

Terms and Conditions of Sale

1. **Exclusivity of Terms.** These terms and conditions, together with any terms and conditions contained on any applicable invoice (collectively, "T&Cs") and the Neogen Website Privacy Notice (available at: www.Neogen.com, "Privacy Notice"), constitute the entire agreement of Neogen Corporation and/or its subsidiaries ("Seller") and the purchaser named on the invoice and/or the user using any of the Sites (as defined below) ("Buyer" or "you"), and supersedes all previous correspondence, all prior agreements, discussions, representations, amendments or understandings of every kind and nature between Buyer and Seller, both written and oral, including any purchase orders that may have been submitted by the Buyer; provided the T&Cs shall not modify any conflicting terms and conditions contained in a separate distribution, supply or similar agreement actually signed by Seller and Buyer prior to the date this attachment ("Separate Agreement"). Any term specified on the invoice supersedes any term on these terms and conditions.
2. **Prices.** Unless otherwise stated in writing by Neogen, all prices quoted are exclusive of transportation, insurance, taxes, customs fees, duties, and other related charges. Prices quoted relate only to the Products and do not include intellectual property, industrial property, or patent rights of any kind.
3. **Shipment and Title.** If the Products are to be shipped within the continental U.S. from a point of origin in the U.S., the applicable delivery term for the Products is F.O.B. (Neogen's facility), unless otherwise stated on the order acknowledgement or quotation to which these terms relate. If the Products are being shipped outside the continental U.S., the applicable delivery term for the Products is DAF (Port of Entry identified on the face of the order acknowledgement or quotation accompanying these terms and conditions) (Incoterms 2000 version). If the Products are to be shipped within Canada from a point of origin in Canada, the applicable delivery term for the Products is F.O.B. (Neogen's facility), unless otherwise stated on the order acknowledgement or quotation to which these terms relate. If the Products are being shipped to Canada from any other shipping point, the applicable delivery term for the Products is DDP (Incoterms 2000 version). Freight and associated duties and clearance fees incurred by Neogen in shipping the Products will be invoiced to the Buyer.
4. **Delivery.** Any term of delivery specified is tied to the date Seller receives Buyer's signed order, and is only an estimate. Seller does not guarantee the delivery date, but will use reasonable efforts to do so. Seller may make partial shipments and submit a separate invoice for each shipment. All shipments will be F.O.B. Seller's plant of choice, unless otherwise specified in writing. Seller may, at its option, deliver the order directly to Buyer's customers, if applicable, upon Buyer's request. Seller shall not be liable for any failure to deliver (including any of Buyer's customers who refuse deliver, if applicable), or for any delay in the

manufacture or delivery of, any order sold or to be sold by it if such a failure or delay is caused by delay or inability to obtain transportation; inability to obtain materials; shortage of fuel; failure of sources of supplies; labor disputes; accident; riot; war; terrorist act; embargo, restraint or demand of the United States or of any other government; nonfulfillment by Buyer of conditions of payment; natural disaster; or any other cause beyond the control of Seller. If at any time Seller shall be prevented by any of the above causes from the supplying all or any part of Buyer's order and to its other customers under contract, Seller shall have the right to prorate the quantity then deliverable to Buyer and to its other customers.

5. **Termination or Change.** Buyer cannot terminate, suspend performance, reschedule or cancel delivery or issue a "hold" order under this Agreement in whole or in part, without Neogen's prior written consent. If delivery of the Product is delayed by Buyer, Neogen may invoice Buyer for the Products when Neogen is prepared to ship and Buyer will reimburse Neogen for any storage costs incurred.
6. **Payment Terms.** Unless otherwise indicated on the face of this order acknowledgement, Buyer will pay the invoiced amount within thirty (30) days from the date of Neogen's invoice. Neogen can exercise an option to assess an interest charge of up to 2.5% p.a. above the current prime rate quoted by Citibank, N.A. in New York City, New York (but no to exceed the maximum lawful rate). Unless otherwise agreed, invoices will be paid in US currency.
7. **Taxes.** Any tax or related charge that Neogen is required to pay to or collect for any government in connection with this Agreement, including, without limitation VAT, sales tax or use tax (excluding tax incurred based on the net income of Neogen) will be billed to Buyer and paid by Buyer.
8. **Product Warranty.** Neogen warrants to Buyer only that the Products are free of defects in material and, when and as delivered to Buyer, will conform to the applicable specification. Subject to any expiration, the foregoing warranty is valid for a period of 12 months from the date of shipment. In the event that Neogen delivers any non-conforming Products, Neogen will, at its option, provide a free replacement or grant Buyer an appropriate credit. Either of these alternatives are Buyer's sole and exclusive remedy in the event of delivery of non-conforming Products and Neogen will not be liable to Buyer or any other party for any other damages, whether directly or indirectly incurred. THE WARRANTY AND REMEDIES PROVIDED IN THIS PARAGRAPH APPLY TO THE EXCLUSION OF ANY OTHER WARRANTIES (EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) OR REMEDIES THAT MIGHT OTHERWISE BE AVAILABLE UNDER APPLICABLE LAW. This limited warranty does not apply to materials manufactured by third parties or for work or modifications performed by Buyer or third parties.

