



## General Terms and Conditions for Supply and Service

The following Terms and Conditions for Supply and Services (the "Terms") are the only terms and conditions that will govern the offer, sale and delivery of all products and services (as defined below) provided by scil and delivered to YOU. Any other terms and conditions of sale and purchase (other than the commercial terms of the Agreement, in particular those that may be contained in any purchase order or other form provided by YOU will be without force and effect, regardless of whether or not they have been expressly rejected by scil. Only these Terms shall apply, even if WE, having knowledge of other terms and conditions, perform the Agreement without reservation.

**1. DEFINITIONS.** Words "YOU" and "YOUR" refer to the "Customer" and the words "WE", "US", "OUR", refer to scil or assigns as the owner of the Equipment, "scil" refers to scil animal care company GmbH or assigns. WE and YOU also jointly referred to as the "Parties" and individually as a "Party". "Agreement" means a legally binding agreement concluded between the Parties e.g., signed document or a Purchase Order accepted by scil in any form, included by means of email, letter, fax and/or orally.

"Confidential Information" shall include all information that scil designates in writing to be "CONFIDENTIAL" and all other information YOU know, or should reasonably know, is considered by scil to be confidential, including the terms of any Agreement and any Purchase Order and the associated pricing.

"Equipment" refers to new and used instruments, such as chemistry, blood gas, laser, ultrasound, x-ray, tele-cytology, hematology, urine, fecal, microscopic, and imaging devices, rapid test readers, other clinical hardware analyzers, instruments, and infusion pumps, including all replacement parts, repairs, and documentation. Used Equipment is refurbished by us.

"Products" include one of any stand-alone or combination of Equipment, Supplies, and Software. Product connected to any network or power source ("Connected Product") is a Product. Products, where applicable, carry a serial and/or lot control number and expiration date from which a manufacturing history of the Product can be derived.

"Purchase Order" "Order" means Buyer's binding commitment to purchase Products or services from the Seller.

"Services" are any service provided by scil, including but not limited to laboratory services, diagnostic services, testing services, pathological services, clinical services, and consultation services.

"Software" refers to any software provided by scil licensed to YOU on a non-exclusive basis and which may only be installed and used for the Intended Use with and only with Equipment with which it was delivered.

"Supplies" refers to the tests, reagents, tips, cups, calibration consumables, control consumables, start-up consumables, slides, panels, cards, and other such consumable items that are used in the normal operation of Equipment and diagnostic tests, and related parts.

"Taxes and Fees" include any VAT, assessment, inspection or testing fee, transportation costs, shipping fees, customs, export compliance, insurance or any other tax, fee, or charge of any nature whatsoever imposed currently or in the future on scil or by any state, local or other governmental authority, upon or with respect to the sale possession, purchase, delivery, shipment, storage, processing, use, or consumption of any of the Products covered by the Agreement, including taxes, fees or charges that are measured by the receipts from the sale of such Products (individually or collectively), but, for the avoidance of doubt, no income taxes.

All legal terms in German shall be construed in accordance with the interpretation given to such terms under German law.

**2. EFFECTIVE DATE.** An Agreement between the Parties is effective upon the sign date of a binding document or upon acceptance of a Purchase Order by scil ("Effective Date").

**3. SUPPLIES.** Supplies eligible for purchase under this Agreement, are shipped to YOU directly by scil. If Equipment or Supplies are no longer available, irrespective of whether this is due to OUR inability to obtain products or materials from usual sources (including, but not limited to, original manufacturers), subcontractors, or suppliers, or if we, in OUR sole discretion, decide to no longer produce or distribute the Equipment or Supplies, WE may

exchange such Equipment or Supplies selected by you for reasonably similar or better Equipment or Supplies.

