

## 1. Applicability of the General Terms and Conditions

1.1 All transactions between 'RHEAVITA BVBA', a private limited liability company ("*besloten vennootschap met beperkte aansprakelijkheid*") registered under the laws of Belgium, with registered office at Technologiepark Zwijnaarde 3 Gent, PO box 17, VAT BE 0695 884 829, (hereinafter referred to as "RHEAVITA") and the client are governed by (in descending hierarchical order, with the next applying in the absence or non-application of the previous):

- the signed agreement between RHEAVITA and the client;
- the (final) proposal / quotation from RHEAVITA as signed or otherwise as accepted by the client;
- these general terms and conditions;
- Belgian law.

1.2 By requesting a price, placing an order and/or entering into an agreement, the client acknowledges having taken note of these general terms and conditions, and accepts that these general terms and conditions shall apply to all existing and future contractual, pre-contractual and non-contractual relationships with RHEAVITA.

1.3 These general terms and conditions shall always take precedence over any terms and conditions of the client, which shall not be enforceable against RHEAVITA, even if these state to be the only valid terms.

1.4 Any deviation from these general terms and conditions must be the subject of a separate agreement, signed by RHEAVITA. A deviation of this kind can never be considered as a precedent, and shall only apply to that particular relationship with that particular client. The (even repeated) non-enforcement of any right by RHEAVITA can only be regarded as tolerance towards a specific condition, and shall not lead to any waiver of rights.

1.5 The invalidity of one or more provisions of these general terms and conditions, or any part thereof, shall not affect the validity and enforceability of the other clauses and/or the remainder of the provision in question. In case of invalidity of one of the provisions,

1.6 RHEAVITA and the client shall negotiate the replacement of the invalid provision by an equivalent provision in accordance with the spirit of these general terms and conditions. Should RHEAVITA and the client not reach an agreement, the competent court can mitigate the invalid provision to what is (legally) permitted.

1.7 RHEAVITA reserves the right to adapt or modify these general terms and conditions at any time.

## 2. Activities of RHEAVITA

RHEAVITA is specialised in Research, Development, Engineering and Delivery of bio-pharmaceutical freeze drying Technology and associated equipment. Additionally, RHEAVITA supplies software, services and support in the field of Freeze Drying Technology.

## 3. Proposals & Quotations

3.1 All proposals and quotations of RHEAVITA, either verbal or in writing, are non-binding, merely provide an indication of the supply, services and the price, and shall be subject to further negotiations between RHEAVITA and the client. RHEAVITA and the client shall further discuss the scope of the agreement, the objectives, the deliverables, the timing and the price. During these negotiations, the proposal / quotation shall continuously evolve. Any changes to a proposal / quotation renders the previous proposal / quotation null and void.

After RHEAVITA and the client reach an agreement concerning all conditions of the cooperation, RHEAVITA shall provide the client with a final proposal / quotation, which may be accepted by the client.

3.2 Unless specified otherwise in writing, the validity of a final proposal or quotation is limited to 30 calendar days.

3.3 A proposal or quotation shall only apply for a particular order and not to subsequent orders.

## 4. Establishment of the agreement

An agreement is established:

- when a contract is signed between RHEAVITA and the client, or
- when the client signs a final proposal or quotation issued by RHEAVITA, or when the client confirms in any form whatsoever agreeing with the final proposal or quotation.

## 5. Cancellation of the agreement

5.1 In the event of the cancellation or termination of an agreement by the client, without this being due to a shortcoming on the part of RHEAVITA and even prior to the execution by RHEAVITA, RHEAVITA reserves the right to charge the services already provided and the costs incurred, increased by a fixed sum for damages amounting to 25 % of the price (excl. VAT) of the cancelled services, with a minimum of € 500, without prejudice to the right to compensation for higher proven damage. The same applies when RHEAVITA cancels or terminates the agreement because of the client's shortcomings (for example for reasons of late payment, as described in Article 11.2(ii)).

5.2 If, in the course of the implementation of the agreement, RHEAVITA comes to the conclusion that the intended objective of the services cannot reasonably be achieved – even after thorough research, study and testing – RHEAVITA will inform the client accordingly as soon as possible. In such case, RHEAVITA and the client shall endeavour to consult and, if appropriate, to adapt the object of the agreement. If they do not come to an agreement, or if it is not possible to adapt the object, the agreement shall be terminated with immediate effect. Upon termination, the client is obliged to pay for the services provided up to that time, as well as the costs incurred.

