

General Conditions of Sale

These are the exclusive General Conditions of Sale by FUJIFILM Irvine Scientific, Inc. ("Seller") to Buyer ("Buyer"), for the products and/or services (the "Products" or the "Services", as applicable) listed herein and attached hereto, which shall together constitute and set forth the entire contract (the "Agreement") between the parties with respect to the purchase and sale of the Products or Services. **Products are NOT FOR RESALE without the express prior written approval of Seller.**

Acceptance

Upon receipt hereof, and subsequent acceptance of the Products or Services, Buyer will be deemed to have accepted and assented to these General Conditions of Sale, which represent the entire valid and binding Agreement between Seller and Buyer, and unless covered under separate written agreement signed by both parties, supersedes any and all prior understandings, agreements, representations, warranties, or other statements or promises, if any, which have been made by or to any of the parties in connection herewith. Seller will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) that Buyer proffers in any purchase order, receipt, acceptance, confirmation, correspondence, or other document that Buyer proffers as an acceptance of this Agreement, unless Seller specifically agrees to such provision in a written instrument signed by Seller.

Pricing and Terms; Taxes; Credit Approval

Seller reserves the right to change prices without notice. Any price reduction will automatically apply to Buyer's invoice. Standard payment terms are NET 30 DAYS. A finance charge of 1.5% per month (annual percentage rate of 18%), or the highest rate allowable by applicable law, whichever is higher, determined and compounded on a daily basis from the date due until the dated paid, may be charged to past due accounts. Payment of such finance charges will not excuse or cure Buyer's breach or default for late payment. A condition of Seller's obligation to deliver the Products or Services is its approval of Buyer's credit and payment arrangements. If Buyer's credit rating is not satisfactory to Seller, Seller may require shorter payment terms or payment in advance. Prices do not include any sales, use, value-added, withholding or similar taxes. Buyer will pay or reimburse Seller for all taxes or other amounts payable to governmental authorities in connection with the applicable transactions (other than Seller's net income taxes), or where applicable will provide Seller with an exemption certificate satisfactory to Seller.

Credit Card Orders (not applicable to sales made pursuant to distribution agreements)

Upon Seller's prior approval, Seller may accept VISA®, MasterCard® and American Express® as payment for order. If Buyer has provided Buyer's credit card or debit card for payment, Buyer hereby authorizes Seller to charge such credit card or debit card to obtain payment. This section does not apply to sales under distribution agreements.

Lot Reservation Policy

Samples are provided at no charge for the purpose of testing a particular lot. Reserved lots will be held for 3 weeks from the date the sample is shipped. Upon completion of Buyer's testing, a purchase order for the reserved lot is required to secure Product. Reserved lots will be automatically cancelled at the end of the 3 weeks if no purchase order is received from Seller by Buyer, unless otherwise notified.

Perishable Product Packaging

Perishable Products are packed as appropriate in insulated cartons for safe arrival. A packaging charge is added as a separate item on the invoice when Products require dry ice or cold packaging. Seller shall not be responsible or liable for shipments of Products packaged, labelled or which contains instructions contrary to Seller's documentation.

Delivery, Claims, Delays

Products available when ordered are shipped within 48 hours of receipt of the order via “best way” as indicated by Buyer, unless Seller determines that Buyer’s chosen “best way” could have a detrimental impact to the integrity of the Product. Partial shipments may be made when complete orders cannot be shipped. If partial shipments are not acceptable, indication should be made at the time the order is placed. If no “best way” shipping instructions are indicated by Buyer, Seller routinely ships via FedEx® and will ship that way, or via alternate shipping arrangements as determined by Seller in its sole discretion. To avoid possible damage when shipments are made near a weekend or holiday, frozen or cold packaged Products are shipped on Monday through Thursday. Seller will not accept responsibility for shipments made contrary to Seller’s normal shipping schedule. Special shipping and delivery requirements must be clearly indicated at the time an order is placed. Unless otherwise agreed to by the Parties, shipments are FCA (Incoterms 2020) Seller’s Santa Ana, California facility, are freight prepaid and add, and the ownership and risk of loss shall pass from Seller to Buyer upon Seller’s delivery to Buyer’s carrier at Seller’s facility, Santa Ana, California. Seller may, as an accommodation to Buyer, arrange for the transportation, insurance, etc. to another delivery point as requested by Buyer, but the terms and risk of loss shall remain FCA Seller’s Santa Ana, California facility, and the additional expense associated with this alternate delivery point shall be invoiced to Buyer along with the price of Products.

