



National
Metrology
Institute

TERMS AND CONDITIONS OF SALE AND DELIVERY FOR ASSIGNMENTS TO VSL B.V.

Disclaimer: the translation of these General Purchasing Conditions of VSL into the English language was prepared with the utmost care. In all cases where the English version might divert from the original Dutch version, only the Dutch version shall be decisive.

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TERMS AND CONDITIONS OF SALE AND DELIVERY FOR ASSIGNMENTS TO VSL B.V.

1. DEFINITIONS

In these General Terms and Conditions, the following definitions apply:

Agreement:

the agreement between the Parties to perform work as referred to in Article 3.1;

Assignment:

the activities to be performed by VSL, such as calibrations, delivery of reference gases/materials, (proficiency) tests, analyses, research, software development and advice, as specified in the Agreement;

Background:

insofar as these are relevant to the Assignment, all IP rights, as well as knowledge (including undisclosed know-how and Trade Secrets), experience and other information to which a Party is entitled and which has not arisen within the framework of the Assignment. This also includes objects made available to each other by the Parties within the framework of the Assignment, such as, but not limited to, auxiliary and/or test materials, samples, prototypes, information carriers and/or computer software;

Certificate:

the results of the Assignment in the event of a calibration or test as reported by VSL to the Client. The Certificate only concerns a recording of measurement results and measurement uncertainties. The Certificate does not contain any opinion on conformity with specifications, tolerances or regulations, unless expressly agreed in writing;

Client:

the provider of the contract to VSL. For art. 4.4, art. 16.2, and art. 16.5 up to and including 16.7 of the General Terms and Conditions, this also includes auxiliary persons of the Client;

Declaration:

the results of the Assignment in the event of an assessment or test as reported by VSL to the Client, not being a Certificate or Final Report;

Export laws and regulations:

the applicable laws and regulations regarding sanctions and export and import controls, including but not limited to exports and imports of military and dual-use goods including services and technology (together referred to as 'strategic goods') and chemicals;

Final report:

the report with the outcome(s) of the Assignment as definitively reported by VSL to the Client, including reports of proficiency tests;

Foreground:

all IP rights, as well as knowledge (including undisclosed know-how and Trade Secrets), experience and other information arising within the framework of the Assignment. This also includes objects such as, but not limited to, auxiliary and/or test materials, samples, prototypes, information carriers and/or computer software;

IP rights:

all intellectual and industrial property rights, including, but not limited to, copyright, database, trade name, breeders, design, trademark, patent and semiconductor topography and domain name rights;

Parties:

the Client and VSL;

Party:

the Client or VSL;

Quotation:

an offer from VSL, in whatever form, for the (intended) performance of work, including any adjustments before the Quotation has been accepted in accordance with Article 3.1;

Terms and Conditions:

these terms and conditions for assignments to VSL;

Trade secrets:

information that meets the conditions as described in Article 1 of the Trade Secrets Protection Act;

VSL:

The legal entity under private law VSL B.V., with its registered office in Delft, and registered with the Chamber of Commerce under number 27228703. For art. 15.2 and art. 16.1 (second sentence), art. 16.2 (M.U.V. SUB A), Art. 16.3 up to and including 16.7 of the General Terms and Conditions, this also includes auxiliary persons of VSL.

2. APPLICABILITY

2.1 - These General Terms and Conditions apply to all Quotations and Agreements.

2.2 - General purchase or other general terms and conditions of the Client do not apply to the legal relationship between the Parties and are hereby rejected.

2.3 - VSL has adopted these General Terms and Conditions. These Terms and Conditions can be found on the website www.vsl.nl. At the request of the Client, a physical copy can be sent free of charge.

3. QUOTATION AND AGREEMENT

3.1 - A Quotation is valid for one month, unless VSL expressly stipulates a different term in the Quotation. Upon acceptance of the Offer, the Agreement is concluded. In the event of a request for the execution of (any part of) the Assignment by the Client, the Client accepts the Offer.

3.2 - The intended scope of the Assignment is specified in the Agreement. Once the Agreement (including all appendices) has been concluded, it will contain all agreements that VSL has made with the Client for the Assignment. Amendments, additions or deviations from the Agreement are only binding if agreed in writing. The mere receipt of, acquaintance with, reference to, or lack of objection to proposed changes, additions or deviations does not imply acceptance thereof.

