

## GENERAL TERMS AND CONDITIONS FOR COMMISSIONS TO TIM BV - VERSION 2.0 | SEPTEMBER 2020

TIM BV, trading under The TIM Company, aims to avoid any misunderstanding regarding the contents of the General Terms and Conditions and to provide easy access to those contents. For that reason TIM BV has filed its General Terms and Conditions with the Chamber of Commerce in Utrecht. In addition, the General Terms and Conditions are available on TIM's website: [www.thetimcompany.com](http://www.thetimcompany.com). These General Terms and Conditions came into effect on September, 2020.

### GENERAL PROVISIONS

#### 1. Definitions

1.1 Certain terms used by TIM BV in these General Terms and Conditions have a specific meaning. This article defines those specific meanings.

**Acceptance:** the declaration that the Quotation of TIM regarding the Systems, Supplies or Studies is agreed by Customer;

**Agreement:** any agreement between TIM and Customer regarding the Systems, Supplies or Studies, including the Quotation after Acceptance of the Quotation is (deemed) granted by the Customer, any amendment or supplement thereto and all (legal) acts in preparation and/or execution of that agreement, the Plan, any service level agreement applicable to the Agreement, any and all Procedures;

**Background IP Customer:** all knowledge, experience and other information shared by Customer to TIM in the context of the Services to be performed by TIM, including, but not limited to, test products, liquids, reagents, samples and prototypes or know-how in connection with foregoing;

**Background IP TIM:** all knowledge, experience and other information which pertains to TIM and which was not developed or created in the context of the Agreement, but which knowledge, experience and other information (also including tangible objects) are made available by TIM in the context of the Agreement to be performed by TIM, including, but not limited to, test products, liquids, reagents, samples and prototypes; production processes and other processes, working methods or other relevant information or know-how and/or computer software;

**Customer:** the natural person or legal entity entering into an Agreement with TIM, and to which Agreement and Customer the Terms and Conditions apply;

**Final Report:** the report drawn up by TIM, which TIM makes available to Customer, describing TIM's findings regarding the performance and outcome of the Studies performed by TIM, and which TIM has assigned the status of "Final Report". The definition Final Report will nevertheless include also any preliminary or interim reports or subsequent explanatory notes to the reports/Final Report.

**Foreground IP:** all knowledge, experience and other information developed or created in accordance with, in connection with or under the Agreement, as well as any IP Rights acquired as a result of or vested in such knowledge, experience and other information. Such knowledge, experience and other information also includes testing results, research findings, and other data derived from research with the use of the Product and related documents, as well as tangible objects such as, but not limited to, liquids, reagents and prototypes, production processes and other processes, working methods, know-how and/or computer software;

**General Terms and Conditions:** these General Terms and Conditions of Sale, Delivery and Services regarding Products and Services of TIM applicable to and forming an integral part of the Agreement;

**ICC INCOTERMS:** the International Commercial Terms, as amended from time to time, drawn up and published by the International Chamber of Commerce (ICC);

**IP Rights:** all present and future intellectual and industrial property rights including, but not limited to, copyrights, trade name rights, plant breeders' rights, design rights, trademark rights and patent rights, and rights regarding topographies of semiconductors and domain names, all whether registrable or unregistrable and whether registered or not, applications for any of the foregoing, know-how, trade secrets and all other industrial or intellectual property rights or obligations whether registrable or unregistrable and whether registered or not in any country;

**Parties:** TIM and Customer;

**Plan:** a general oversight of the period of time in which the Product will be delivered and/or the Services will be executed, that is determined in the Agreement;

**Procedures:** any and all procedures of TIM, applicable to the Services and Products;

**Product:** every type of the TIM Models, including but not limited to the types called TIM-1, TIM-2, Tiny-TIM, and all future products, and modifications thereto, all including hardware, and relevant documentation, as described in the Agreement to be sold or leased by TIM and purchased or leased by Customer on the basis of the Agreement, as well as accessories, tools and spare parts pertaining or relating to the TIM Models for digestion, as well as any and all Supplies to be sold by TIM or a group company of TIM as the case may be, and purchased by Customer on the basis of the Agreement;