9. **Acceptance.** Buyer agrees to promptly inspect each order received from Neogen. All claims for damage in transit will be submitted directly to the carrier. When damage or shortage is observed at the time of delivery, the carrier's delivery receipt must indicate the specific damage or shortage at the time of receipt. Buyer will be deemed to have accepted an order within 2 business days following receipt unless it has previously notified Neogen in writing of any claim. Special order products or discontinued items are non-refundable and non-returnable. No-charge goods, which may be denoted as free goods, samples, premium goods, or replacement goods, are non-returnable for replacement, credit or refund. The replacement or credit value of a returned product will be issued at the net value when the purchase price includes a promotional or program special. Outdated or expired products cannot be returned unless shipped in error by Neogen.
10. **Installation and Use.** Buyer assumes all liability for installation and use of the order and will be responsible for ensuring that the installation and use complies with (i) federal, state and local health, building and safety laws, codes and regulations; and (ii) Neogen's instructions for the use (including limitations on the use) of the product. Further, Buyer agrees not to use the products in any manner for any human in vitro diagnostic purpose. Unless otherwise agreed by Neogen in writing, Buyer agrees not to use any instrument or diagnostic products provided hereunder in combination with any non-approved, reagents, instruments, software and/or other products which are not provided by Neogen or from a source authorized by Neogen. Buyer acknowledges that failure to comply with any restriction of use set forth herein or in any user guide, protocols, kit inserts, or other documentation provided by Neogen in connection with the products will (i) constitute a breach of these terms and conditions, (ii) invalidate any warranty provided herein and any applicable service agreement, and (iii) constitute a violation or infringement of Neogen's and/or a third party's intellectual property rights. Buyer indemnifies, holds harmless and agrees to defend Neogen from any and all claims, damages, liabilities and expenses (including attorney's fees) resulting from negligent or improper use of the product, including use of the product that does not comply with (I) such laws, codes or regulations, or violation of any such law, code or regulation, or (II) the use restrictions contained in these terms and conditions or in any product description or product material.
11. **Warranty Performance Procedure.** If Buyer believes the Neogen may be responsible for the performance of any warranty obligation, Buyer must send written notice of the claimed defect prior to acceptance. No attempted repair of the claimed defect may be made without the prior written consent of the Neogen. Upon receipt of the notification prior to acceptance, Neogen, or Neogen's designated agent, will be given access to the product for inspection or testing (including removal or destructive testing of the product). Buyer must contact the Neogen and request a return authorization. Upon the Buyer's receipt

of the return authorization form, the unused product may be shipped, F.O.B. Neogen's plant, freight prepaid, to the facility designated on the return authorization. All product returned for replacement or refund (which refund may be made in the form of a credit to the Buyer's account), must be accompanied by the return authorization. Unless otherwise agreed in writing, all other returned product is subject to a twenty percent (20%) handling/ reshelving charge.

12. Intellectual Property. With respect to intellectual property and industrial property matters, Neogen's sole and exclusive liability is to indemnify Buyer only against valid claims based upon infringement of validly issued U.S. patents and then only with respect to Products in the form in which sold by Neogen. Neogen's sole obligation under this indemnification will be the assumption of the defense of any such suit brought against Buyer. Neogen will be given exclusive control of the defense of such claim, including settlement.