## 6. Scope of the agreement

6.1 The subject matter of the services provided by RHEAVITA, shall be determined in the written contract and/or in the final quotation or proposal that was accepted by the client. The scope of the services to be delivered shall be limited to what is specified in these documents and RHEAVITA shall solely be bound to provide the services as described herein.

It is the responsibility of the client to determine whether the services as specified in the agreement comply with the objective in mind.

6.2 Any modifications and/or additions to the deliverables after the conclusion of the agreement (for both additional and reduced work) shall only be valid after written agreement by both RHEAVITA and the client, including an agreement with respect to the changed price and completion dates. In the absence of a written agreement regarding modifications or additions to the services, designs and hardware, it shall be assumed that these have been carried out in accordance with the (verbal) instructions of the client.

6.3 All services or components thereof, that are not explicitly foreseen in the proposal or agreement shall, in any case, be deemed to be additional orders and/or additional work, and shall be supplementary charged to the client as a supplement, regardless of whether they are the result of a change to the order by the client, or due to unforeseen circumstances or any other reason whatsoever. The price for these additional orders and/or additional work shall be calculated in accordance with the regulations specified in Article 9.1 and in accordance with the prices valid at the time the agreement was initially concluded.

## 7. Provision of services

7.1 All agreements RHEAVITA enters into are generally considered to be obligations of means, not obligations of results. RHEAVITA shall always provide the service with due diligence, with appropriate care and in good faith, and shall carry out the services to the best of its understanding, skill, insight and ability, as reasonably expected of a professional experienced in services of comparable scope, complexity and size. However, RHEAVITA does not guarantee a certain result.

7.2 The services are offered in accordance with the basic principle that the client has taken all measures to ascertain if the services are suitable for the client's particular situation or case and the objective the client has in mind.

7.3 The interpretation of the results, advices and recommendations of RHEAVITA, by the client or by a third party, the application to a particular case and, in general, the use of the results, advices and recommendations of RHEAVITA in whatever way and whatever situation, always takes place under the full responsibility and own risk of the client. RHEAVITA is not responsible for any direct or indirect damage arising from this. The client decides whether or not to follow RHEAVITA's advice and recommendations, and bears the full responsibility for its application.

7.4 Only the final reports and advices of RHEAVITA are legally binding on the part of RHEAVITA. Interim, preliminary or draft reports or advice shall not be binding for RHEAVITA in any case whatsoever. The use of these reports and advices shall be at the full risk of the client.

7.5 RHEAVITA provides the services on a fully independent basis. This independent cooperation shall not entail any relationship of subordination.

7.6 RHEAVITA reserves the right to partially outsource its contracts to subcontractors.

7.7 The client is obliged to cooperate in the preparation and implementation of the services by RHEAVITA, and to provide the necessary support. This includes (but is not limited to):

- the provision of the necessary instructions;
- access to the required data and information;
- the provision of all information concerning applicable laws and regulations. The client shall inform RHEAVITA concerning all relevant laws and regulations and shall assist and guide RHEAVITA in this respect. RHEAVITA does not carry any responsibility to comply with specific laws and regulations, unless the client duly informed RHEAVITA thereof.

RHEAVITA is entitled to rely on data and information provided by the client, without having to verify its accuracy and completeness. RHEAVITA shall make use of data and information provided by the client without accepting any responsibility in this respect. The client is responsible for the accuracy and completeness of the data the client provides, and indemnifies RHEAVITA from any claims in this context, including claims of third parties.

## 8. Timeframe & Completion dates

8.1 RHEAVITA will do its utmost to respect the agreed upon (intermediary and final) completion dates. However, the services are highly project specific and unexpected difficulties or issues may arise during execution. Therefore, all specified interim milestones and completion dates shall be merely of an indicative nature and be approximately determined. Exceeding the foreseen completion dates cannot give rise to the termination, cancellation or dissolution of the agreement at the expense of RHEAVITA, or to substitution or any other penalty or damages of any kind whatsoever. Exceeding the completion dates shall not discharge the client of its obligations.

8.2 The timeframes and completion dates will expire automatically and will be extended according to the following:

- In the case of default by the client in any way, whereby, among other situations, RHEAVITA has no timely access to all necessary instructions, data or information, RHEAVITA has no timely access to systems or models to which the contract relates, or RHEAVITA is not given access to the company premises of the client, if such access is necessary for the implementation of the contract;
- If the client has not paid the invoices at the due date;
- If the client modifies or makes additions to the content or implementation method of the services, or if such

modifications/additions prove necessary during the implementation thereof;

- If the client has not provided its interim approval (when required) for the continuation of the service in a timely manner;
- In cases of force majeure or hardship in accordance with Article 14.