3.3 - The Client will only use the Quotation (including any amendments, additions or deviations therefrom) to determine whether VSL will be awarded the Assignment. If no Agreement is concluded, VSL retains all rights with regard to the content of the Quotation, with the exception of the information contained therein and originating from the Client.

4. THE ASSIGNMENT

4.1 - VSL will carry out the Assignment within the agreed (estimated) term. If there is a risk that this period will be exceeded, the Parties shall consult each other with a view to setting a new deadline. VSL will only be in default after the Client has given VSL a written notice to

comply with one or more of its obligations under the Agreement within a reasonable period of time and that period has expired without being used.

4.2 - VSL undertakes to perform to no more than an obligation to perform the Assignment.

4.3 - If VSL supplies the Client with an item, VSL does not provide any warranty on this. Upon delivery of an item, VSL Ex Works delivers to the location specified in the Quotation. "Ex Works" should be understood in accordance with the ICC (International Chamber of Commerce) Incoterms 2020.

4.4 - The Client will not use any outcome of the Assignment in a way that violates Export laws and regulations. The Client indemnifies VSL against claims by third parties based on non-compliance with Export laws and regulations. VSL may suspend its obligations and suspend the Client's rights until a license required by Export legislation and regulations has been granted. VSL may terminate the Agreement without any obligation towards the Client if such a permit is not granted or if this is not expected in the foreseeable future. VSL may also terminate the Agreement prematurely and with immediate effect, without being obliged to pay any compensation to the Client, if continuation of the Order is not permitted on the basis of Export laws and regulations.

4.5 - The Client will submit an end-user statement to VSL regarding the end use and the end user of the outcome(s) of the Assignment at first request.

4.6 - In the execution of (parts of) the Assignment, VSL may engage auxiliary persons.

4.7 - VSL is not obliged to commence the performance of the Assignment until VSL has received all the necessary supplies and information to be provided by the Client. This also includes all relevant manuals, any necessary permits, approvals and/or exemptions. If VSL receives these supplies and information later than agreed, the (estimated) period for the execution of the Assignment as stated in the Agreement will be extended by at least the duration of this delay. Any additional costs related to the delay and/or extension will be charged to the Client.

4.8 - If, during the execution of the Assignment, it appears that the work needs to be expanded or changed compared to what has been agreed in the Agreement, this is considered to be additional work. Additional work is in any case understood to mean:

- a. work requested by the Client that is not included in the Agreement or Quotation;
- b. additional work that proves necessary for the proper execution of the Assignment;
- c. work that arises from incorrect, incomplete or late provision of information, matters or instructions by or on behalf of the Client;
- d. delays or additional work as a result of circumstances attributable to the Client.

4.9 - VSL will inform the Client as soon as possible in the event of any additional work or work that is to be expected, stating the nature and, if reasonably possible, an indication of the costs involved and the consequences for the planning.

4.10 - Additional work will only be carried out with the written consent of the Client and VSL. The Client will owe a fee for additional work. Unless otherwise agreed, this fee is determined on the basis of subsequent calculation at VSL's rates applicable at that time. Additional work may lead to an adjustment of the (estimated) period for performance of the Assignment.

4.11 - Insofar as additional work is related to incorrect or incomplete information or items provided by the Client, all resulting costs and damage are entirely at the expense and risk of the Client. The Client indemnifies VSL against claims from third parties in this respect.

4.12 - If the Client requires VSL to perform additional administrative actions or provide additional information that is not part of the normal performance of the Assignment, including the completion of customer-specific forms, questionnaires, portals or onboarding, compliance, integrity and sustainability requests, as well as the legalization or apostille of documents, the Client will owe a fee for this in accordance with the then applicable rates of VSL.

5. DELIVERY AND TRANSPORT OF GOODS FROM THE CLIENT

5.1 - This Article 5 applies to items that the Client makes available to VSL for the purpose of carrying out the Assignment, such as equipment to be tested or measuring instruments to be calibrated, reference gases and materials.

