

# General Terms and Conditions of Dectris

## 1. Scope and Definitions

These terms and conditions (the "**Terms and Conditions**") shall govern the contractual relationship between Dectris AG ("**Dectris**") and the purchaser ("**Purchaser**") in connection with the sale and purchase of x-ray detectors, accessories and services manufactured and sold by Dectris. The contractual agreement between Dectris and the Purchaser is documented in and consists of a written offer made by Dectris (the "**Offer**") and these Terms and Conditions (collectively, the "**Agreement**"). The general terms and conditions of the Purchaser (if any) shall not be applicable in connection with the Agreement in any case. Any capitalized terms used but not defined in these Terms and Conditions shall have the meanings associated with such terms in the Offer and vice versa. Any reference to "INCOTERMS 2010" is a reference to the "Incoterms 2010" as published by the International Chamber of Commerce and in effect since 1 January 2011.

## 2. Conclusion of Agreement

This Agreement is concluded and effective as soon as an order is submitted by the Purchaser to Dectris based on an Offer made by Dectris, irrespective of the form in which such order is submitted. For the avoidance of doubt, an order shall not be deemed an acceptance of an Offer and an Agreement shall not be deemed concluded if the Purchaser's order deviates from the Offer or these Terms and Conditions (e.g. by including the Purchaser's terms and conditions) unless Dectris accepts such deviation in writing or implicitly.

## 3. Sale of the Products

With the conclusion of this Agreement, the Purchaser agrees to buy from Dectris, and Dectris agrees to sell to the Purchaser, the products set out in the Offer (the "**Products**"). The term "Products" shall include the x-ray detector products or any related products listed in the Offer as well as the documentation (the "**Product Documentation**") and accessories set out in the Offer.

## 4. Ancillary Services

Dectris shall have the obligation to render the ancillary services set out in the Offer. In particular, if such ancillary services are explicitly provided for in the Offer, Dectris shall install the Products at the premises of the Purchaser and provide training to the Purchaser and its employees. Dectris shall have no obligation to render any ancillary services if the Offer does not provide for such ancillary services.

## 5. Pricing and Payment

Unless the Offer explicitly provides otherwise, all prices quoted in the Offer are quoted in Swiss Francs (CHF)

and exclusive of value added tax (if any).

When the Offer is quoted in a currency different than Swiss Francs (CHF) (the "Foreign Currency"), the Offer shall be subject to the condition that the exchange rate of the Foreign Currency in relation to Swiss Francs (CHF) (the "Exchange Rate") has not experienced an unusual fluctuation at the expense of the Foreign Currency (the "Unusual Fluctuation") by the time the order related to the Offer has been received by Dectris. In case of an Unusual Fluctuation, the Offer shall thus be void, unless Dectris has agreed to the order in writing after receipt.

An Unusual Fluctuation shall – in any case, but not only – be deemed to have occurred if the Exchange Rate has changed in the amount of at least 5% (calculations based on rates of the Swiss Exchange) at the expense of the Foreign Currency between the date of the Offer and the receipt of the order related to the Offer by Dectris.

Prices for Products and ancillary services have to be paid according to the payment schedule set out in the offer. Prices for Products are invoiced at the latest when the products are shipped. Invoices are due within 30 days from the date of the invoice.

If not agreed differently, all bank charges and fees shall be borne by the purchaser. All payments are to be made by wire transfer. For other types of payment additional charges might be applicable.

Should any invoices of Dectris not be settled by the Purchaser within 30 days of the dates of such invoices, the Purchaser shall automatically (and without any further action from Dectris) be in default (*Verzug*). Any payments with which the Purchaser is in default (*Verzug*) shall be subject to default interest at a rate of 5% p.a. calculated from the original due date of the invoice. Furthermore, should the Purchaser be in default (*Verzug*) with any payment, Dectris shall have the right to cancel this Agreement, whereupon the purchaser shall have the duty to return the Products to Dectris within 20 days of its receipt of a corresponding cancellation notice from Dectris. In this regard, reference is made to clause 14 (*Duties of the Purchaser in Connection with returning Products to Dectris*) of these Terms and Conditions.

