NECEN-LEIDEN TERMS AND CONDITIONS

1. Governing Provisions.

These terms and conditions ("Terms and Conditions") apply to high throughput data collection by usage of an electron microscope, sample optimization for the electron microscope, data processing and map interpretation ("Work") provided by Universiteit Leiden (Leiden University), acting through the Netherlands Centre for Electron Nanoscopy ("NeCEN-Leiden"), in accordance with the applicable quotation or other written statement of work submitted by NeCEN-Leiden and accepted by Client ("SOW"). The accepted quotation may itself constitute the SOW: a separate statement of work or working agreement is not required.

These Terms and Conditions, together with the SOW, form the entire contract between Client and NeCEN-Leiden ("Custom Agreement") and supersede all prior communications between the parties, whether written or oral, relating to the Work, except for a written contract signed by both parties. Any existing non-disclosure agreement applicable to the Work shall remain in force and shall prevail over these Terms and Conditions in the event of a conflict concerning confidentiality or the permitted use of confidential information.

2. Performance of Work.

NeCEN-Leiden shall perform the Work as an independent contractor, using methods, materials, equipment, personnel and/or related intellectual property owned or controlled by NeCEN-Leiden to provide Client with data and/or materials produced by NeCEN-Leiden as a direct result of the Work, as specified in the SOW (collectively "Deliverables"), which Deliverables may include data or materials that result from the use of materials supplied by Client ("Client Materials"). All Work is provided on a best professional efforts basis ('*inspanningsverplichting*') in accordance with recognized academic and scientific standards. NeCEN-Leiden does not warrant or guarantee that any biological sample will yield specific resolution, structural models, or scientific outcomes. NeCEN-Leiden will make a good faith effort to start and complete all Work on time, and will notify Client if substantial delays are likely.

NeCEN-Leiden will comply with all laws and regulations generally applicable to Work, and with any specific regulatory framework agreed in the SOW.

NeCEN-Leiden may delegate performance of the Work, or portion thereof, to an affiliate or subcontractor, provided that all Work will be performed in accordance with the Custom Agreement. Performance of Work hereunder is conditioned on Client's acceptance of the Terms and Conditions and the SOW, whether by execution of the SOW, a contract, or a PO that references the SOW. In the event of a conflict of terms, the SOW takes precedence over these Terms and Conditions, and any written contract signed by both parties takes precedence over either; inconsistent terms of a PO shall not apply unless NeCEN-Leiden has agreed to them in writing.

3. Client Materials, Biosafety and Data.

Client will provide NeCEN-Leiden with Client Materials specified in the SOW, in compliance with applicable laws and regulations and in sufficient amounts, as well as relevant safety information and other characteristics of Client Materials needed by NeCEN-Leiden to perform the Work, including without limitation any certification or documentation of Client Materials reasonably requested by NeCEN-Leiden. Client warrants that all Client Materials supplied to NeCEN-Leiden comply with NeCEN-Leiden's sample acceptance and safety requirements communicated to Client before shipment. Client shall disclose all known or reasonably foreseeable biological, chemical, or radiological hazards to facility personnel or instrumentation, and provide relevant Safety Data Sheets (SDS) and material characterizations before dispatch.

Materials requiring additional containment or safety measures shall not be shipped unless NeCEN-Leiden has reviewed the relevant risk documentation and confirmed in writing that it can safely accept and handle them.

Upon completion of the Work, NeCEN-Leiden will retain the Data on its active storage infrastructure for thirty (30) calendar days following written notification to Client that the complete Data are available for download or that transfer has been completed. Client is responsible for timely downloading and verifying the Data and shall promptly notify NeCEN-Leiden of any access or transfer problems. If a problem attributable to NeCEN-Leiden prevents access to the complete Data, the retention period shall commence when NeCEN-Leiden notifies Client that the problem has been resolved. After this period, NeCEN-Leiden may delete the Data from its active storage infrastructure, unless otherwise agreed in writing. This does not affect records that NeCEN-Leiden is required to retain by law or copies retained temporarily in routine backups, which shall remain subject to Section 8.