Excused Performance

Seller will not be responsible for, or be considered to be in breach of or default under this Agreement on account of, any cause or event beyond Seller’s reasonable control (including, but not limited to, Seller’s inability, after due and timely diligence, to procure materials, parts, equipment or Services). Seller shall not be liable for any loss, damage or penalty as a result of any delay in or failure to manufacture or deliver due to any cause beyond Seller’s reasonable control.

Product Allocation

If Seller is unable for any reason to supply the total demands for Products specified in Buyer’s order, Seller may allocate its available supply among any or all buyers on such basis as Seller may deem fair and practical, without liability for any failure of performance.

Shortages and Damages

If a shortage occurs in any shipment received from Seller, Buyer will notify Seller’s Customer Service Department within 3 business days for a credit or replacement Product. Otherwise, the order will be deemed complete. Seller provides assistance with filing claims for loss or damaged Product. Buyer must retain all packing materials and containers for possible inspection by the carrier.

Cancellation of Custom Prepared Products

Cancellation of custom prepared Products will not be accepted unless a written notice requesting such cancellation is received and accepted by Seller at least two (2) weeks prior to commencement of manufacturing thereof, and Buyer is fully liable to Seller for 100% of the cost of such custom prepared Products regardless of such cancellation. For the avoidance of doubt, a custom prepared Product is (a) Product that is a custom formulation or design and is not an off the shelf / catalogue Product or (b) Product that is packaged in a non-standard format, whether or not it is an off the shelf / catalogue Product.

Returns

A Return Goods Authorization number and shipping instructions must be obtained from Seller’s Customer Service Department prior to returning any Product. All Products must be returned in good condition and return is subject to a handling and restocking charge of 20% plus freight. No Product may be returned after 30 days of receipt. Where Product spoilage allegedly occurs in transit, Buyer shall, upon receipt of shipment of such Product, immediately contact Seller’s Customer Service department to so

notify Seller and to request instructions from Seller. Credit will not be issued on any Products that are returned without prior authorization from Seller.

Conditions and Intended Use

Unless otherwise indicated, each Product will be in conformity with the results reported in the certificate of analysis ("COA") or other accompanying documentation for such Product at the time it is shipped by Seller. Unless otherwise indicated, PRODUCTS ARE FOR RESEARCH USE AND FURTHER MANUFACTURING **ONLY**; PRODUCTS ARE **NOT** FOR HUMAN USE OR FOR DRUG PURPOSES, AND ARE NOT FOR INJECTION. Buyer is solely responsible for ensuring that its use of a Product is compliant with Buyer's purpose(s). Nothing disclosed herein is to be construed as a recommendation to use Products in violation of any patents. Product information provided to Buyer in the COA or other accompanying documentation is believed to be accurate, however, said Product information and Products are offered without warranty or guarantee since the ultimate conditions of use and the variability of the materials treated are beyond Seller's control. Seller is not responsible or liable for patent infringements or other violations of any law or regulation that may occur with the Buyer's use of the Products. Products are not to be used beyond the "expiration date" specified on a Product's label. All of Seller's Assisted Reproductive Technologies Products are medical devices. Federal law restricts the sale of Products labeled as medical devices by or on the order of a licensed health care practitioner. Buyer is responsible for using Assisted Reproductive Technologies Products in compliance with their Intended Use and solely under the supervision of a licensed medical professional.

Express Warranty and Disclaimer of Other Warranties

Except for the foregoing warranty that each Product will be in conformity with the results reported in the COA for such Product at the time it is shipped, SELLER MAKES NO OTHER REPRESENTATION, WARRANTY OR PROMISE OF ANY KIND, WHETHER EXPRESS OR IMPLIED, REGARDING THE PRODUCTS OR SAMPLES OR SERVICES. SELLER DISCLAIMS AND EXCLUDES ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR WARRANTY OR CONDITION ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OR TRADE, STATEMENTS OF SELLER REPRESENTATIVES, OR SAMPLES PREVIOUSLY SUPPLIED.

