



SONNMRLSF TERMS & CONDITIONS

1. Scope and definitions

These Terms and Conditions ("Terms") apply to all quotations made to provide Nuclear Magnetic Resonance ("NMR") services (as defined in section 3) carried out by SONNMRLSF, the NMR facility at the NMR Spectroscopy Group at the Faculty of Science of Utrecht University ("SONNMRLSF") with a Customer for Services ("Customer"), individually also referred to as "Party" and together also referred to as "Parties". Utrecht University is a legal entity established under the laws of the Netherlands and governed by public law under section 1.8 of the Higher Education and Research Act (Wet op het hoger onderwijs en wetenschappelijk onderzoek), having its registered offices at Heidelberglaan 8, Utrecht, the Netherlands.

In addition to these specific Terms, the General Terms & Conditions of Delivery of Utrecht University apply (Attachment I). In the event that they are in conflict, these Terms will prevail over the General Terms & Conditions of Delivery of Utrecht University. SONNMRLSF's offer to sell or otherwise deliver any Services to Customer shall not be deemed or construed to be an acceptance of any of Customer's terms and conditions, nor a waiver of any term set forth herein. Unless SONNMRLSF and Customer enter into a separate written agreement specifically saying otherwise, legally executed by SONNMRLSF, the purchase of any Services by Customer shall be deemed acceptance of these Terms.

2. Quotations

Unless otherwise indicated, quotations are open for acceptance by the Customer within thirty (30) days from the date of quotation. Acceptance can be performed by e-mail to SONNMRLSF at the address of nmr@uu.nl. All prices are quoted in Euros and all amounts exclude VAT. Scheduling of the Services occurs after acceptance of the unchanged quotation by the Customer.

3. Services

Services provided under these Terms by SONNMRLSF deal with NMR data generation and acquisition on samples provided by Customer ("Samples") according to standard and documented procedures. In specific cases, SONNMRLSF the Services can include assistance for specific sample preparation steps, such as those required for Dynamic Nuclear Polarization or other advanced NMR experiments. NMR data acquisition can be either performed by Customer or by SONNMRLSF operators, as specified in the quotation. The outcome of an NMR data acquisition includes the recorded time-domain data ("NMR Data") and, if agreed upon beforehand, processed frequency-domain data ("NMR Spectra") for all Samples. The NMR Data and if applicable the NMR Data Analyses together will form the results of the Services ("Results").

4. Planning

- (a) After acceptance of the quotation SONNMRLSF and Customer will agree upon a starting date for the Service ("Starting Date").
- (b) Customer will use its reasonable efforts to ensure that SONNMRLSF has received the Samples in appropriate conditions before the agreed Starting Date. If the Samples are received by SONNMRLSF later or in a condition unsuitable for experiments, SONNMRLSF and Customer will agree upon a new Starting Date for the Service.
- (c) SONNMRLSF shall make reasonable efforts to perform the Services and provide the Results to Customer without undue delay after the Starting Date.

5. Reporting

- (a) SONNMRLSF will deliver NMR data and NMR spectra to Customer in a form that has been agreed upon, without undue delay, following the completion of the Services. If agreed upon beforehand, SONNMRLSF can deliver partial NMR data, NMR spectra and/or Results to Customer during the performance of the Services.

6. Confidentiality

- (a) "Confidential Information" shall mean any information including business information, know-how, background Intellectual Property (IP), material, software, equipment, methods and Samples the Parties communicate to or share with each other in relation to the Services;
- (b) The Parties agree to treat Confidential Information as confidential and agree not to disclose the same to any third party without the prior written consent of the Party providing the Confidential Information.
- (c) Parties may not disclose any of the Confidential Information to their own officers and employees except to those directly engaged in the execution of the Services for whom it is necessary to know such information for the sole purpose of performing the Services, and only to the extent necessary for this purpose.
- (d) These obligations no longer apply where the Confidential Information:
 - is or becomes publicly known without the involvement of the receiving Party;



- at the time of receipt is already known to the receiving Party and is not subject to any (other) obligation of confidentiality, to be notified to the other Party immediately and to be proofed on demand by sufficient written evidence;
- will after the time of receipt be obtained by the receiving Party from an independent source, under which circumstances the receiving Party may not reveal that it has already received the relevant Confidential Information from the providing Party;
- has been independently developed by the receiving Party to be proofed on demand by sufficient written evidence;
- is disclosed pursuant to the requirement of any statute or regulation or the order of any Court of competent authority. If such a situation occurs, Parties shall inform each other promptly of such requirement or order in order to assist in minimizing the disclosure.

