for any work performed and costs we incur due to Customer's request. Failure to install and use available remote connectivity tools and equipment for direct problem reporting, remote problem determination, and resolution may result in increased response-time and additional costs to Customer.

9.6.2 If we determine that Products for which Customer requested warranty services are not covered by the applicable warranty and we provide repair services or replacement parts not covered by such warranty, Customer shall be responsible for payment of all costs for investigating and

responding to such warranty service request at our then prevailing time and materials rates.

9.7 Disclaimer. EXCEPT AS SET FORTH ABOVE AND TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, WE EXPRESSLY DISCLAIM AND MAKE NO OTHER WARRANTIES WHATSOEVER WITH RESPECT TO PRODUCTS, SOFTWARE AND SERVICES, INCLUDING WITHOUT LIMITATION, ANY WARRANTY (A) OF MERCHANTABILITY; (B) OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. FURTHER, WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED.

#### 10. Limitation of Liability.

10.1 The remedies provided in these Terms are Customer's sole and exclusive remedies. We shall not be liable to Customer for any loss of profit, loss of opportunity, costs and fines and/or any indirect or consequential loss, whether based on contract, misrepresentation, tort (including negligence), strict liability or otherwise, arising out of the design, manufacture, sale, delivery, installation, service or use of our Products, Software or Services. We neither assume, nor authorise any other person to assume for us, any other liability in connection with the design, manufacture, sale, delivery, installation, service or use of our Products, Software or Services.

10.2 Subject to clause 10.3, our maximum aggregate liability to Customer for any loss or damage in respect of any claims, actions or proceedings arising out of the Contract, whether in contract, misrepresentation, tort (including negligence), strict liability or otherwise, shall not exceed the total amount of the price paid by Customer to us for the Products and Services

sold hereunder.

10.3 Nothing in these Terms shall exclude or restrict either party's liability for death or personal injury arising from its negligence or that of its employees, agents or subcontractors, or shall exclude or restrict a party's rights, remedies or liability under the law governing these Terms in respect of any fraud.

10.4 The limitation period for any claims, actions or proceedings arising out of the Contract, whether in contract, misrepresentation, tort (including negligence) or otherwise, is six (6) years from the date on which the cause of action accrued.

#### 11. WEEE (Waste Electrical and Electronic Equipment) compliance.

11.1 We will comply with the European WEEE regulation under the following conditions:

a) Customer will bear the responsibility and costs of transport (Incoterms 2010: DDP) of waste equipment to the authorized WEEE collection centre nominated by us.

b) We will bear the responsibility and costs related to disposal and data reporting of waste equipment.

#### 12. Export.

12.1 Customer acknowledges that the Products and related technology (including, but not limited to, technical data and information) are subject to applicable export regulations (including but not limited to those of the United States, the European Union and/or United Kingdom), which may prohibit or restrict certain operations. Customer hereby undertakes not to, directly or indirectly, sell, transfer, transmit, export or re-export products or related technology in violation of the export control regulations of the United States, European Union and/or United Kingdom. Customer shall provide to us any documentation necessary for shipment of Products to the Delivery Point.

12.2 We shall be entitled to refuse performance of our obligations under these Terms where performance would violate clause 12.1.

12.3 Products sold by us hereunder are being provided to Customer as the end-user. Customer is not permitted to purchase Products for resale. Further, and without limiting the foregoing, Customer shall not (i) transfer, sell, or otherwise distribute Products to any third party, whether alone or in combination with other materials, (ii) modify Products for resale, or (iii) use Products to manufacture commercial products, in each case without prior written approval from us.

### 13. Software Licence and Copyright Material.

13.1 "Software" means the object code form of our software and documentation related thereto, including without limitation any control or instrument software included with the Product. We provide Software by licence only. The terms of the licence are available from us and are deemed accepted by Customer on delivery of licensed Software.

13.2 All rights in the Software remain with us or our licensors, in so far as they have not been expressly granted to Customer in these Terms or by other agreements. Customer shall only be granted a limited right to use the Software in accordance with the terms of the relevant software licence agreement.

13.3 Unless otherwise specified, our copyright works (including, without limitation, software, firmware, and printed documentation) may not be copied except for archive purposes, to replace a defective copy, or for program error verification by Customer.

13.4 All manuals provided to Customer shall be in English language only.

### 14. Data Protection Regulation and Confidentiality.

14.1. While performing under the Contract, we might process some necessary personal data of Customer, and Customer may process some personal data of our employees and business partners.

14.2. Both parties undertake to comply at all times with the applicable legal provisions on data protection and are committed to ensuring the security and protection of the processed personal data.

14.3. All personal data and Customer related data exchanged in the context of the Contract will exclusively be used by both parties for the purposes defined in these Terms. Both parties will obtain, process and use the personal data for performance of the Contract only.

14.4. Both parties declare, they have all required policies, processes and procedures in place which comply with existing law and meet demands of the General Data Protection Regulation.

14.5. Both parties have implemented appropriate technical and organizational measures to ensure a level of security appropriate to the risk.

14.6. Each party may approach the other party free of charge with any queries regarding obtaining, processing or use of its personal data.

14.7. Customer's personal data will be passed on to other companies (e.g., freight forwarding companies contracted to deliver the Products) solely in the context of and to the extent necessary for performance of the Contract. Otherwise, there will be no right to disclose personal data to third parties. Within this context, Customer acknowledges and agrees that its personal data may also be disclosed abroad, provided, however, proper measures of protection will be taken.

14.8. Both parties will keep confidential and not disclose, and will procure that its employees and the employees of any sub-contractor keep confidential and do not disclose, any information of a confidential nature obtained from the other party.

## 15. Miscellaneous.

15.1 The Contract (including these Terms) shall be governed by, construed and take effect in accordance with English law. The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise out of or in connection with the Contract (including claims for set-off or counterclaim) or the legal relationship established by the Contract. The UN Convention on Contracts for the International Sale of Goods is excluded (CISG).

15.2 We shall not be liable for any failure due to acts of God, acts or failures to act of Customer, acts of civil military authority, fires, strikes, floods, epidemics, attack, terrorism, war, delays in transportation or other causes beyond our reasonable control, including, without limitation, delays in obtaining or inability to obtain any license that may be required by law or the necessary labour, materials, components, or manufacturing facilities (together referred to in these terms and conditions as "Excusable Delays").

15.3 Customer may not assign, transfer or delegate any of its rights or obligations under the Contract without our prior written consent, and any purported assignment of such rights or obligations without such consent shall be null and void.

15.4 Where individual provisions of these Terms are invalid, the invalidity shall be limited to such provision, and the invalid provision shall be replaced with one that comes closest, in a valid manner, to the economic meaning and purpose of the invalid provision.

15.5 These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and signed by an authorized representative of each party.

15.6 The Contract is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

## Terms & Conditions of Sale - Country Links

Terms & Conditions of Sale - Global (English) (</corporate/policies/terms-conditions-of-sale.html>)

Terms & Conditions of Sale - Canada (English) (</corporate/policies/terms-conditions-of-sale-en-ca.html>)

Terms & Conditions of Sale - Canada (French) (</corporate/policies/terms-conditions-of-sale-fr-ca.html>)

Terms & Conditions of Sale - United Kingdom (</corporate/policies/terms-conditions-of-sale-uk.html>)