

Standard Terms and Conditions of Sale

1. **Definitions.** In these terms and conditions the following words shall have the meanings ascribed to them.
 - "Company" - Means Hydrasearch Company, LLC.
 - "Customer" - The person, firm or company to whom the Order is addressed.
 - "Goods" - The goods and/or services described in the Order.
 - "Order" - The order placed by the Customer with the Company for the supply of the Goods.
 - "Premises" - The place(s) nominated in the Order where the Goods are to be delivered.
2. **Governing Provisions.** This writing is an offer by Company to sell the Goods described herein to the Customer, subject to the terms and conditions set forth herein.
 - A. No additions, amendments or modifications to these terms and conditions shall be binding upon the Company unless made in writing and signed by an authorized representative of the Company; and
 - B. These terms and conditions supersede any other terms and conditions appearing elsewhere and shall prevail over and exclude any course of dealing established between the Company and the Customer and any other terms and/or conditions stipulated or incorporated or referred to by the Customer or his agent or any third party whether in the quotation or Invoice or form of acceptance or in any other negotiation; and
 - C. It shall be a pre-condition of the Company entering into any agreement to sell any of the Goods that such agreement be made subject to these terms and conditions; and
 - D. The signing by the Company of any of the Customer's documentation shall not imply or be deemed to imply any modification of these terms and conditions or an acceptance of the Customer's documentation or any terms and/or conditions contained therein; and
 - E. Company's failure to object to conflicting or additional terms will not change or add to the terms and conditions herein.
3. **Acceptance of Order.**
 - A. **The Order constitutes the Company's offer to the Customer and shall become a binding Contract (the "Contract") upon the terms and conditions set forth herein upon acceptance by either the Customer acknowledgment or commencement of performance.**
 - B. All Orders from Customer are subject to acceptance by Company.
 - C. All Orders must identify the Company's part number, Goods description, unit quantities, applicable prices and requested delivery dates of the Goods being purchased.
 - D. Any terms and/or conditions (including prices and delivery dates) proposed by the Customer in accepting the Company's offer, which are inconsistent with or in addition to the terms and conditions herein set forth, shall be void and of no effect unless and to the extent expressly accepted in writing by the Company.
4. **Changes or Cancellations.**
 - A. No Order may be canceled or altered by Customer except upon terms and conditions acceptable to Company, as evidenced by Company's written consent.
 - B. Customer has no right to cancel Order for convenience.
 - C. Customer may only cancel Order for Company's material breach if Company, after written notice, fails to cure within thirty (30) days of receipt of such notice.
 - D. Any cancellation of an Order by Customer must be in writing. In the event of a cancellation by Customer or Company for any reason other than a material breach by Company that Company fails to cure, Customer shall pay Company cancellation charges consisting of the amount, if any, specified on the Company's quotation or Order acknowledgment or, if no such amount is so specified, an amount equal to all of Company's costs and expenses incurred in connection with Company's performance (including without limitation labor, material, and overhead), all costs and expenses incurred as a result of the cancellation, any of Company's other incidental damages, and Company's expectation damages.
 - E. Regarding any breach by Customer hereunder, Company reserves all rights and remedies available hereunder, in equity or at law.
 - F. Company may, in its sole discretion, elect to reduce or waive such cancellation charges. No such waiver or reduction in any case shall affect Company's right to impose such charges in any subsequent case.
 - G. Company may designate certain Goods as non-cancelable, non-returnable and the sale of such Goods shall be subject to any special terms and conditions contained in Company's Order Confirmation, which shall prevail and supersede any inconsistent terms and conditions contained herein or elsewhere.
5. **Prices and Delivery.**
 - A. Prices and product design are subject to change at any time without notice.
 - B. Price quotations shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the quotation.
 - C. Prices that are acknowledged on an Order are current prices. "Hold for Release" Orders will be billed at the prices in effect at the time of release of Order.
 - D. Company will deliver the Goods within a reasonable time after receiving Customer's Order, subject to their availability. The delivery date provided by Company for the Goods is only an estimate and is based upon prompt receipt of all necessary information from Customer. If Customer causes Company to delay shipment or completion of the Goods, Company will be entitled to any and all extra costs and expenses resulting from the delay. Company will not be liable for any delays, loss, or damage in transit, and failure to deliver within the time estimated will not be a material breach of contract on Company's part.
 - E. Unless otherwise agreed in writing by the Company, Company will deliver the Goods at the location specified in the Order Confirmation (the "Delivery Location"), using Company's standard methods for packaging and shipping.
 - F. Customer will take delivery of the Goods at the Delivery Location. If Customer fails to take delivery of the Goods, Customer will pay Company for the Goods and all storage and/or transportation expenses incurred by Company.
 - G. Company may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Customer unless otherwise written on the Customer Order. Each shipment will constitute a separate sale, and customer will pay for the units shipped whether the shipment is in whole or partial fulfillment of Customer's Order.
 - H. Customer is responsible for obtaining any import licenses and other consents required for Goods shipment at its own expense, and will provide the licenses and consents to the Company before shipment.
 - I. All Goods shipped FOB-origin (Company's Facility, Stevensville, MD), unless otherwise agreed to by Company.
6. **Taxes and Other Charges.**