**Quotation:** a document drawn up by TIM that forms a specified offer for the delivery of the Product to and/or performance of the Services by TIM;

**Services:** all services to be undertaken by TIM on the basis of the Agreement with regard to the Product, including installation, maintenance and repair services regarding the Product, first or second line support services, helpdesk as well as training services, and the Software and Studies;

**Software:** any software including piano rolls, which are part of the Product;

**Studies:** research activities to be executed by TIM as specified in the Agreement;

**Supplies:** all consumables and all components to be delivered by TIM in connection with the Products;

**Systems:** include the Product, the Software and the Services adjacent to the Product;

**TIM:** TIM BV, a private company with limited liability (*besloten vennootschap*), incorporated under the laws of The Netherlands having its registered office in Delft, The Netherlands, and registered with the trade register of the Dutch Chamber of Commerce with number 76923592, with its principal office in Zeist.

- 1.2 The number references refer to the relevant section of the General Terms and Conditions. The article headings have only been included to make it easier to read the General Terms and Conditions. This means that an article may not be interpreted on the basis of the article headings or the structure of a provision of an article. Where the Agreement refers to a statutory provision, this also includes any statutory provision that replaces it.
- 1.3 Unless the context of the General Terms and Conditions requires otherwise, any reference to the singular include the plural and vice versa.

## 2. General matters to be taken into account

- 2.1 The Agreement is subject only to the General Terms and Conditions, any other general terms and conditions (of Customer) are explicitly rejected and therefore not applicable to the Agreement. These General Terms and Conditions are also applicable to all requests, Quotations, offers, instructions, orders, order confirmations, agreements and any other acts with respect to the supply of the Product and the provision of Services to the Customer by TIM.
- 2.2 This Agreement supersedes any previous agreements between TIM and Customer in connection with the same subject matter e.g. Products/Services.
- 2.3 TIM can only be bound by changes or additions to, an expansion of and/or deviation from the Quotation, the Agreement or a deviation from the General Terms and Conditions if they are confirmed on behalf of TIM in writing or by email followed by written confirmation by a person who is officially authorized to represent TIM.

## 3. Quotation and Agreement

- 3.1 Prior to concluding an Agreement, TIM will send Customer a Quotation. The Quotation is only binding on TIM if it is confirmed on behalf of TIM by a person who is officially authorized to represent TIM under reference to the Quotation and the Quotation number, and accepted within its period of validity as specified in the Quotation. If no term has been included in the Quotation, the Quotation is valid for one month after it has been issued by TIM.
- 3.2 The Agreement is concluded when the Customer's written consent, or consent by email, to the Quotation has been received.
- 3.3 TIM's obligations pursuant to the Agreement shall be obligations to achieve to perform to the best of one's ability, except where the wording or the context specifically provides otherwise.

## 4. Pricing and payment

- 4.1 All prices offered by TIM are in Euros, and do not include any taxes, duties or similar levies, fees (including license fees) now or hereafter enacted, applicable to the Product or Services, or any other expenses. TIM will add taxes, duties and similar levies to the sales price where TIM is required or enabled by law to pay or collect them and these will be paid by Customer together with the price.

- 4.2 All prices offered by TIM regarding the Product are based on Delivered at Place and Unloaded (DPU, ICC INCOTERMS) from TIM's manufacturing facility or other facility designated by TIM, unless agreed otherwise in writing between Customer and TIM.
- 4.3 TIM will invoice the Customer in accordance with the invoice schedule as mentioned in the Quotation.
- 4.4 Customer is obliged to pay the invoices in the currency mentioned in the Agreement, without any right to deduction or setoff, within thirty (30) days from the invoice date and to pay both the statutory interest for trade agreements and all collection costs (including judicial and extrajudicial costs) made by TIM if Customer exceeds this payment period of thirty (30) days, in addition to the unpaid invoice amount.