5.2 - Goods must be delivered "Delivery Duty Paid" to VSL's location as stated in the Quotation and collected from it "Ex Works", unless otherwise agreed in writing. "Ex Works" and "Delivery Duty Paid" are to be understood in accordance with the ICC (International Chamber of Commerce) Incoterms 2020. The Client shall bear all costs and risks associated with the transport and loading and unloading of the goods in question to the aforementioned location of delivery, including, where applicable, the payment of import duties and the responsibility for the completion of the related formalities as well as all related costs, such as costs of transport and insurance.

5.3 If, at the Client's request or as a result of circumstances attributable to the Client, VSL deviates from the agreed method of delivery, shipping, return shipping or collection of goods, all costs and additional work involved will be borne by the Client. VSL is entitled to charge the Client for these costs and activities on the basis of subsequent calculation at the rates applicable at that time, without prejudice to VSL's right to include a minimum fee, surcharge or fixed fee for this in the Quotation or Agreement.

5.4 - The loading and unloading and the transport of the goods are at the expense and risk of the Client, even if the carrier demands a statement on the consignment notes for the shipments emanating from the Client that all damage during the transport is at the risk of VSL.

5.5 - Client is responsible for the selection, representativeness, indication of codes and brand or product names, identification, date of sampling and other relevant (legal) information of the items to be examined, including the application of a visible export control classification marking, and to provide safety, access, storage and use instructions.

5.6 - The Client will deliver the goods in such a way that VSL can perform the Assignment without causing damage to goods or persons under the conditions under which the goods must be able to be tested

according to the information provided to VSL in writing.

5.7 - VSL will keep the goods or the remnants thereof for two weeks after the delivery of the Certificate, Statement or Final Report, if possible. Any costs associated with this are included in the price.

5.8 - If the Client has not collected the goods two weeks after the delivery of the Certificate, Statement or Final Report, the VSL is free to take appropriate measures, such as shipping at the Client's expense or, in extreme cases, destruction of the goods. The costs of storage, shipping, removal or destruction are borne by the Client.

5.9 - VSL is entitled to retain items, documents and the like as security for as long as the Client has not fulfilled its obligations.

6. CONFIDENTIALITY

6.1 – Both Parties are, except to the extent otherwise provided by or pursuant to the law, obliged to maintain confidentiality of what has come to the knowledge of the Party during the execution of the Assignment or of which the Party knows or can reasonably suspect that confidentiality is necessary.

6.2 – The following are excluded from the Parties' obligation of confidentiality:

- a. data already in the possession of the Party before the Party became aware of them in the performance of the Agreement;
- b. data in the public domain, or data that is included in the public domain without the Party being attributed;
- c. data that the Party has lawfully obtained from a third party or through its own research without any use of secret data of the other Party.

6.3 The following are excluded from VSL's confidentiality obligation:

- a. VSL Background;
- b. Foreground developed by VSL that concerns an unintended outcome of the Assignment;
- c. methods and techniques used and/or developed by VSL;
- d. use of VSL's findings in a decision not to be or the Assignment form that can be traced.

6.4 – Unless otherwise agreed in the Offer and without prejudice to art. 6.5:

- a. the obligation of confidentiality with regard to a Certificate and with regard to Trade Secrets remains in force for an indefinite period of time;
- b. Other confidentiality obligations shall remain in effect for four (4) years after the end of the Agreement.

6.5 VSL is no longer obliged to maintain confidentiality if:

- a. that is necessary to correct misunderstandings that have arisen because the Client discloses any outcome of the Assignment;
- b. VSL detects a serious danger to persons, the environment or objects;
- c. VSL is obliged to provide information pursuant to a decision of a court or public law supervisory body.
If reasonably possible, VSL will consult with the Client before VSL provides any information in that case.

7. BACKGROUND

7.1 - All rights that the Client owns or acquires with regard to Background of the Client remain vested in the Client. All rights that VSL owns or acquires in respect of VSL's Background remain vested in VSL.

VSL may at all times continue to use its Background itself or by third parties or for the benefit of third parties.

7.2 - VSL will obtain the right to use the Client's Background to the extent necessary for the performance of the Assignment.