7. Ownership

- (a) The Samples received by SONNMRLSF shall remain the sole property of Customer at all times.
- (b) All information related to the Samples, as well as the Results of the Services shall be treated as Confidential Information of Customer.
- (c) Customer will own patentable inventions, discovered in or occurring directly as a result of the execution of the Services ("Inventions"), insofar that they are specific to and related to the materials provided by Customer. SONNMRLSF will own any inventions that are related to NMR spectroscopy methodology, related methods and methodologies and inventions related to further method development.
- (d) Unless indicated otherwise by the Customer, Samples shall be kept by SONNMRLSF for a maximum of 30 days following the agreed Starting Date, after which they will be destroyed, unless agreed otherwise in writing between Customer and SONNMRLSF.
- (e) Unless agreed upon NMR Data acquired for Customer shall be kept by SONNMRLSF for a maximum of 30 days following the completion of the Services, after which they will be destroyed, unless agreed otherwise in writing between Customer and SONNMRLSF.

8. Liability

- (a) SONNMRLSF will perform the Services in accordance with all applicable laws and regulations and to the best of its ability. It does not guarantee the usefulness of the Results obtained nor the consequences of the application thereof and does not accept any liability for damage or loss which arises due to the fact that the results of the Services do not qualify for patenting or because rights of third parties are infringed when applying the Results. Customer hereby indemnifies and holds harmless SONNMRLSF and its respective personnel against any and all claims by third parties relating to the results of the Research Project and the use thereof.
- (b) Customer is responsible for the proper delivery of samples sent to SONNMRLSF. Unless otherwise specifically agreed in writing by SONNMRLSF, SONNMRLSF accepts no responsibility for any loss or damage, which may occur to any sample in transit or to any facility or site where logistics services are being delivered. Customer will at all times be liable for the security, packaging and insurance of the sample from its dispatch until it is delivered to the offices or the laboratories of SONNMRLSF. SONNMRLSF will use reasonable care in handling and storing samples, but SONNMRLSF shall not be held responsible for any loss or destruction of samples even after their receipt at its laboratories.

9. Payments

- (a) Customer will pay SONNMRLSF according to the Services as described in the Quotation.
- (b) SONNMRLSF will send an invoice to Customer for the payments under a) within 30 days after the delivery of the Service. Customer shall make all payments within 30 days of the date of the invoice.

10. Validity

These Terms apply to all SONNMRLSF quotations and sales agreements made after June 21, 2016, and supersede any previous SONNMRLSF Terms.



ATTACHMENT I: GENERAL TERMS & CONDITIONS OF DELIVERY

Utrecht University's General Terms & Conditions of Delivery were adopted by a decision of the Executive Board Executive Board in a decision dated 28 April 2009 and filed with the Registry of the Court in Utrecht on 8 July 2009 under number 219/2009.

Article 1 - Definitions

General Terms & Conditions of Delivery Agreement

These General Terms & Conditions of Delivery of UU.

The Agreement in return for payment between UU and the Other Party to provide services, perform work and/or deliver goods by UU to the Other Party, including follow-up Agreements, and covered by these General Terms & Conditions of Delivery.

Parties

UU

UU and the Other Party.

Utrecht University, Utrecht University, a legal entity under public law by virtue of Article 1.8 of the Higher Education and Research Act, established in Utrecht, including its faculties, Service Departments and other organisational components.

Other Party

The natural person or legal entity for whom an Agreement is entered into by or on behalf of UU.

Article 2 - Applicability

1. These General Terms & Conditions of Delivery apply to all offers and tenders made by UU and constitute an indivisible part of all Agreements between UU and the Other Party.
2. Deviations from these General Terms & Conditions of Delivery are valid only if these are agreed explicitly and in writing by the Parties.
3. Any general terms & conditions of the Other Party or other third parties, howsoever named, are explicitly rejected.
4. In the event that they are in conflict, the Agreement will prevail over these General Terms & Conditions.
5. In the event that and as soon as it transpires that one or more stipulations of these General Terms & Conditions is/are null and void or voided, the other stipulations of these Terms & Conditions will remain fully in effect and Parties will consult in order to agree new stipulations to replace the void or voided ones, whereby the purpose and meaning of the void or voided stipulations will be taken into account as far as possible.
6. Failure, at any time, by UU to demand fulfilment of one or more stipulations of the Agreement in no way affects UU's entitlement to demand fulfilment from the Other Party at a later date.
7. UU is entitled to have the work agreed on in the Agreement carried out in full or in part by third parties. UU will inform the Other Party of this in good time.
8. The Other Party will not cede or transfer any rights and/or obligations by virtue of the Agreement, other than following written permission for such from UU.
9. In the event of conflict between the Dutch text of these General Terms & Conditions and the translation thereof, the Dutch text will prevail at all times.

