

*HyClone Laboratories, Inc. -- Standard Terms and Conditions of Sale*

**Definitions; General.** In these Terms "*Company*" means HyClone Laboratories, Inc.; "*Customer*" means the person or entity who receives a Quote from, or places a written or verbal Order with, Company for the sale of Goods; "*Goods*" mean the goods and/or services Ordered by Customer or delivered by Company to Customer; "*Order*" means an order for Goods placed by Customer with Company and accepted by Company; "*Terms*" means these standard terms and conditions and any special terms set forth on an invoice; and "*Quote*" means a written proposal made by Company to sell Goods to Customer for the price indicated, either as part of a price quotation, part of a bid submission or otherwise. Company may give or withhold any consent under these Terms in Company's sole discretion. Photocopies, facsimile transmissions and e-mail transmissions of images of documents shall be effective as originals. Company shall not be liable to Customer for any breach or delay due to events beyond Company's reasonable control, including, but not limited to, acts of God; civil commotion; labor shortages or disputes; the unavailability of materials; or failures or delays in energy or transportation. No course of prior or current dealings between the parties and no usage of trade shall be relevant to supplement or explain any Terms. Whenever a term defined by the Utah Uniform Commercial Code ("*UCC*") is used in these Terms, the definition contained in the UCC shall control unless otherwise defined in these Terms or otherwise required by the context in which the term is used.

**Orders; Acceptance.** By signing an invoice or an open account, supply or other agreement with Company; asking for a Quote; placing an Order; accepting delivery of Goods and/or paying Company for Goods, Customer shall be bound by the Terms. Customer assumes the risk if any verbal Order is transcribed incorrectly unless confirmed by a written Order. Any written confirming Order must be marked "Confirming Order--Do Not Duplicate." If an Order is based on a Quote, then it must reference the Quote number, and Company may adjust the price if the quantity Ordered is less than that stated in the Quote. Any terms or conditions of sale proposed by Customer, whether in Customer's purchase Order or otherwise, that are inconsistent with the Terms shall not be binding upon Company, whether or not Company accepts a purchase Order or ships Goods. An Order by Customer is not binding until accepted by Company at its home office. Each Order is a separate contract of sale between Company and Customer. After Company accepts an Order, Customer may not cancel or modify the Order in whole or in part without Company's prior written consent, which Company may condition upon an adjustment of prices and/or other terms and Customer's reimbursement of Company's costs or damages, including the payment of: (1) the handling charge described in the "Returns" section below for an Order that has been picked, packed and placed in a shipping container even though that Order has not been shipped; and (2) Company's costs incurred in the manufacture of Custom Goods (see "Custom Goods" below). An Order that has been shipped by Company but that has not yet been received by Customer may not be canceled but instead is subject to the "Returns" section below. Customer must confirm any accepted cancellation in writing. Company may change specifications for Goods and discontinue the sale of Goods at any time and from time to time, upon giving Customer prior written notice, but this shall not affect any Orders already in process or shipped.

**Prices.** Customer shall pay Company the standard price for Goods published by Company on the date Company accepts Customer's Order or any other price expressly Quoted by Company to Customer. Price lists from Company are for general information and do not constitute a binding, open offer by Company for the sale of Goods. Company reserves the right to modify its standard prices at any time without notice; prices for serum Goods may change frequently due to market fluctuations. A Quote is valid only for an individual Order and for the time period specified in the Quote (or if no time period is specified, then 20 days for serum Goods and 60 days for other Goods). Pricing includes Company's standard packaging, labels and raw material and production costs; it does not include the following, which Customer shall pay (Company may prepay the following charges and add them to the invoice price for reimbursement by Customer): federal, state and local sales, use, excise and other taxes; value added taxes; goods and services taxes; customs duties; import and export fees; freight; special packaging; dry ice; and any insurance desired by Customer. If Customer is exempt from an applicable tax or duty, then Customer must provide Company with a valid exemption certificate before shipment of Goods.