**8.3** RHEAVITA shall in no way whatsoever be liable for delays in the implementation incurred as a result of the default by the client or a third party.

## 9. Price

9.1 Unless specified otherwise in writing, prices shall be fixed-rate (price per time unit) and shall include all fees per day and expenses with regard to the services provided by RHEAVITA as determined in the written contract and/or in the final quotation or proposal accepted by the client.

Changes and/or additions to the scope of RHEAVITA's services as a result of changes and/or additions made by the client, because of unforeseen circumstances or any other reason, can be charged extra to the customer.

9.2 Only if expressly agreed in writing, a fee shall be calculated on the basis of performed man-hours and incurred expenses. In such case, the client will be notified in advance of the constituent components on the basis of which the fee shall be calculated (the fees per hour and expenses). RHEAVITA's proposal or quotation may contain an estimation of the man-hours and of the project related expenses. This estimation shall be solely of an indicative nature and is only valid under the condition that the client has provided RHEAVITA with all data and information necessary or useful for the implementation of the services.

9.3 Unless otherwise agreed, all prices are quoted in euro and are exclusive of VAT and other levies or duties.

## 10. Payment

10.1 All invoices are payable in full on the due date as indicated on the invoice. In case no specific due date is mentioned on the invoice, the invoice shall be payable within 30 calendar days after the invoice date.

10.2 Invoices are payable by bank transfer to the bank account specified on the invoice, without any deductions.

10.3 Invoicing shall be organised as specified in the agreement. RHEAVITA reserves the right to invoice the price in instalments in accordance with the progress of the services. If nothing is agreed, RHEAVITA shall have the right to request an advance payment equal to 50% percent of the price before starting the execution of (each phase of) the project.

10.4 RHEAVITA reserves the right to request a specific security for the payment. RHEAVITA is (amongst others) entitled to demand such advance payment or an additional security for the payment at the time the client applies for measures under the Law on the Continuity of Enterprises. If the client is unable to comply with these requirements, or to comply with them in due time, RHEAVITA reserves the right to terminate the agreement, in which case RHEAVITA is entitled to invoice the client for all services already provided and all expenses that have already been incurred.

10.5 Any protest with regard to an invoice shall only be valid if submitted by registered letter within a period of 7 calendar days following the invoice date, stating the invoice date, invoice number and a detailed justification for the protest.

10.6 RHEAVITA reserves the right to invoice electronically, subject to the (at least implicit) agreement of the client.

## 11. Late payment

11.1 In case of incomplete payment or non-payment on the due date of the invoice, the outstanding invoice amount shall, without prior notice (even if a derogation has been granted) be automatically increased by:

- a default interest of 1% per month overdue, whereby each started month will be considered as a whole month;
- a fixed penalty equal to 10% of the outstanding invoice amount, with a minimum of € 150, without prejudice to RHEAVITA's right to prove higher damages;
- any judicial and extrajudicial collection costs.

11.2 If the client fails to meet its obligations, including if the client fails to fulfil one or more outstanding payment obligations either fully or partially on their due date, or in the case of bankruptcy, judicial or amicable dissolution, cessation of payment, legal actions against the client, or any other circumstance that could undermine confidence in the creditworthiness of the client:

- RHEAVITA shall no longer be obliged to the (further) implementation of the services and RHEAVITA can immediately suspend the (further) implementation of the agreement without prior notice;
- RHEAVITA reserves the right to automatically terminate the agreement and all other agreements within a period of 14 calendar days after an unsuccessful written notice to the client, in which case RHEAVITA shall be entitled to invoice the client for services already provided and for the costs incurred;
- The outstanding balance of all invoices, including invoices that have not yet become due, shall become automatically payable immediately.

## 12. Complaints

12.1 Any complaints concerning RHEAVITA's services shall only be admissible if submitted to RHEAVITA in writing:

- within a period of 7 calendar days following the discovery of the problem by the client;
- and at the latest within a period of 3 months following receipt of the final report.

12.2 While performing the services, RHEAVITA may provide the client with interim or preliminary test results and reports. The client is not entitled to make claims concerning alleged errors or omissions in an interim, preliminary or draft report in any way whatsoever.

12.3 If the client has any comments regarding the interim or preliminary test results and reports, the client should notify RHEAVITA accordingly in writing within a period of 7 calendar days following the date the reports were sent. To the extent possible, RHEAVITA shall make every effort to take these comments into account in the further performance of the services and in the final report.