SELLER GIVES NO, AND DISCLAIMS ANY, WARRANTIES, UNDERTAKINGS OR SIMILAR TERMS WHATSOEVER IN RESPECT OF ANY ADVICE OR ASSISTANCE GIVEN BY SELLER IN CONNECTION WITH THE USE OF THE PRODUCT IN OR AS A DRUG PRODUCT (INCLUDING ADVICE OR ASSISTANCE RELATED TO ANY REGULATORY APPROVAL), AND SELLER SHALL HAVE NO LIABILITY TO THE CUSTOMER OR ANY OTHER PARTY IN CONNECTION WITH ANY SUCH ADVICE OR ASSISTANCE.

SELLER GIVES NO, AND DISCLAIMS ANY, WARRANTIES, UNDERTAKINGS OR SIMILAR TERMS WHATSOEVER IN RESPECT OF SAMPLES OR THE USE BY BUYER OF A SAMPLE.

Exclusive Remedy and Release of Other Liabilities

In the event of a breach of the foregoing warranty, Buyer shall notify Seller and Seller, in its sole discretion, shall either repair or replace the affected Product, or refund to Buyer the purchase price for the affected Product. THIS REMEDY SHALL BE THE EXCLUSIVE AND SOLE REMEDY OF BUYER FOR ANY BREACH OF WARRANTY. The warranties, obligations and liabilities of Seller and the remedies of Buyer set forth in this Agreement are exclusive, and BUYER HEREBY WAIVES, DISCLAIMS AND RELEASES, ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF SELLER AND ALL OTHER RIGHTS, CLAIMS AND REMEDIES OF BUYER AGAINST SELLER express or implied, arising by law or otherwise, with respect to the Products and any other goods or Services delivered under this Agreement including, without limitation, any obligation, liability, right, claim or remedy in tort (including claims for Seller's own negligence or strict liability) or for infringement.

Liability

Buyer acknowledges and agrees that: (i) the potential extent of liability arising from the Products are better known to Buyer than to Seller; (ii) the potential extent of such liability is disproportionate to the amounts which Seller can reasonably charge for the Products; (iii) Buyer is better able to, and should, insure against any liabilities Buyer might suffer, and (iv) consequently Seller should restrict its liability as set out in this clause and Buyer should indemnify Seller as set forth herein and the parties agree that nothing herein shall limit or exclude Buyer's liability to Seller under those indemnities.

SAVE THAT NOTHING IN THIS AGREEMENT LIMITS OR EXCLUDES THE LIABILITY OF ANY PARTY TO THE OTHER FOR ANY LIABILITY THAT IS NOT PERMITTED TO BE LIMITED OR EXCLUDED BY LAW:

SELLER'S TOTAL LIABILITY, WHETHER OR NOT ARISING PURSUANT TO AN INDEMNITY, IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION OR OTHERWISE ARISING UNDER THIS AGREEMENT SHALL IN ALL CIRCUMSTANCES BE LIMITED TO THE PRICE PAID FOR THE PRODUCTS OR SERVICES BY BUYER HEREUNDER; AND

UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), FOR BREACH OF STATUTORY DUTY OR OTHERWISE, ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR: LOSS OF PROFIT; LOSS OF BUSINESS; DEPLETION OF GOODWILL; LOSS OF ANTICIPATED SAVINGS; LOSS OR CORRUPTION OF DATA OR INFORMATION; OR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PURE ECONOMIC LOSS, COSTS, DAMAGES, CHARGES OR EXPENSES, INCLUDING THE COSTS OF ANY RECALL OF THE PRODUCT.

SELLER SHALL HAVE NO LIABILITY TO BUYER OR ANY OF ITS CUSTOMERS IN CONNECTION WITH SAMPLES OR THE USE BY BUYER OR ANY OF ITS CUSTOMERS OF SAMPLES.