## 6. Delivery

Delivery shall occur in accordance with the INCOTERMS 2010 rule set out in the Offer. Should the Offer not provide for an applicable INCOTERMS 2010 rule, the INCOTERMS 2010 rule DAP shall apply. These conditions apply for end customers. For OEM customers and distributors

delivery occurs according to FCA Baden-Daettwil.

According to this rule Dectris must obtain any export license and other official authorization and carry out all customs formalities necessary for the export of the Products and for their transport through any country prior to delivery.

## 7. Delivery Dates

Unless the Offer explicitly provides otherwise, all delivery dates set out in the Offer are tentative and nonbinding on Dectris. A delay with respect to such tentative delivery dates shall not have any legal consequences.

Delivery dates that are explicitly guaranteed in the Offer shall be binding on Dectris. Should Dectris miss such an explicitly guaranteed delivery date, the Purchaser shall have the right to cancel its order if Dectris does not deliver the Products within a reasonable grace period of at least 30 days (the "**Grace Period**") starting with the receipt of a notice from the Purchaser explicitly threatening the cancellation of the order unless delivery is made within the Grace Period set out in such notice. All other rights that the Purchaser may have due to late delivery are excluded.

## 8. Transfer of Title and Risks

The title to the Products shall only pass from Dectris to the Purchaser upon the full and final payment of the price of the Products. Dectris retains the right to register a reservation of title (*Eigentumsvorbehalt*) with the appropriate authorities at any time prior to the full and final payment of the price of the Products.

The transfer of risks (*Gefahrenübergang*) in respect of the Products shall occur in accordance with the INCOTERMS 2010 rule DAP or any other rule provided for by the Offer.

## 9. No Right to Disassemble

The Purchaser may not disassemble any of the Products. In particular, the Purchaser shall under no circumstances disassemble the Products in order to sell the components of the Products to third parties.

## 10. Software

The Purchaser is granted a perpetual right to use any software that is delivered as a part of or as an accessory to a Product (the "**Software**") in accordance with the Product Documentation. The Purchaser may not copy, grant third parties access to, amend, disassemble, reverse engineer or otherwise use the Software in excess of the usage described in the Product Documentation.

## 11. Warranty

Dectris represents and warrants that the Products shall perform as described in the Product Documentation. The warranty granted to the Purchaser by Dectris is limited to 12 calendar months (the "**Warranty Period**") unless the Offer explicitly provides for a longer Warranty Period. The Warranty Period shall be calculated from the date of delivery of the Products.

The Purchaser shall have the obligation to inspect the Products upon their delivery. This inspection shall occur in a manner which allows the Purchaser to identify apparent defects (*offensichtliche Mängel*) of the Products. Following the inspection, the Purchaser shall promptly notify Dectris of any apparent defects found. Such inspection and notification shall occur within a reasonable time from delivery of the Products and in any case within 30 days from delivery. Dectris shall have no obligation to correct any apparent defects that have not been notified to Dectris within the aforementioned period.

Should (i) an apparent defect (provided that such apparent defect has been properly notified to Dectris) or (ii) a hidden defect (*versteckter Mangel*) arise within the warranty period, then the Purchaser shall have the right to request that Dectris corrects such defects. Such correction may be effected, at Dectris' sole discretion, by repairing the relevant Products or by delivering replacement Products. Should Dectris choose to repair the Products, the Purchaser shall organize the transportation of the Products to Dectris in accordance with clause 14 (*Duties of the Purchaser in Connection with returning Products to Dectris*) of these Terms and Conditions. Any reasonable costs incurred in connection with such transportation shall be borne by Dectris.

The Purchaser shall under no circumstances have a right to reduce the price of the Products or to cancel this Agreement as a result of such defects.