7.3 - Commercial use of VSL's Background (even if it is part of any outcome of the Assignment) requires VSL's prior, express, written consent. Further conditions may be attached to this.

8. FOREGROUND

8.1 - If the Client has created (parts of) Foreground with VSL in the context of the Assignment, the IP rights to these rights will accrue to the Client. The extent of the Client's IP rights (or the exclusive right to establish them) is determined by the written documentation relating to the Assignment. Foreground created by or on behalf of VSL (regardless of whether it concerns an intended or unintended outcome of the Assignment or methods and techniques used and/or developed for any outcome of the Assignment) belongs to VSL.

8.2 - The copyrights relating to a preliminary, interim and Final Report and Certificates issued by VSL are always fully vested in VSL.

9. FOREGROUND PROTECTION

9.1 - The Party that has the right to protect (part of) Foreground by means of one or more IP rights will inform the other Party about the exercise of that right and its specific content. VSL and the Client shall provide each other with the cooperation reasonably required for the establishment of one or more IP rights.

9.2 - If the Client is entitled to protect (part of) Foreground and waives (further) protection to do so, the Client will inform VSL and give VSL the opportunity to protect (that part of) Foreground or to continue the protection, whereby all other rights under the Agreement on both sides (including rights of use) remain unchanged.

9.3 - In the event that the Client becomes aware of an infringement of IP rights with regard to Foreground of VSL and/or Background of VSL, the Client shall inform VSL of this as soon as possible.

10. USE OF FOREGROUND

10.1 - From the date of delivery by VSL of the Final Report to the Client, the Client will be entitled to use the VSL part of Foreground within the scope of the Assignment, subject to the restrictions set out in Article 10.

10.2 - VSL may at all times use the Foreground developed by VSL that concerns an unintended outcome of the Assignment, or that uses and/or develops methods and techniques for any outcome of the Assignment itself or have them used by third parties or for the benefit of third parties.

10.3 - VSL may use Foreground itself at any time (as background knowledge in other research) and may also have this Foreground used by third parties or for the benefit of third parties.

10.4 - VSL does not investigate the existence of IP rights of third parties on Foreground.

11. USE OF A FINAL REPORT, CERTIFICATE AND DECLARATION

11.1 - A Final Report, as well as any provisional or interim report or later explanation thereof, is exclusively for the Client's own use. Any other use requires the prior written consent of VSL, including:

- a. reproduction or publication by means of print, photocopy, electronic form or by any other means, or storage in an information file;
- b. make it available for inspection to persons other than directly interested parties, including use by or for the benefit of third parties;
- c. used in whole or in part for the purpose of filing claims or conducting legal proceedings;
- d. used in whole or in part for advertising or anti-advertising purposes, including but not limited to publication in or use for the benefit of media, or for the purpose of recruitment in a more general sense.

VSL may attach further conditions to consent. In any case, anyone to whom the application is made on the basis of art.11 the Final Report may be made available, be able to assess the Final Report in its entirety.

11.2 – The Client is free to distribute the Certificate and/or Statement, but always in completeness.

12. USE OF EQUIPMENT

12.1 This Article 12 applies if the Assignment (also) entails that the Client makes use of VSL's machines, equipment, examination rooms and other materials and/or facilities.

12.2 The Client will owe a fee to be determined by VSL for the use of VSL's machines, equipment, examination rooms and other materials and/or facilities.

12.3 The Client will not allow third parties to use VSL's machines, equipment, examination rooms and other materials and/or facilities, unless agreed in writing with VSL in advance. The Client is responsible and liable to VSL for the actions of this third party.

12.4 - The Client (including the third party engaged by the Client) will not cause any damage to VSL's machines, equipment, examination rooms and other materials and/or facilities.

12.5 - VSL is not liable for damage to the Client or third parties as a result of the Client's use of VSL's machines, equipment, examination rooms and other materials and/or facilities, and the Client indemnifies VSL against all claims in this respect.

13. HOUSE RULES/SAFETY REGULATIONS

13.1 - When staying in the buildings and grounds of VSL, the client and its staff are obliged to comply with the "house rules" and safety regulations that apply to the users of the buildings and sites concerned. The Client shall ensure that its personnel behave in accordance with the provisions set out above.

