

Product Purchase Terms - US

Terms & Conditions of Product Sale – U.S.

1. General: Entire Agreement

A. The sale of consumable(s), reagent(s), prototypes or service part(s) (collectively hereinafter referred to as the "**Product(s)**") by MockV Solutions, Inc. (the "**Seller**") to the party purchasing the Products (the "**Buyer**") shall be governed by these terms and conditions (the "Terms").

B. Seller's offer to sell the Products to Buyer is expressly limited to Buyer's acceptance of these terms and conditions. Any of the following constitutes Buyer's unqualified acceptance of these terms and conditions:

1. Written acknowledgement of these Terms,
2. Issuance or assignment of a purchase order for the Products,
3. Acceptance of any Product under the purchase order,
4. Payment for any of the Products under the purchase order, or
5. Any other act or expression of acceptance by Buyer.

C. Additional or different terms or conditions proposed by Buyer (including any additional or different terms provided in a purchase order) shall be void and of no effect unless specifically accepted in writing by Seller, even if Seller, knowing of such different terms or conditions, does not object to them explicitly, and continues to deliver to Buyer without any objection.

D. This Agreement shall be the exclusive agreement between the parties for the Products subject to the terms and conditions herein. Any prior or contemporaneous understandings, agreements, and representations, oral or written, are superseded by these terms and conditions. No modification to these terms and conditions shall be valid unless in writing and signed by Seller.

E. These Terms shall apply to all transactions (including future ones) between Seller and Buyer in the version current at the time of the conclusion of such transaction, even if their application has not been expressly agreed again.

F. Agents and sales representatives of Seller have no authority to make any representations not included herein, and any such representations should not be relied on by Buyer.

2. License

Use of Products signifies the agreement of any purchaser or user of the Products to the following terms:

A. Products and its components may be used solely in accordance with the protocols provided. Seller grants no license under any of its intellectual property to use or incorporate the Products with any

components not included with its purchase except as described in the protocols provided with the Products.

B. Seller makes no warranty that the Products and/or its use(s) do not infringe the rights of third-parties.

C. The Products are licensed for one-time use and may not be reused, refurbished, or resold. The Products and components of the Products may only be used in research and manufacturing conducted by the Buyer (whether Buyer is an academic or for-profit entity). The Buyer cannot use, sell or otherwise transfer the Products or its components for Commercial Purposes, unless the Seller provides an express written authorization for such activities. Commercial Purposes means any activity by a party, including third parties, for consideration and may include, but is not limited to: (1) use of the Products or its components for contract services; (2) use of the Products or its components as a therapeutic or prophylactic; or (3) resale of the Product or its components, whether or not such Products or its components are resold for use in research or manufacturing.

D. Seller specifically disclaims any other licenses, expressed or implied other than those expressly stated.

E. Buyer and user of the Products agree not to take or permit anyone else to take any steps that could lead to or facilitate any acts prohibited above. Seller may enforce the prohibitions of this Agreement in any Court, and shall recover all its investigative and Court costs, including attorney fees, in any action to enforce this Agreement or any of its intellectual property rights relating to the Products.

3. Price

The Products covered by this Agreement shall be sold and invoiced at the prices listed on the quotation, website or published price list. Prices do not include sales, excise, use or other taxes now in effect or hereafter levied by reason of this transaction. Buyer will pay and indemnify and hold Seller harmless from all such taxes.

4. Payment Terms

A. Payment terms are net thirty (30) days from date of invoice. Seller reserves the right to require alternative payment terms, including, without limitation, site draft, letter of credit or payment in advance.

B. If payment is not received by the due date, a late charge will be added at the rate of one and one-half percent (1.5%) per month (eighteen percent (18%) per year) or the maximum legal rate, whichever is less, to unpaid invoices from the due date thereof.

C. All payments will be made as follows.

All checks should be sent to:

MockV Solutions, Inc.
22 Baltimore Road
Rockville, MD 20850

D. If Buyer is delinquent in paying any amount owed to Seller by more than ten (10) days, then without limiting any other rights and remedies available to Seller under the law, in equity, or under the Agreement, Seller may (i) suspend production, shipment or deliveries of any or all Products purchased by Buyer, or (ii) by notice to Buyer, treat such delinquency as a repudiation by Buyer of the portion of the Agreement not then fully performed, whereupon Seller may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable. If Seller retains a collection agency and/or attorney to collect overdue amounts, all collection costs, including attorney's fees and expenses, shall be payable by Buyer. Buyer hereby represents to Seller that Buyer is now solvent and agrees that each acceptance of delivery of the Products sold hereunder shall constitute reaffirmation of this representation at such time.