## 5. Delivery/performance

- 5.1 The delivery of the Product and performance of the Services will be carried out within the estimated period stated in the Plan, unless this result is impossible. If such may be the case, TIM will consult as soon as possible with Customer.
- 5.2 The delivery of Systems shall be performed as described by Delivered at Place and Unloaded (DPU, ICC INCOTERMS).
- 5.3 TIM will not be in default by the mere expiry of the delivery period: TIM is entitled to postpone delivery of the Product and performance of the Services. Exceeding of the delivery period does not give Customer the right to cancel the Agreement or to refuse the receipt of the Product and/or the Services.

## 6. Force majeure

- 6.1 TIM shall not be liable for any failure or delay in performance if such failure or delay is caused by force majeure as referred to in article 6:75 Dutch Civil Code (*overmacht*).
- 6.2 TIM obligations (regarding delivery) terminate if due to:
  - (A) governmental measures; or
  - (B) other circumstances that are not attributable to TIM, resulting in impossible to deliver or perform in accordance with the agreed conditions.

In such case, Customer is not required to pay the (full) purchase price for that delivery. The aforementioned will include in any case, measures or other circumstances related to global pandemics.

## 7. Liability

- 7.1 TIM's entire liability and Customer's sole remedy for TIM's failure to perform in accordance with the Agreement shall be for TIM to use its reasonable efforts to correct the failure, based on conditions as described in articles 18 (Warranty) and 21 (Guarantee). In no event shall TIM be held liable for damages exceeding an amount equal to the amounts received under the Agreement by TIM from Customer for the Product and the Services provided by TIM.
- 7.2 Customer fully indemnifies and holds TIM harmless against all claims from third parties regarding damage or loss suffered by these third parties pursuant to or in relation to the delivery, functioning, non-functioning or use of the Product and/or Services, unless and to the extent that such damage or loss is due to TIM willful intent or gross negligence.
- 7.3 TIM does not accept any liability for damage or loss which arises due to the fact that the use of the Product and/or Services infringes IP Rights of third parties, unless and to the extent that such damage or loss is due to TIM willful intent or gross negligence.
- 7.4 TIM shall never be liable for any consequences of whatever nature if a delivery period is exceeded, unless such exceeding is solely attributable to TIM willful intent or gross negligence.
- 7.5 In no event shall TIM be liable to Customer or any third party for incidental or consequential losses or damages such as, including, but not limited to, loss of profit, loss of revenue, loss of reputation, loss of market or commercial loss.

## 8. IP Rights

- 8.1 TIM retains ownership of any IP Rights related to the Product designed, constructed and delivered, all accompanying documents, as well as all Services performed by TIM under the Agreement, including any drawings, models, work calculation methods and software pertaining thereto. TIM acquires ownership of any IP Rights developed during the execution of the Agreement. TIM retains ownership of all knowledge, experience and other information with regard to the Product and Services, such as, but not limited to, methods, processes, techniques, software, manuals, (construction) drawings, work processes, production regulations, and other documents, such as but not limited to reports, research and test results, and training materials. The foregoing also qualifies as 'Confidential Information' as referred to in article 11.