The warranty set out in this clause 11 as well as the liability according clause 13 shall be excluded if a defect is due to (i) a usage of the Products outside of or contrary to the proper usage described in the Product Documentation (in particular, a direct exposure of the Products to the x-ray beam, the usage of a power source other than the one delivered with the Products or the usage outside of the operating conditions set out in the Product Documentation), (ii) unauthorized modification of the Products or

(iii) unauthorized maintenance of the Products.

Any further warranty is excluded.

## 12. Spare Parts

After expiry of the warranty period the Purchaser shall be responsible for the repair of defective Products at its own costs.

Dectris usually keeps spare parts for the Products available for a time period of 5 years. However unless explicitly mentioned in the Offer or Agreement Dectris does not warrant spare parts availability in a legally binding way.

## 13. Liability

If the Purchaser suffers damages caused by defective Products or by any action of Dectris personnel when fulfilling this or related Agreements, Dectris shall be liable for those damages according to this clause 11, unless Dectris can prove that Dectris or its personnel did not act negligently when causing the damages.

The liability for personal injury is not limited. The liability for damages to the property of the Purchaser is limited to the amount equivalent to the purchase price agreed upon in the Agreement.

Any further liability of Dectris, including in particular any liability for indirect damages (including losses, lost profits, savings that could not be realized, claims of third parties, costs that result from the non-availability of the Products and expenditures of the Purchaser), is entirely excluded.

## 14. Duties of the Purchaser in Connection with returning Products to Dectris

The Purchaser shall ensure that the Products are packaged properly when shipping any Products to Dectris for whatever reason. The Purchaser shall further ensure that the shipment is adequately insured. Unless this Agreement expressly provides otherwise, all costs associated with the shipment of the Products from the Purchaser to Dectris shall be borne by the Purchaser. Any damages to the Products which occur due to the improper packaging of the Products when sending Products to Dectris, including all associated costs, shall entirely be borne by the Purchaser.

## 15. Intellectual property rights

All intellectual property rights associated with the Products (including the intellectual property rights to the contents of the Product Documentation, to the Software and to the electric circuit

layouts used in the Products) shall solely remain with Dectris.

The Purchaser shall have no right to copy, amend or distribute the Product Documentation to any third party or to make the Product Documentation otherwise available to any third party.

## 16. Confidentiality

Both parties mutually undertake not to disclose any trade secrets, contractual information or data of which they become aware in the course of the fulfillment of this Agreement.

In particular, the Purchaser shall not disclose to any third party any information with respect to the commercial agreement set out in this Agreement or the technology, methods, techniques and know-how used by Dectris.

This non-disclosure agreement shall remain to be binding on the parties after this Agreement has ended.

## 17. Force Majeure

No party shall be liable for damages or delays resulting from a force majeure event such as storms, fire, water, war, strikes, virus attacks, epidemics, earthquakes, nuclear contamination, a disruption of the public communication or public transportation infrastructure or other acts of God (a "**Force Majeure Event**").

If a party is unable to perform its obligations under this Agreement due to a Force Majeure Event, then the target date for the fulfillment of such obligations shall be postponed in line with the continuation of such Force Majeure Event.

## 18. Severability

Should any provisions of this Agreement be or become invalid, illegal or impossible to be implemented, such invalidity, impossibility or illegality shall not affect the remainder of the provisions hereof. The illegal, invalid or impossible provision hereof shall be replaced with the valid, legal and possible provision which comes closest to the commercial agreement set out in this Agreement.

## 19. Applicable Law and Jurisdiction

This Agreement shall be governed by Swiss substantial law excluding its conflict of laws rules and excluding the United Nations Convention on Contracts for the International Sale of Goods dated 11. April 1980 (CISG). The ordinary courts of Baden, Switzerland shall have exclusive jurisdiction with respect to any disputes resulting from or in connection with this Agreement.