**Payment; Credit.** Each invoice is payable on the terms specified on the invoice (or if no terms are specified, then net 30 days from the date of the invoice), whether or not Customer has inspected the Goods. Customer must make payments from invoices; no statements will be sent. If Customer delays any shipment, then payment shall be due from the date Company is prepared to make the shipment. Customer shall make all payments to Company at Company's address set forth on the invoice. Customer shall not abate, set off, deduct any amount or damages from or reduce any amounts due under an invoice for any reason, without Company's prior written consent. Customer shall pay Company interest at the rate of 18% per annum on any past due payments. Customer may place Orders only for amounts up to the credit limit approved by Company's credit department from time to time. Customer authorizes Company to investigate Customer's credit and financial standing, and at Company's request Customer shall provide Company with financial information and individual guaranties before, during or after fulfillment of any Order.

**Custom Goods.** If Customer desires to purchase customized or special Goods ("*Custom Goods*") from Company (unique raw materials, special manufacturing processes or labeling or otherwise) and if Company, in its sole discretion, is willing to consider the same, then Company will prepare a Quote for those Custom Goods. Any change to specifications requires a new Quote. Company will not accept an Order for Custom Goods unless Company has issued a Quote for those Custom Goods. Company disclaims any liability for: (1) the efficacy or compatibility of components provided or specified by Customer in the manufacture of Custom Goods; and (2) the performance of Custom Goods within ranges desired by Customer (e.g., pH level for media), even if those ranges are communicated to Company or are included in specifications for the Custom Goods. Customer must pay for initial lots of Custom Goods so long as they comply with Company's specifications, even if those Custom Goods fall outside of Customer's desired performance ranges for Customer's own applications. In the event of an overage or shortage in a batch of Custom Goods that Company manufactures to fill an Order, Company may ship the entire batch, which shall be deemed to satisfy the Order so long as the variance does not exceed +/- 10% of the quantity Ordered. Customer shall indemnify Company against any claims, damages and expenses (including Company's attorneys' fees in defending against claims and enforcing this indemnity) resulting from infringement of patents or other intellectual property rights of a third party arising from Company's compliance with Customer's special specifications or instructions.

**Shipping; Delivery.** Company shall ship Goods to Customer F.O.B. place of shipment (for destinations within the United States) and FCA place of shipment (Incoterms 2000; for destinations outside the United States), with packaging and carriers as designated by Company, unless otherwise specified in an accepted Order. Company's title to Goods passes to Customer upon delivering the Goods to the carrier for shipment, with the carrier acting as Customer's agent. Customer assumes the risk of loss for Goods during transit and shall be responsible for obtaining insurance, if desired. Any shipping or delivery dates indicated by Customer or

Company are estimates only, and Company shall have no liability to Customer for failure to complete or deliver an Order by the date indicated or for any of Customer's consequential or incidental damages arising from a delay. In its sole discretion, Company may ship an Order in partial installments, in which case Company may invoice Customer for each separate installment. If Goods are damaged in transit, then the responsibility to file and prosecute damage claims with the carrier shall lie with Customer, if the Goods are sent freight collect, or with Company, if Company prepays freight charges and adds them to an invoice. In the latter case, Company will not consider any claim for Goods damaged in transit unless Customer provides Company with the following information in writing promptly (but in no event later than 30 days) after Customer receives the Goods: evidence of shipment signed by Customer and indicating the damage; and details regarding the shipment, including date of purchase, invoice number and any return authorization number (obtained from Company's customer services department).

**Returns.** Except for defective Goods or Company's shipment errors (see "Limitation of Warranties, Defects" below), Customer may not return Goods to Company unless Customer makes a return request within 30 days after Customer receives the Goods and Company, in its sole discretion, consents to the return in writing by issuing a return authorization number (obtained from Company's customer services department). Company will not consent to returns for shipments of Goods: (1) made from the wrong Company lot number when Customer does not specify, at the time of placing the Order, the specific lot number on reserve for Customer from which the Order must be fulfilled; (2) made with inadequate import documentation for shipments to destinations outside of the United States if Company has complied with Customer's prior import instructions; (3) with expiration dates sooner than a particular date if Customer does not specify that date at the time of placing the Order; (4) that have already expired or that are within 60 days of expiration; or (5) that are Custom Goods or that otherwise are custom manufactured. If a return is authorized, then Customer shall return the Goods to Company within 10 days after authorization indicating the return authorization number; shall ship the Goods F.O.B. place of destination Company's facility (for shipment from places within the United States) and DDP place of destination Company's facility (Incoterms 2000; for shipment from places outside the United States) and shall pay Company a processing charge of US \$50.00 or 25% of the sales price, whichever is greater. Company shall give Customer a credit for returned goods only if Company receives the Goods, inspects them and deems the Goods to be re-saleable, in Company's sole discretion.

