

## **TERMS & CONDITIONS OF SALE**

### **1. Definitions**

"Web Site" means the web site (in whatever form, whether electronic or paper) in which these Conditions are set out.

"Company" ValuVac, a trading division of John O'Driscoll T/A ValuVac or its permitted assigns.

"Conditions" means these terms and conditions.

"Contract" means any contract between the Company and the Customer for the sale and purchase of Supplies.

"Customer" means the person(s) or company whose order for the Supplies is accepted by the Company.

"Goods" means any goods supplied or to be supplied by the Company to the Customer.

"Services" means any services supplied or to be supplied by the Company to the Customer.

"Supplies" means any Goods or Services.

"in writing" includes electronic communications such as fax and email.

### **2. Conditions**

All orders are accepted by the Company subject to and in accordance with these Conditions. These Conditions override and exclude any terms or conditions in or referred to in any negotiations or course of dealing between the Company and the Customer or set out in the Customer's standard terms and conditions. If there is any conflict between

- the other provisions of this Web site and these Conditions; or
- the provisions of the order and these Conditions

these Conditions will prevail unless the Company agrees otherwise in writing. Together with any terms accepted by the Company in connection with an order, these Conditions constitute the entire agreement between the Company and the Customer in relation to the Supplies ordered. No variation to these Conditions is permitted unless expressly authorised in writing by John O'Driscoll.

### **3. Prices**

Prices for Supplies are in £ sterling, exclusive of VAT, which will be added at the time of despatch.

Where the Company agrees to trade in Euro, it will specify an exchange rate for each order. The Company has used all reasonable endeavours to ensure that prices for Supplies are accurately set out in the quotation but reserves the right to change its prices without notice at any time. The Company operates a discount structure which rewards order size and timely remittance. Prices charged will be those prevailing when an order is accepted. Where Supplies are to be made in instalments ('Scheduled Delivery') the price payable for them will be that applicable at the time of despatch of the first batch of Supplies but, where Scheduled Delivery may continue for a period of 90 days or more, the Company reserves the right to charge the Customer further amounts if the price of the Supplies increases before the end of that period.

### **4. Payment**

Payment is usually due not later than the 25th of the month following the month of despatch, without any deductions, withholding or set off. The Company reserves the right to request payment in advance.

Time for payment is of the essence. If the Customer fails to make payment by the due date then, without prejudice to any other right or remedy, the Company shall be entitled to:

- i. withdraw any or all discounts, cancel the order or suspend any further deliveries or performance;
- ii. appropriate any payment made by the Customer to such of the Supplies (or the Supplies made under any other contract) as the Company may think fit; and
- iii. charge interest (both before and after any judgment) on the amount unpaid at the rate of 5% per month until payment is made in full.

The Company reserves the right to charge for copy invoices or credit notes at the rate of £0.50 per copy where the original has been lost or misplaced by the Customer. If legal action is taken to recover monies due to the Company then the Company reserves the right to charge the Customer an administration fee to cover all and any costs incurred.

## **5. New accounts**

A Customer wishing to open a credit account must furnish such information as may be requested by the Company and the Company may make a search with a credit reference agency. The Company reserves the right in its absolute discretion to grant, refuse or discontinue any credit facilities or reduce or suspend any credit limit at any time.

## **6. Orders**

The Company reserves the right to decline to trade with any company or person.

To avoid duplication, written confirmation of telephone orders must be clearly marked 'Confirmation only'.

The Company will not accept liability for orders not so marked and duplicate orders will be charged accordingly.

Once accepted, no order may be cancelled without the prior written agreement of John O'Driscoll. Without limiting the generality of this, orders for Goods which are not in web site or non stock items may not be cancelled.

Orders for Goods are usually accepted by the Company by despatching the Goods provided, however, that despatch will not be acceptance where the price for the Supplies has been incorrectly quoted or referenced by the Customer in its order.

Orders for certain Goods, in particular Goods which are not in web site or are non-stock items, may be subject to a minimum order quantity or value which the Company will use its reasonable endeavours to notify to the Customer prior to accepting its order.

## **7. Delivery**

Save as set out below, the Company will use all reasonable endeavours to despatch Goods ordered before noon Monday to Friday on the same day and all Goods ordered after such times the next working day, provided that those Goods are in stock. The Company applies a charge for the delivery of Goods. Any such charge will be notified to the Customer at the time of quotation or placing of the order.

Where Goods ordered are not on the web site or are non-stock items, it may not be possible for the Company to arrange next day despatch but the Company will make reasonable endeavours to notify the lead times for such Goods, where known.