- 8.2 TIM is solely entitled to apply for IP Rights regarding the Product and Services, related documents and any modifications or improvements thereto.
- 8.3 All IP directly related to TIM and ability to conduct the Studies, developed during Studies (i.e. TIM-related Foreground IP) shall be retained by TIM immediately on creation.
- 8.4 Customer is the owner of all Customer-related Background IP.
- 8.5 Customer warrants that no third-party IP Rights are infringed by the use of the Background as specified or provided by Customer and/or in the event a specific procedure is requested by Customer to be applied by TIM in connection with the performance of the Studies by TIM. Customer indemnifies and holds harmless TIM against all claims, demands, losses, proceedings, costs and expenses (including legal fees), which may be brought or asserted against TIM by a third party on the grounds of infringement of third-party IP Rights as a consequence of using the Background or specific procedures requested by Customer to be applied by TIM.
- 8.6 In addition to the provisions of this article, the IP Rights with regard to all reports with TIM's findings regarding the performance and the outcome of TIM's work, as well as with regard to any preliminary or interim reports or subsequent explanatory notes to the reports, always accrue in full to TIM. All IP Rights in the formatting, presentation, methodologies, processes, techniques, applications and systems used by TIM in connection with the Studies (whether as part of the mentioned reports or otherwise) shall at all times remain the property of TIM.
- 8.7 Notwithstanding the aforementioned, Parties explicitly acknowledge that any results directly related to the Background IP Customer, that are generated as a result of the Studies, will be considered as Confidential Information of Customer.
- 8.8 In the event the Customer discovers an infringement of IP Rights that pertain to TIM, the Customer must notify TIM as promptly as possible.
- 8.9 The Customer shall not alter or delete any indications of origin of TIM or third party suppliers (including trademarks, logos and trade names) that are attached to or displayed on the Product or any other goods provided by TIM.
- 8.10 To the extent that the Intellectual Property rights do not vest automatically in TIM, Customer undertakes to cooperate immediately in the transfer of the IP Rights to TIM and to execute any document or deed necessary to vest such Intellectual Property in TIM, and Customer hereby gives TIM a nonrevocable power of attorney (including the power to subdelegate such power to any attorney or notary of law) to execute such document or deed necessary to vest such Intellectual Property in TIM.

## 9. Use of Personal Data

- 9.1 Customer ensures that all personal data as defined in article 4(1) of Directive 95/46/EC (General Data Protection Regulation) provided by Customer to TIM in connection with the performance of the Agreement can be used by TIM in accordance with the Agreement. Customer indemnifies TIM against any claims from persons to whom the personal data may pertain.

## 10. License

- 10.1 TIM hereby grants to Customer and Customer hereby accepts a personal, non-transferable, non-exclusive license and non-sublicenseable right to use the IP Rights and the Software in accordance with the Agreement, for the sole purpose as is necessary or conducive for the use of the Product and/or Services and related documents as agreed upon in the Agreement. The Customer shall respect all IP Rights described in article 8 and shall not use any such IP Rights in any manner whatsoever, except as expressly allowed pursuant to this article or after having obtained TIM's express by prior written confirmation by a person who is officially authorized to represent TIM.
- 10.2 The license shall continue as long as Customer makes use of the Product and/or Services in accordance with the Agreement.

## 11. Confidentiality

- 11.1 The Parties hereto shall treat all information received from the other Party, including ideas, processes, knowledge, trade secrets, work, procedures, substances, samples, patent information, business information, customers, relations, prices, technical information, Background IP Customer/Background IP TIM, reports – including the Final Report – and analyses, evaluations, data and other information and materials as confidential and proprietary to such other Party ('Confidential Information'), shall maintain the secrecy of the Confidential Information and shall not disclose or publish anything with regard to the Confidential Information without the prior written permission of the other Party.

- 11.2 The Parties agree that the information received from the other Party shall not be deemed Confidential Information to the extent the receiving Party can prove that:
- (A) it already rightfully had knowledge of such information prior to disclosure without obligation of confidentiality; or
  - (B) information was already or becomes publicly known through no fault of the receiving Party; or
  - (C) it is received from a third party who has no obligation of confidentiality; or
  - (D) information identical to disclosed Confidential Information was already in its possession or is subsequently developed by the receiving Party without use of Confidential Information received under the Agreement.
- 11.3 The Parties agree that such Confidential Information shall remain the property of the disclosing Party, and that all Confidential Information shall be returned to the disclosing Party within thirty (30) days after written request by the disclosing Party.
- Within thirty (30) days after termination of the Agreement the (remaining) Confidential Information and all copies or extracts thereof shall either be returned or destroyed - to the extent technical feasible without imposing an unreasonable financial burden - upon consent by the disclosing Party. Notwithstanding the foregoing, the receiving Party shall be entitled to retain one copy of the Confidential Information to the extent necessary for, and solely for the purpose of, compliance with any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body provided that such Confidential Information is kept confidential in accordance with this Agreement.
- 11.4 The Parties will make sure that the Confidential Information is only shared with employees and any third parties engaged by such Party for the performance of the Agreement, on a need to know basis, and under obligations that are no less stringent than the obligations imposed on it by this article.