**Remedies; Enforcement.** If Customer defaults under these Terms or under any other agreement with Company, if Customer's account has reached its credit limit or if Company in good faith deems Customer's financial condition to be insecure, then so long as the default, limit excess or insecurity remains outstanding: (1) Company may refuse to deliver Goods to Customer without being liable for breach (or in its sole discretion Company may condition any delivery upon cash payment); (2) Customer shall pay immediately all amounts owed by Customer to Company; and (3) Company may exercise all other rights and remedies available to it under the UCC, common law, equity or otherwise. Company's failure promptly to enforce any right under these Terms shall not waive that right, and Company's waiver of any default shall not constitute a waiver of any subsequent or other default. If there is a dispute concerning an invoice or the Terms or if Company seeks to enforce its rights hereunder, then Customer shall pay all costs and expenses, including reasonable attorneys' fees, that Company incurs in connection with the dispute or enforcement. Customer transacts business in Utah by placing an Order. The substantive laws of the State of Utah, excluding choice of laws rules but including the UCC, shall govern any invoice and the Terms. The venue for any action or proceeding to enforce any invoice or these Terms shall be in any state or federal court within Utah, including state courts located in Cache County, Utah or Salt Lake County, Utah ("*Utah Courts*") as selected by Company, in its sole discretion. Customer submits itself to the personal jurisdiction of the Utah Courts and will not object to (and waives any right to contest) the venue or jurisdiction of Utah Courts. Notwithstanding the foregoing, nothing in these Terms shall prevent Company from bringing an action or proceeding to enforce an invoice or the Terms in any state or forum that Company, in its sole discretion, deems appropriate.

***Limitation of Warranties; Defects.*** Company warrants that the Goods will conform to Company's specifications for those Goods that are in effect on the date of shipment and to their description in the Order. Promptly after receipt of Goods, Customer must inspect the Goods and advise Company of any defects or shipment errors (unless otherwise specified in writing between Company and Customer: 10 days for shipment errors in the type or quantity of Goods, 60 days for patent defects in Goods and 180 days for latent defects in Goods). **THIS WARRANTY IS EXCLUSIVE. COMPANY, FOR ITSELF AND ITS DISTRIBUTORS, EXCLUDES ALL OTHER WARRANTIES RELATED TO THE GOODS, THEIR USE OR FAILURE, INCLUDING, BUT NOT LIMITED TO, EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF A PATENT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT. NEITHER COMPANY NOR ITS DISTRIBUTORS SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES THAT ARE CAUSED BY, THAT RELATE TO OR THAT ARISE OUT OF ANY GOODS, THEIR USE OR FAILURE, EVEN IF COMPANY OR ITS DISTRIBUTORS ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.** Company shall not be liable to Customer for any technical assistance or information related to the Goods given by Company or any suggestions by Company regarding the use, selection, application or suitability of Goods by Customer. If any Goods are defective, then Customer's exclusive remedy shall be: (a) Company's replacement of the Goods for no charge; or (b) a credit against Customer's outstanding account with Company (or a refund if no account balance is outstanding). In no event shall Company's liability for defective Goods exceed the price of the Goods. If Customer believes any Goods are defective or were shipped to Customer in error, then Customer shall give Company prompt written notice of the alleged defect or error (not later than 10 days after becoming aware of the defect or error), and at Company's election either Customer shall return the Goods to Company (at Company's expense), make the Goods available for inspection by Company or its agents at Customer's place of business or destroy the Goods (before or after the date of any inspection). Company shall not be responsible for any defect in Goods that are created after the Goods are shipped from Company, including Customer's method of handling or storage of the Goods or modifications to or adaptations of the Goods made by Customer or others. No employee, agent or representative of Company has authority to modify the provisions of this section or to make any representation or warranty concerning Goods. Customer must commence any action under this paragraph within one year after the cause of action accrues. None of the Goods may be used for the direct administration to or treatment of humans. Due to the nature of serum products, virtually every serum has some type of contaminant or virus, which might or might not affect the uses intended by Customer.

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