Client is solely responsible for the means of transportation, proper packaging, dry-shipper integrity, and the physical state of Client Materials at time of arrival at the exact address and within office hours stated in the SOW. Client informs NeCEN-Leiden about the date and, if possible, time Client's Material is due to arrive at NeCEN-Leiden.

NeCEN-Leiden will use Client Materials and Data only in accordance with the SOW, and will not modify nor reverse engineer Client Materials except as agreed therein. Unless otherwise specified in the SOW or agreed in writing, any Client Materials not consumed in the Work or required for additional Work will be returned to Client at request and at Client's expense. Client Materials and grids not requested for return within thirty (30) days following project completion will be deemed discarded and safely destroyed by NeCEN-Leiden. NeCEN-Leiden will not transfer Client Materials, in whole or in part, to any third party, without Client's prior written approval.

4. Use Limitations.

Except as expressly agreed otherwise in the SOW, Client agrees to use Deliverables only for Client's lawful internal research purposes, not for use in humans, and in accordance with any Limited Use Label License ("LULL") identified in the SOW, and Deliverables shall not be transferred to or commercially used by or for any third party, regardless of whether such transfer or commercial use of Deliverables is for research purposes of Client. The research use limitation, however, shall not preclude Client's use of (i) Deliverables in its lawful research and development of commercial products or services, provided that such product or service does not require the practice of NeCEN-Leiden Technology, or (ii) any Data for the regulatory approval and commercialization of such products or services. Where more than one LULL is applicable, the most restrictive LULL shall apply, and these Terms and Conditions take precedence over any less restrictive LULL, but any use limitations or permissions expressly stated in the SOW take precedence over either. Without limiting the foregoing, Client shall not directly or indirectly furnish materials or information provided hereunder to any entity, or destination, or for any use, except in full accordance with all applicable laws and regulations, including without limitation export control and trade sanctions laws and regulations.

5. Pricing and Payments.

The Access rates for the Work are published on the website and are subject to alteration. NeCEN-Leiden uses differentiated rate structures for Dutch academia, International Academia and Industry. Academic rates apply exclusively to non-commercial academic research projects funded by academic institutions or public research grants; any work commissioned by, for, or in direct collaboration with commercial entities shall be charged at the applicable Industrial rate. All rates exclude Value Added Tax (VAT / BTW). All rates are without the costs of shipping of Client Material to and from NeCEN-Leiden: Client is responsible for transportation. All rates do not include the cost for specialized shipping, external hard drives, or premium cloud transfer services needed to provide Deliverables. All fees are denominated in Euros (EUR), and any bank charges, wire transfer fees, or currency conversion expenses shall be borne entirely by the Client. Client shall pay NeCEN-Leiden for the Work within thirty (30) days after the date of the respective invoice(s), which shall be sent to Client upon completion of the Work (or portion thereof), according to the payment schedule specified in the SOW. If Client defaults on any payment when due, NeCEN-Leiden, at its option and without prejudice to its other lawful remedies, may delay performance, defer delivery, charge statutory commercial interest on undisputed amounts owed, and/or terminate the Custom Agreement.

On request by Client, NeCEN-Leiden may, under special circumstances, deviate from the rates on the website and conditions stated in this Section 5.

6. Ownership, Intellectual Property.

As between the parties, except as otherwise expressly agreed in the SOW, Client shall be the exclusive owner of (i) the Data, (ii) Client Materials, (iii) any derivatives or modifications of Client Materials that are generated by NeCEN-Leiden as a direct result of the Work, and (iv) any inventions and/or discoveries that directly result from the performance of the Work and that directly relate to Client Materials, whether or not copyrightable or patentable (collectively, the "Client Inventions").

