

TERMS AND CONDITIONS

1. INTERPRETATION

1.1. Definitions. In these Conditions, the following definitions apply:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Commencement Date: means the date labelled as "Commencement Date" in the Quotation.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.7.

Contract: the contract between Lein and the Customer for the supply of Products and/or Services in accordance with these Conditions.

Customer: the person or firm who purchases the Products and/or Services from Lein, as more specifically detailed in the Specification.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

Lein: Lein Applied Diagnostics Limited registered in England and Wales with company number 4750688.

Products: the products (or any part of them) to be supplied to the Customer by Lein.

Product Specification: any specification for the Products, including any relevant plans, datasheets or drawings, that is agreed in writing by the Customer and Lein.

Quotation: the document that details the Schedule of Work, the fees for the Services and the Products and other key contractual information.

Services: the services supplied by Lein to the Customer as set out in the Schedule of Work.

Schedule of Work: the description or specification for the Services in the Quotation or as provided in writing by Lein to the Customer.

1.2. Construction. In these Conditions, the following rules apply:

1.2.1. a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2. a reference to a party includes its successors or permitted assigns;

1.2.3. a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.4. any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.5. a reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

2.1. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Lein which is not set out in the Contract.

2.2. The Customer is responsible for ensuring that the terms of the Order and any applicable Schedule of Work are complete and accurate.

2.3. The Order shall only be deemed to be accepted when Lein issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5. All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.

3. SUPPLY OF SERVICES

3.1. Lein shall provide the Services to the Customer in accordance with the Service Specification in all material respects.

3.2. Lein shall use all reasonable endeavours to meet any performance dates for the Services specified in the Quotation, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

3.3. Lein shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Lein AD shall notify the Customer in any such event.

3.4. Lein warrants to the Customer that the Services will be provided using reasonable care and skill.

4. PRODUCTS

4.1. The Products are described in Specification, as updated and amended from time to time.

4.2. To the extent that the Products are to be manufactured in accordance with a Product Specification supplied by the Customer, the Customer shall indemnify Lein 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 Lein in connection with any claim made against Lein for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Lein's use of the Product Specification. This clause 4.2 shall survive termination of the Contract.

4.3. Lein reserves the right to amend the specification of the Product if it, acting reasonably, believes it must do, or if required by any applicable statutory or regulatory requirements.

5. DELIVERY OF PRODUCT

5.1. Unless otherwise agreed in writing or in the Quotation, at any time after Lein notifies the Customer that the Products are ready Lein shall arrange for delivery of the Products, at the Customer's cost, using a third party courier agreed between the parties, to an address notified to Lein in writing (**Delivery Location**).

5.2. Delivery of the Product shall be completed on the completion of unloading of the Products at the Delivery Location.

5.3. Any dates quoted for delivery of the Products are approximate only, and the time of delivery is not of the essence.

5.4. Lein may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6. QUALITY OF PRODUCT

6.1. Subject to any warranty terms agreed in the Quotation, Lein warrants that on delivery the Products shall be free from material defects in design, material and workmanship

6.2. Except as provided in this clause 6, Lein shall have no liability to the Customer in respect of the Product's failure to comply with the warranty set out in clause 6.1.

7. TITLE AND RISK

7.1. The risk in the Products shall pass to the Customer upon the earlier of: (a) the handing of the Products, by Lein, to the courier appointed in accordance with clause 5.1 above; or (b) the Customer collecting the Products from Lein.