Article 3 - Conclusion of the Agreement

1. All offers made by UU are free from obligation, unless it is explicitly stated otherwise in the offer.
2. An Agreement is concluded through an offer being made by UU and accepted by the Other Party, following which the written agreements are signed by both Parties.
3. The Agreement can only be concluded in writing. Amendments to an Agreement are valid only if these are accepted by both Parties in writing.

Article 4 - Prices and payment

1. Payments to UU of invoices will take place within 30 days of the date of invoice. Other payment conditions must be agreed upon in writing.
2. All prices quoted in an Agreement are to be increased by B.T.W. [Dutch VAT] and other government levies, unless it is explicitly stated otherwise. Payments must likewise be made including B.T.W. and/or other levies.
3. In the event that the Other Party fails to pay the amounts payable within 30 days of the date of invoice or within the term agreed by virtue of the first paragraph, the Other Party will be liable to pay the statutory rate of interest on the outstanding amount, without any notification of default being required.
4. In the event that the Other Party continues to fail to pay the claim, following notification of default, this claim may be passed on to a collection agency, in which case the Other Party will also be liable to pay all extrajudicial and judicial costs associated with the collection of the amount, alongside the total amount payable (including the statutory rate of interest).
5. The prices quoted apply only to the goods, services and work named in the Agreement. All additional goods, work and/or services delivered by UU will be charged for separately at the prices applicable on the date of delivery or on which the services are provided.
6. In as far as the Agreement refers to regular instalments to be paid by the Other Party, UU is entitled to amend the agreed prices and rates by means of written notification to the Other Party, with the observance of a period of notice of three months.
7. UU is entitled at all times to amend the agreed prices and rates by means of written notification to the Other Party for performances to be delivered in accordance with the planning set out in the Agreement at a time at least three months after the date of this notification.
8. Payment must be made by transfer to a bank or giro account in the name of UU stated on the invoice, or separately in writing by UU stating the order number.
9. Any costs associated with payments from outside of the Netherlands are at the expense of the Other Party.

Article 5 - Delivery terms and retention of title

1. All delivery terms agreed between UU and the Other Party are adopted in good Faith on the grounds of the information known at the time the Agreement is concluded and every effort will be made to observe these. UU is not however in default purely through the exceeding of such a delivery term. UU is not obliged to observe delivery terms that can no longer be observed through circumstances beyond its control. In the event that there is a threat of a delivery term being exceeded, UU will inform the Other Party of this at the earliest opportunity and the Parties will consult with one another.
2. All goods delivered to the Other Party and to be delivered to the Other Party remain the property of UU until all amounts the Other Party owes for the goods, services or work performed of to be performed, delivered or to be delivered by virtue of the Agreement, as well as statutory interest and costs for collection, have been paid in full.
3. Rights will in all cases be granted or, if applicable, transferred to the Other Party subject to the condition that the Other Party pays the amounts agreed on time and in full.
4. The risk of loss and damage to goods that are subject to the Agreement passes to the Other Party the moment the Other Party or a third party brought in by the Other Party has been given actual possession of these.



Article 6 - Complaints

1. In the event that, in the opinion of the Other Party, a product or service delivered by UU does not (entirely) meet the usual quality standards or that which may be expected by virtue of the Agreement, the Other Party may make a written complaint.
2. Complaints concerning visible defects must be made in writing within 8 days of delivery. Complaints concerning invisible defects must be made in writing within 8 days of the defect being ascertained by the Other Party, or if this is earlier, the time the Other Party could reasonably have ascertained this or should reasonably have ascertained this. Failing which, all liability on the part of UU lapses.
3. If the complaint is justified, the products or services delivered will be repaired, replaced or credited, following consultation.
4. A complaint does not suspend the obligations of the Other Party.

Article 7 - Intellectual property rights

1. Unless it is explicitly agreed otherwise in writing, all intellectual property rights to all software, equipment or other materials such as analyses, designs, documentation, reports, as well as the preparatory materials for these and offers developed or made available by virtue of the Agreement, remain the exclusive property of UU or its licensors and the Other Party will receive, if such follows from the nature of the Agreement, only a non-exclusive licence.
2. The Other Party is not permitted to remove or change any mark or notice concerning copyright, brands, trade names or other intellectual property rights from the software, equipment and/or other materials, including notices concerning the confidential nature thereof and confidentiality.

