

TERMS AND CONDITIONS

EMERALD BIOSYSTEMS CONSUMABLES SALES

The following terms and conditions shall apply to the sale of reagents, proteins, and other products ("Products") by Emerald BioSystems, Inc. ("Seller") to the purchaser of Products pursuant to the attached purchase order ("Customer").

- 1. Acceptance.** ALL SALES ARE SUBJECT TO AND EXPRESSLY CONDITIONED UPON THESE TERMS AND CONDITIONS. NO VARIATION OF THESE TERMS AND CONDITIONS SHALL BE BINDING UPON SELLER UNLESS AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF SELLER.
- 2. Use Limitations.** The Products are provided solely for research purposes. CUSTOMER ACKNOWLEDGES THAT THE PRODUCTS HAVE NOT BEEN APPROVED FOR HUMAN USE. CUSTOMER AGREES NOT TO ADMINISTER ANY OF THE PRODUCTS TO HUMANS IN ANY MANNER OR FORM OR TO USE THE PRODUCTS FOR HUMAN DIAGNOSTIC OR THERAPEUTIC PURPOSES. Customer agrees to comply with all laws and governmental rules and regulations that are applicable to Products or their use. Specifically, Customer agrees to comply with any export control laws and regulations applicable to Products.
- 3. Limitation of Warranties and Liability.** The Products are experimental in nature. As such, SELLER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADE-MARK OR OTHER PROPRIETARY RIGHT. In no event shall Seller be liable for any use by Customer of the Products or any loss, claim, injury, damage or liability, of whatsoever kind of nature, which may arise from or in connection with this Agreement or the use, handling or storage of the Products. Customer agrees to indemnify, defend, and hold harmless Seller, its officers, agents, and employees from any liability, loss or damage they may suffer as a result of claims, demands, costs or judgments against them arising out of the use or disposition of the Products by Customer, except to the extent resulting from the gross negligence or willful misconduct of Seller.
- 4. Remedies.** Customer's sole and exclusive remedy with respect to Products that prove to be defective or nonconforming shall be Product replacement or refund at Seller's sole discretion. The remedies provided herein are Customer's sole and exclusive remedies. In no event shall Seller's liability exceed the purchase price of the applicable Products. Without limiting the generality of the foregoing, in no event shall Seller be liable, whether in contract, tort, warranty, or under any statute or on any other basis, for direct, indirect, punitive, incidental, multiple, consequential, or special damages sustained by Customer or any other person or entity, whether or not foreseeable and whether or not Seller is advised of the possibility of such damages. No agent, employee, or representative of Seller or its affiliates has any authority to modify the terms of these warranties or to bind Seller to any additional warranty or representation not contained herein, and any such warranty or representation is not binding on Seller unless in a writing signed by an authorized executive officer of Seller.
- 5. No Transfer of Intellectual Property Rights.** These terms and conditions shall not be deemed to transfer, through ownership, license or other means, any rights in any intellectual property of Seller.
- 6. Shipping Terms.** Continental USA orders are shipped by FedEx Two-Day delivery or FedEx Priority Overnight delivery. International orders are normally shipped by FedEx Priority International service with delivery in two to five working days. F.O.B. point is Bainbridge Island, WA USA. Freight costs will be prepaid and added to your invoice. Orders received before 1:00 p.m. PST will be shipped on the same day. Orders received after 1:00 p.m. PST will be shipped on the next business day. You will be informed of any backorders at the time of your order.
- 7. Damage, Claims, Returns.** Please inspect all packages upon receipt and inform Emerald BioSystems immediately of any damage or problems. In case of damage, please retain the shipping box and any other documentation of damage. Damaged products will be replaced at no additional cost to the customer. Returns can be accepted, subject to approval from Emerald BioSystems, if we are notified within 10 working days of receipt through the issuance of a Return Authorization Number. If products have been shipped to you in error they are returnable for credit, replacement, or exchange provided the items are returned with their shrink-wrap intact. No shipping costs will be applied for items that are returned because of an error on our part. The shipping costs for items returned as the result of a customer error will be paid for by the customer. Custom Screens are not refundable or returnable. Emerald BioSystems does not offer any warranty, expressed or implied, on Custom Screens, solutions, and buffers. Chemical compatibility of customer provided screens is the responsibility of the customer. Shelf life for Custom Screens may vary and is not warranted or guaranteed.

- 8. Payment Terms.** Our payment terms are net 30 days from the date of shipment, payable in U.S. dollars, and subject to a 1.5% monthly late charge if payment is not received within 30 days after shipping. Custom Screens may be subject to a 30% deposit at the time of the initial order.

Make checks payable to: **Emerald BioSystems, Inc**

Mail payments to:
Emerald BioSystems, Inc
2501 Davey Road
Woodridge, IL 60517 U.S.A.

International Customers please make payments in U.S. dollars by a check drawn from a U.S. bank, a money order, or a wire transfer. Please note that any bank or service charges will be charged back to the customer.

Credit cards are welcome. Visa and Mastercard are accepted.

- 9. Governing Law.** These terms and conditions shall be governed by and interpreted in accordance with the laws of the State of Washington, excluding its conflict of law rules.
- 10. Miscellaneous.** The parties agree that these Terms and Conditions, together with the Purchase Order and any other attachments hereto, comprises the complete and exclusive agreement between Seller and Customer regarding the purchase of Products. These Terms and Conditions supersede all prior agreements and understandings between the parties hereto. No modification of or amendment to these Terms and Conditions, nor waiver of any right under these Terms and Conditions will be effective unless in writing signed by an authorized representative of both parties