**4. DELIVERY, INSPECTION, AND ACCEPTANCE.** Equipment delivery, and installation and delivery of Products and Supplies, is included in the shipping and handling charges, defined below. Use instructions for all items are either included with shipments or or are made available as a download. YOU are responsible for being knowledgeable about their selection and proper and safe use. Except as otherwise provided herein, scil will not be responsible for any damage to or loss of product. YOU agree to receive Products when they are delivered and to sign an acceptance for them if WE supply one. At OUR discretion, WE may confirm verbally or by fax or by email that YOU have accepted the Products and it shall have the same effect as a signed Product acceptance. YOU shall inspect the Product immediately upon receipt under the provision that YOU shall not open containers that are visibly damaged on arrival and shall immediately notify scil and, where feasible, the carrier of the damage in writing. Damage in any Product discovered by reasonable inspection or inconsistencies with a Purchase Order shall be reported to scil in writing within five (5) days of receipt of Product. Defective Products shall be returned to scil following the Defective Product Return Procedures defined in Section 7 below. Upon receipt and inspection of the Product by YOU, if the number of Products is not the amount ordered or if the Products are damaged (not in transit), YOU shall notify scil in writing without undue delay. If it is shown that scil shipped less than the ordered amount, scil will ship the remaining balance of Products ordered. scil will replace any Product determined to be damaged at the time of shipping or if shipped pursuant to scil shipping and handling. YOU shall cooperate fully to assist scil in pursuing a claim of damaged Products against the carrier where scil provided shipping. If YOU fail to notify scil in writing of any defect in the Products within the applicable period, or if YOU use the Products for clinical purposes, such Products are deemed accepted by YOU. This does not apply to claims for damages which are based on willful misconduct (*Vorsatz*), the German Product Liability Act (*Produkthaftungsgesetz*) or hidden defects. In case of hidden defects, they shall be reported in writing to scil without undue delay following discovery. In addition, section 377 Commercial Code (*Handelsgesetzbuch*) shall apply. Should YOU have any questions concerning the temperature of Supplies upon receipt, YOU shall immediately notify scil's Customer Service Center at +49 (0) 6204 789 0 222.

**5. PURCHASE ORDERS AND FULFILLMENT.** If WE accept the Purchase Order, the Agreement between the Parties shall be deemed concluded. scil reserves the right to accept or deny Purchase Orders in its sole discretion. Purchase Orders are subject to acceptance by US and may be subject to credit check. scil will verbally or by fax or electronically confirm Purchase Order details. scil will issue the relevant invoices for such Purchase Orders. OUR delay to issue YOU invoices shall not cause any amounts due, when due to be delayed, reduced, or otherwise offset.

If the Purchase Order terms conflict with the Agreement, the Agreement will govern and control, and all additional or conflicting provisions from YOU are expressly rejected without notice or action, unless expressly approved in writing by an authorized scil officer.

**6. WARRANTY.** Together the Equipment Warranty, the Software Support, the Services Warranty, and the Supplies Warranty (as each are defined below) shall be referred to collectively herein as scil's "Warranty."

**Equipment.** scil warrants that its Equipment will conform to scil's written specifications and will be free from defects in materials and workmanship for twelve (12) months from the date of shipment, used Equipment shall benefit from the above warranty for a period of 6 months from the date of shipment ("Equipment Warranty"), unless limited in the Agreement.

**Software.** scil will support Software for twelve months from the date of delivery to YOU ("Software Support"). Software is supported, not warranted. scil shall provide bug fixes to Software to YOU at no charge, provided, however, such bug fixes may incur labor charges. Software support does not include Equipment or support of third-party equipment or software. scil retains all rights to Software. Software is licensed, not sold. Software is not transferrable without the express written consent of scil. scil may from time to time offer updates to Software, In



## General Terms and Conditions for Supply and Service

scil's sole discretion scil may update Software free of charge, and if scil does and scil so chooses, Customer expressly agrees and authorizes scil to update Software on Equipment ("Software Support")

**Supplies.** scil warrants that, unless limited in the Agreement, its new Supplies will conform to scil's written specifications and will be free from defects in materials and workmanship for twelve (12) months from the date of shipment or the shelf life designated on the Supplies or published documentation, whichever is shorter, as long as YOU ensure the Supplies are maintained in compliance with scil's storage and use requirements ("Supplies Warranty").