## 12. Publication

- 12.1 Without TIM's prior written consent Customer shall not use the name of TIM, and shall not make use of or refer to any Confidential Information of TIM (including (the terms of) this Agreement), in any connection whatsoever. TIM is allowed to make Customer reference in its marketing material. Additionally, TIM may make use of the corporate information (such as email addresses and telephone numbers) for internal marketing purposes.

## 13. Assignment and setoff

- 13.1 Customer is not permitted to assign any rights or obligations under the Agreement without the prior written consent of TIM by a person who is officially authorized to represent TIM. Customer has no right to withhold or reduce any payments or to offset existing and future claims against any payments due for Product sold or leased, or Services performed under the Agreement or under any other agreement that Customer may have with TIM.

## 14. Termination

- 14.1 An Agreement is concluded for an indefinite period of time and ends upon completion of the Services or delivery of the Product. The Agreement will end automatically, with immediate effect and without any obligation to pay damages, by notifying the Customer in writing without any notice period, if:
- (A) Customer is declared bankrupt;
  - (B) Customer is granted temporary suspension of payment;
  - (C) Customer's business is liquidated or wound up;
  - (D) direct or indirect change of ownership of the Customer's business or transfer of material portion of the share capital of the Customer or the Customer's parent company;
  - (E) a guardian or administrator is appointed over the Customer;
  - (F) prejudgment or executory attachment is levied on a substantial part of Customer's tangible and/or intangible assets or other goods of Customer;
  - (G) in the event of Force Majeure which has lasted for one (1) month or longer (or in the event that the delay is reasonably expected by TIM to extend for a period of one (1) month or longer); or
  - (H) in the event the Customer breaches any of its obligations under articles 8 (IP Rights), 10 (License), 11 (Confidentiality) and/or 12 (Publication).

- 14.2 In the event of early termination, Customer is not entitled to use any preliminary or interim outcome of work of TIM, neither for itself, nor may it use such outcome for the benefit of third parties or have third parties use such outcome. If TIM, by written confirmation by a person who is officially authorized to represent TIM, explicitly agrees that the Customer may use any preliminary or interim outcome of work performed by TIM, then this is done under the condition precedent of payment of part of the price, to be reasonably determined by TIM.
- 14.3 In the event that the Agreement ends in any way, the provisions that are intended to remain applicable, will apply in full after the end of the Agreement – such as, but not limited to, provisions in respect of liability, IP Rights, confidentiality, governing law and forum.

## 15. Governing law and forum

- 15.1 The Agreement is governed exclusively by the laws, rules and regulations of The Netherlands. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
- 15.2 All disputes arising from these General Terms and Conditions and/or a Quotation and/or an Agreement, including disputes regarding its existence and validity, that TIM and Customer cannot resolve in mutual consultation, shall be settled by the competent court in the district of Den Haag, The Netherlands, with the exclusion of all other courts.

## PROVISIONS APPLICABLE TO PRODUCTS

### 16. Transfer of ownership (retention of title)

- 16.1 TIM retains ownership of the Product until the amount payable for the Product by Customer to TIM in connection with the Agreement, has been paid in full. The Customer hereby waives all its rights of retention and/or recovery in respect of such Product.
- 16.2 As long as TIM has not been paid in full, the Customer shall store the Product separately from any objects belonging either to itself or third parties. The Customer shall designate these materials as the property of TIM. Furthermore, Customer shall adequately insure the Products as if it were a Products of its own.
- 16.3 In case of lease of the Product, TIM will retain ownership of the leased Product for the duration of the lease as agreed upon in the Agreement.

