

TERMS AND CONDITIONS FOR THE SALE OF GOODS AND SUPPLY OF LABORATORY SERVICES: NEOGEN EUROPE LIMITED

1. Interpretation

In these Terms:

"the Company" means Neogen Europe Limited sometimes trading as Adgen Phytodiagnosics, incorporated in Scotland under the Companies Acts under Company number SC 186341 and having its registered office at Oswald Hall, Auchincruive, Ayr, KA6 5HN.

"the Contract" means the contract for the sale and purchase of the Goods or provision of Services;

"the Customer" means the person whose order for the Goods has been accepted by the Company;

"Customer Order" means the order submitted by the Customer to the Company (specifying order codes where applicable and signed by the Customer or an authorised representative of the Customer) either in writing on the Customer's headed notepaper and sent to the Company by facsimile transmission or by post, or an order submitted by the Customer to the Company (specifying order codes where applicable) by e-mail;

"the Goods" means the goods which the Company is to supply in accordance with these terms and the Customer Order, the specification of which shall be (unless expressly agreed in writing between the Company and the Customer) as narrated in the Company's catalogue (or catalogue supplied by them if prepared by another party) or such specification as on their website;

"the Result" means the result of the Services after testing of the Sample;

"the Sample" means a representative sample of the matter provided by the Customer which requires to be analysed by the Company;

"the Services" means the laboratory services which the Company has agreed to supply in accordance with these terms the specification of which shall be (unless expressly agreed in writing between the Company and the Customer to the contrary) those tests on the Sample specified in the Company's quotation, if failing the Customer Order, at the price agreed between the Company and the Customer; and

"Terms" means the standard terms of sale of Goods and provision of Services set out in this document and includes any special terms agreed in writing between the Customer and the Company.

2. Basis of the Sale of Goods

2.1 The Company shall sell and the Customer shall purchase the Goods in accordance with the Customer Order (if accepted by the Company) subject to these Terms, which shall govern the Contract to the exclusion of any other terms.

2.2 The Customer accepts that the Goods to be sold may be of a perishable nature and may have a limited shelf life. The Customer is to satisfy himself as to the storage requirements and shelf life of the goods and that the goods are suitable for his purposes in this regard.

3. Basis of Supply of Services

3.1 Subject to any exclusions below, the Customer will supply the Sample and the Company will supply the

Services to the Customer in accordance with these terms and conditions. For the avoidance of doubt, the Company will not provide any advice in respect of suitability of the Sample supplied by the Customer nor how or from where it should be collected. It is the sole responsibility of the Customer to satisfy himself that the Sample is representative and suitable as a test sample for their purposes.

3.2 The Services shall be provided to the reasonable satisfaction of the Customer and shall conform in all respects with any particulars, specification and standards of performance specified in the Company's quotation or Customer Order (the latter if accepted by the Company) subject to these Terms, which shall govern the Contract to the exclusion of any other terms.

4. Basis of the Sale of Goods and Supply of Services: General

4.1 No variation of these Terms shall be binding unless agreed in writing by the Company and the Customer.

4.2 The Company reserves the right to correct any typographical or other error or omission in any sales literature, invoice or other documentation issued by the Company without any liability on the part of the Company.

5. Orders and Specification

5.1 No Customer Order submitted shall be deemed to be accepted by the Company unless and until confirmed verbally or in writing by the Company. The Company specifically reserves the right not to accept any Customer Order until obtaining an acceptable credit reference or credit check on the Customer.

5.2 The quantity of the Goods and the Services to be supplied shall be as set out in the Customer Order (if accepted by the Company), the specification of both being as previously defined in Clause 1.

5.3 Without prejudice to Clause 11.2.6, the Customer must satisfy himself that the Goods or Services ordered are appropriate for the purpose for which they are required.

5.4 The Customer must satisfy himself that the Services ordered are appropriate for the purpose for which they are required. No advice will be given by the Company as to the suitability or appropriateness of the Services which the Customer requires. For the avoidance of doubt, the Company makes no representation, express or implied, that the Result is fit for any purpose and the Company will not provide any advice in respect of the interpretation of the Result, nor any implications arising from any particular result, to the Customer.