Delivery will be made to the address specified by the Customer. The Company reserves the right to arrange delivery of Goods directly from the manufacturer or supplier of those Goods to the Customer.

The Company may use any method of delivery available to it. The Company will use reasonable endeavours to meet delivery and/or performance estimates but, except as set out in 8 below, in no circumstances shall it be liable to compensate the Customer for non-delivery, non-performance or late delivery or performance.

Time for delivery and/or performance will not be of the essence. The Company reserves the right to delay despatch for a number of reasons, including to perform any necessary credit or anti-fraud checks or procedures or to ensure that payment has been received in cleared funds in full. Where despatch is delayed for such reasons, the Company will use reasonable endeavours to inform the Customer.

## **8. Inspection, defects and non delivery**

The Customer must inspect the Supplies as soon as is reasonably practicable after delivery or, in the case of Services, performance and, except as set out in 15 below, the Company shall not be liable for any defect in the Supplies unless written notice is given to the Company within 10 days of the date of inspection. The Company does not write software comprised in the Goods and it is the Customer's responsibility to check for the presence of computer viruses before the Goods are used.

The quantity of any consignment of Goods, as recorded by the Company upon despatch from the Company's place of business, shall be conclusive evidence of the quantity received by the Customer on delivery, unless the Customer can provide conclusive evidence to the contrary. The Company will not be liable for any non-delivery of Goods or non-performance of Services unless written notice is given to the Company within 10 days of the date when Goods should have been delivered or the Services performed in the ordinary course of events. The liability of the Company for non-delivery or non-performance or for Goods notified as defective on delivery or Services notified as defective following performance in accordance with this Condition 8 will be limited to replacing the Goods or re-performing the Services within a reasonable time or to refunding the price then paid in respect of such Supplies.

## **9. Returns**

Prior to returning any Goods to the Company for any reason, the Customer must contact the Company to obtain a returns authorisation number ('RMA'). All Goods are returned at the Customer's risk and expense

and should be undamaged by the Customer and in their original packaging. The Customer is responsible for returning Goods to the Company and for providing proof of delivery of such return.

The Company operates a 21 day return policy. To be accepted for return on this basis, Goods should be returned for receipt by the Company within 21 days of despatch.

Any Goods returned after 21 days as 'unwanted' or 'incorrectly ordered' may be accepted at the discretion of the Company but will be subject to a minimum restocking fee of 20% of the invoice value of the Goods or £10, whichever is the greater.

Goods that consist of software or are specially constructed or contain any of the hazardous substances referred to in Directive 2002/95/EC on the Restriction of the Use of Certain Hazardous Substances in Electrical or Electronic Equipment ('RoHS') may not be returned under this Condition 9. Any Goods which are not in web site or are non-stock items may not be returned under this Condition 9. Any static-sensitive Goods supplied in sealed packaging may not be returned if the blister or 'peel' packs in which they are supplied have been opened, tampered with or damaged.

## **10. Distance selling regulations**

If, notwithstanding the terms of Condition 25, the Customer is buying as a 'consumer', as defined in The Consumer Protection (Distance Selling) Regulations 2000, the Customer may, provided he or she has taken reasonable care of the Goods, return the Goods and be repaid the price paid in respect of them within 7 working days (excluding Saturday and Sunday and any UK Bank Holiday) of their delivery. To return Goods on this basis, the Customer must notify the Company in writing and return the Goods, in their original packaging, within the 7 day period, clearly quoting the Returns Material Authorisation Number (RMA), Customer's account number and order number on the outside of the package. Goods should be returned first class with proof of posting and the Customer is responsible for payment of all postage costs. In respect of certain Goods the Company may prefer to arrange collection itself and, if requested, the Customer will allow the Company to collect the Goods and will assist in the arrangements for the Goods' collection. All reasonable costs of collection will be borne by the Customer. The Customer is responsible for the care and custody of the Goods pending their return or collection. Following receipt of Goods which comply with this Condition 10, the Company will refund to the Customer the price paid in respect of the Goods.

This Condition 10 shall not apply to software that has been unsealed by the Customer.

