

**FUJIFILM Dimatix, Inc.**  
**General Terms and Conditions of Sale for Systems Sales**

THESE GENERAL TERMS AND CONDITIONS OF SALE FOR SYSTEMS SALES, TOGETHER WITH ANY ADDITIONAL TERMS WHICH MAY SEPARATELY BE MADE APPLICABLE IN WRITING BY FUJIFILM DIMATIX, INC. ("VENDOR"), GOVERN THE SALE BY VENDOR OF PRODUCTS ("PRODUCTS") AND/OR SERVICES ("SERVICES") IDENTIFIED ON THE ATTACHED QUOTE WHICH IS HEREBY INCORPORATED HEREIN IN ITS ENTIRETY. NOTWITHSTANDING ANY DIFFERENT, CONFLICTING OR ADDITIONAL TERMS OR CONDITIONS WHICH APPEAR ON ANY PURCHASE ORDER OR OTHER BUSINESS FORM SUBMITTED BY THE CUSTOMER THAT IDENTIFIED IN THE QUOTE (THE "BUYER"), SUCH DIFFERENT, CONFLICTING OR ADDITIONAL TERMS WILL NOT BECOME A PART OF THE CONTRACT BETWEEN VENDOR AND BUYER.

1. **FORMATION OF CONTRACT.** A contract for the sale of Products and/or Services will be formed only if and when purchase orders from Buyer are accepted by Vendor in writing, including by issuance of an invoice for Products and/or Services, or Vendor ships Products or undertakes performance of Services ordered.

2. **SHIPPING, PACKAGING, CREDIT AND PAYMENT TERMS.** Prices are subject to change without notice. Vendor reserves the right to change specifications, package and/or design etc. as may be required.

Obligations of Vendor to perform hereunder are subject to the strict observance of Buyer of the credit or payment terms established by Vendor in its sole discretion. Vendor reserves the right to change its credit, payment and shipping terms upon advance notice to Buyer and may require payment in advance as a condition of shipment and/or performance of Services. Vendor reserves the right, among other remedies, to terminate this Contract, or any other sales contract with Buyer, or suspend deliveries to Buyer, or terminate or suspend performance of Services, in the event Buyer fails to pay for any payment when due.

Any claims for prices, trade allowances, cash discounts, sales and use taxes, or other benefits pertaining to this Contract must be submitted along with appropriate proof of performance within one (1) year from date of invoice.

Buyer shall conduct a check out procedure for each System referenced in the Quote at Vendor's location prior to shipment of the Products ("System Check Out") if called in the quote. Title to Products and risk of loss shall pass to Buyer when Products are delivered to carrier at the shipping point. Buyer shall indemnify Vendor against any and all claims and liabilities (including third party claims) in any way related to Products, including for personal injury and/or property damage, which arise after passage of title to Buyer, when such claims or liabilities arise out of, relate to, or are imposed by reason of, Buyer's negligence or willful acts.

3. **RETURNED GOODS.** Any Product returns must be authorized by Vendor and a Return Authorization (RA) form and RA number must be obtained from Vendor prior to the return. Buyer shall follow the proper cleaning/flushing procedures in accordance with the respective product manual, and ship all authorized returns, freight paid, F.O.B. destination as specified by Vendor. Returns shipped freight collect will not be accepted by Vendor. Returned goods may be subject to a restocking charge. Vendor will invoice or credit Buyer for appropriate adjustments resulting from returns, and Buyer may not make any deduction from invoiced amounts except upon receipt of such adjustments. Warranty excludes all costs of customs clearance and any other related charges. All replaced Products shall become the property of Vendor.

4. **TAXES.** The price of Products and/or Services does not include any taxes which may apply to the sale or use of those Products and/or Services, including sales, use, privilege, excise or property taxes, and Vendor will invoice Buyer for such applicable taxes. Buyer is solely responsible for the payment of all such taxes, whether or not invoiced.

5. **WARRANTY / LIMITATION OF LIABILITY AND ACTIONS.** EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THESE GENERAL TERMS AND CONDITIONS OF SALE WHICH ARE EXCLUSIVE AND PROVIDED BY VENDOR IN LIEU OF ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ALL VENDOR PRODUCTS AND SERVICES PROVIDED BY VENDOR HEREUNDER OR OTHERWISE ARE PROVIDED "AS IS," AND "AS AND WHERE AVAILABLE," AND WITH ALL FAULTS.

EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THESE GENERAL TERMS AND CONDITIONS OF SALE, VENDOR SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF TITLE AND AGAINST INFRINGEMENT, OR ARISING OUT OF A COURSE OF DEALING.