Article 8 - Confidentiality

The Other Party is aware that the software, equipment and other materials made available by UU may contain confidential information and trade secrets belonging to UU or its suppliers. The Other Party undertakes, without prejudice to that stipulated in Article 7.1, to observe confidentiality concerning this software, equipment and these materials, not to make third parties aware of these or give them in use and only to use these for the purpose for which they were made available.

Article 9 - Liability

1. UU can accept liability for direct losses incurred by the Other Party as a result of an attributable shortcoming in the fulfilment of its obligations by virtue of the Agreement or of a wrongful act, only if and in as far as this is covered by its insurance, and then only up to the amount that can be paid out by this insurance.
2. In the event that the insurer fails to pay out, for any reason whatsoever, or the liability for the loss is not covered, or is insufficiently covered, by any insurance policy, UU will accept liability only for the direct losses incurred by the Other Party as a result of an attributable shortcoming in the fulfilment of its obligations by virtue of the Agreement or of a wrongful act, up to the amount of the price to be charged by UU to the Other Party.
3. Liability on the part of UU on the grounds of an attributable shortcoming in fulfilment of an Agreement will arise only if the Other Party has issued a notification of default to UU immediately and in writing, stating a reasonable term within which this shortcoming can be remedied, and holding UU liable should it continue following expiry of this term in this attributable shortcoming in the fulfilment of its obligations.
4. UU will not be liable for indirect losses, including consequential losses, loss of profit, missed savings and losses through business interruption.
5. With the exception of the cases referred to in this Article, UU will accept no liability for losses, irrespective of the grounds on which any action for compensation for damages may be based.
6. The Other Party indemnifies UU against all claims by third parties relating to the use by these third parties of goods, services and/or work supplied to them by the Other Party or otherwise brought into circulation, arising (partly) on the basis of the goods, services and/or work delivered by UU to the Other Party or otherwise brought into circulation.
7. The stipulations of this Article do not apply if the losses are the result of gross negligence or intent on the part of UU.

Article 10 - Dissolution

1. Either Party is entitled to prematurely dissolve the Agreement in the event that the other party, following notification of default stating a reasonable term within which the shortcoming may be remedied, is in default through an attributable shortcoming in fulfilment of one or more of its essential obligations by virtue of the Agreement.
2. In the event of involuntary liquidation or a moratorium and in the event of cessation of work, winding-up or takeover or any comparable situation in relation to the Other Party's business, UU is entitled to dissolve the Agreement, in full or in part, immediately and without notification of default or judicial intervention.
3. If the Other Party has already received or should have received performances by virtue of the Agreement at the moment the Agreement is dissolved, dissolution will not affect these performances and the associated payment obligations, unless UU is in default in relation to these performances. Amounts already invoiced by UU or which could have been invoiced by UU in relation to performances or goods delivered before dissolution, remain payable in full and immediately due at the moment of dissolution.

Article 11 - Force majeure

1. UU is not liable for failure to fulfil its obligations (on time and in full) as a result of force majeure.
2. Force majeure is defined in these terms & conditions as: circumstances that impede the (part of) fulfilment of the Agreement and which are not attributable to UU. This includes, but is not limited to, strikes and illness on the part of personnel and disruption to transport, all of which as affecting both at UU and its suppliers.
3. During a situation of force majeure, UU's delivery and other obligations ensuing from the Agreement will be suspended. Both Parties are entitled to dissolve the Agreement without judicial intervention and without any claim to compensation arising (but only in relation to that part not fulfilled by virtue of Article 11), if the period during which a situation of force majeure prevents (partial) fulfilment of an obligation by UU lasts longer than two months.
4. In the event that, prior to the situation of force majeure arising, UU has already carried out part of its obligations, or is prevented by the force majeure only from fulfilling part of its obligations, it is entitled to invoice separately for that part already delivered or the part that still can be delivered, and the Other Party is obliged to pay this invoice as if it were a separate Agreement.

Article 12 - Applicable law and disputes

1. All Agreements between UU and the Other Party are governed exclusively by the law of the Netherlands. The Vienna Sales Convention does not apply.
2. All disputes (including those seen as such by only one of the Parties) that may arise from this Agreement or ensuing Agreements between Parties, will be brought before the court in Utrecht, unless Parties agree to arbitration.