NeCEN-Leiden's laboratory notebooks, operational workflows, instrumental tuning protocols, or other records maintained with respect to the Work shall be owned by NeCEN-Leiden, provided however that if such notebooks or records contain any Data or other confidential information of Client, such Data and confidential information will continue to be the property of Client, and the parts of the notebooks and records that contain Client confidential information will be subject to NeCEN-Leiden's obligations of nonuse and confidentiality as set forth in Section 8.

Notwithstanding the foregoing, Leiden University retains all rights in its pre-existing technology, software, methods, protocols and know-how, and in improvements of general application developed in performing the Work that do not constitute Client Inventions ("NeCEN-Leiden Technology"). Ownership of the Data and Client Inventions does not transfer ownership of NeCEN-Leiden Technology.

7. Non-Exclusivity.

Unless expressly agreed in writing, all Work is provided on a non-exclusive basis, and NeCEN-Leiden reserves all rights for itself to provide third parties with deliverables that are identical or similar to Deliverables, provided that NeCEN-Leiden shall not use any Client Materials or confidential information received from Client to perform Work for any third party. Notwithstanding anything else in the Terms and Conditions, where NeCEN-Leiden performs the Work without reliance on Client Materials or confidential information received from Client, NeCEN-Leiden reserves all rights to develop and commercialize such Work.

8. Confidentiality.

NeCEN-Leiden shall treat all Data and Client Materials as proprietary and confidential to Client, and will not disclose Data or Client Materials to any person except its employees, consultants, and subcontractors as necessary for purposes of providing the Work, and then only subject to confidentiality obligations that include the requirements specified herein. If NeCEN-Leiden discloses any information or materials comprising NeCEN-Leiden Technology to Client, Client shall treat such information and materials as proprietary and confidential to NeCEN-Leiden. Each party shall protect the proprietary and confidential information or materials of the other party by using the same degree of care as such party uses to protect its own materials and information, but in any event no less than a reasonable degree of care.

Notwithstanding any other provisions herein, however, each recipient party shall have no obligation to the other party for any information or material that is (a) already known to the recipient party; (b) publicly known other than by a wrongful act of the recipient party; (c) received from a third party lawfully entitled to disclose it; (d) disclosed pursuant to an enforceable order of a court or administrative agency; and/or (e) is independently developed by or for the recipient party without reference to the disclosing party's confidential information.

9. Limited Warranty and Technical Downtime.

The Work, high throughput data collection by usage of an electron microscope, sample optimization for the electron microscope, data processing and map interpretation, is a highly specialized operation using state of the art technology. NeCEN-Leiden is doing its utmost to assure correct operation at all times and regular maintenance. However, due to unexpected and various circumstances the microscope may not be working correctly. NeCEN-Leiden cannot be held accountable for any damages that may arise out of aforementioned circumstances.
NeCEN-Leiden's sole warranty for the performance of Work is that the Work will be performed using due care in accordance with (a) the Custom Agreement, including the respective SOW and (b) laws, regulations and generally prevailing academic and industry standards applicable to such Work; NeCEN-Leiden does not warrant or represent that the results of the Work will be acceptable to any regulatory agency to which they are presented or that they will advance the commercial or scientific interests of Client. The Deliverables will be presented 'as is' and will not be interpreted in any way, unless requested otherwise and laid down in a separate agreement. Any pre-processing during the collection of data will not be a part of the Data and will only be carried out to ensure correct operation.