**Services.** scil's warrants its Services are performed to industry standards at the time of performance. scil's sole obligation for Services and YOUR sole remedy for breach of this Warranty in scil's performance of any Service is limited to scil repeating the Service ("Services Warranty").

**Warranty Support and Cooperation.** scil's technical support services for Customer's questions regarding the Equipment or its operation is available Monday to Friday 8 am till 7pm. Saturday 10 to 11 am and 4pm to 5pm. Sundays and on holidays 10 to 11 am. Telephone: +49 (0)6204 789 0 221. YOU agree to resolve in good faith issues with Equipment, Software, Products, or the Warranty and to cooperate with scil to do so and to assist scil in gathering data and to use best efforts to provide accurate and complete data, information regarding service, and troubleshooting. Customer agrees to not tamper with Equipment insignia, markings, or serial number or any configuration that would allow Equipment to use Supplies or Software from anyone other than scil. Customer will ensure all Products are used solely in accordance with reasonable care and caution, by properly qualified and licensed personnel who are supervised and trained by Customer. For connected Product, Customer agrees to: (1) Provide and maintain a broadband connection to the Equipment, with open firewall and network access for scil's remote access at all times requiring service or, failing which, (i) SERVICE AND SUPPORT SHALL BE DELAYED, LIMITED, OR PRECLUDED, AND (ii) CUSTOMER MAY INCUR ADDITIONAL COSTS, (2) provide all assistance reasonably requested by scil to assist in gathering data from the Equipment, Software and other equipment, and use best efforts to provide accurate and complete data, information regarding service, and troubleshooting assistance, (3) Comply with the requirements of any implementation guidelines, security procedures, or other instructions provided by scil, including having access to commercially available software and internet browsers, at Customer's expense, selected by scil that are reasonably necessary for access to or use of Equipment or Software information, and (4) ensure the security of connected Product by taking appropriate measures to prevent unauthorized access to connected Product and interception of communications between scil and the connected Product, including isolating connected Product from other networks, setting up firewalls, preventing introduction of malware and spyware, and other measures to ensure security of Products and connected Product.

**Warranty Exclusions.** The Warranty does not cover and YOU will be charged for: (1) damage to a Product due to accident, neglect, misuse (including use of the Equipment for other than the Intended Use), fire, water, weather, heat, dust, sand, hair, fur, fluids, moisture, chemicals, debris, causes related to electrical surcharges or failures, malicious software, ransomware, or code of any type from any source not scil, or failure to use the Product according to scil's recommended routine handling, storage, maintenance, operating procedures, instruction manuals and sample handling guidelines; (2) damage to the Equipment as a result of the use of supplies, cleaning agents, or user replaceable parts that are not pre-approved by scil for use with the Equipment or are provided by anyone other than scil; (3) use of associated parts provided by third parties, including, but not limited to, computer components, printers, software, networks (LAN or WAN), and other consumable parts; (4) damage from alteration, modification or service by someone other than scil; (5) expired Supplies; (6) damages caused by YOUR delay in notifying scil of or continued use of damaged Product; (7) YOUR failure to use reasonable care or to use the Products in a

manner consistent with industry and environmental norms; and (8) events where the Product is not otherwise covered under Warranty. THE WARRANTY IS EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES. SCIL MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED.

**7. DEFECTIVE PRODUCTS RETURN PROCEDURE.** "Defective Product" is defined as Product that does not conform to scil's Warranty. If YOU believe that any Product purchased directly from scil does not conform to the Warranty, YOU should notify scil in writing. If YOU intend to reject defective Product delivered hereunder, it must specify the reasons therefor to scil in writing. scil has no obligation to repair or replace defective products purchased or acquired from unauthorized distributors, resellers, or internet or grey market acquisition or any source not scil.

