TERMS AND CONDITIONS OF SALE

Rev. January 2020

UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING, ALL SALES ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. GENERAL.
   
   1.1. Chem-Impex International, Inc. ("Seller") hereby offers for sale to the buyer ("Buyer") products (the "Products") on the express condition that Buyer agrees to accept and be bound by the terms and conditions set forth in this agreement ("Agreement").

   1.2. Any provisions contained in any document issued by Buyer are expressly rejected and if the terms and conditions in this Agreement differ from the terms of Buyer’s offer, this document shall be construed as a counter offer and shall not be effective as an acceptance of Buyer’s document. Seller’s confirmation, acknowledgement, or commencement in fulfilling Buyer’s order will constitute Buyer’s acceptance of this Agreement.

   1.3. This Agreement is the complete and exclusive statement between Seller and Buyer with respect to Buyer’s purchase of the Products. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless in writing and signed by Seller and Buyer. Seller’s failure to object to terms contained in any subsequent communication from Buyer will not be a waiver or modification of the terms set forth herein. All orders are subject to acceptance in writing by an authorized representative of Seller.

2. PRICE. All prices published by Seller or quoted by Seller’s representatives may be changed at any time without notice. All prices quoted by Seller or Seller’s representatives are valid for seven (7) days, unless otherwise stated in writing. All prices for the Products will be as specified by Seller or, if no price has been specified or quoted, will be Seller’s price in effect at the time of shipment. All prices are subject to adjustment on account of specifications, quantities, raw materials, cost of production, shipment arrangements or other terms or conditions which are not part of Seller’s original price quotation.

3. TAXES AND OTHER CHARGES.

   3.1. Any use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any government authority, on or measured by the transaction between Seller and Buyer shall be paid by the Buyer in addition to the prices quoted or invoiced. In the event Seller is required to pay any such tax, fee or charge, Buyer shall reimburse Seller; or, in lieu of such payment, Buyer shall provide Seller at the time the order is submitted an exemption certificate or other document acceptable to the authority imposing the tax, fee or charge.

   3.2. Due to special handling requirements and the hazardous nature of products sold, additional charges for hazardous packaging and transportation will be added to the invoice.

4. TERMS OF PAYMENT.

   4.1. Terms of sale are net thirty (30) days of date of invoice, unless otherwise stated. If Buyer fails to pay any amounts when due, Buyer shall pay Seller interest thereon at a periodic rate of one and one-half percent (1.5%) per month (or, if lower, the highest rate permitted by law), together with all costs and expenses (including without limitation reasonable attorneys’ fees and disbursements and court costs) incurred by Seller in collecting such overdue amounts or otherwise enforcing Seller’s rights hereunder. Seller reserves the right to require from Buyer full or partial payment in advance,
or other security that is satisfactory to Seller, at any time that Seller believes in good faith that Buyer’s financial condition does not justify the terms of payment specified. All payments shall be made in U.S. Dollars.

4.2. Buyer shall not withhold payment of any amounts due and payable hereunder by reason of any set-off of any claim or dispute with Seller.

5. DELIVERY.

5.1. All shipping dates are approximate only, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver. In the event of a delay due to any cause beyond Seller’s reasonable control, Seller reserves the right to terminate the order or to reschedule the shipment within a reasonable period of time; Buyer will not be entitled to refuse delivery or otherwise be relieved of any obligations as the result of such delay.

5.2. Unless specified in writing, all sales are FOB Wood Dale, Illinois, title and risk of loss passes to Buyer upon delivery.

5.3. The Products as to which delivery is delayed due to any cause within Buyer’s control may be placed in storage by Seller at Buyer’s risk and expense and for Buyer’s account.

5.4. Seller reserves the right to stop delivery of Products in transit and to withhold shipments in whole or in part if Buyer fails to make any payment to Seller when due or otherwise fails to perform its obligations hereunder.

5.5. Seller may, in its sole discretion, make partial shipments of the Products and invoice immediately therefor. Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer’s order.

5.6. Seller reserves the right to (a) require the purchase of entire lots; and (b) allocate supply, to the extent such allocation is deemed necessary by Seller, among any or all customers at its sole discretion, without liability for any failure of performance which may result therefrom.

6. USE OF PRODUCT.

6.1. All the Products are intended for research only and are not to be used for any other purpose, including without limitation, unauthorized commercial uses, in vitro diagnostic uses, ex vivo or in vivo therapeutic uses, or any type of consumption by or application to humans or animals.