Prior acceptance by the client (also tacitly) of interim or preliminary test results and reports implies the approval by the client of all the elements which the client had noticed or should have noticed at the time of acceptance. After such acceptance, the client shall no longer have the right to make claims with regard to following interim or preliminary test results and reports or with regard to the final report, based on elements that were already noticed or could have already been noticed at the time of prior approval.

In any case, complaints shall always be submitted to RHEAVITA in writing, providing identification of the services and a detailed justification of the complaint. In the absence of a timely written complaint, the client shall be deemed to have irrevocably accepted the services.

12.4 After the client has observed any deficiency or problem, the client is obliged to immediately cease the application of the test results, the advice or recommendations, or any other result of the services of RHEAVITA, and to make every reasonable effort – or have every reasonable effort made – to prevent any (further) damage.

12.5 The client shall pay any costs incurred as a result of unjustified complaints.

### 13. Liability

13.1 RHEAVITA's liability shall always be assessed in the light of the best efforts obligation to which RHEAVITA has committed and to the fact that a certain margin of error in test results is inevitable (in accordance with the provisions of Article 7).

13.2 In the case of inadequate service provision, RHEAVITA's liability is limited – at the option and discretion of RHEAVITA – to the (renewed) performance of the missing or inadequate services.

13.3 The client shall be entitled to compensation for the entire damages sustained by the client that is, by law, a consequence of an event or series of connected events for which Rheavita is liable by law:

- where Rheavita has any insurance coverage for such damages, not to exceed an amount equal to the insurance payment to be received Rheavita plus the excess payable by Rheavita under such insurance; or
- in the event Rheavita does not have insurance coverage for such damages, up to an amount equal to the fees excluding VAT and disbursements Rheavita invoiced to the client and which the client paid to Rheavita with respect to the relevant assignment in the year in which the event(s) took/taken place.

13.4 In any case, RHEAVITA's liability shall never exceed the amount of the benefits of the insurance policies entered into by RHEAVITA. The liability of RHEAVITA is in any case limited to the mandatory liability imposed by law. Any claim for damages will expire one year after the date on which the client is informed of possible loss or damage and will in any event lapse after three years.

13.5 RHEAVITA cannot accept any claim from the client for indemnification for:

- Damage caused by incorrect, unreliable, incomplete or late input from the client or an employee of the client, including with regard to the data and information provided (such as flow rates, dimensions, plans, sketches, drawings, models, calculations, technical descriptions, specifications with regard to the constructions and material choices, preliminary studies and the like) and instructions with regard to RHEAVITA's service provision (such as objectives, specifications, features, applications, etc.);
- Damage caused by the incorrect implementation by the client, or a third person appointed by the client, of the final results and reports by RHEAVITA, the recommendations, concepts, drawings, plans, models and prototypes that were made available in the context of the agreement, or the information provided by RHEAVITA during the performance of the (modelling) services;
- Damage caused to or by other products, components, machines or constructions that were manufactured by the client a third party on the basis of the final results and reports by RHEAVITA, the recommendations, concepts, drawings, plans, models and prototypes that were made available in the context of the agreement, or the information provided by RHEAVITA during the performance of the (modelling) services, unless such damage was caused by a proven conceptual error by RHEAVITA;
- Damage caused by the specific application or use of the final results and reports by RHEAVITA, the recommendations, concepts, drawings, plans, models and prototypes that were made available in the context of the agreement, or the information provided by RHEAVITA during the performance of the (modelling) services, which was, in fact, not adapted to or suitable for the specific situation of the client or the specific application the client had in mind, and insofar as RHEAVITA had not been correctly, completely and timely notified in this regard prior to the provision of the services;
- Defects that are caused directly or indirectly by an act of the client or a third party, regardless of whether they were caused by a fault, negligence or carelessness;
- Additional damage caused by the further use or application by the client after a deficiency has been found;
- Damage that would not have occurred if the client would have acted with sufficient diligence to limit the damage;
- Damage caused by force majeure or hardship in accordance with the provisions of Article 14.
- Indirect and consequential damage, such as, but not limited to, loss of profit, loss of savings, loss of revenue, loss caused by business

interruption, damage to third parties.

#### 14. Force majeure & Hardship

14.1 RHEAVITA is not liable for any breach of its obligations caused by force majeure or hardship.

Cases of force majeure or hardship give RHEAVITA the right, at RHEAVITA's option, to either:

- temporarily suspend the performance of its obligations;
- review the contractual terms (including those with regard to timeframes, completion deadlines and prices);
- terminate the agreement by simple written notification to the client, without RHEAVITA being liable to any damages.