14. PRICE AND PAYMENT

14.1 - A 'target price' stated in the Quotation or agreed in the Agreement shall be a non-binding indication of the price for the Assignment, excluding the expenses incurred by VSL (in consultation with the Client). The final price for the Assignment (even in the absence of a 'target price') will be determined and charged on the basis of subsequent calculation. VSL is entitled to index the part of the

price of the Order that has not yet been invoiced as of 1 January in accordance with the annual adjustment of the rates applicable to VSL.

14.2 - If a 'fixed price' has been expressly agreed in the Agreement, this price will apply to the Assignment, excluding the expenses incurred by VSL (in consultation with the Client). If the Assignment is changed or expanded - with the consent of the Client - or VSL has had to perform additional work because the Client did not inform VSL of its wishes, requirements or preconditions or did not inform it sufficiently clearly when entering into the Agreement, VSL will charge the associated additional costs on the basis of subsequent calculation and the Client will owe these additional costs. If the agreed period within which the assignment must be completed is exceeded by more than three months through no fault of VSL, the price will still be determined on the basis of subsequent calculation, whereby the originally agreed amount will apply as the target price.

14.3 - VSL is always entitled to require the Client to pay in advance or to make interim payment. VSL reserves the right to suspend the work until the (advance) payment has been received.

14.4 - All amounts stated in the Quotation and/or the Agreement are in euros and are exclusive of VAT and exclusive of other levies and taxes, unless stated otherwise.

14.5 - The Client must pay a VSL invoice within thirty (30) days of the invoice date. Set-off by the Client is not permitted. If the Client exceeds this period, the Client will also owe the statutory interest rate for commercial transactions and all reasonable costs that VSL must incur in order to obtain payment of its invoice. VSL retains ownership of movable and immovable property or other types of property that VSL has delivered or will deliver to the Client until the relevant VSL invoice (and any statutory commercial interest and collection costs) has been paid in full. Acquisition of IP rights to (parts of) the outcome of the Assignment will only take place after the price as referred to in art.14 has been paid in full by the Client.

14.6 Unless expressly agreed otherwise in writing, the Client may only invoke country-specific permits, registrations, legalizations, declarations, certifications, deductions, levies or other requirements if it has expressly notified VSL of these in writing at the latest at the time of concluding the Agreement. Failing this, the Client is not entitled to suspend, reduce or withhold payment. To the extent permitted by law, the Client shall in such case ensure that VSL receives the full amount due.

14.7 If VSL or its personnel are involved in legal or arbitration proceedings as expert witnesses or otherwise in connection with the performance of the Assignment, the Client will reimburse VSL for the work and costs involved on the basis of VSL's rates applicable at that time.

15. FAILURE TO FULFIL OBLIGATIONS

15.1 - If a defaulting Party fails to comply with its obligations under the Agreement even after the expiry of a set reasonable period, the other Party shall, with due observance of the provisions of art.17, is no longer obliged to fulfil its (remaining) obligations under the Agreement and may terminate the Agreement.

15.2 - The Client must inform VSL of any claims against VSL as soon as possible, but no later than one year after the date of delivery of the

Certificate, Statement or Final Report, substantiated and in writing. Entitlements that are instituted afterwards will automatically lapse.

16. LIABILITY

16.1 - VSL is only liable for direct damage that is the direct result of a failure attributable to VSL in the performance of its obligations under the Agreement. VSL's total liability in connection with any legal basis whatsoever is (cumulatively) limited to the amount that VSL has received from the Client pursuant to Article 14 of these General Terms and Conditions.

16.2 - VSL is also not liable for damage suffered by the Client:

- a. as a result of the application or use of any outcome of the Assignment;
- b. as a result of the fact that any outcome of the Assignment does not qualify for protection via one or more IP rights or because the application or use of any outcome of the Assignment infringes the rights of third parties;
- c. which is the result of defects in goods supplied to VSL, including software, which has been or has been supplied by VSL to the Client, unless, and to the extent that, VSL's supplier has fully compensated VSL for the damage.

16.3 - The limitations of liability as included in Articles 16.1 and 16.2 do not apply if and insofar as the liability is the result of intent or deliberate recklessness on the part of VSL.