5.5 The Company reserves the right to make any changes to the specification of the Goods which are required in order to conform with statutory requirements wherever the goods are sold and any changes to the specification of the Services which are required in order to conform with statutory requirements within the United Kingdom.

5.6 The Customer may not cancel a Customer Order for Goods, or a Customer Order for Services after receipt by the Company, after either has been accepted by the Company except with the written

agreement of the Company and on the terms that the Customer shall indemnify the Company against all losses incurred by the Company as a result of such cancellation.

- 5.7 Any incorrect quantity of the Goods delivered must be immediately communicated to the Company and confirmed by written notice to the Company within 48 hours of the date of delivery. Should the Company not be notified accordingly, the Company will have no liability in respect of the quantity of the Goods delivered.

6. Terms of Payment

- 6.1 The price of the Goods shall be the price quoted in the Company's Catalogue, on their website or in a letter of quotation. The price of the Services shall be the price agreed with the Company or in a letter of quotation. All prices quoted are valid for 30 days only, after which time they may be altered by giving notice to the Customer.
- 6.2 All prices quoted are exclusive of VAT and delivery charges (which will be notified to the Customer at the time of placing an order). VAT will be levied on all orders unless, in the case of any Customer who is non-resident in the EU, a VAT number or exemption is provided on or before placing the Customer Order.
- 6.3 The client shall make payment of the invoice rendered in connection with the Goods prior to delivery or the Services prior to the Company performing the Services, or, within 30 days of the date of the Company's invoice for Goods or Services if credit facilities have otherwise been agreed in advance under Clause 6.7. The Company shall be entitled to recover the price for Goods, notwithstanding that delivery may not have taken place and the property in any goods supplied may not have passed to the client. The time of payment of the price of Goods or Services shall be the essence of the contract.
- 6.4 If the Customer fails to make payment on the due date then (without limiting any other right or remedy available to the Company), the Company may rescind the contract and appropriate any payment made by the Customer to account of the Goods or Services (or goods or services supplied under any other contract between the Company and Customer) as the Company thinks fit.
- 6.5 The Company reserves the right, by giving written notice to the Customer at any time before delivery, to increase the price of the Goods or Services to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company, any change in delivery dates, change in quantities or specifications for the Goods or Services which is requested by the client, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.
- 6.6 If payment is not made on the due date, the Company shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any decree or judgement) at the rate of 4 per cent per annum above the base rate of the Royal Bank of Scotland plc from time to time in force from the due date until the outstanding amount is paid in full.
- 6.7 The Company reserves the right to award credit facilities (at the sole discretion of the Director of the Company) and any credit facilities awarded will be subject to the receipt by the Director of the Company of appropriate Bank and Trade references, as to which he will be the sole judge.

7. Delivery of Goods

- 7.1 Delivery of the Goods shall be made by the Company delivering the Goods to a place notified to the Company by the Customer upon placing a Customer Order under explanation that it is accepted by the Customer that in circumstances where the Goods to be delivered outwith the United Kingdom, the Customer is required to make all necessary arrangements for export and import and for making all reasonable endeavours to ensure that such export and import will not be materially affected by any act of war, terrorism or industrial action. The Company offers no services in respect of import requirements and if the Customer requires any documentation from the Company to enable delivery to take place outwith the United Kingdom, the Customer must expressly inform the Company and make such arrangements at the time of placing the Customer Order. Any costs associated with obtaining required documentations will be recharged to the Customer. Should delivery of the Goods be delayed or halted through failure of the Customer to make suitable arrangements for their export and/or import, the Company will in any event be deemed to have delivered the Goods in accordance with these terms and conditions at the point at which the Goods are first delayed or halted.
- 7.2 Dates quoted by the Company for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods howsoever caused nor for any loss arising therefrom of any kind. The Goods may be delivered by the Company in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 7.3 If the Customer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then, without limiting any other right or remedy available to the Company, the Company may (i) store the Goods until actual delivery and charge the Customer for the reasonable costs of storage; or (ii) if there is a danger that the Goods will perish before they can be re-delivered, sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer accordingly.