## **11. Description**

All specifications, drawings, illustrations, descriptions and particulars of weights, dimensions, capacity or other details including, without limitation, any statements regarding compliance with legislation or regulation (together "Descriptions") wherever they appear (including without limitation in this Web site, on data sheets, application notes, despatch notes, invoices or packaging) are intended to give a general idea of the Supplies, but will not form part of the Contract. If the Description of any Goods differs from the manufacturer's

description, the latter shall be deemed to be correct. The Company shall take all reasonable steps to ensure the accuracy of Descriptions but relies on such information, if any, as may have been provided to it by its suppliers and accepts no liability in contract or tort or under statute or otherwise for any error in or omission from such Descriptions whether caused by the Company's negligence or otherwise. The Company may make changes to the Supplies as part of a continuous programme of improvement or to comply with legislation. Without prejudice to this Condition 11, Customers are recommended to check the Company's website for the latest descriptions of the Goods, in particular, but without limitation, with regard to statements regarding RoHS.

## **12. Risk and ownership**

The risk of damage to or loss of Goods will pass to the Customer when the Goods are unloaded from the Company's carriers at the Customer's premises. Ownership of the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due from the Customer to the Company on any account whatsoever. Until ownership passes to the Customer, the Customer must hold the Goods on a fiduciary basis as the Company's bailee. If payment is not received in full by the due date, or the Customer passes a resolution for winding up or a court shall make an order to that effect, or a receiver or administrator is appointed over any assets or the undertaking of the Customer or an execution or distress is levied against the Customer, the Company shall be entitled, without previous notice, to retake possession of the Goods and for that purpose to enter upon any premises occupied or owned by the Customer.

This Web site remains at all times the sole and exclusive property of the Company.

## **13. Quality Assurance**

All Goods detailed in the Web site have been processed in strict accordance with standard quality procedures approved to BS EN ISO 9001: 2000, unless indicated otherwise on the dispatch documentation.

Further details can be obtained from the Company's telephone sales office at the time of ordering.

Selected items are available with full lot traceability to CECC distributor requirements. These are clearly identified in the Web site and a £10.00 charge is levied for such certification.

## **14. Performance and fitness for purpose**

Unless any performance figures, tolerances or characteristics have been specifically and expressly warranted by a director of the Company in writing, the Company accepts no liability for any failure of the Supplies to comply with such criteria, whether attributable to the Company's negligence or otherwise. The responsibility for ensuring that Supplies are sufficient and suitable for a particular purpose is the Customer's, unless specifically stated in writing by a director of the Company. Any advice or recommendation given by an employee of the Company which is not confirmed in writing by a director of the Company is acted on entirely at the Customer's risk and the Company shall not be liable for any such advice or recommendation which is not so confirmed. Except as set out in Condition 16(i), the liability of the Company to the Customer, should

any warranty, statement, advice or recommendation confirmed in accordance with this Condition 14 prove to be incorrect, inaccurate or misleading, will be limited to the refund of the price paid for the Supplies or, at the Company's option, the supply of replacement Supplies which are sufficient and suitable.

## **15. Warranty/Guarantee**

The Company will endeavour to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer of Goods.

In addition, the Company will, free of charge, repair or, at the Company's option, replace Goods or, in the case of Services, re-perform Services which are proved to the reasonable satisfaction of the Company to be damaged or defective due to faulty materials, workmanship or design. Software programs are supplied on the strict understanding that the Company does not warrant their function to be free from defects or error.

This obligation will not apply:

- if the defect arises because the Customer has altered or repaired such Goods without the written consent of the Company;
- because the Customer did not follow the manufacturers' instructions for storage, usage, installation, use or maintenance of the Goods;
- if the Customer has failed to notify the Company of any defect in accordance with Condition 8 where the defect should have been reasonably apparent on reasonable inspection; or
- if the Customer fails to notify the Company of the defect within 12 months (or such other period as the Company shall specify at the time of acceptance of the order for the Supplies) of the date of despatch of the Goods or performance of the Services.

Any replacement Supplies made or Goods repaired under this Condition 15 will be guaranteed on these terms for any unexpired portion of the period of guarantee given on the original Supplies. Any Goods which have been replaced will belong to the Company.

The Customer grants to the Company and its employees, agents and representatives a right to enter onto its premises to effect any repair or replacement under this Condition 15. The Customer shall ensure that the Company's employees, agents and representatives are provided with a safe and secure working environment while at its premises and the Customer shall be responsible for isolating any computers or processors requiring repair or replacement from its network and for making backup copies of any information on such computers or processors before the Company's arrival on site.

The Company's sole obligation and liability, should any Supplies prove damaged or defective in accordance with this Condition 15, shall be limited to, at the Company's option, the repair or replacement of the relevant Goods or the re-performance of the relevant Services or the refund of the price paid for the relevant Supplies.