**(a) Defective Equipment.** If Equipment (excluding Supplies) fails to perform to scil's specifications due to defects in material and/or workmanship ("Defective Equipment"), under normal and proper use and operating environment and with proper maintenance (subject to ordinary wear and tear) during the warranty Period, scil will, at scil's sole discretion, either repair or replace with a new, used, or refurbished or remanufactured Equipment of reasonably similar or better model, revision, age, and cosmetic condition, free of any such defects ("Exchange") any Equipment which proves to be a Defective Equipment without charge to YOU. scil will pay for all shipping charges incurred in returning and replacing Defective Equipment. If YOU request expedited shipping, scil will use its reasonable efforts to comply upon request, provided scil agrees in advance to expedite the shipment. YOU will grant scil the access to YOUR Location and the Defective Equipment as necessary to remedy the defect.

**(b) Defective Supplies.** Expired, damaged, misused, improperly stored, tampered with Supplies cannot be returned for replacement, refund or credit and must be properly disposed of by YOU at YOUR expense. Upon proper notification by YOU and YOUR compliance with the return procedure set forth below, Supplies which fail to comply with the Warranty may be returned for repair or replacement at YOUR choice pursuant to section 439 German Civil Code (*Bürgerliches Gesetzbuch*). If scil fails to cure the defect, YOU may, at YOUR choice, revoke the Agreement under sections 440, 323 and 326 par. 5 German Civil Code (*Bürgerliches Gesetzbuch*), reduce the purchase price under section 441 German Civil Code (*Bürgerliches Gesetzbuch*), demand damages under section 440, 280, 281, 283 and 311a German Civil Code (*Bürgerliches Gesetzbuch*), or demand reimbursement of futile expenditure under section 284 German Civil Code (*Bürgerliches Gesetzbuch*). The limitations on liability established in Section 22 of the Agreement shall apply.

**(c) Return Procedure for Defective Product.** YOU shall notify scil of defective Product in writing or by phone conversation with an authorized scil Customer Service representative. All Equipment returned to scil must be packaged appropriately per scil instructions and in a scil approved shipping box. scil shall have no obligation to replace, repair, or return any Product returned without authorization. Any returned Defective Product that is replaced shall become the property of scil and YOU shall sign any necessary paperwork to transfer ownership (unless it was already owned by scil, as it is the case of the Equipment). If scil elects to replace any Defective Product, the provisions of lit. a shall apply. If applicable, the replacement Purchase Order will be in full shipping units, with freight paid by scil. YOU will grant scil the access to YOUR Location and the Defective Equipment as necessary to remedy the defect. After the Warranty Period has expired, YOU are responsible for the proper disposal of the Equipment.

**8. TRANSPORTATION, TITLE, AND RISK OF LOSS.** For Purchase Orders purchased through or shipped by authorized third parties, the third party's policy regarding transportation charges will apply and YOUR recourse is solely through the third party. Actual costs of any special or expedited shipping and handling requested by YOU will be invoiced to and paid by YOU. Where the standard shipping and handling charges are not applicable, the shipping terms for all sales are Ex Works Incoterms 2020, scil's designated location.

Title to Products, the Equipment and Supplies and risk of loss shall pass to YOU upon delivery by scil to the carrier for shipment to YOU or, if standard shipping and handling are not applicable, in accordance with the agreed Incoterm. scil reserves



## General Terms and Conditions for Supply and Service

the right to make delivery of Products ordered by YOU in installments, with each shipment being treated as a separate transaction hereunder. scil may make partial shipments of Equipment, Products or Supplies against a single Purchase Order, but scil will not charge an extra shipping fee for additional shipments required to fulfill that Purchase Order. scil will make commercially reasonable efforts to deliver to YOU ordered Products using industry standard methods, refrigeration, and carriers.