If Client believes that NeCEN-Leiden, in breach of its limited warranty, has made a material error in the Work that renders the results of such Work invalid, Client must notify NeCEN-Leiden of such error in writing, within six (6) months after receipt of the final Deliverable for such Work; and as Client's sole remedy for such error, NeCEN-Leiden shall either (i) repeat the particular Work at NeCEN-Leiden's own expense or (ii) refund to Client the fees actually paid for the particular Work giving rise to the breach of warranty.
9.1. Technical Downtime and Rescheduling: In the event that a scheduled measurement cannot take place, is interrupted, or is delayed due to unexpected hardware failure, vacuum or cryo-system faults, or technical downtime beyond NeCEN-Leiden's reasonable control, NeCEN-Leiden's sole obligation and Client's sole remedy shall be for NeCEN-Leiden to reschedule the lost measurement time at the earliest mutually available date. NeCEN-Leiden shall under no circumstances be liable for any wasted travel, accommodation, researcher standby time, or external commercial expenses incurred by Client.
9.2. NECEN-LEIDEN SHALL NOT BE LIABLE HEREUNDER, UNDER ANY LEGAL THEORY, FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF PROFITS OR LOSS OF BUSINESS, EVEN IF NECEN-LEIDEN HAD NOTICE OF THE POSSIBILITY THEREOF.

9.3. THE WARRANTY SET FORTH IN THIS SECTION 9 IS IN LIEU OF ANY AND ALL OTHER WARRANTIES RELATING TO THE WORK, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT DELIVERABLES OR USE THEREOF WILL NOT INFRINGE ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT.
9.4. NECEN-LEIDEN'S LIABILITY TO CLIENT FOR BREACH OF ANY PROVISION OF THE CUSTOM AGREEMENT (OTHER THAN BREACH OF THE WARRANTY IN THIS SECTION 9 FOR WHICH LIABILITY IS LIMITED TO RE-PERFORMANCE OR REFUND AS SPECIFIED HEREIN) SHALL BE LIMITED TO DAMAGES IN AN AMOUNT NOT TO EXCEED THE FEE ACTUALLY PAID FOR THE WORK GIVING RISE TO THE CLAIM.
9.5. NOTHING IN THE CUSTOM AGREEMENT, INCLUDING THE EXCLUSIONS AND LIMITATIONS IN THIS SECTION 9, SHALL LIMIT OR EXCLUDE LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE, FRAUD OR FRAUDULENT MISREPRESENTATION, WILLFUL MISCONDUCT OR DELIBERATE RECKLESSNESS OF A PARTY'S SENIOR MANAGEMENT, OR ANY LIABILITY THAT CANNOT LAWFULLY BE EXCLUDED OR LIMITED.
9.6. THE WORK WILL BE SCHEDULED BY NECEN-LEIDEN IN ACCORDANCE WITH THE CUSTOM AGREEMENT. NECEN-LEIDEN RESERVES THE RIGHT TO ADJUST SPECIFIC MEASUREMENT DATES IN CONSULTATION WITH CLIENT DUE TO OPERATIONAL OR MAINTENANCE REQUIREMENTS.

10. Indemnification.

Except to the extent caused by the willful misconduct or gross negligence of NeCEN-Leiden, Client shall indemnify and hold harmless NeCEN-Leiden, Leiden University, their affiliates and their respective officers, directors, employees and agents ("Indemnified Party") from and against any and all expenses (including, but not limited to, reasonable attorney's fees) and losses incurred by any such Indemnified Party in connection with any claim asserted by a third party arising out of or based on (a) Client Materials or use thereof in performance of the Work as specified in the SOW; and/or (b) any product or service of Client based in whole or part on Client's reliance on Deliverables, or any portion or derivative thereof; and/or (c) breach of Section 3 or Section 4.

11. Changes, Termination and Cancellation Policy.

Changes to the Work must be agreed to by both parties in writing, and may require changes in the fees or timelines. NeCEN-Leiden is aware that Client Materials are non-standard and therefore, in case of unforeseen circumstances and if possible, is willing to carry the Work out on a different date than agreed on.
NeCEN-Leiden may terminate the Custom Agreement if:
(a) Client breaches any material provision of the Custom Agreement and fails to remedy the breach to the satisfaction of NeCEN-Leiden within 15 days after written notice thereof;
(b) NeCEN-Leiden is unable to obtain third party materials or technology specified in the SOW, for reasons beyond NeCEN-Leiden's reasonable control;
(c) NeCEN-Leiden determines that biosecurity, biosafety, or feasibility reasons prevent or are likely to prevent the performance of the Work, or
(d) Client is or is deemed by law to be unable to pay its debts or perform its obligations under the Custom Agreement.