16.4 - The Client shall fully indemnify VSL against claims by third parties for damage arising from the application or use of any outcome of the Assignment by the Client or by a third party to whom the Client has made this outcome available, unless the outcome in question is the result of intent or gross negligence on the part of VSL.

16.5 - The Client is liable for any damage suffered by VSL and persons used or engaged by VSL in the performance of the Assignment during their stay on the Client's premises or on that of third parties in connection with the Assignment.

16.6 - VSL is not liable for any damage suffered by the Client or its staff during their stay on the VSL site.

16.7 - VSL is not bound by any of the Client's stipulations (from the Agreement or otherwise) with the aim of limiting the Client's liability in whole or in part.

17. DURATION AND TERMINATION

17.1 - An Agreement is entered into for an indefinite period of time and ends with the delivery of the Certificate, Statement, Final Report or materials and the full payment of the price as referred to in art.14. The Agreement will terminate by operation of law with immediate effect and without any obligation to pay compensation on the part of VSL if:

- a. the Client is declared bankrupt or a request to that effect is submitted;
- b. the Client is granted a (provisional) suspension of payment or a request to that effect is submitted;
- c. the Client's company is liquidated, or;
- d. a substantial part of the Client's movable or immovable property or other types of property is seized in a prejudgment or executory manner.

If the Certificate, Statement or Final Report has not been delivered, upon termination of the Agreement pursuant to this art.17.1 or

pursuant to art.15.1 the date of termination of the Agreement shall be deemed to be the date of delivery of the Certificate, Statement or Final Report.

17.2 - In the event of full or partial premature termination of the Assignment, the Client will owe a reasonable part of the price of the Assignment, including in any case the costs of ordered materials and work already performed.

17.3 - In the event of early termination, the Client has no right to use a provisional or interim outcome of the Assignment, neither for itself, nor by third parties or for the benefit of third parties. If the Parties nevertheless agree in writing that the Client will acquire IP Rights to a provisional or interim outcome of the Assignment, these IP Rights will only be transferred after full payment by the Client of the part of the price to be reasonably determined by VSL as referred to in Art.17.2.

18. FORCE MAJEURE

18.1 - VSL is not liable for any failure or delay in the performance of the Agreement if the default or delay is due to force majeure as defined in (i) art.18.2 and/or (ii) the law or case law. If a default or delay occurs as referred to above, the performance of the relevant part or parts of the Agreement will be suspended for as long as the relevant default continues, but VSL will not incur any liability towards the Client for any damage resulting therefrom.

18.2 - Force majeure is understood to mean circumstances beyond the will and actions of VSL that are of such a nature that compliance with or further compliance with the Agreement cannot reasonably be expected of it. Force majeure is in any case, but not exclusively, understood to mean: (i) such absenteeism by VSL personnel that the performance of the Agreement is seriously impeded (ii) force majeure on the part of a third party engaged by VSL (iii) technical malfunctions (iv) import, export and/or transit bans (v) operational, traffic and/or transport disruptions (vi) changed government measures (vii) epidemic and pandemic (viii) extreme weather conditions and (ix) fire.

18.3 - If the situation of force majeure persists for a period of three (3) consecutive months, VSL is entitled to terminate the Agreement in whole or in part, without incurring any liability towards the Client.

19. PERSONAL DATA

19.1 - The parties will comply with the laws and regulations regarding the protection of personal data and, if necessary, agree on a processing agreement.

20. CHOICE OF FORUM AND LAW

20.1 - All Offers and Agreements and these Terms and Conditions of Sale and Delivery are governed by Dutch law.

20.2 - In the event of a dispute between the Parties about the Offer or the Agreement (or related agreements) that the Parties cannot resolve amicably, this dispute will be submitted exclusively to the competent court in The Hague.

21. MISCELLANEOUS

21.1 - If the Agreement terminates in any way, the provisions that are intended to remain in force after the end of the Agreement will continue to apply, such as the provisions regarding liability, rights of use, confidentiality and choice of law and forum.

21.2 - If any provision of the Terms and Conditions of Sale and Delivery is found to be invalid, this shall not affect the validity of the entire Terms and Conditions of Sale and Delivery.