

TERMS & CONDITIONS OF SALE

1. Applicability: All sales of goods (“Products”) by OBITER Research L.L.C. (the “Seller”) are made subject to these Terms and Conditions of Sale and are expressly conditioned upon the Buyer's assent thereto. The Seller will not be bound by any variations from or additions to these terms and conditions of sale contained in any purchase order or other document submitted by the Buyer. No variation from these Terms and Conditions of Sale shall be binding upon the Seller unless agreed to in writing by an officer of the Seller.

2. Orders: Acceptance and Cancellation, Returns - No order for Products placed by a buyer (“Buyer”) shall be binding on Seller unless and until accepted by Seller. Seller reserves the right to reject any order for any reason. Once submitted to Seller, an order may not be changed or cancelled by Buyer unless such change or cancellation is expressly agreed to in writing by an officer of Seller. Any such agreement to change or cancel an order may be conditioned upon Buyer paying a change or cancellation charge intended to compensate Seller for costs incurred, including, but not limited to, storage and shipping costs, costs of producing non-standard items, costs incurred in purchasing materials, change or cancellation costs imposed on Seller by its suppliers, and any other cost resulting from a change or cancellation of an order placed by Buyer.

Upon Buyer's receipt of Products, Buyer shall immediately inspect the same and shall notify Seller in writing within seven (7) days of delivery of any claims for shortages, defects or damages. If Buyer shall fail to so notify Seller within said 7 day period, such goods shall conclusively be deemed to conform to their respective specifications and to have been irrevocably accepted by Buyer. Seller shall not be liable to Buyer for any losses or damages resulting from a late delivery or from Seller's failure to perform due to any cause beyond Seller's reasonable control.

3. Shipment, Handling and Delivery: Shipping and handling charges will be added to the quoted price for the Products. Seller will bill actual shipping charges plus appropriate handling, insurance, and hazardous materials surcharges (where applicable).

4. Pricing, Terms of Payment: All prices are shown in U.S. Dollars. In addition to the quoted price, Buyer shall also be responsible to pay all sales or use taxes, excise taxes, duties, customs, import or export fees and any other taxes, fees or charges of any nature applicable to the Buyer's purchase of Products. The terms of all invoices are net 30 days with past due balances subject to a 1.5% service charge per month (18% per year) after 30 days.

There is a 3% convenience fee charged for all credit card sales. All international sales must be pre-paid prior to shipment unless prior other arrangements have been made. In the event Buyer defaults in the payment of the purchase price of any order, Buyer agrees that it will also be responsible to pay all costs, including attorney's fees and other expenses of collection resulting from any such default by Buyer.

5. Uses, Warranties, Liabilities And Safety: The Products are intended for laboratory research purposes only, and unless otherwise stated on Product labels, or in other literature furnished to the Buyer by Seller, are not to be used for any other purposes, including but not limited to use as or as components in drugs, for human or animal use, or in medical devices. Buyer acknowledges that the Products have not been tested by the Seller for safety or efficacy in any particular application unless otherwise stated in Seller's written materials furnished to Buyer.

a. Seller's Warranty: Seller warrants that the Products, at the time of delivery to Buyer, shall conform to the specifications for such Products. SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS CONCERNING THE PRODUCTS AND SPECIFICALLY EXCLUDES SUCH WARRANTIES AND REPRESENTATIONS TO THE FULLEST EXTENT PERMITTED BY LAW. SELLER SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE ARISING FROM THE FAILURE OF ANY PRODUCT TO BE SUITABLE FOR ANY PURPOSE WHATSOEVER.

b. Patent disclaimer: Seller makes no warranty or representation that the use or sale of the Products, whether alone or in combination with other products, will not infringe the claims of any letters patent, trademarks, registered designs or other proprietary rights of any party and Buyer assumes all risks associated therewith.

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c. Limitation of Damages: Notwithstanding anything else herein contained, in no event shall the aggregate liabilities of Seller to Buyer arising out of or relating to any transaction between them exceed the purchase price paid by Buyer to Seller for the Products at issue. SELLER SHALL NOT IN ANY EVENT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND RESULTING FROM ANY USE OR FAILURE OF THE PRODUCTS,

d. Buyer's Remedy: Seller's sole and exclusive liability to Buyer and Buyer's exclusive remedy with respect to Products proved to Seller's satisfaction to be defective or nonconforming shall be limited, at Seller's option, to 1) repairing or replacement of such Products without charge or refund of the purchase price, upon the return of such Products, at Buyer's expense, in accordance with Seller's instructions or 2) refunding the sales price received by the Seller for such Products. All claims for breach of warranty must be presented to Seller in writing within thirty (30) days after delivery to Buyer, regardless of their nature. Failure of Buyer to give such notice shall be deemed to be a waiver by Buyer of all claims with respect to the subject Products.

e. Exclusion of Seller's Warranty: Seller's warranty made in connection with a sale of Products shall not be effective if Seller has determined, in its sole discretion, that Buyer has misused the Products in any manner, has failed to use the Products in accordance with industry standards and practices, or has failed to use the Products in accordance with instructions, if any, furnished by Seller. In no event will Seller be liable for Products damaged in shipment or in any other manner without the fault of Seller, improper care or storage of the Products, or for any expenses incurred by Buyer in testing or attempting to correct any non-conformance of the Products.

f. Buyer's Representations and Indemnity: The Buyer represents and warrants to the Seller that it shall use the Products in accordance with applicable law, rule, regulation and not in violation of any patent or other proprietary rights of any third party. The Buyer expressly represents and warrants that Buyer will properly test, use, manufacture and market any Products purchased from Seller or materials produced with Products purchased by Seller in accordance with the practices of a reasonable person who is an expert in the field and in strict compliance with law. The Buyer agrees to indemnify and hold harmless the Seller, its employees, agents, successors, officers and assigns for and against any and all suits, claims, demands, liabilities, losses, damages and/or expenses, including costs and fees of legal counsel and all other costs of defending any action, that the Seller may incur as a result of any act or failure to act by the Buyer, its officers, agents or employees, successors or assignees, its customers or all other third parties, whether direct or indirect, in connection with the possession or use of any Product sold by Seller or by reason of Buyer's breach of any of its agreements contained herein.

g. Safety: All of the Products offered by Seller are research chemicals. As such, they should be used or handled only by or under the direct supervisions of technically qualified individuals. The chemical, physical and toxicological properties of certain Products may not have been fully investigated, since the Products are for investigational use only. Seller, therefore, makes no guarantee of results and assumes no liability for injuries, damages or penalties resulting from their use, since the conditions of handling and use are beyond Seller's control.

All Products should be handled only by properly trained persons who are familiar with laboratory procedures and the potential hazards in handling laboratory chemicals. The Buyer assumes all responsibility to learn and understand the risks associated with any of the Products and for instructing its employees, agents, customers and any other persons who might reasonably be expected to come into contact with the Products

6. Governing Law: Any dispute concerning these Terms and Conditions of Sale, including as to the legality, interpretation or application shall be governed by the laws of the Illinois, without regard to its principles of conflicts of laws.

7. Miscellaneous: Seller's failure to strictly enforce any term or condition contained in Seller's Terms and Conditions of Sale shall not constitute a waiver of Seller's right to strictly enforce such terms or conditions at any time in the future. If any provision of these Terms and Conditions of Sale shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.