Except as set out in 16(i) below and 8 above, this Condition is the Company's sole obligation and the Customer's sole remedy for defective Supplies and is accepted by the Customer in substitution for all express

or implied representations, conditions or warranties, statutory or otherwise, as to the satisfactory quality, fitness for purpose or performance of the Goods (or any materials used in connection therewith) or the standard of workmanship of the Services and all such representations, conditions and warranties are excluded.

## **16. Exclusion of Liability**

(i) The Company does not exclude its liability to the Customer:

- For breach of the Company's obligations under section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- For personal injury or death arising as a result of the Company's negligence;
- Under section 2(3) of the Consumer Protection Act 1987;
- For any matter which it would be illegal for the Company to exclude or to attempt to exclude its liability; or
- For fraud or fraudulent misrepresentation.

(ii) Except as provided in Conditions 8 (Inspection, defects and non delivery), 14 (Performance and fitness for purpose), and 15 (Warranty/Guarantee) and Condition 16(i), the Company will be under no liability to the Customer whatsoever (whether in contract, tort, (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct loss or pure economic loss, loss of profits, loss of business, loss of use, loss of data, computer downtime, depletion of goodwill, business interruption, increased purchasing or manufacturing costs, loss of opportunity, loss of contracts and like loss and for any loss or damage which is not a reasonably foreseeable result of any breach of the Conditions howsoever caused or arising out of or in connection with:

- Any of the Supplies, or the manufacture, sale, performance or supply or failure or delay in performance or supply of the Supplies by the Company or on part of the Company's employees, agents or sub-contractors;
- Any breach by the Company of any of the express or implied terms of the Contract;
- Any use made or resale or on-supply of any of the Supplies or any product incorporating any of the Goods or developed using the Supplies;
- Any acts or omissions of the Company at the Customer's premises;
- Any statement made or not made or advice given or not given by or on behalf of the Company, including as to compliance with legislation or regulation; or
- Otherwise under the Contract.

And the Company hereby excludes to the fullest extent permissible at law all conditions, warranties and stipulations, express (other than those set out in these Conditions or given in accordance with Condition 14) or implied, statutory, customary or otherwise which but for such exclusion, would or might subsist in favour of the Customer.

The Company's total liability in contract, tort, (including negligence), breach of statutory duty, misrepresentation or otherwise shall be limited to repairing or replacing Goods or in the case of Services, re-

performing the Services or, at the Company's option, refunding monies already paid in respect of the Supplies.

## **17. Intellectual property rights**

The Supplies in this web site may be subject to the intellectual and industrial property rights including patents, knowhow, trademarks, copyright, design rights utility rights, database rights and or other rights of third parties. No right or licence is granted to the Customer, except the right to use the Supplies or re-sell the Goods in the Customer's ordinary course of business. The Company shall have no liability whatsoever in the event of any claim of infringement of any such rights howsoever arising. In particular, without limiting the above, title in any software program forming all or any part of the Goods is reserved to the Company and/or its suppliers. The Customer is responsible for informing itself of the terms of its licence or use and paying any royalty payable.

The Company owns full copyright in respect of this web site and its reproduction in whole or part is prohibited without the Company's prior written consent.

## **18. Use of Personal Data**

"Personal Data" means, in relation to any Customer, or any representative of a Customer who is (in either case) a living individual, any data from which (whether alone or in combination with other information held by the Company) the Company can identify that Customer or that representative, regardless of how and when that data is provided. The Company may process Personal Data for all purposes contemplated in these Conditions or arising in the context of the relationship between the Company and the Customer including:

- i. Deciding whether to enter into any contract or arrangement with that Customer. This may include conducting credit reference searches against a Customer or its representatives and the disclosure of information to the relevant agency as to how that Customer conducts its account, and other anti-fraud or identity checks;
- ii. Order fulfilment, administration, customer services, profiling the Customer's purchasing preferences and to help to review, develop and improve the company's business and the goods and services it offers;
- iii. Direct marketing of the Company's products and services which the Company believes may be of interest to the Customer or its representatives, whether by post, fax, telephone, email, SMS, MMS or otherwise, to the extent that it is lawfully entitled to do so;
- iv. Crime prevention or detection.

The processing of the Personal Data may involve:

- i. The disclosure of that Personal Data to the Company's service providers and agents;
- ii. The disclosure of that Personal Data to third parties whose products and services the Company believes may be of interest to that Customer or representative;

iii. The transfer of Personal Data outside of the EEA, including to countries whose laws may not provide adequate protection to Personal Data. The Company will only transfer Personal Data outside the EEA to companies who have guaranteed to the Company the same level of protection as that Personal Data would have received in the UK.

