1. SCOPE OF WORK
1.1. The general Terms and Conditions of Sale outlined herein shall govern and control commercial relations between Xenocs SAS (hereinafter referred to as “Seller”) and all its clients (hereinafter referred to as “Buyer”).
1.2. Unless special conditions are agreed between Seller and Buyer, the following general terms and conditions shall apply to services, materials and equipment to be performed or supplied by the Seller (hereinafter referred to as “Equipment”).

2. GENERAL PRINCIPLES
2.1. The general Terms and Conditions of Sale shall cancel and replace any other previous agreement or understanding, and all orders imply that the Buyer has unreservedly accepted these general Terms and Conditions of Sale, which apply to Equipment delivery, performance and payment.

2.3. These Terms and Conditions of Sale shall prevail over clauses governing otherwise appearing in documents or Buyer’s correspondences, including in its general terms and conditions of purchase.
2.4. Subject to compliance with current regulations, the Seller reserves the right to change its prices and its general Terms and Conditions of Sale at any time subject to one (1) month prior notice sent recorded delivery mail. It is expressly agreed that if the Buyer does not contest all or part of the clauses of the new terms and conditions within fifteen (15) days of the Buyer’s receipt of the first amended delivery, the new clauses shall be fully binding upon the Buyer.

2.5. If the Seller does not invoke any stipulation whatsoever of the general terms and conditions of Sale, this may not be interpreted as a waiver on its part to subsequently so do.
2.6. These general Terms and Conditions of Sale are non-negotiable and non-transferable. The Buyer shall not be entitled to fully or partly, directly or indirectly transfer to a third party the advantages of the general Terms and Conditions of Sale or the rights they confer.

3. COMPLIANCE WITH REGULATIONS
3.1. The Seller will comply with applicable laws, regulations, codes and standards in force on the date of the Seller’s quotation, as they may apply to the performance of the contract.
3.2. Compliance with any local governmental laws or regulations relating to the location, use or operation of the Equipment shall be the sole responsibility of the Buyer, and other equipment, shall be the sole responsibility of the Buyer.

4. QUOTATION, PRICES AND TAXES
4.1. All prices are in Euros. When a different currency is used, the price is understood to include the current currency valuation factor or equal to ±0.5%. The reference currency rate is the one in force on the date of the offer.
4.2. Quotations are subject to change for three (3) months after the date shown on the quotation and are subject to change at any time prior to acceptance by the Buyer.
4.3. The price is given on a CIF Xenocs SAS Grenoble, France (Incoterm ICC 2000) basis and where the Delivery Point is other than at the Seller's premises, the Buyer shall pay the Seller's charges for transport, unloading, and insurance and refund to the Seller any foreign excise or other taxes in addition.

5. PAYMENTS
5.1. All payments shall be made within thirty (30) days from the date of invoice following the following payment schedule: payment of 30% on the order, 60% upon delivery and 10% after reception
5.2. Payment shall be made by transfer of funds in a way agreed by the Parties to the Seller’s bank account number, which will be provided herein and user, if any deduction, withholding, or other charges.
5.3. Failing full payment on the due date, the Buyer will be charged interest on the amount invoiced at the legal rate
5.4. The Seller may also suspend delivery or cancel existing orders without prejudice to any other actions.

6. ACCEPTANCE
6.1. Acceptance of the Buyer's purchase order is conditional to the Terms and Conditions of Sale set forth in the Seller's offer. Sales are not express, implied, valid or irrevocable only when accepted in writing by the Seller.
6.2. No waiver or amendment of any of the provisions of the offer shall be binding on the Seller unless in writing and expressly stating that it is such a waiver or amendment and signed by an authorized representative of Buyer.

7. DELIVERIES
7.1. The terms of delivery mentioned in the acknowledgment of receipt of order are the sole contractually binding terms for the Seller except if an unreasonable or force majeure event occurs preventing such delivery.
7.2. Equipment deliveries shall be made FCA Xenocs SAS, Grenoble, France (Incoterm ICC 2008) within the delivery date mentioned on the acknowledgment of receipt of order.

8. ACCEPTANCE TESTS
8.1. Preliminary and final acceptance tests may be carried out by the Seller at the premises of the Buyer.

9. RETENTION OF TITLE
9.1. Even once it has been delivered, Equipment remains the property of the Seller until full payment of the price has been made by the Buyer. Payment is deemed fully made upon effective and full collection by Buyer payment consisting of settlement of presentential costs due.

9.2. However, risks related to Equipment shall be actually transferred upon the removal of Equipment from the Seller's premises, all risks being then transferred to the Buyer. The Seller shall bear all the risks that the Equipment may undergo or cease after their delivery and shall take all necessary steps to preserve the Seller’s ownership right.

9.3. Any claim by the Seller for unpaid Equipment shall lead to the complete cancellation of the sale: all costs incurred such as, in particular, returning costs, return to original state, shall be borne by the Buyer, without prejudice to the claims which could be made by the Seller.

