

General Terms and Conditions

for

Nexperion e.U. - Solutions for Electron Microscopy (Dr. Guenter Resch)

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(hereinafter abbreviated as: *Nexperion*)

1. Object and area of application:

- 1.1. For all present and future supplies and other services that *Nexperion* provides its customers in the context of its internet services under the domain **www.nexperion.net, www.nexperion.eu and www.nexperion.at** and/or on the basis of telephone and/or written and/or personal orders (hereinafter abbreviated as: Services), solely the following General Terms and Conditions (GTC) shall apply in the present version. Anything to the contrary only applies if this is agreed in writing between *Nexperion* and the Customer.
- 1.2. The present version of these Terms and Conditions can be accessed anytime under **www.nexperion.net/terms** and stored.

The Customer (hereinafter referred to as: the Entrepreneur) declares that he shall use the services of *Nexperion* solely in his capacity as Entrepreneur.

Private general conditions or general conditions deviating from those of *Nexperion* for the present legal transaction and the entire business relationship with *Nexperion* are explicitly ruled out.

- 1.3. All offers of *Nexperion* are non-binding.

2. Conclusion of contract:

- 2.1. The services offered by *Nexperion* are a request of *Nexperion* to the Entrepreneur to provide a binding quotation for the goods and services offered by *Nexperion*. The Entrepreneur makes such a binding offer in the form of his offer. A contract between the Entrepreneur and *Nexperion* is only established at such time as *Nexperion* has accepted said offer.
- 2.2. Should *Nexperion* have made a written offer the contract only comes into effect after the Entrepreneur has accepted the offer within the acceptance period.

- 2.3. *Nexperion* is authorised to have the offered services carried out by third parties. No obligation exists to inform the Entrepreneur about this situation.
- 2.4. With the conclusion of the contract the Entrepreneur declares that he is willing to be named by *Nexperion* including logo as reference, including online.

3. Prices and terms of payment

- 3.1. All prices specified by *Nexperion* are understood - insofar as nothing to the contrary is stated - to be exclusive of delivery costs, exclusive of duties and exclusive of the legally applicable VAT or other charges.
- 3.2. The invoice amounts are payable without deduction within 14 days after receipt of the order. Payment is only considered to have been made with the irrevocable credit in the account of *Nexperion*. In case of arrears, arrears interest shall be agreed upon in the amount of 9.2% above the basic interest rate.
- 3.3. Insofar as nothing has been agreed to the contrary, upon granting of the order a down payment of 30% of the order is payable. When *Nexperion* declares that the service has been completed, another 50% of the payment amount shall be payable, and upon successful acceptance by the Entrepreneur the remaining 20% of the order amount shall be payable.
- 3.4. *Nexperion* is authorised to also issue intermediate invoices including for work not yet completed.
- 3.5. If payment is not made before the deadline, payment reminder fees in the amount of € 12 per reminder and collection fees in the amount of € 150.00 shall be payable. Commencing upon payment arrears of 14 days *Nexperion* is authorised to terminate all services.
- 3.6. The goods remain the property of *Nexperion* until payment in full. A set-off of the Entrepreneur against a claim vis-a-vis *Nexperion* is ruled out, insofar as the claim has not been legally established.
- 3.7. For the calculation of the prices, in each instance the prices valid on the day of delivery apply. The costs of travel, daily fees and overnight accommodation shall be invoiced to the Entrepreneur separately according to the presently applicable principles. Travel time is considered working hours.

4. Events

- 4.1. The following shall apply for events (not an exhaustive list: trainings, seminars, meetings, training sessions) offered by *Nexperion*:
- 4.2. The total fee for the event is due upon registration.

- 4.3. Nexperion is free to replace announced speakers at its discretion if the speaker is unable to attend respectively switch announced study materials. *Nexperion* is not responsible for the availability or quality of work materials.
- 4.4. The Entrepreneur acknowledges that photographs are produced at events of *Nexperion*. The Entrepreneur agrees that *Nexperion* uses these photographs in any kind. If the Entrepreneur sends a third party to an event of *Nexperion* the Entrepreneur is obliged to gain a declaration of approval of the third party. The Entrepreneur will indemnify and hold *Nexperion* harmless in respect of legal proceedings and claims of the third party.