14.2 A situation of force majeure that continues beyond three (3) months shall entitle the client to terminate the agreement with immediate effect by simple written notification to RHEAVITA, without judicial intervention.

14.3 In all these cases, the client shall be required to pay for all services that had already been provided on the date of suspension, revision or termination, and any costs incurred or still to be incurred by RHEAVITA as a consequence of the suspension, revision or termination.

14.4 The following are conventionally considered as cases of force majeure or hardship: all circumstances that were reasonably unforeseeable at the time the agreement was concluded, that are unavoidable, and that create the inability on the part of RHEAVITA to carry out the agreement, or that would make the implementation of the agreement harder or more difficult than normally anticipated, financially or otherwise, such as, for example (but not limited to), natural disasters, war, (threats of) terrorism, strikes, lock-out, diseases, shortage of personnel, organisational conditions, confiscation, fire, breakage of machinery and/or tools, scarcity of (raw) materials, bankruptcy or delays on the part of suppliers or subcontractors and failure by the client to provide RHEAVITA with the correct and complete information necessary for carrying out the services in good time.

#### 15. Confidentiality & Intellectual Property

15.1 The client is not entitled to copy the reports, recommendations, test results, concepts, models, technical descriptions, plans, sketches, drawings, prototypes and any other data provided by RHEAVITA, nor use the above for purposes other than for which they are intended, nor show them to thirds, except with prior written consent of RHEAVITA.

The client explicitly acknowledges that RHEAVITA shall own and retain all (intellectual) property rights with respect to all knowhow, trade secrets, information, data, writings, technical studies, plans, codes, software, modelling tools, documents of whatever kind, which are provided by RHEAVITA to the client or which are used by RHEAVITA in the performance of the services, and which were RHEAVITA's property *prior* to the commencement of the agreement.

15.2 The client shall not have the right to claim the release of the underlying knowhow, trade secrets, information, data, writings, technical studies, plans, codes, software, modelling tools and documents of whatever kind, which are used in the models, test results, advices, recommendations and reports provided to the client in execution of the agreement.

15.3 The client furthermore acknowledges that RHEAVITA shall own and retain all copyrights and any other (intellectual) property rights with regard to all reports, test results, advices and recommendations, concepts, technical descriptions, plans, sketches, drawings, models, samples, software, prototypes and any other data, created by RHEAVITA in the performance of the services. The delivery by RHEAVITA of services shall not automatically entail the transfer of any (intellectual) property rights to the client. The client is solely granted a non-exclusive and non-transferable right of use. Any derogation from this provision must be explicitly agreed in writing. An exception exists in case RHEAVITA has made use of intellectual property rights originating from the client or a third party in unmodified form, in which case the client or the third party retain ownership of their original existing intellectual property rights.

15.4 RHEAVITA reserves the right to use the information it has provided, or parts thereof, in its relationship with other clients, provided reasonable confidentiality provisions are complied with. This does not apply if RHEAVITA has made use of intellectual property rights belonging to the client.

15.5 The client explicitly authorizes RHEAVITA to use the client's name as reference client and to refer to the client's project(s) for publicity purposes, such as by publication on the website. RHEAVITA undertakes not to divulge any specific details concerning the project, nor any confidential information. In this regard, the client also authorizes RHEAVITA to use the client's name, trademark, logo etc.

15.6 The client guarantees that the information it supplies does not constitute an infringement of the intellectual property rights of third parties. The client will hold RHEAVITA harmless against any claims from third parties in that respect.

15.7 In case of breach of the obligations as stated in this Article 15, a lump-sum compensation equal to € 50.000,00 per individual breach is due by the client to RHEAVITA, without prejudice to the right of RHEAVITA to claim full compensation for all damage caused by the breach.

#### 16. Netting

In accordance with the provisions in the Law on Financial Securities of 15 December 2004, RHEAVITA and the client will automatically and legally mutually offset and settle all currently existing and future debts, in the ongoing relationship between RHEAVITA and the client. This means that only the balance of the largest debt will remain after the above-mentioned automatic offsetting. This offsetting of debt will in any case be opposable to the receiver and the other concurrent creditors, who will therefore not be able to oppose the offsetting applied by RHEAVITA and the client.

#### 17. Jurisdiction and applicable law

17.1 In case of any dispute with respect to these general terms and conditions, as well as regarding any other agreement concluded between RHEAVITA and the client, only the territorially competent courts and tribunals of RHEAVITA's registered office, shall have jurisdiction.

17.2 Belgian law shall apply.

17.3 These general terms and conditions are only available in English and can be viewed at [www.rheavita.com](http://www.rheavita.com)