DETERMINATION OF THE SUITABILITY OF THE PRODUCTS AND SERVICES FOR BUYER'S INTENDED OR DESIRED USES IS THE SOLE RESPONSIBILITY OF BUYER, AND VENDOR SHALL HAVE NO RESPONSIBILITY IN CONNECTION THEREWITH.

**Warranty:**

**System Warranty:** Vendor warrants that Systems and spare parts shall be substantially free of non-conformities from the applicable performance specifications ("Defects") for the period of twelve (12) months from date of shipment by Vendor, provided that Buyer purchases all Products identified as fluids ("Fluids") used with the System directly from Vendor to ensure quality control and compatibility with the System.

**Fluid Warranty:** Vendor warrants Fluids are free of Defects for a period as provided in the applicable Fluid specifications.

If any Product fails to satisfy the Warranty during the Warranty Period, Buyer shall give written notice of such defective Product(s) to Seller within forty-five (45) days of the date that Buyer becomes aware of such failure, and shall deliver the defective Product(s) to Seller within forty-five (45) days thereafter. Upon return of Products, Seller may, at Seller's option, (i) promptly deliver to Buyer replacement Product(s), (ii) credit any amounts owing from Buyer for that portion of the Purchase Price attributable to the defective Products.

**Acceptance; Limitation of liability and actions:**

Buyer shall inspect for Defects upon receipt of Product and/or Services. Any claim relating to Products and/or Services shall be deemed waived unless made in writing and received by Vendor within ten (10) days of Buyer's receipt of the Products to which such claim relates or of the performance of the Services to which such claim relates, as applicable. Acceptance of the Products and/or Services, as applicable, shall be deemed to have occurred if no written notice of Defects is received by Vendor within such ten (10) day period.

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), WHETHER BASED IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, OR FOR THE COST OF SUBSTITUTE GOODS, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE. EXCEPT FOR BUYER'S INDEMNIFICATION OBLIGATIONS, EACH PARTY'S MAXIMUM LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATED TO THIS CONTRACT SHALL NOT EXCEED, IN THE AGGREGATE, THE AMOUNTS RECEIVED BY VENDOR FROM BUYER FOR THE SPECIFIC PRODUCTS AND/OR SERVICES TO WHICH ANY SUCH CLAIM RELATES.

Buyer shall indemnify Vendor for any third-party claims arising from representations by Buyer to the effect that Vendor has made any warranty, or will allow any remedy, with respect to Products and/or Services other than as expressly stated hereunder.

6. **SECURITY TERMS / COSTS AND EXPENSES OF COLLECTION.** For the purpose of securing payment of amounts due Vendor from Buyer hereunder, Buyer hereby grants to Vendor: (i) a continuing first purchase money security interest in Vendor's Products to be shipped hereunder, and all accessories thereto and substitutions therefor; and (ii) a continuing purchase money security interest in all of the proceeds of the foregoing. If Buyer fails to make payment to

Vendor of any invoice for any Vendor Product shipped by Vendor within thirty (30) days of the date of such invoice, or should Buyer become insolvent or be a party to any bankruptcy or receivership proceeding prior to full payment of all amounts payable hereunder, Vendor may, notwithstanding any other provisions herein set forth, exercise any or all of its rights as a secured creditor under applicable law, including without limitation: (a) refuse to make further shipments to Buyer; (b) with or without demand or notice to Buyer declare the entire amount unpaid immediately due and payable; and (c) sell any or all of said Products as permitted under applicable law, applying the proceeds of the sale to the expenses of retaking, repairing and selling said products, reasonable attorneys' fees and to the satisfaction of all indebtedness then due and unpaid. Any surplus shall be paid to Buyer and any deficiency shall be paid to Vendor by Buyer. All past due amounts shall accrue a delinquency charge at the rate of one percent (1%) per month.

7. **COSTS AND EXPENSES OF COLLECTION.** In the event that Buyer fails to make full payment for the Products and/or Services, in the manner and within the time specified by Vendor in its payment terms, Buyer shall be liable to Vendor for payment of all costs and expenses incurred by Vendor in seeking collection of the amounts owed by Buyer, including but not limited to the costs of collection agencies and reasonable attorneys' fees incurred by Vendor.