5. Services

- 5.1. In case of payment arrears of more than 14 days, *Nexperion* is authorised to terminate the services (including repeated ones) and to effect a blockage until the total open balance (minus reminder and collection fees) has been paid.
- 5.2. In case of the termination of the contract on the day after the end of the contract or contract fulfilment all data on the Entrepreneur shall be deleted immediately.
- 5.3. The Entrepreneur undertakes to provide all work materials necessary for the fulfilment of the services (not listed exhaustively: laboratory facilities, devices, reagents, software and consumer materials) free of charge, in sufficient quantities and in functionally ready condition. The Entrepreneur is liable for all delays that may result from defective or insufficiently available work materials. In addition the Entrepreneur shall see to it that any software from third parties to be used, installed or calibrated is available and sufficiently licensed.
- 5.4. The Entrepreneur is responsible to ensure that only suitably trained persons acquainted with the necessary local safety regulations as well as sufficiently insured persons participate in courses, training or workshops of *Nexperion*. The Entrepreneur is liable for all loss that may result from a violation of this obligation.

6. Guarantee

- 6.1. *Nexperion* is not liable to ensure that the services are suitable for a specific purpose which is not specifically stated or that they generate a specific return.
- 6.2. It is agreed that the Entrepreneur must legally enforce his right to a guarantee with regard to moveable and immovable goods in the sense of § 933 Austrian General Civil Code (ABGB) within six months.
- 6.3. The Entrepreneur must examine the goods and make any claims concerning defects (§ 377 Austrian Commercial Code (UGB)) without delay.

- 6.4. Should the Entrepreneur or a third party change or process performance or work results of *Nexperion*, all guarantee obligations on the part of *Nexperion* shall lapse.

7. Intellectual property rights

- 7.1. 'Work results' in the sense of these General Conditions include all results achieved by *Nexperion* or a company contracted by *Nexperion* in association with the service, irrespective of whether they are registered or not. In particular, the following (not exhaustively listed) items are considered to be work results: software, databases, presentation materials, graphs, designs, texts, photos (analogue and digital), programs, samples, drafts, models, product drawings, names, product forms, drawings, logos, publisher's marks, labels and audiovisual work.
- 7.2. The Entrepreneur declares that all work results developed by *Nexperion* are works in the sense of copyright. All rights to the work results accrue solely to *Nexperion*.
- 7.3. *Nexperion* shall give the Entrepreneur the simple, non-exclusive, not sublicensed and non-transferable right to use the work results in the context of the ordinary business operations of the Entrepreneur. The Entrepreneur undertakes to refrain from releasing work results to third parties.
- 7.4. This does not prejudice the right of the Entrepreneur to produce a backup copy of work results.

8. Liability

- 8.1. The liability of *Nexperion* is ruled out, unless loss was caused intentionally or in a context of gross negligence. This does not apply to injury to life or health of a person.
- 8.2. Claims for damages against *Nexperion* are also limited to the order value.
- 8.3. Claims for damages based on data loss, erroneous or faulty security measures (for example, but not listed exhaustively: hard disk images, firewalls, backups), production loss or income loss are also ruled out.

9. Data protection

- 9.1. All data that the Entrepreneur provides to *Nexperion* shall be stored and utilised in a computerised manner by *Nexperion* solely for the development of the contractual relationship and the fulfilment of future contracts. Any use going beyond this may only take place after the authorisation of the Entrepreneur. This authorisation may be revoked at any time. An automatic deletion of invoice data

takes place after seven years, insofar as no imperative law stipulations rule out said deletion.

10. Jurisdiction and place of fulfilment

10.1. Insofar as authorised, Austrian law applies, with the exclusion of the CISG (UN Convention on Contracts for the International Sale of Goods). For the Entrepreneur, the place of jurisdiction is the factually and locally responsible Court for Vienna.

11. Miscellaneous

11.1. Should individual provisions of these General Terms and Conditions be or become ineffective, unenforceable and/or invalid, this shall not result in the overall General Terms and Conditions becoming ineffective, unenforceable or invalid. In such a case the parties undertake to replace the ineffective, unenforceable and/or invalid provisions with provisions that come as close as possible to the economic purport of the ineffective, unenforceable and/or invalid provisions.

11.2. These general terms and conditions as well as all delivery and payment terms also apply for all later contracts and deliveries with the Entrepreneur including if *Nexperion* does not specifically refer to these provisions in association with later deliveries.

11.3. Oral changes and additions to the agreement between *Nexperion* and the Entrepreneur must be confirmed in writing to be effective. This also applies to the dismissal of the requirement of written form.

11.4. The Entrepreneur undertakes to immediately inform *Nexperion* of data changes (name, address, email address).

11.5. Should these general terms and conditions exist in a language other than German, the German version shall apply.