Indemnity

Buyer shall indemnify and hold harmless Seller and its affiliates from and against all liabilities incurred by Seller or its affiliates arising out of or resulting from the use or resale of the Product or Samples or Services. Buyer acknowledges that it uses any material produced in a Sample at its own risk and shall undertake such tests as are necessary in order to satisfy itself that such materials are fit for the purposes for which Buyer proposes to use such materials. Buyer shall be responsible for the actions and omissions of any re-seller as if they were the actions and omissions of Buyer. Buyer shall notify Seller in writing immediately upon Buyer's receipt of knowledge of any incident involving the Products or Samples or Services which result in personal injury or claim of any kind. Buyer agrees to fully cooperate with Seller in the investigation and determination of the cause of such incident and shall make available to Seller all statements, reports and tests made by Buyer or made available to Buyer by others. The furnishing of such information to Seller and any investigation by Seller of such information or incident report shall not in any way constitute any assumption of any liability for such accident or incident by Seller.

Insurance

Buyer shall maintain such third party liability and property damage insurance, including general and product liability and worker's compensation insurance coverage, with such insurers and in such amounts as shall be commercially reasonable. Buyer shall, upon Seller's request, provide Seller with certificates evidencing such insurance.

Intellectual Property Rights

The Products and Services involve valuable patent, copyright, trademark, trade secret and other intellectual property rights of Seller. Seller reserves all such rights. No title to or ownership of any intellectual property rights related to any Product or Service is transferred to Buyer pursuant to this Agreement. Buyer will not attempt to reverse engineer any Product or component thereof (including any software) or to otherwise misappropriate, circumvent or violate any of Seller's intellectual property rights.

Confidential Information

Seller may disclose to Buyer certain trade secret, proprietary or confidential information ("Confidential Information"). Except as otherwise authorized by Seller in writing, Buyer will use such Confidential Information only for the purposes for which it is disclosed by Seller, will not disclose it to any third party, and will take appropriate steps to protect it from any unauthorized use or disclosure; provided that, upon or promptly after disclosure by Seller, the information is marked or otherwise identified as trade secret, proprietary or confidential or the Buyer otherwise knows or has reason to know that the same is trade secret, proprietary or confidential.

General Contract Provisions

Any failure by Seller to insist upon or enforce performance by Buyer of any of the provisions of this Agreement or to exercise any right or remedy under this Agreement or applicable law will not be construed as a waiver or relinquishment to any extent of Seller's right to assert or rely upon any such provision, right or remedy in that or any other instance. This Agreement will inure to the benefit of and be binding upon the parties and their respective successors, assigns and legal representatives. If any provision of this Agreement is found to be invalid or unenforceable, then the remainder shall have full force and effect, and the invalid provision shall be partially enforced to the maximum extent permitted by law to effectuate the purpose of the Agreement. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the laws of the State of California, without reference to its choice of law principles. The provisions of the U.N. Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Buyer consents to the personal jurisdiction and venue of the state and federal courts located in Orange County, California regarding any suit, proceeding or claim arising out of or related to this Agreement or its subject matter and will not commence or prosecute any such claim, suit or proceeding other than in such courts. No amendment, modification, or waiver of this Agreement will be valid unless set forth in a written instrument signed by the party to be bound.

NO RESALE OF PRODUCTS WITHOUT THE EXPRESS PRIOR WRITTEN APPROVAL OF SELLER

In purchasing Seller's Products or Services, Buyer shall comply at all times with all applicable laws and regulations, including without limitation, United States Export Administration Regulations ("EAR") and any other applicable export control and sanctions regulations, and all environmental and health and safety laws and regulations (collectively, "Regulations"). In furtherance and not in limitation of the foregoing:

- (a) Subject to the express prior written approval of Seller, Buyer shall have the sole responsibility for obtaining and maintaining, and shall obtain and maintain, any and all approvals, licenses, permits, registrations or authorizations, howsoever called, of any applicable regulatory agency, department, bureau or other government entity necessary for use of Seller's Products outside of the United States, and shall not sell any Products to, or for the use or benefit of, any intermediary or ultimate purchaser with which Seller could not deal under laws or regulations of the United States or other applicable jurisdictions; and
- (b) Buyer shall not directly or indirectly, engage in any activity or transaction in relation to any U.S. sanctioned country that, if undertaken by a U.S. person, would be in violation of U.S. sanctions laws and regulations, including, but not limited to, the International Emergency Economic Powers Act (50 U.S.C. § 1701-1706), the provisions of related Executive Orders, sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") and any other Regulations that may be in effect and applicable to such sanctioned countries, unless both (i) applicable authorizations are obtained or general licenses apply, and (ii) Seller has provided its express prior written approval.