6.2. Buyer acknowledges that Products are not tested for safety and efficacy in food, drug, medical device, cosmetic, commercial or any other use.

7. INSPECTION AND REJECTION OF PRODUCTS

7.1. Buyer shall inspect the Products no later than five (5) days after receipt ("Inspection Period"). Buyer will be deemed to have accepted the received the Products unless it notifies Seller’s customer service department in writing of any Nonconforming Product during the Inspection Period, furnishing evidence or other documentation if required. "Nonconforming Products" means only those delivered Products which are damaged, defective or delivered in short.

7.2. If notified in accordance with Section 7.1, Seller shall, in its sole discretion, (a) replace the Nonconforming Product(s) with conforming Products, or (b) credit the price for such Nonconforming Products or, in the event of partial delivery, adjust the invoice to reflect the actual quantity delivered. Seller reserves the right to inspect the Products. Buyer acknowledges and agrees that the remedies set forth herein are the exclusive remedies for delivery of Nonconforming Products.

7.3. Any returns, if authorized, shall be handled in accordance with Section 9 below.
8. LIMITED WARRANTIES.

8.1. Seller warrants that the Products will operate or perform substantially in conformance with Seller’s published specifications and be free from defects in material and workmanship for (a) one (1) year from the date of shipment of Products or (b) the remaining shelf life or the period prior to the expiration date of Product, whichever is shorter.

8.2. The limited warranties set forth above do not apply unless: (a) Buyer gives written notice of the defect(s) to Seller immediately upon discovery; (b) if applicable, Seller is given reasonable opportunity to examine the relevant Products; and (c) the defect(s) are verified by Seller.

8.3. The limited warranty set forth in Section 8.1 does not apply if: (a) a defect arises as a result of a breach of the obligations in Section 6 or (b) Products are used beyond the shelf life or expiration date as set forth in the applicable product documentation.

8.4. Subject to the conditions set forth above in this Section, including the time limitations set forth in Sections 8.1, Seller shall, in its sole discretion either repair, reimburse, or replace Products and if Seller is unable to repair, reimburse, or replace, Seller shall credit the price of such Products. The remedies set forth herein shall be Buyer’s sole and exclusive remedy and Seller’s entire liability for any breach of its warranty.

8.5. If Seller determines that Products for which Buyer has requested warranty are not covered by the warranty hereunder, Buyer shall pay or reimburse Seller for all costs of investigating and responding to such request.

8.6. EXCEPT AS PROVIDED HEREIN, SELLER DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER DOES NOT WARRANT THAT THE PRODUCTS ARE ERROR-FREE OR WILL ACCOMPLISH ANY PARTICULAR RESULT.

9. RETURNS.

9.1. Buyer shall not return Products without Seller’s prior written consent. Seller reserves the right to inspect Products at Purchaser’s site and/or require disposal instead of return. All returns must be in compliance with Seller’s instructions and is subject to a restocking charge of a minimum of twenty percent (20%). Certain Products (e.g., diagnostic reagents; refrigerated or frozen products; custom Products; bulk Product, special orders, ASIS Products, or orders less than $30.00) may not be returned under any circumstances. Title to returned Products shall transfer to Seller upon acceptance at the facility designated by Seller. Any returned Products must be in their original packaging with the original label affixed, and unaltered in form and content.

10. INDEMNIFICATION AND LIMITATION OF LIABILITY.

10.1. Buyer assumes all risk and liability for loss, damage or injury to persons or to property of Buyer or others arising out of the transport, storage or use of Products, including infringement of any third-party intellectual property rights resulting from Buyer’s specific use of Products. If Seller’s performance of its obligations is prevented or delayed by any act or omission of Buyer, its agents or subcontractors, Seller shall not be deemed in breach of its obligations or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer or others, in each case, to the extent arising directly or indirectly from such prevention or delay.