### 17. Use of the Product

- 17.1 Customer shall:
- (A) not copy and reverse engineer the designed, constructed and delivered Product, documents or parts thereof, except to the extent as is necessary for normal use of the Product, and shall prevent any third party from doing this;
  - (B) not open or dismantle the Product other than is necessary for normal use;
  - (C) not use for any other purpose for which it was not designed or intended;
  - (D) not use a Study for any purpose other than the internal research programs of Customer;
  - (E) not use the IP Rights of TIM for any other application, system, product or otherwise than as set out in the Agreement;
  - (F) not permit third parties to use the Product;
  - (G) not permit untrained and uncertified personnel to use the Product;
  - (H) not permit the Product to be moved, sold, leased, relinquished or copied;
  - (I) take all reasonable steps to remain acquainted with the state and condition of the Product and inform TIM forthwith of the suspected development of any faults;
  - (J) maintain the Product in clean and normal operating condition and take all reasonable precautions to safeguard it;
  - (K) give prompt notification to TIM if the Product is involved in any accident or other occurrence resulting in injury, loss or damage to persons or property, as well as in any other breakdown. Such notification shall be confirmed in writing to TIM within fourteen (14) days.

## 18. Warranty

- 18.1 The warranty period for the Product's hardware is 12 months from the date of installation by TIM at the site of the Customer. TIM solely warrants that:
- (A) the Product's hardware will be in conformity with the specifications as set out in the accompanying documents; and
  - (B) the Product will not infringe with any third party IP Rights.
- 18.2 Any warranty claim must be made in writing by Customer within 30 working days of:
- (A) discovery of the defect by Customer; or
  - (B) the date Customer should have reasonably discovered the defect, whichever is earlier. After the aforementioned period, any warranty claim will lapse.
- 18.3 To meet its warranty obligations in respect of the Product's hardware, TIM shall, at its sole discretion, either replace the defective (part of the) hardware with a new (part of the) hardware free of charge, or repair the defective (part of the) hardware free of charge. The remedies in this clause shall constitute Customer's sole remedy.
- 18.4 The Software is made available on an 'as-is' basis without any warranties of any kind, whether express or implied. TIM does not warrant that the use of the Product's software will be uninterrupted or error-free.
- 18.5 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into the Agreement, the General Terms and Conditions or any subsequent contract, whether by law or otherwise, are excluded, including implied conditions, warranties or other terms as to satisfactory quality, non-infringement, or fitness for a particular purpose.
- 18.6 Any warranty as provided for by TIM does not cover any defects, which are caused by governmental or international rules and regulations in respect of the nature and quality of applied materials.
- 18.7 All warranty obligations expire if:
- (A) Customer makes changes, reparations and/or performs other activities on the Product by itself or has this done by a third party;
  - (B) the Product is or has not been accurately used, maintained or treated in accordance with the delivered or applicable regulations or the directions for use or is or has been in any other way improperly used, maintained or treated;
  - (C) the Product is or has been used for other purposes than for what it is meant to be used;
  - (D) Customer does not fulfil his payment or license obligations;
  - (E) Customer allows untrained personnel to use the Product.
- 18.8 TIM's warranty does not cover normal wear and tear.