5. Purchase Money Security Interest

Seller reserves a purchase money security interest in the Products in the amount of the purchase price of such Products to secure Buyer's obligations hereunder. Buyer appoints Seller as its agent and attorney-in-fact to execute any financing statements under the Uniform Commercial Code and any appropriate amendments thereto on Buyer's behalf which Seller deems necessary to protect Seller's interest in the Products.

6. Shipment

A. Seller will use commercially reasonable efforts to comply with shipping instructions provided by Buyer. In the absence of any specific shipping instruction, Seller will ship by the method it deems most advantageous. Transportation charges will be charged "collect" to Buyer or subsequently invoiced to Buyer by Seller. When special or export packaging is required, the cost of the same, if not set forth on the invoice, will be separately invoiced.

B. Seller may make delivery in installments and may render a separate invoice for each installment. Each installment shall be deemed a separate sale. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept delivery of remaining installments. Any delivery not in dispute shall be paid for on the due date, as provided in this Agreement, without any offset, regardless of controversies relating to other delivery or undelivered products.

C. All Products shall be suitably packed for air and ground shipment, unless otherwise requested by Buyer and agreed to in writing by Seller.

7. Title, Risk Of Loss, Insurance

Unless stated otherwise by Seller, all shipments will be EXW (Ex Works) (as defined in Incoterms 2010) Seller's shipping facility, if destination of delivery is outside the United States, and F.O.B. (Free on Board) (as defined in U.C.C. Section 2-319) Seller's shipping facility, if destination of delivery is within the United States. Title to each shipment of the Products sold hereunder and risk of loss thereon shall pass to Buyer when Seller or its agent tenders such shipment to the carrier, but such shipment shall remain subject to Seller's rights of stoppage in transit and of reclamation.

8. Acceptance

Buyer or Buyer's agent may inspect the Products at Seller's place of manufacture. Buyer shall accept any tender of the Products by Seller which substantially conforms to the description of the Products set forth herein. Buyer shall be deemed to have irrevocably accepted any Product and, subject to Section 13, Buyer's right to reject such Product shall cease, unless Buyer gives to Seller notice of rejection in writing: (a) in the case of defects discoverable through inspection, within ten (10) days after delivery to the destination specified in Buyer's purchase order, or (b) in the case of defects not discoverable through inspection, within twenty (20) days after delivery to the destination specified in Buyer's purchase order. Buyer's notice must specify the nature of the defect or grounds for the rejection in reasonable detail. Buyer's right to inspect and reject any defective Product as described in this Section 8 does not apply to any Replacement Parts (as defined in Section 13). Buyer must obtain a return material authorization ("RMA") number from Seller prior to returning any defective Product. Buyer's return shall not be accepted at Seller's facility without a RMA number.

9. Returns

Seller may, at its discretion, accept the return of a purchased Product within twenty (20) days of shipment from Seller, other than consumables or reagents, which may not be returned by Buyer. All returns must be in original packaging and unopened and must display a valid RMA number provided by Seller. Buyer is responsible for paying a twenty-five percent (25%) restocking fee and all return shipping and insurance charges. Buyer assumes all liability for any damage that occurs on return shipment to Seller.

10. Force Majeure

Seller shall not be liable, directly or indirectly, for any delay or failure in performance of any obligation under this Agreement, including any delivery obligation, where such delay or failure arises or results from a cause beyond Seller's reasonable control, or beyond the reasonable control of Seller's suppliers or contractors, including, but not limited to strike, boycott or other labor disputes, embargo, governmental regulation, inability or delay in obtaining materials, acts of God, war, earthquake, fire, or flood. In the event of such force majeure, the time for delivery or other performance will be extended for a period equal to the duration of the delay caused thereby, provided that Seller notifies Buyer of the nature and duration of such force majeure event.

11. Limitation of Liability

A. Buyer assumes all risk and liability for loss, damage or injury to persons or to property of Buyer or others arising out of the presence or use of the Products, including infringement of any third party intellectual property rights resulting from specific use of the Products by Buyer.

B. Except as expressly provided otherwise herein, Seller shall not indemnify nor be liable to Buyer, Buyer's customers, successors, or to any person or entity for any claims, damages or losses arising out of the sale or use of Products, where liability is premised upon any theory including, but not limited to, warranty, negligence or strict liability.

C. IN NO EVENT WILL SELLER BE RESPONSIBLE OR LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOST PROFITS, OR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR CONTINGENT DAMAGES ARISING FROM OR RELATING TO THIS CONTRACT, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, INCLUDING FOR ANY LIABILITY ON ACCOUNT OF A CLAIMED DEFECT IN ANY PRODUCT DELIVERED BY SELLER, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCT PAID BY BUYER ON WHICH THE CLAIM IS BASED.