If, at any time, the Customer or its representatives does not wish his or her Personal Data to be used for any or all of the above purposes, he or she should contact [sales@highland-scientific.com](mailto:sales@highland-scientific.com) or notify any of our sales representatives when placing an order by phone.

For more information on the Company's use of personal data please see the Company's privacy policy on its website.

## **20. Promotions**

In the event that the Company sends promotional material to the Customer in relation to goods or services available from the Company, these Conditions shall apply to all Supplies purchased from such material.

## **21. Country of origin**

Unless otherwise confirmed by the Company in writing, nothing in this web site is to be taken as representation of the source of origin, manufacturer or production of the Goods or any part of them.

## **22. Trade counter**

Goods can only be supplied at the trade counter against official orders for credit, debit card or cash transactions.

## **23. Export**

Separate Conditions of Supply apply to export transactions and are available on request from the Company's export department. The Customer is responsible at its own expense for obtaining any licence and complying with any export regulations in force within the United Kingdom and in the country for which the Goods are destined. Certain Goods imported from the United States of America by the Company are subject to specific restrictions. With respect to goods manufactured in or originating from the United States, the Customer agrees to comply with all applicable export laws, restrictions and regulations of the United States or foreign agencies or authorities and shall not import, export or transfer for the purpose of re-export, any product to any prohibited or embargoed country or to any denied, blocked, or designated person or entity as mentioned in any such U.S. or foreign law or regulation. The Customer represents and warrants that it is not on the Denied Persons, Specially Designated Nationals or Debarred Persons List and is not otherwise prohibited by law from purchasing the Supplies. The Company reserves the right not to supply certain customers or countries and to require from the Customer full details of the end use and final destination of the Goods.

## **24. Business customers**

The Company is a business to business (B2B) supplier. By ordering, the Customer confirms that he, she or it wishes to obtain the Supplies for the purposes of his, her or its business and not as a consumer.

## **25. Age requirements for certain Goods**

Where the law requires a minimum age for the purchase of certain Goods, the Customer confirms that he or she is over the required age and that delivery of the Goods will be accepted by a person over the relevant age limit.

## **26. Prohibited Applications**

The Goods are not designed, authorised or warranted to be suitable for:

- i. implantation in the body or for use in life support equipment, other medical equipment or in any application or system for any other purpose where the failure or malfunction of the Goods could reasonably be expected to result in personal injury, death, severe property or environmental damage; or
- ii. use in medical, military, air craft or space applications.

Use or inclusion of the Company's Goods in any such equipment, system or applications is strictly prohibited and any such use will be at the Customer's own risk. The Customer will indemnify the Company and its suppliers against any and all liability and expense (including costs) resulting from any such inclusion or use.

## **27. Euro**

In the event that the UK changes to a single unified European currency (known as the Euro or otherwise), or agrees to the fixing of conversion rates between European Union member states, it will not have the effect of altering any term, or discharging or excusing performance under a Contract.

## **28. Force majeure**

The Company shall not be liable to the Customer in any manner or be deemed to be in breach of these Conditions because of any delay in performing or any failure to perform any of the Company's obligations under these Contract if the delay or failure was due to any cause beyond the Company's reasonable control (which shall include, but not be limited to government actions, war, fire, explosion, flood, import or export regulations or embargoes, labour disputes or inability to obtain or a delay in obtaining supplies of Goods or labour). The Company may, at its option, delay the performance of, or cancel the whole or any part of a Contract.

## **29. Recording of telephone calls**

The Company reserves the right to monitor, intercept or record telephone calls and may monitor or intercept all email or other electronic communications made to or from its premises for training, security and quality purposes.

### **30. Legal construction**

All Contracts shall be governed by and interpreted in accordance with English law and the Customer submits to the jurisdiction of the English Courts, but the Company may enforce such Contract in any court of competent jurisdiction.

### **31. General**

Any provision of these Conditions of Supply which is held by any competent authority to be invalid, void, voidable, unenforceable or unreasonable (in whole or in part) shall to the extent of such invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the other provisions of these Conditions of Supply and the remainder of such provision shall not be affected.

Failure by the Company to enforce or partially enforce any provision of these Conditions of Supply will not be constrained as a waiver of any rights under these Conditions of Supply.

The Company shall be entitled, without the consent of or notice to the Customer, to assign the benefit, subject to the burden, of these Conditions and/or any Contract to any company in its group (as defined in section 53(1) of the Companies Act 1989) at any time.

Except as set out in Condition 16, the parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.