## 19. Provisions regarding lease of the Product

- 19.1 Customer has the right to lease the Product if such is explicitly agreed by Parties in the Agreement. Subject to article 14 (Termination), both Customer as TIM are entitled to terminate the lease by giving three months' notice of termination in writing to the other Party.
- 19.2 The Product will be accepted by the Customer in the condition in which it then is. Customer acknowledges that the Product is suitable for the purpose for which Customer will use it. Customer is not entitled to claim any compensation or damages with regard to the condition of the Product.
- 19.3 In addition to the obligations of Customer pursuant to Article 17 (Use of the Product), for the duration of the lease as agreed upon in the Agreement, the Customer:
- (A) is responsible for the Product and the use of the Product, and shall exercise reasonable care and diligence therein;
  - (B) will use the Product solely for the purposes mentioned in the Agreement, and for no other goal;
  - (C) shall be responsible to maintain the Product in good condition, at its own expense and risk;
  - (D) will adhere to TIM's guidance and instructions with regard to the (use of the) Product;
  - (E) shall not alter or delete any indications of origin of TIM or third party suppliers (including trademarks, logos and trade names) that are attached to or displayed on the Product or any other goods provided by TIM;
  - (F) shall not permit third parties to make use of the Services;
  - (G) shall store the Product separately from and shall not attach the Product to any moveable or immoveable objects belonging either to itself or third parties. The Customer shall explicitly designate the Product as the property of TIM;
  - (H) shall only use the Product for internal purposes, and is not allowed to (commercially) perform or conduct services in any way for third parties using the Product.

- 19.4 Customer will at its own expense take care of insurance of the Product, so that the Product is adequately insured against any damages, loss etc. with regard to the Product.
- 19.5 As long as Customer retains the Product, Customer is liable for any damages, losses, claims, and expenses with regard to the Product, that is caused due to Customer (or Customer's personnel, its affiliated entities and their respective personnel, and any third parties that come into contact with the Product) failing to meet its obligations pursuant to the Agreement and the General Terms and Conditions. All damages to the Product shall be presumed to have been thus caused.
- 19.6 Customer shall immediately on its own cost return the Product to TIM within 10 working days of the expiration or termination of the Agreement, unless otherwise agreed by both TIM and Customer in writing or unless Customer is willing to purchase the Product.  
Customer shall deliver the Product to TIM in the condition in which it was at the commencement of the lease, subject to normal wear and tear and obsolescence. In case Customer does not comply with its obligations set out in this article, Customer is liable towards TIM for all damages and costs incurred by TIM as a consequence thereof.

## PROVISIONS APPLICABLE TO SERVICES

### **20. General provisions regarding Services**

- 20.1 TIM will execute the Services according to the Plan. In case any delay may occur in the execution of the Services in relation to the Plan, TIM will timely inform Customer of this delay and the measures that can be taken. If Customer does not agree with the measures as proposed by TIM, Customer will promptly inform TIM and suggest alternative measures against this delay.
- 20.2 TIM is entitled to involve third parties for the execution of the Services. The involvement of third parties in the execution of the Services by TIM will not discharge TIM in any way from its obligations under the Agreement or affect its liability under this Agreement.

### **21. Guarantee**

- 21.1 With regard to the Services, TIM will in no event guarantee any (expected or desired) outcome of a Service and will solely guarantee that:
- (A) the Services will be performed in conformity with the description of the Services as mentioned in the Agreement;
  - (B) the Services will be performed in accordance with the Procedures (and TIM will not guarantee conduct or manner in which the Services are performed, other than as explicitly stated in the Agreement);
  - (C) the Services are compliant with all relevant and applicable statutes, laws, regulations inter alia with regard to quality, health, safety, environment and hygiene, in force and effect, at the time of conduct or performance of the Services;
  - (D) TIM's employees will perform the Services with the best skill, care and diligence based on the insights of TIM at the time of performance of the Services;
  - (E) the Services will be performed by employees who are suitably skilled and experienced to perform the tasks assigned to them.

### **22. Specific provisions regarding services regarding installation of the Product**

- 22.1 All types of the TIM In vitro Models will be unpacked and installed by TIM at the Customer's site.
- 22.2 At installation of the Product, TIM will perform an installation- and operation qualification test (TIM's Site Acceptance Test; Included in de Procedures). The Parties will make up a report to document to what extent the test has proven that Product is ready for Acceptance. This report will be signed by the Parties. In case acceptance is withheld, this notification will include a motivation regarding the reasons why Customer or TIM does not want to grant acceptance. Minor shortcomings will not be a reason for acceptance to be withheld by Customer. Any additional test to be run as a result of the withholding of acceptance will be subject to the conditions as set out in this article.