8. Delivery of Services

- 8.1 Subject to Clause 11.2.2, the Customer will make arrangements in respect of delivery of the Sample to the Company and provide clear storage instructions in respect of storage prior to receipt by the Company of the Sample.
- 8.2 Performance of the Services shall be deemed to have been made in full at the time the Company has informed the Customer of the Result by facsimile transmission or any other method requested by the Customer at the time of the Customer Order.
- 8.3 The time of performance and intimation of the Result is not of the essence of the contract. Dates quoted

by the Company are an approximate guide only and the Company shall not be liable for any delay in delivery of the Result howsoever caused nor for any loss arising therefrom of any kind.

9. Delivery of Goods and Services: General

If the Company fails to deliver the Goods (or any instalment) or a Result for any reason other than any cause beyond the Company's reasonable control or the Customers fault, and the Company is accordingly liable to the Customer, the Company's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods or in producing a further sample and obtaining similar services.

10. Risk and Property

10.1 Risk of damage or loss of the Goods shall pass to the Customer at the time of delivery in terms of Clause 7.1 or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

10.2 In respect of a Customer Order for Equipment and Accessories, the title to such Goods shall, notwithstanding delivery and the passing of risk, not pass to the Customer until the Company has received cleared funds payment in full of the price of the Goods (including delivery charges) and all other goods (of any nature) agreed to be sold by the Company to the Customer for which payment is then due.

10.3 Further to Clauses 10.2 to 10.4, until such time as the title to the Goods passes to the Customer, the Customer shall hold the Goods as the Company's fiduciary agent and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as the Company's property.

10.4 Further to Clauses 10.2 to 10.4, until such time as the title to the Goods passes to the Customer, the Company may at any time require the Customer to deliver up the Goods to the Company and, if the Customer fails to do so forthwith, enter on any premises of the Customer or any third party where the Goods are stored and repossess the Goods.

11. Warranties and Liability

11.1 The Company warrants that (subject to the following provisions): (a) the Goods will correspond with their specification at the time of delivery and will be free from defects in material and manufacture and (b) the Services will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Services and any quotation provided by the Company.

11.2 The above warranty is given by the Company subject to the following conditions:

11.2.1 The Company will have no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions, misuse or alteration or repair of the Goods without the Company's approval, or inappropriate storage or use after dispatch. The Customer must satisfy himself that he and his

operators are adequately trained on the use, handling and storage of the Goods;

11.2.2 The Company accepts no responsibility for any loss, damage, costs, expenses or other claims for compensation arising from deterioration in the Sample prior or during performance of the Services if the Customer fails to provide clear storage instructions in respect of the Sample;

11.2.3 The above warranty does not extend to any Goods which are used by the Customer beyond their shelf life;

11.2.4 The Company will have no liability under the above warranty if the total price for the Goods or Services (including delivery charges) has not been paid by the due date for payment;

11.2.5 The above warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer;

11.2.6 The Company will have no liability if the Goods or Services are not appropriate for the purpose for which the Goods or Services are required. The Customer must satisfy himself that the Goods or Services ordered and their specification are appropriate for the purpose for which they are required.

11.3 Subject as expressly provided in these Terms, and except where the Goods or Services are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

11.4 Any claim made by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall be notified to the Company in writing within 72 hours of the date of delivery. If delivery is not refused, and the Customer does not notify the Company accordingly, the Customer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the contract. In the event of the Customer validly notifying any apparent defect, the Customer must immediately confirm and comply with arrangements for the proper storage and return of the Goods. The Company shall have no liability for any claim by the Customer on Goods which are returned without compliance with the said requirements on notification and agreed storage and return.

11.5 Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these Terms, the Company may replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Customer the price of the Goods (or a proportionate part of the price), in which case the Company shall have no further liability to the Customer.

11.6 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Customer or the supply of Services, and the entire liability of the Company under or in connection with the Contract shall not exceed £5000 or, in respect of the sale of Goods the price of the individual unit of Goods responsible for the loss (whichever is greater), and in respect of the supply of Services the price of the Services (whichever is greater), except as expressly provided in these Terms.

11.7 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in

relation to the Goods or Services, if the delay or failure was due to any cause beyond the Company's reasonable control.

12. General

12.1 The contract shall be governed by the laws of Scotland and the client agrees to submit to the exclusive jurisdiction of the Scottish Courts.

12.2 A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.3 If any provision of the Contract is held by a Court to be unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

On behalf of

.....
(name of Customer), we acknowledge receipt of and accept the foregoing Terms.

Signed:

Print name:.....

Position held:
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