10. WARRANTY
10.1. The Seller warrants that its Equipment shall conform to the description provided to the Buyer through the Seller’s commercial and technical brochures and other documents. This warranty is exclusive and the Seller makes no other warranty, expressed, implied or statutory, including any implied warranty of merchantability or fitness for any particular purpose. In no event shall the Seller be liable for incidental, direct, or consequential damages.

10.2. The Equipment is guaranteed against any material or manufacturing defect during a period of one year from the date shown on the invoice accompanying the Equipment according to the guarantee certificate attached to the Equipment. Any intervention made under the terms of the guarantee shall not, in any case, affect the duration of the period of one year. When the guarantee is invoked, the Seller shall pay in full in accordance with the final guarantee conditions.

10.3. According to the guarantee, the Seller shall return the defective parts of the Equipment at the expense of the Seller. Within a reasonable period of time, the Seller will repair or replace at its option all parts of the Equipment which failures are proved to have arisen within twelve (12) months from date of delivery. The Seller bears the costs for repairs or delivery of replacements, on a CIF closest airport customs facilities equipped (Incoterm ICC 2000 basis).

10.4. Any exclusion from warranty defects or damage caused by natural usage, by wrongful use, by an external accident or modification of the Equipment not provided or specified by the Seller.

11. LIMITATION OF LIABILITY
11.1. Except as otherwise stated herein, the Seller shall not be liable for any indirect, special, incidental or consequential damages resulting from the Seller’s performance or failure to perform under this contract, or the furnishing, performance, or use of any products, furnished pursuant hereto, whether due to breach of contract, breach of warranty or otherwise.

11.2. In no event would the Seller be responsible for any patent infringement which may affect the Buyer.

12. PROPERTY RIGHTS
12.1. In any event, and under any and all circumstances, intellectual and industrial rights of any kind shall remain the full and entire property of the Seller.

12.2. The Terms and Conditions of Sale do not transfer or license any intellectual or industrial property rights on the Equipment involved or on patent rights, trademarks, commercial names or other property rights belonging to the Seller.

13. FORCE MAJEURE
13.1. In the event of force majeure shall suspend performance of the Seller’s obligations until such event has ceased.

13.2. For the purpose of the Terms and Conditions of Sale, force majeure is defined as any event, foreseeable or not, the effects of which could not be reasonably prevented by the Seller and which are of such nature to prevent the performance of obligations.

The following events, among others, are constituent of force majeure: fire, flood, stoppage or delay of transportation, failure of supplier or subcontractor, strikes of any nature, machine breaking, administrative interdict, embargo etc.

14. CONFIDENTIALITY
14.1. The Seller may consider confidential information any and all information concerning the business, activities, products, knowhow, economic, technical, financial, commercial or strategic data of the Seller.

14.2. The Buyer will respect the confidentiality of information exchanged and will not reveal or let them to third parties, without the prior written consent of the Seller.

14.3. Upon request from the Seller, the Buyer will immediately return to the Seller any and all confidential information provided to him, or certify to the Seller in writing that he has destroyed any and all confidential information. The Buyer shall not keep any copy of same.

15. SURVIVAL
15.1. If any provision of the Terms and Conditions of Sale shall be held to be invalid, illegal or unenforceable by any applicable law or all risks related to the sale and enforceability of the remaining provisions shall not in any way be affected or impaired as a result of the invalid or unenforceable provision.

15.2. Unless expressly waived in writing, the fact that any party does not exercise all or part of the rights conferred under the Terms and Conditions of Sale shall in no way be construed as a waiver of any other right it did not exercise.

16. NOTICES
16.1. All notices to be given by one party to another will be effectively and validly given by means of a letter sent recorded delivery (a further copy to be sent by fax in cases of emergency), or, in case of interruption in the postal service, by any effective means. All time periods will run either from the day of delivery or (where delivery does not take place) first presentation of that letter, as to which the records of the French postal service will be conclusive, or from the day of delivery of any notice delivered by any other means. Deadlines are counted in accordance with Articles 640 et seq of the French Code of Civil Procedure.

17. SETTLEMENT OF DISPUTES
17.1. All disputes arising from or in connection with the Terms and Conditions which are not resolved through friendly consultations, shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The arbitration shall take place in Paris in English or French.

18. APPLICABLE LAW
The Terms and Conditions and any Contract hereunder are governed by and shall be construed in accordance with the laws of France.

APPENDIX: Seller’s general information
Name of company:Xenocs
Legal status:SAS (Société par Actions Simplifiée)
Capital EUR:941 7500
Head Office: 1-3, boulevard de la Défense, 92000 Paris, France
Branches: 432-430-566-RCS Grenoble
VAT: FR 92 2943 420 777
SIRET: 432-430-566-00032
Represented by: Peter HOGHU, etFrederic BOISSAN
Phone: +33 (0) 4 76 94 60 40
Banking references: BNP Paribas,Centre d’Affaires Arc Alpin Enterprise
ACI; A02475SA
60 Av Avignon
Zirt de Montbonnot
38800 Montbonnot Saint Martin
IBAN: FR76 3000 4006 1700 0115 6557 880
SWIFT: BPNNFIFRPAR
3004 0007 7000 10755 878
Last modified on: 23rd May 2021