Any manufacturer's tax, sales tax, excise tax, value-added tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority on or measured by the transaction between Company and Customer shall be paid by Customer in addition to the prices quoted or invoiced. In the event the Company is required to pay any such tax, fee or charge, Customer shall reimburse Company therefor.
7. **Risk of Loss.**

Title and risk of loss and/or damage passes to the Customer upon delivery of the Goods to the carrier (see 5I).
8. **Payment Terms.**
 - A. Unless otherwise set forth in the Order Confirmation, Customer will pay all invoiced amounts within thirty (30) days following the date of Company's invoice, without offset or deduction.
 - B. Invoices are payable in U.S. funds unless otherwise noted.
 - C. Payment may be made by check, money order, credit card or wire transfer (all fees are the responsibility of the Customer).
 - D. On any past due invoice, Company may impose interest at the rate of one and one half percent (1.5%) per month. If Customer fails to make each payment when it is due, Company reserves the right to change or withdraw credit and thereby suspend or cancel performance under any or all Orders in which Company has extended credit to Customer. In the event of default by Customer, Company shall be entitled to costs, fees and expenses, including but not limited to recovery of attorney's fees, court costs and fees, and collection costs.
 - E. Company may suspend the delivery of any Goods if Customer fails to pay any amounts when due and the failure continues for 15 days following Customer's receipt of notice thereof. Customer may not withhold payment of any amounts due and payable as a set-off of any claim or dispute with Company, regardless of whether relating to Company's breach, bankruptcy, or otherwise.
9. **Limited Warranty**
 - A. Company warrants its Goods against defects in material and workmanship for one (1) year from the date of invoice.

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B. Without charge to Customer, the Company will, as its option, either repair or replace any properly installed Goods that are the subject of a valid warranty claim, provided that the Company receives written notice of such warranty claim prior to the expiration of the limited warranty period set forth below (see 11A). If repair parts or replacement Goods are not available, comparable Goods may be substituted at the Company's discretion. The foregoing remedies constitute Customer's sole and exclusive remedies for any valid warranty claim hereunder. The foregoing limited warranty covers only those Goods that are manufactured by the Company and does not extend to Third Party Goods (regardless of whether they are expressly identified as such), nor does it extend to transportation, installation, or replacement services or charges incurred by Customer.

C. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY OTHER OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.

D. Company's limited warranty ceases to apply and will be void if: (i) the Goods have been altered or modified in any way; (ii) the defect or failure is attributable to abnormal site or operating conditions; (iii) the Goods are damaged by abuse, fire, explosion, lightning, flooding, or other acts of God; or (iv) the uninstalled Goods have been stored in an unsuitable location. In addition, Company makes no warranties with respect to, and Customer assumes full responsibility for, all handling of the Goods after delivery, all quality control and testing of the Goods, and all determination of suitability of the Goods for their intended application or use. Upon Company's acceptance of a valid warranty claim, Customer shall return the defective Goods to Company, transportation prepaid.

10. Limitation of Liability; Indemnification.

A. The Company's liability with respect to breaches of warranty shall be limited as provided in Section 9 hereof. With respect to other breaches of this Contract, the Company's liability shall in no event exceed the Order price.

B. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, WHETHER FOR BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR OTHER TORT, ON ANY TYPE OF STRICT LIABILITY THEORY OR ANY OTHER THEORY OF LIABILITY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, COMPANY SPECIFICALLY DISCLAIMS ANY LIABILITY FOR PENALTIES (INCLUDING ADMINISTRATIVE PENALTIES), SPECIAL OR PUNITIVE DAMAGES, DAMAGES FOR LOST PROFITS OR REVENUES, LOSS OF USE OF GOODS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, FACILITIES, SERVICES, LABOR OR SALARIES, DOWNTIME, SHUT-DOWN OR SLOWDOWN COSTS, SPOILAGE OF MATERIALS, OR FOR ANY OTHER TYPE OF ECONOMIC LOSS.