8. **CONFIDENTIALITY.** The Parties may have executed a non-disclosure agreement prior to entering into this Contract. In the event that no such non-disclosure agreement exists, the provisions of this Contract shall govern any Confidential Information disclosed on or after the effective date of this Contract. In the event a non-disclosure agreement has been executed, the terms of such agreement shall govern any Confidential Information disclosed on or after the effective date of this Contract

Confidential Information means all data, information and materials that Vendor discloses to Buyer (i) in documents or other tangible materials clearly marked "CONFIDENTIAL," or (ii) orally, or in any other intangible form if, when first disclosed, Vendor advises Buyer that the data, information and materials are confidential. Confidential Information does not include any data, information and materials that (i) Buyer knew at the time of disclosure, (ii) the public knows or which is or becomes readily ascertainable by the public, and through no wrongful act of Buyer, (iii) Buyer receives from a third party without breaching an obligation owed to Vendor, if the third party does not restrict Buyer from disclosing that information, (iv) is independently developed by or for Buyer, or (v) is required to be disclosed by law, provided, however, that in the event Buyer is ordered to disclose the Confidential Information pursuant to a judicial or governmental request, requirement or order, Buyer shall immediately, and in any event prior to complying therewith, notify Vendor and take reasonable steps to assist Vendor in contesting such request, requirement or order or otherwise protecting Vendor's rights. Buyer shall (i) use reasonable efforts to prevent the disclosure of any Confidential Information to any third party, but in no event shall use less than reasonable care; and (ii) not analyze or reverse engineer any samples, prototypes or products. All materials containing Confidential Information delivered by or on behalf of the Vendor under this Agreement are and shall remain the property of Vendor. At Vendor's written request, Buyer shall promptly return to Vendor or destroy and certify the destruction of, all those materials and any copies.

9. **INTELLECTUAL PROPERTY RIGHTS.** Vendor shall retain its existing Intellectual Property Rights, and any derivatives or improvements thereof. For the purposes of these General Terms and Conditions of Systems Sales, "Intellectual Property Rights" are defined as inventions and/or works and any and all rights under U.S. and/or foreign patents, trade secrets, know-how, copyrights, trademarks, and other industrial or intangible property rights of a similar nature; all rights pursuant to grants and/or registrations worldwide in connection with the foregoing and all other rights with respect thereto; all rights under applications for any such grant or registration, all rights of priority under international conventions to make such applications and the right to control their prosecution, and all rights under amendments, continuations, divisions, and continuations-in-part of such applications; and all rights under corrections, reissues, patents of addition, extensions, and renewals of any such grant, registration, and/or right.

Buyer will not use Vendor's name, trademarks, logos or service marks or refer to Vendor or any of its affiliates directly or indirectly in any customer list, advertising, sales presentation, news release, release to any professional or trade publication or for any other purposes without Vendor's prior written approval of such use and of the form and substance of the reference.

10. **General.** Vendor shall not be liable in any way for failure or delay in carrying out the terms of this Contract that results from any cause or circumstance beyond its reasonable control, including, but not limited to, any act of God, fire, flood, war, explosion, labor difficulties, inability to obtain necessary labor or materials, interruption of transportation, civil commotion, and acts of any governmental authority. In no event will Vendor be required to purchase any products and/or services in the marketplace to meet its obligations hereunder or be required to purchase materials and/or services necessary upon unreasonable terms and/or at unreasonable prices. During any shortage of Products and/or Services, Vendor may apportion and allocate Products and/or Services among itself and its subsidiaries, affiliates and customers as Vendor deems fit in its sole discretion.

No Amendment to these General Terms and Conditions of Systems Sales shall be binding unless agreed to in a writing executed by both Vendor and Buyer.

If any provision of these Terms and Conditions conflicts with any other terms or conditions separately made applicable in writing by Vendor to particular Products and/or Services, such separately applicable terms and conditions shall govern with respect to such conflict.

If any provision of these General Terms and Conditions of Sale for Systems Sales (as supplemented by any additional terms separately made applicable by Vendor to particular Products and/or Services) is finally determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect any other provision hereof, and all such other provisions will remain in full force and effect.

Any sales contract formed between Buyer and Vendor may not be assigned by Buyer except with the prior written consent of Vendor.

These General Terms and Conditions of Sale for Systems Sales and the sales contract formed between the parties shall be construed and enforced in accordance with the laws of the State of California (without giving effect to its rules of conflict of laws).

FUJIFILM Dimatix, Inc. is an equal opportunity employer. The Company does not discriminate, nor allow any employee to discriminate against another employee or applicant for employment on the basis of race, color, age, religion, sex, national origin, disability, marital status, sexual orientation, citizenship status or military status including disabled veterans and veterans of the Vietnam era in any employment decisions.