13. Limitations of Use for Products Purchased from Seller.

- a. Research Use Only; Limited License. Products supplied by Seller are labeled for research use only and do not have the approval of the U.S. Food and Drug Administration ("FDA") or any other regulatory approval, clearance or registration for in vitro diagnostic use in animals or humans ("IVD"), or any personal non-commercial use(s). The Products shall be used solely in accordance with the documentation that accompanies the Products. In particular, the purchase of this product under these terms does not include or carry any right or license to use, develop, or otherwise exploit this product commercially, other than the intended use, and no rights are conveyed to the buyer to use the product or components of the product for human/animal therapeutic or human/animal diagnostic purposes. All Products shall be used by qualified professionals in accordance with any user guide, protocols, kit inserts, or other documentation provided by Seller in connection with the Products. The user guides, protocols, kits inserts, or other documentation provided by Seller in connection with specific Products may include other license terms, and Buyer agrees that such terms are incorporated herein by reference. The burden for safe use and handling of all Products sold by Seller to Buyer is entirely the responsibility of Buyer.
- b. Use Restrictions. Buyer is not licensed to, and agrees not to: (a) resell any Seller-supplied Products, unless explicitly allowed by Seller (b) transfer, or distribute any Seller-supplied Products, directly or indirectly, to any third party for any purpose or use, except as otherwise approved by Seller in writing; (c) use or allow anyone to use Seller-supplied Products more than once, or dilute any Seller-supplied reagent other than in accordance with Seller's instructions for use; (d) decompile, deconstruct, disassemble or make other attempts to reverse engineer Seller supplied Products

including software, , instruments, or kits; or (e) use the Products in any manner for non-commercial purposes.

- 14. Limitations of Liability.** In no event will Neogen be liable to Buyer under any circumstances for any consequential, incidental, indirect, special, or punitive damages such as loss of capital, loss of use, substitute performance, loss of production, loss of profits, loss of business opportunity or any other claims for damages arising out of this Agreement (including purchases of Product pursuant to this Agreement) even if advised of the possibility of such damages. The warranties provided in this Agreement (including in the Terms and Conditions) apply to the exclusion of any other warranties (express or implied, including the warranties of merchantability and fitness for a particular purpose) that might otherwise be available under applicable law. No warranty or representation or guaranty is made by Neogen as a result of the delivery of any sample, prototype, product information sheet, sale or marketing material, custom, trade practice, or statement by a representative of Neogen. Neogen's maximum liability for all damages arising under this Agreement (including purchases of Product pursuant to this Agreement), regardless of the cause of action or the basis or type of liability, is limited to an amount not to exceed the aggregate purchase price for all affected Product paid by Buyer to Neogen under this Agreement during the twelve (12) months preceding the submission of a written notice of claimed damages from Buyer to Neogen.
- 15. Choice of Law and Venue.** This Agreement is governed by, interpreted and construed, and performance hereunder will be determined in accordance with the law of the State of Michigan, without regard to its conflicts of law principles. In the event of disputes or claims relating to this Agreement, both parties agree to seek an amicable settlement prior to commencing any litigation. In the event of litigation, any action will be venued in Ingham County, Michigan. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed and excluded and does not apply to or govern this Agreement. The parties waive, to the fullest extent permitted by applicable law, any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under, or in connection with this Agreement or the transactions contemplated by this Agreement
- 16. Export Control.** Buyer acknowledges that the Products sold by Neogen are subject to export control laws and regulations of the United States of America. Neogen will have no obligation to sell or deliver Products until Buyer has obtained all required export authorizations, if required. Buyer agrees that it will not use, distribute, transfer, or transmit the Products except in compliance with United States laws and regulations and the laws and regulations of any other jurisdiction.
- 17. Government Subcontract.** If this contract is a subcontract under a United States government prime contract, Neogen accepts only those terms and conditions that are required to be included in subcontracts entered into by Buyer with

respect to such United States government prime contract and no others. Neogen accepts no terms or conditions with respect to adjustment of price, patent warranty or licenses, warranty, limitation of Buyer's liability, or special tooling except as appear herein or where the subject of a separate letter agreement that has been duly executed by an authorized officer of Neogen.

18. **Force Majeure.** If by reason of fire, earthquake, flood, explosion, accident, strike, slow-down, lock-out or other difference with or inability to secure workmen, lack of material, lack of facilities, equipment failure, Act of God, act of any public enemy, war, terrorism, voluntary or involuntary compliance with any valid or invalid order, regulation, law or request or recommendation of any government agency or authority, lack of transportation facilities, pandemic, disease outbreak, or other cause beyond the reasonable control of Neogen whether or not of the kind hereinbefore specified, Neogen is delayed in performing any of its obligations set forth in this Agreement such delay will be excused during the continuance and to the extent of such cause.