**9. SOFTWARE.** Software is not assignable. scil retains all rights to Software. Software is licensed, not sold. Software is not transferrable without the express written, prior consent of scil. All Software is licensed to YOU on a non-exclusive basis, and which may only be installed and used for the Intended Use with and only with Equipment and Products with which it was delivered. Without waiving any other rights, scil may terminate a license to Software in accordance with Section 16 if YOU fail to comply with any material obligation under the Agreement or the license.

**10. LOSS, DAMAGE, UNAUTHORIZED USE.** Except for reasonable wear and tear and loss, destruction or damages caused by US or third parties engaged on OUR behalf, YOU are solely responsible for the risk of loss, destruction of, or damage to the Equipment, Products and other Supplies once delivered to YOU, even for reasons beyond YOUR control or force majeure events (*Fälle höherer Gewalt*). If damaged Equipment Products and other Supplies require repair, YOU agree to pay OUR normal rates to repair any damage. YOU shall not supplement, modify, reverse engineer, decompile, disassemble, or otherwise alter, use for competitive benchmark, make available for competitor evaluation, or expose to such activity, any Equipment, Product or Supplies.

**11. TAXES.** YOU are responsible for payment of all Taxes and Fees.

**12. LATE PAYMENT AND CHARGES; BILLING DISPUTES.** Payments shall be remitted within 30 days from receipt of the invoice to the account shown on the statement or invoice, including the invoice number and customer reference to ensure appropriate application. If YOUR account becomes delinquent this shall be YOUR breach and scil, at its sole option, may stop shipments until the account is brought current, charge interest charges on overdue amounts at the rate of 9% above the base rate pursuant to Section 247 of the German Civil Code (*Basiszinssatz nach § 247 BGB* (whichever is less), and/or change any credit terms provided to YOU and require prepayment on Purchase Orders. In addition, scil can withdraw from the Agreement after YOUR non-payment despite a reminder. If scil retains a collection agency and/or attorney to collect overdue amounts, all collection costs, including attorney's fees and court costs, shall be paid by YOU to the extent permitted by applicable law. scil shall have no liability or other responsibility to YOU for any financing arrangements (including, but not limited to, loans or lease arrangements) made by YOU with third party lenders to purchase Products from scil. For questions about remitting payment or written billing disputes, YOU should contact scil's Accounts Receivable department at [receivables-de@scilvet.com](mailto:receivables-de@scilvet.com).

**13. RESALE AND EXPORT; NO CONFLICT.** YOU agree that the purchase of the Equipment, Products and Supplies is solely for YOUR use and benefit for the normal and ordinary use, and YOU acknowledge and agree that YOU shall not resell, distribute, rent, lease, loan, or export any Product to any person subject to export restrictions or sanctions.

**14. TRADEMARKS.** YOU agree that the trademarks and any other intellectual property of scil are and will remain the sole and exclusive property of scil and YOU agree not to do anything, or allow any other party to do anything, inconsistent with such ownership or to contest scil's ownership of its trademarks. Except as expressly set forth herein, YOU shall have no right, title, or interest in any intellectual property, including but not limited to patents, trademarks, trade names, or trade dress, relating to the Products sold hereunder. YOU shall not tamper with any Products or remove, cover or alter, any trademarks, insignia, markings, or serial number or any configuration that identifies the origin of Products or allows Equipment to use Supplies from anyone other than scil.

**15. CONFIDENTIAL INFORMATION.** YOU shall maintain as

confidential and not disclose to others without scil's prior written consent or unless required to do so by law, existence, facts, terms, or amount of this Agreement, nor the substance of the negotiations leading to this Agreement, Orders or any trade secrets, processes, techniques, designs, know-how or other Confidential Information obtained from scil, to any person or entity other than to YOUR employees and contractors that have a need to know and are subject to professional confidentiality obligations. These terms of Confidential Information shall survive any expiration or termination of the Agreement, are in addition to and shall not supersede or replace any confidentiality, non-disturbance or similar agreement between YOU and US executed previously.