12. Choice of Law, Venue, and Attorney's Fees

This Agreement is made in, governed by, and shall be construed in accordance with the laws of the State of Maryland, without regard to any conflicts of law principles that would result in application of laws of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any legal action or other legal proceeding relating to this Agreement or the enforcement of any provision of this Agreement must be brought in any state or federal court located in Montgomery County, Maryland. Buyer and Seller expressly and irrevocably consents and submits to the jurisdiction of such courts for the adjudication of any claim and enforcement of any order emanating from such courts. The prevailing party in any legal action brought by one party against the other shall be entitled, in addition to any rights and remedies it may have, to reimbursement for its expenses incurred thereby, including court costs and reasonable attorney's fees and expenses.

13. Warranty

A. *Product Warranty.* Seller warrants that the Products purchased from Seller will be free from defects in materials and workmanship during the applicable warranty period, provided that the Product has been used at all times in accordance with the instruction manual and/or user guide. Seller makes no warranty of merchantability or of fitness for a particular purpose. Sellers' sole obligation and the Buyer's sole remedy are limited to replacement of the Product free of charge in the event that the Product fails to perform as warranted. The warranty period for the Consumable or Reagent ends six (6) months after the date of shipment.

B. *Warranty Exclusion.* The warranties provided above and the remedies provided below will not apply to any Product if: (i) Seller determines that a problem is caused by accident, abuse, misuse, negligence, misapplication, fire, earthquake, flood, other force majeure event, failure of electrical power, the use of unauthorized parts or reagents, or unauthorized repairs or modifications; (ii) Seller determines that a problem is caused during or as a result of shipment or relocation; (iii) Seller's serial number has been removed or defaced from the Product; or (iv) a problem arises from or is based on Seller's compliance with Buyer's specifications

C. *Remedy.* For any breach of the warranties provided in this statement, Seller will, at its own expense and option, and as its sole obligation, and as Buyer's exclusive remedy, (a) repair or replace any defective Consumable or Reagent if Buyer notifies Seller during the applicable warranty period and Seller determines that the Consumable or Reagent is defective and is covered by the warranty; or (b) if Seller determines that it is unable to repair or replace the defective Consumable or Reagent, refund the purchase price paid by Buyer for the defective Consumable or Reagent. The warranty period for the repaired or replaced Consumable or Reagent will not exceed the warranty period for the defective Consumable or Reagent. The warranty period for any Replacement Parts, which may be new, remanufactured or refurbished at Seller's sole discretion, will not exceed the warranty period for the defective Instrument or Instrument Accessory.

D. *Warranty Disclaimer.* THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE PRODUCTS, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

E. *Additional Disclaimer.* Any sample or model of the Product(s) used in connection with this Agreement is for illustrative purposes only, is not part of the basis of this Agreement, and is not to be construed as a warranty that the Products will conform to the sample or model. No affirmation of fact or promise made by Seller, or Seller Representative whether or not in this Agreement, shall constitute a warranty that the Products will conform to the affirmation or the promise.

14. Assignment

This Agreement and Buyer's rights hereunder may not be assigned to any third party by Buyer except with the prior written approval of Seller. Any assignment by the Buyer of this Agreement or any rights hereunder in violation of this Section will be null and void. Seller may assign or transfer any of its rights or obligations under these Terms upon notice in connection with a merger, reorganization, transfer, sale of assets or product lines, demerger or spin-off transaction or change of control or ownership of Seller, or its permitted successive assignees or transferees.

15. Waiver

Waiver by Seller of any provision of this Agreement or breach by Buyer on any provision of this Agreement shall not be deemed a waiver of future compliance with this Agreement, and such provision, as well as all other provisions of this Agreement, shall remain in full force and effect.

16. Compliance with Law

A. Buyer agrees to comply with all applicable foreign, U.S., state, and local laws, rules, and regulations relating to this Agreement and the Products including the laws, rules, and regulations of the United States which restrict the export and re-export of commodities and technical data of United States origin, including the Products.

B. Furthermore, Buyer shall not resell any Product, and Seller shall have no obligation to sell any Product to Buyer, to or for use of any ultimate purchaser with which Seller could not deal under the laws and regulations of the United States, including, without limitation, the regulations of the United States Departments of Commerce, Defense, State and Treasury. Buyer further agrees to immediately transmit to Seller any information which may come to its attention concerning violation of such regulations by Buyer's customers.

C. Buyer will defend, indemnify, and hold harmless Seller from and against any violation of any laws, rules or regulations by Buyer or any of its agents, officers, directors, or employees in violation of this Section.

17. Notices

A. Any notices required or permitted to be given by either party to the other under these Terms shall be made in writing and shall be sent by prepaid recorded delivery, special delivery or registered mail to that other party at its registered office or principal place of business or such other address as indicated by it in connection with this provision.

Last Revision January 5, 2018