### 23. Specific provisions regarding Studies

- 23.1 The nature of research activities, such as the Studies, implies uncertainty regarding the outcome of the Studies. Furthermore, the Studies could have unintended outcomes. Therefore, TIM solely undertakes to aim for a practicable outcome of the Studies, when performing the Studies, of which these outcomes will be recorded in a Final Report that will be provided to Customer, unless Customer and TIM agree otherwise.
- 23.2 If TIM and Customer have agreed that Customer will make certain test products available to TIM for the performance of the Studies, TIM is not obliged to commence performance before TIM has received the agreed number of goods, in the agreed form, within the agreed term. Customer will be responsible for the delivery of such goods, which delivery will be for the risk and account of Customer. Customer will:
- (A) remain the sole owner of these goods;
  - (B) will have these goods adequately insured; and
  - (C) remain liable for any damage that will result as a consequence of these goods.
- If TIM receives these goods later than agreed, the estimated term for performance stated in the Agreement will be extended by the duration of this delay.
- If TIM and Customer have agreed that the goods required for performance of the Studies are samples, Customer will be responsible for their selection, representativeness and distinguishing marks (such as codes, brand or product names), referring to Customer.
- 23.3 If the goods that Customer makes available to TIM for the performance of the Studies are potentially dangerous, in any way whatsoever, Customer must clearly designate these goods in the customary manner and/or, if applicable, in the manner prescribed by law and, provide them with instructions for storage and use, to ensure that TIM will handle them with care.
- 23.4 Any claims Customer may have against TIM and/or any agents engaged by TIM in the context of performance of the Studies must be explicitly notified to TIM as soon as possible, but in any case must be made in writing by Customer within 30 working days of after the date of the final invoice or, if earlier, the date of delivery of the Final Report; claims lodged after that date will lapse.
- 23.5 TIM is not liable for loss or damage suffered by the Customer as a result of application or use of the outcome of the Studies, and Customer indemnifies and holds TIM harmless against all claims of third parties against TIM regarding loss or damage arising from application or use of the outcome of the Studies by Customer or by a third party to whom Customer has made the outcome of the Studies available, other than in the event of willful intent or gross negligence on the part of TIM.
- 23.6 Subject to article 12 as well as the other limitations as laid down in these General Terms and Conditions and the Agreement, and only within the scope of the Studies as commissioned to TIM by the Customer, the Customer acquires the right to use the contents of the Final Report for internally purposes only. Customer shall also have the right to submit the Final Report, in whole and unabridged, upon request to the regulatory authorities for registration purposes.
- 23.7 Without TIM's prior written consent however, Customer shall not:
- (A) use or allow the use, in whole or in part, of the Final Report, for any other purpose than as set out in clause 23.6;
  - (B) use or allow the use, in whole or in part, of the Final Report for lodging claims, taking legal action, advertising, promotion or anti-advertising; or
  - (C) use the name of TIM in any connection whatsoever when publicizing all or part of the Final Report and/or for any of the purposes mentioned under (A).
- 23.8 Any additional disclosure of the Final Report will be dependent on prior written confirmation by a person who is officially authorized to represent TIM. In any case, such disclosure is under the explicit condition that TIM will in no way whatsoever be liable or accountable in any way towards any party to whom Customer discloses the Final Report in connection with:
- (A) any (test) results included in the Final Report;
  - (B) translation of the Final Report; or
  - (C) any use of the Final Report.
- as a result of such disclosure. If and to the extent TIM will be held liable or accountable by any party in connection with the disclosure, Customer shall indemnify TIM for any claim, loss, costs, fines and other amounts to be paid by TIM.