Cancellation and Rescheduling Policy:
Client may cancel or reschedule a confirmed booking for microscope measurement time subject to the following advance notice periods and cancellation fees:
(a) Notice fourteen (14) calendar days or more prior to the scheduled start date: Free of charge (0% penalty fee). Client may cancel the session or request rescheduling to a future available slot without financial penalty.
(b) Notice between seven (7) and thirteen (13) calendar days prior to the scheduled start date: Client shall be charged fifty percent (50%) of the total agreed fee for the reserved measurement time. At NeCEN-Leiden's discretion, this 50% charge may be credited toward a rescheduled session conducted within three (3) months.
(c) Notice less than seven (7) calendar days prior to the scheduled start date, or No-Show: Client shall be charged one hundred percent (100%) of the total agreed fee for the reserved measurement time. In the event that NeCEN-Leiden is able to reallocate the cancelled slot to another internal or external user from its waitlist, NeCEN-Leiden will reduce the charge to a ten percent (10%) administrative handling fee.
(d) Work in Progress: If measurement or processing has commenced and is terminated early at Client's request for reasons not attributable to NeCEN-Leiden, Client shall be charged for one hundred percent (100%) of the time used plus fifty percent (50%) of the remaining reserved idle time, in addition to any consumables expended.
(e) Academic Sample Exception: For academic users whose samples suffer verified transit damage, dry shipper failure, or unexpected sample degradation, NeCEN-Leiden may, upon prompt written notice and at its sole discretion, grant a one-time free rescheduling instead of forfeiture.

The charges under paragraphs (a) to (d) are alternative and shall not be cumulative for the same Work or reserved measurement time. No additional termination or cancellation charge specified in the SOW shall be charged for the same Work or time unless expressly agreed otherwise. Consumables shall not be charged separately to the extent that their cost is already included in the applicable fees. These cancellation charges shall not apply where cancellation results from NeCEN-Leiden's breach of the Custom Agreement.

12. Miscellaneous.

This Custom Agreement may not be assigned without the prior written consent of the other party.

The Custom Agreement and these Terms and Conditions shall be governed by the laws of The Netherlands. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. Any dispute arising out of or in connection with the Custom Agreement that cannot be settled amicably shall be submitted to the exclusive jurisdiction of the competent court in The Hague (Den Haag), The Netherlands.
If any part of these Terms and Conditions is found to be legally unenforceable, the remaining clauses of these Terms and Conditions shall be unimpaired, and the parties shall in good faith negotiate an enforceable provision that most closely achieves the objectives of the unenforceable provision.

Except for payment obligations, neither party shall be responsible for failure to perform its obligations due to natural disasters or other force majeure causes beyond its reasonable control.
Publication and Confidentiality Distinction:
(a) For Industry Clients (paying Industrial Rates): Full commercial confidentiality applies. Neither party shall use the name, trademarks, or logos of the other party or its personnel in any promotion, press release, or commercial publication without prior written consent.
(b) For Academic Clients (paying Academic Rates): Academic users are strictly required to acknowledge NeCEN-Leiden in all scientific publications, presentations, and theses presenting results derived from the facility (using the citation: 'We acknowledge the Netherlands Centre for Electron Nanoscopy (NeCEN-Leiden) of Leiden University for cryo-EM data collection and support'), and to inform NeCEN-Leiden upon publication.

No waiver by either party of any breach hereof shall constitute a waiver of any other breach thereof.

NeCEN-Leiden reserves the right to amend these Terms and Conditions for future orders. The version applicable to each order shall be identified in the relevant SOW and made available to Client before acceptance.

Amendments shall not apply to an existing Custom Agreement unless agreed by both parties in writing. The latest version is available at www.necen.nl.