- 7.2. Title to the Products shall not pass to the Customer until Lein receives payment in full (in cash or cleared funds) for the Products.
- 7.3. If before title to the Products passes to the Customer the Customer becomes subject to any of the events listed in clause 13.2.2 to clause 13.2.10, then, without limiting any other right or remedy Lein may have:
- 7.3.1. the Customer's right to resell Products or use them in the ordinary course of its business ceases immediately; and
- 7.3.2. Lein may at any time:
- 7.3.2.1. require the Customer to deliver up all Products in its possession which have not been resold, or irrevocably incorporated into another product; and
- 7.3.2.2. if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.
- 8. CUSTOMER'S OBLIGATIONS**
- 8.1. The Customer shall:
- 8.1.1. co-operate with Lein in all matters relating to the Services;
- 8.1.2. provide Lein, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Lein to provide the Services;
- 8.1.3. provide Lein with such information and materials as Lein may reasonably require to supply the Services, and ensure that such information is accurate in all material respects; and
- 8.1.4. keep and maintain all materials, equipment, documents and other property of Lein (**Lein Materials**) at the Customer's premises in safe custody at its own risk, maintain Lein Materials in good condition until returned to Lein, and not dispose of or use Lein Materials other than in accordance with Lein's written instructions or authorisation.
- 9. CHARGES AND PAYMENT**
- 9.1. The price for Products shall be the price set out in the Quotation or, if no price is quoted, the parties shall agree the price of the Product upon the completion of the Services. Unless otherwise agreed in writing or in the Quotation, the price of the Products is exclusive of all costs and charges of packaging, insurance, transport of the Product, which shall be paid by the Customer when it pays for the Products.
- 9.2. Unless otherwise agreed in writing, or set out in the Quotation, the charges for Services shall be on a time and materials basis and the charges shall be as outlined in the Quotation. Any estimate provided in the Quotation is not intended to be fixed and the charges for the Services will depend on the amount of time spent providing the Services];
- 9.3. In respect of Product, Lein AD shall invoice the Customer on or at any time after completion of delivery. In respect of Services, unless otherwise agreed in writing or in the Quotation, Lein shall invoice the Customer on monthly in arrears.
- 9.4. Unless otherwise agreed in writing or in the Quotation, the Customer shall pay each invoice submitted by Lein:
- 9.4.1. within [30] days of the date of the invoice; and
- 9.4.2. in full and in cleared funds to a bank account nominated in writing by Lein, and
- 9.4.3. time for payment shall be of the essence of the Contract.
- 9.5. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**).
- 9.6. If the Customer fails to make any payment due to Lein under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.7. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. Lein may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Lein to the Customer.
- 10. INTELLECTUAL PROPERTY RIGHTS**
- 10.1. Unless otherwise agreed in writing all Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Lein.
- 10.2. The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on Lein obtaining a written licence from the relevant licensor on such terms as will entitle Lein to license such rights to the Customer.
- 10.3. All Supplier Materials are the exclusive property of Lein.
- 11. CONFIDENTIALITY**
- A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 11 shall survive termination of the Contract.
- 12. LIMITATION OF LIABILITY**
- 12.1. Nothing in these Conditions shall limit or exclude Lein's liability for:
- 12.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 12.1.2. fraud or fraudulent misrepresentation; or
- 12.1.3. anything in law for which it is illegal to exclude or limit liability.
- 12.2. Subject to clause 12.1:
- 12.2.1. Lein shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 12.2.2. Lein's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the lesser of: (a) the fees paid under this agreement, or (b) £25,000.
- 12.3. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.4. This clause 12 shall survive termination of the Contract.
- 13. TERMINATION**
- 13.1. Without limiting its other rights or remedies Lein may terminate the Contract by giving the Customer not less than 2 months' written notice.
- 13.2. Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 13.2.1. the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;
- 13.2.2. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed

Lein Applied Diagnostics Limited

Reading Enterprise Centre, Earley Gate, Whiteknights Road
Reading, Berkshire, RG6 6BU, United Kingdom.

T +44 (0)845 456 5970

E sales@lein-ad.com W www.lein-ad.com

- unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 13.2.3. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 13.2.4. a petition is filed, a notice is given, a resolution is passed, or an Quotation is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- 13.2.5. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 13.2.6. an application is made to court, or an Quotation is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- 13.2.7. the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 13.2.8. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 13.2.9. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2.2 to clause 13.2.8 (inclusive); or
- 13.2.10. the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
- 13.3. Without limiting its other rights or remedies, Lein may:
- 13.3.1. terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment; or
- 13.3.2. suspend the supply of Services or all further deliveries of Products under the Contract or any other contract between the Customer and Lein if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 13.2.2 to clause 13.2.10, or Lein reasonably believes that the Customer is about to become subject to any of them.
- 13.4. On termination of the Contract for any reason:
- 13.4.1. the Customer shall immediately pay to Lein all of Lein's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, Lein shall submit an invoice detailing reasonable costs incurred, which shall be payable by the Customer immediately on receipt;
- 13.4.2. the Customer shall return all of Lein Materials which have not been fully paid for. If the Customer fails to do so, then Lein may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- 13.4.3. the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 13.4.4. clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 14. FORCE MAJEURE**
- 14.1. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 2 months, the party not affected may terminate this agreement by giving 2 weeks' written notice to the affected party.
- 14.2. Lein shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of any event arising under clause 14.1.
- 15. GENERAL**
- 15.1. **Assignment and other dealings.** Neither party shall, without the prior written consent of the other party, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.2. **Notices.** Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier or by fax or by e-mail, save for the service of proceedings which must be sent by prepaid first-class post or other next working day delivery service, or by commercial courier or by fax
- 15.3. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 15.4. **Waiver.** A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.5. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 15.6. **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 15.7. **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by Lein.
- 15.8. **Governing law.** This agreement 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 in accordance with the law of England and Wales.
- 15.9. **Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Lein Applied Diagnostics Limited

Reading Enterprise Centre, Earley Gate, Whiteknights Road
Reading, Berkshire, RG6 6BU, United Kingdom.

T +44 (0)845 456 5970

E sales@lein-ad.com W www.lein-ad.com