**16. CHOICE OF LAW AND JURISDICTION; LIMITATION PERIOD.**

The Agreement and all individual Purchase Orders issued on the basis thereof shall be governed and construed in accordance with the laws of the Republic of Germany without regard to the conflicts of law principles thereof. YOU and US expressly waive the application of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) to the Agreement. To the extent legally permissible, YOU consent and agree that jurisdiction, personal or otherwise, over YOU and over the Products, with respect to any provision of the Agreement shall be that of the courts of Lampertheim and Darmstadt Germany, respectively. No action, regardless of form, arising out of or in any way connected with the Products furnished by scil may be brought by YOU more than one (1) year after the cause of action has accrued.

**17. RIGHT TO SET-OFF.** YOUR right to set off YOUR claims against payment claims of scil shall be limited to claims that are uncontested or have been established by final judgement.

**18. LIMITATION OF LIABILITY.** WE SHALL BE LIABLE FOR WILLFUL MISCONDUCT (*VORSATZ*) OR GROSS NEGLIGENCE (*GROBE FAHRLÄSSIGKEIT*). LIABILITY FOR ORDINARY NEGLIGENCE (*LEICHTE/EINFACHE FAHRLÄSSIGKEIT*) IS EXCLUDED WITH REGARD TO EQUIPMENT SOLD TO YOU AND WILL OTHERWISE (I) BE LIMITED TO THE VIOLATION OF MATERIAL CONTRACTUAL OBLIGATIONS (*WESENTLICHE VERTRAGSPFLICHTEN*), I.E. SUCH OBLIGATIONS THAT ARE MANDATORY FOR THE PERFORMANCE OF THE AGREEMENT AND ON WHICH YOU RELIED AND (II) IN THIS CASE BE LIMITED TO THOSE LOSSES THAT ARE TYPICAL FOR THE AGREEMENT AND FORESEEABLE AT THE TIME OF ITS EXECUTION. THE AFORESAID LIMITATIONS SHALL NOT APPLY IN CASE OF DAMAGES TO THE LIFE, THE BODY OR THE HEALTH OF A PERSON; THE SAME APPLIES TO COMPULSORY LIABILITY ACCORDING TO THE GERMAN PRODUCT LIABILITY ACT (*PRODUKTHAFTUNGSGESETZ*). TO THE EXTENT THE LIABILITY OF SCIL UNDER THIS AGREEMENT IS EXCLUDED OR LIMITED UNDER THE PROVISIONS OF THIS SECTION 22, SUCH EXCLUSION OR LIMITATION SHALL LIKEWISE APPLY TO THE PERSONAL LIABILITY OF SCIL'S EMPLOYEES, LEGAL REPRESENTATIVES AND SUBCONTRACTORS. THIS AGREEMENT SHALL NOT BE DEEMED OR CONSTRUED TO CREATE ANY RIGHT IN ANY THIRD PARTY.

**19. PERSONAL DATA PROTECTION.** YOU and US shall process personal data of the signatories of the Agreement and any other data subject for the purpose of ensuring the maintenance of the relationship and the performance of the Agreement. The applicable legal basis for the processing of personal data will be the performance of the Agreement and the legitimate interests pursued by YOU and US. Data will be transferred to third parties such as public authorities only if required by law. Personal data will be stored during the duration of the Agreement and later for as long as is necessary to determine the possible liabilities that may arise from the processing. Our current privacy policy can be found at

**20. EXCUSABLE DELAY.** scil shall not be responsible in any way for the loss, damage, detention, or delay caused by any acts or circumstances beyond scil's control. Such acts and circumstances may e.g., include strike, lockout, fire, flood, war, riot, embargo, epidemic or pandemic, insurrection, act of God, civil or military authority, force majeure (*Fälle höherer Gewalt*), compliance with governmental requests or orders, accidents, or YOU caused delays, transportation shortages or delays. scil's performance shall be deemed



## **General Terms and Conditions for Supply and Service**

suspended during and extended for such time as it is so delayed, and delivery dates shall be so extended.

October 2023