10.2. Buyer shall indemnify and hold Seller, its affiliates, and their respective agents, employees, and representatives, harmless from and against all claims, damages, losses, costs and expenses (including attorney’s fees) (a) arising from or in connection with the transport, storage, sale or use of Products, (b) resulting from Buyer’s breach of the Agreement, and/or (c) arising from the negligence, recklessness or misconduct of Buyer, its affiliates, or their respective agents, employees, partners or subcontractors.
10.3. Except as otherwise expressly provided herein, Seller shall not indemnify nor be liable to Buyer or any person or entity for any claim, damage or loss arising out of the Products, including the sale, transport, storage, failure, use or distribution thereof regardless of the theory of liability, including but not limited to warranty, negligence or strict liability. In addition, Seller shall not be liable for incidental, consequential, indirect, exemplary or special damages of any kind, including, without limitation, liability for loss of use, loss of work in progress, loss of revenue or profits, cost of substitute equipment, facilities or services, downtime costs, or any liability of Purchaser to a third party. The total liability of Seller hereunder shall not exceed the purchase price of Products. Without limiting the provisions regarding and limiting warranty claims hereunder, all claims must be brought within one (1) year of delivery of Products, regardless of their nature.

11. COMPLIANCE WITH LAWS. Buyer shall comply with all applicable laws, regulations and ordinances, including but not limited to those pertaining to the following: export control, pharmaceutical, cosmetic and food preparations, electrical or electronic waste, introduction or production and use of chemical substances (e.g. Toxic Substances Control Act, REACH), and bribery and corruption (e.g. Foreign Corrupt Practices Act and UK Bribery Act). Buyer shall comply with all applicable export and import laws in its purchase of Products hereunder and assumes all responsibility for all shipments governed by such laws. Seller may terminate the Agreement or suspend delivery if any governmental authority imposes antidumping or countervailing duties or any other penalties on Products.

12. TERMINATION. In addition to any other remedies provided hereunder, Seller may immediately terminate the Agreement upon written notice if Buyer: (a) fails to pay any amount when due; (b) has not otherwise performed or complied herewith, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

13. CONFIDENTIAL INFORMATION. All non-public, confidential or proprietary information, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" is confidential and may not be disclosed or used by Buyer for its own use, including but not limited to filing any patent applications disclosing or based on such confidential information, unless authorized in advance by Seller. Upon request, Buyer shall promptly return or destroy all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this section. This section does not apply to information that is: (a) in the public domain; (b) known to Purchaser at the time of disclosure; or (c) rightfully obtained by Purchaser on a non-confidential basis from a third party.

14. FORCE MAJEURE. Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted or breached the Agreement, for any failure or delay in fulfilling any term of the Agreement (other than payment obligations) when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of such party including, without limitation, acts of God, flood, fire, earthquake, governmental actions, war, terrorist threats or acts, riot or other civil unrest, national emergency, revolution, embargos, trade wars, epidemics, strikes or other labor disputes, restraints or delays affecting carriers, inability or delay in obtaining adequate or suitable materials, telecommunication breakdown, power outage, or production failure, provided that, if the event in question continues for a period in excess of one hundred and twenty (120) days, either party shall be entitled to give notice in writing to terminate the Agreement.

15. MISCELLANEOUS.

15.1. No Waiver. No waiver by Seller of any provisions of the Agreement is effective unless explicitly set forth in writing. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from the Agreement operates, or may be construed, as a waiver thereof.

15.2. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under the Agreement without Seller's prior written consent. Any purported assignment or delegation in
violation hereof is null and void. No assignment or delegation relieves Buyer of any of its obligations hereunder.

15.3. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

15.4. **No Third-Party Beneficiaries.** The Agreement is for the sole benefit of the parties and their respective successors and permitted assigns and nothing herein is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature.

15.5. **Governing Law and Venue.** All matters arising out of or relating to the Agreement are governed by and construed in accordance with the internal laws of Illinois without giving effect to any choice of law or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or relating to the Agreement shall be instituted in courts located in Wood Dale, Illinois, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

15.6. ** Notices.** Except if otherwise agreed upon by the parties, any notices required hereunder shall be made in writing and sent by courier service with tracking or registered or certified mail to the other party at its registered office or principal place of business or such other address as indicated by the receiving party.

15.7. **Severability.** If any term or provision of the Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

15.8. ** Survival.** Provisions hereof which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Agreement including, but not limited to, the following provisions: Sections 6, 8, 10, 13, 15.5 and this 15.8.

15.9. **Amendment and Modification.** Except as otherwise set forth herein, the Agreement may only be amended or modified in writing and signed by an authorized representative of each party.

15.10. **Data Protection.** Seller will request, process and use personal data (e.g. contact name and business addresses) from Buyer to fulfill its obligations under the Agreement and for the continuing relationship management with Buyer. Seller’s processing activities shall be governed by its privacy policy posted on its website.