C. All the limitations and disclaimers contained in this paragraph and in the rest of this Contract shall apply to claims of Customer's clients or any third party asserted by Customer against Company for indemnity or contribution, as well as direct claims of Customer against Company. Customer shall indemnify Company, and its parent company, their respective subsidiaries, affiliates, successors, and assigns and their respective directors, officers, and employees from and against any and all losses, liabilities, damages, and expenses (including, without limitation, attorneys fees and other costs of defending any action) which Company may incur as a result of any claim by Customer or others (including damage to property or injury or death to persons) arising out of or in connection with the Goods sold hereunder and based on Goods defects or failures not proved to have been caused solely by Company's negligence or, in the event of resale, by virtue of Customer's failure to properly disclaim all implied warranties and consequential damages.

11. Claims.

A. All claims for defective or damaged Goods or deficient Orders must be made by Customer in writing fully setting forth the nature of the alleged claim within thirty (30) days after receipt thereof by Customer.

B. Photographic evidence is required for all claims.

C. Customer's failure to so notify Company shall constitute irrevocable acceptance of the Goods and a waiver of any defect, damage, or shortage.

D. Claims for damage or loss in transit must be made by Customer directly against the carrier.

12. Returns.

A. Goods may be returned to Company only when Company's written permission, signed by an authorized representative of Company, is obtained by Customer in advance.

B. Goods may not be returned unless they are in marketable condition. Any cost incurred by Company to put Goods in marketable condition will be charged to Customer.

C. Returned Goods must be securely packaged and be delivered to Company prepaid and without damage.

D. Returns are subject to a minimum 25% restocking charge. Additional charges may apply.

E. No returned Goods will be accepted without all cartons marked with authorized Return Material Authorization (RMA) number. One carton must include a copy of the RMA form in order to ensure prompt evaluation and possible credit of return. All RMAs expire thirty (30) days from date of issuance. Unmarked shipments will be refused by Company's receiving department at the Customer's expense.

13. Confidentiality.

All non-public, confidential, or proprietary information of Company, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, that Company discloses to Customer, whether disclosed orally or disclosed in written, electronic or other form or media, and regardless of whether marked, designated, or otherwise identified as "confidential," in connection with the Agreement is confidential, solely for the use of performing the Agreement, and may not be disclosed or copied unless authorized in advance by Company in writing. Upon Company's request, Customer will promptly return all documents and other materials received from Company. Company will be entitled to injunctive relief for any violation of this Section 13, without having to post bond or establish the insufficiency of a remedy at law. This Section 13 does not apply to information that is (i) in the public domain; (ii) known to Customer at the time of disclosure; or (iii) rightfully obtained by Customer on a non-confidential basis from a third party.

14. Right to Assurance.

Whenever Company in good faith has reason to question Customer's ability or intent to perform, Company may demand in writing adequate assurance from Customer of Customer's ability or intent to perform, and may suspend performance hereunder pending such assurance. In the event that such a demand is made and such assurance is not given within a reasonable time, Company may treat that failure as anticipatory repudiation hereof and exercise any appropriate remedy thereof.

15. Delay in Performance.

A. Company shall not be liable for any damages or penalties as result of any delay in Company's performance when such delay is due to force majeure, weather events, acts of God, delay in transit, delay in delivery by any vendor of Company, or any other cause beyond the reasonable control of Company.

B. Company may allocate its available supply of Goods among its customers, itself, and its affiliates on such basis as Company deems fair and reasonable if Company is unable, for any reason, to supply the quantities of Goods contemplated hereby.

16. Compliance.

A. The Company and Customer will comply with all applicable laws, regulations, and ordinances, and Customer will comply with the export and import laws and regulations in effect as of the date of shipment of the Goods of any country involved in the transactions contemplated by the Agreement, including but not limited to (i) Export Administration Regulation (EAR), 15 CFR 730-774; (ii) International Traffic in Arms Regulations (ITAR), 22 CFR 120-130; or (iii) Arms Export Control Act, 22 USC 2751-2794.

B. Prior to any export or release of Goods or technical data, an export license may be required to be issued by either the US Department of State, Office of Defense Trade Controls or the Department of Commerce, Bureau of Industry and Security,

C. Customer will provide end user any end use information for Goods.

D. Diversion contrary to US law is strictly prohibited.

17. Information.

Company reserves the right to send business related communications to Customers, and by doing business with Company, the Customer agrees to these terms. Communications include but are not limited to information about providing Goods, Goods information, service, alerts and other marketing communications, providing customer support, conducting surveys, and ensuring accurate communications about customer account.