

**Terms and Conditions of Sale**  
**Sekisui Diagnostics**

1. **Agreement and Acceptance** – These terms and conditions (the “Conditions”) apply to the accompanying order confirmation. They may be accepted by purchaser (“Buyer”) either in writing, by email, by fax, by receipt of the products without objection at the time of delivery, by acceptance of the products, or by any conduct which recognizes the existence of a contract. Any such acceptance is limited to the express terms of these Conditions.
2. **Purchase Price** – The price for the products is as indicated on the accompanying invoice or the price quote provided by Sekisui Diagnostics (“Seller”) to Buyer.
3. **Delivery**: The delivery date is an estimated date of shipment using the means specified in the accompanying Seller’s confirmation. Seller shall use reasonable commercial efforts to make delivery on or about such date, subject to these Conditions. Seller may deliver all of the products covered by an order at one time or in portions or lots, from time to time.
4. **Title and Risk of Loss** - Title to the products and the risk of loss shall pass from Seller to Buyer upon delivery of the products to the carrier FCA Seller’s facility (Incoterms 2010).
5. **Acceptance/Rejection** – Buyer shall inspect the products upon receipt of each shipment of products by Buyer or its agent. Products shall be conclusively deemed accepted, unless within ten (10) days following receipt of such shipment by Buyer or Buyer’s agent, Buyer notifies Seller in writing specifying any claims and any basis for rejection. Return of the products shall only be permitted with the express prior written authorization of Seller. Buyer’s sole and exclusive remedy on rejection and Seller’s only obligation shall be, at Seller’s sole discretion, either (i) a refund of the purchase price upon return of the defective products, or (ii) the repair or replacement of the products. Buyer shall look solely to carrier for any damage to the products in transit. Buyer recognizes that the Products may have variations in analysis and composition that are within normal commercial tolerances due to manufacturing processes and agrees that delivery of products that are within industry standard or customary variations, tolerances and levels will be acceptable.
6. **Payment** – Unless otherwise specified on the applicable price quote or invoice, payment for the products shall be made in U.S. dollars, and shall (i) be due net thirty (30) after issuance of the Seller’s invoice, and (ii) be remitted by wire transfer to such bank account as Seller may from time to time designate, or by good check, subject to collection, delivered to Seller at such address as Seller may from time to time designate. Without prejudice to any other rights or remedies of Seller, if payment is not received when due, Buyer shall pay to Seller a late payment charge equal to one and one half percent (1.5%) per month or the maximum amount permitted by law, until full payment is received. Buyer shall also reimburse Seller, upon demand, for all costs of collection (including, without limitation, attorneys’ fees, court costs, and marshal’s and sheriff’s fees).
7. **Warranties** – The products shall conform in all material respects to the specifications in effect as of the date of shipment. Any warranty claim shall be submitted in writing to the Seller within the applicable shelf life for the product as set forth in the specifications. EXCEPT AS SET FORTH ABOVE, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THE NON-INFRINGEMENT OF ANY THIRD PARTY PATENT OR OTHER PROPRIETARY RIGHT WITH RESPECT TO THE PRODUCTS SUPPLIED UNDER THESE CONDITIONS. BUYER RECOGNIZES THAT THE PRODUCTS REQUIRE HANDLING AND STORAGE UNDER APPROPRIATE ENVIRONMENTAL CONDITIONS. BUYER OR ITS CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR HANDLING AND STORAGE OF THE PRODUCT FOLLOWING SHIPMENT BY SELLER. ANY DAMAGE OR DETERIORATION OF THE PRODUCT DUE IN WHOLE OR IN PART TO SUCH CAUSES SHALL BE THE SOLE RESPONSIBILITY OF THE BUYER OR ITS CUSTOMER.
8. **Force Majeure** – Seller shall not be responsible for failure to perform hereunder due to force majeure, including, but not limited to, forces of nature, war, riots, fire, explosion, strike, injunction, labor dispute or shortage, freight embargo or transportation delay, inability to obtain fuel, accident, mechanical breakage, failure or malfunction of machinery or apparatus, national defense requirements, or any cause beyond the reasonable control

of Seller, which prevents, delays, or hinders the manufacture or shipment of the products or of a material upon which the manufacture of the products is dependent.

9. **Entire Agreement and Severability**– These Conditions constitute the entire agreement between the parties and no amendment hereof shall be effective without a writing signed by Seller. Oral amendments, oral waivers and purported terminations are void. If any provision of these Conditions is declared invalid or unenforceable, all other provisions shall remain in full force and effect.

10. **Applicable Law and Forum** – The contract between the parties shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Choice of law rules that would cause the application of any other laws shall not apply. The parties agree that any disputes shall be determined solely in the courts of the Commonwealth of Massachusetts or in the United States District Court for the District of Massachusetts, in either case, in Boston Massachusetts. The parties consent to the jurisdiction of such courts and agree not to seek to transfer any case brought therein. The Convention for the International Sale of Goods shall not apply to the purchase or sale of products between Buyer and Seller. ICC eTerms 2004 <http://www.iccwbo.org/policy/law/id3668/index.html> is incorporated herein by reference and shall apply to the Buyer's order and this confirmation and to all dealings between the parties.

**Seller hereby rejects any proposal for additional or different terms or any attempt by Buyer to vary any of the terms set forth in these Conditions, including without limitation, all preprinted or other terms and conditions of any purchase order or acknowledgment submitted by Buyer. No modification or changes to these Conditions shall be binding upon Seller unless in writing and signed by an authorized representative of Seller.**

**To the extent that they are inconsistent, these Conditions shall not apply to any Buyer who has entered into a master supply or distribution agreement with Seller that governs the sale and purchase of the products and is in place as of the date of shipment.**