

EMD MILLIPORE CORPORATION ("EMD MILLIPORE") TERMS AND CONDITIONS OF PURCHASE

1. **ACCEPTANCE; ENTIRE AGREEMENT.** Commencement of performance of this purchase order shall constitute acceptance hereof by the Seller. Acceptance of this purchase order shall be unqualified, unconditional and subject to and expressly limited to the terms and conditions hereof. EMD Millipore shall not be bound by any provisions additional to or at variance with the terms hereof that may appear in Seller's quotation, acknowledgement, confirmation, invoice or in any other communication from Seller to EMD Millipore unless such provision is expressly agreed to in a writing signed by an authorized agent of EMD Millipore. EMD Millipore's acceptance of or agreement for material shipped shall constitute agreement of such a transaction subject to the provisions hereof only, and shall not constitute acceptance of any counter proposal submitted by Seller not otherwise accepted in writing signed by an authorized agent of EMD Millipore. Upon acceptance, this purchase order shall constitute the entire agreement between EMD Millipore and Seller, shall supersede all prior negotiations, discussions and dealings between EMD Millipore and Seller, and may not be modified or rescinded except by a writing signed by both Seller and EMD Millipore.

2. **INVOICES AND PRICES.** Each invoice submitted by Seller must reference the applicable purchase order number and line item detail with pricing. EMD Millipore reserves the right to return all incorrect invoices. All prices are firm unless otherwise agreed in writing, in which event Seller shall advise EMD Millipore in writing thirty (30) days in advance of any price change, together with Seller's stated reason(s) for said price change. The price includes all applicable taxes and charges imposed by any governmental authority. Invoices shall be paid net forty five (45) days after receipt of the goods or services by EMD Millipore and of a properly submitted and accepted invoice. Sales and use taxes not subject to exemption shall be separately stated in Seller's invoice.

3. **EXTRA CHARGES.** No charges of any kind, including, without limitation charges for boxing, packaging, loading, bracing, cartage, fuel, duties, taxes or extra insurance, will be allowed unless specifically agreed to by an authorized agent of EMD Millipore in writing.

4. **TRANSPORTATION – RISK OF LOSS – TITLE TO GOODS.** All goods shall be shipped Delivery Duty Paid (DDP) INCOTERMS 2010. Transportation charges on goods sold "delivered destination" shall be prepaid by Seller. No insurance charges will be allowed unless authorized in writing by EMD Millipore. Title to the goods shall pass to EMD Millipore upon receipt by it of the goods at the designated destination.

5. **DELIVERY DATE AND SHIPMENT.** Goods shipped to EMD Millipore in advance of the delivery date, or in excess of the amounts identified on the purchase order or called for in a delivery schedule may, at EMD Millipore's option, be returned to Seller at Seller's expense. If no delivery date is specified in a purchase order issued by EMD Millipore, the order shall be filled promptly. If no method of delivery is specified, Seller must utilize a carrier identified on the EMD Millipore Shipping Guidelines that accompany every purchase order. Seller shall package all items in suitable containers to permit safe transportation and handling in compliance with current U.S. Department of Transportation regulations. Each delivered container must be labeled and marked to identify contents without opening and all boxes and packages must contain packing sheets listing contents. EMD Millipore's purchase order number must appear on all shipping containers, packing sheets, delivery tickets and bills of lading. Material Safety Data Sheets may be supplied with the shipment of hazardous materials, and these sheets shall otherwise be available upon EMD Millipore's request.

6. **DELAYS IN DELIVERY.** Time is of the essence with respect to Seller's performance hereunder. If Seller for any reason other than those specified in Section 27 does not comply with EMD Millipore's delivery schedule then in addition to remedies provided by law, EMD Millipore may at its option either approve a revised delivery schedule or terminate this purchase order and hold Seller accountable for all losses and damages arising therefrom.

7. **SPECIFICATIONS.** Seller expressly warrants that all goods and services covered by this purchase order will conform to the specifications, drawings, samples or other description(s) furnished or adopted by EMD Millipore and made known to Seller and will be of good quality, material and workmanship and free from defects. Goods furnished to EMD Millipore's patterns, specifications, drawings, or fabricated with its tools shall not be furnished or quoted to any other person or concern.

8. **WARRANTY.** Seller warrants, with respect to any goods, that: (1) it has good title to the goods, or will have at the time title is to pass, (2) the goods are free from encumbrances, (3) the goods are fit for the purpose for which bought, (4) the goods are merchantable, (5) the goods have no latent defect, (6) the goods are of good material and workmanship, (7) the goods comply with and have been manufactured in compliance with all applicable laws, orders and regulations, and (8) that no goods are adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act ("Act") or within the meaning of any other applicable law in which the definition of adulteration or misbranding are substantially the same as those contained in the Act, as such laws are constituted and effective at the time of shipment or delivery, or as an article which may not, under the provisions of Section 404 or 505 of the Act be introduced into interstate commerce. Seller warrants that with respect to any services it provides to EMD Millipore, it shall perform the services in accordance with standards of care, skill and diligence consistent with (i) recognized and sound industry practices, procedures and techniques, (ii) all applicable laws, orders and regulations, (iii) the specifications, documents and procedures applicable to the services, and (iv) the degree of knowledge, skill and judgment customarily exercised by professional firms with respect to services of a similar nature. Replacement or repaired goods and re-performed services shall be warranted for the same length of time as new goods or originally performed services. All warranties shall extend to EMD Millipore, its customers and to users of the goods or services. This warranty shall survive inspection, acceptance and payment.

9. **REJECTIONS.** If any of the goods are found by EMD Millipore within a reasonable time after delivery (as appropriate for the goods at issue) to EMD Millipore's destination to be defective in material or workmanship, or otherwise not in conformity with the requirements of this purchase order, EMD Millipore, in addition to any other rights which it may have under warranty or otherwise, shall have the right to reject and return such goods at Seller's expense, which goods shall not be replaced by Seller, without written authorization from an authorized agent of EMD Millipore. Seller shall pay all expenses, including demurrage, handling and storage charges, and freight both ways on rejected goods. This does not limit any other legal remedies available to EMD Millipore.

10. **EMD MILLIPORE'S PROPERTY.** Unless otherwise agreed in writing, all tools, equipment or material of every description furnished to Seller by EMD Millipore or specifically paid for by EMD Millipore, and any replacement thereof, or any materials affixed or attached thereto, shall be and remain the sole property of EMD Millipore. Such property (a) shall be clearly marked "Property of EMD Millipore Corporation" (b) shall not be used except in filling EMD Millipore's orders; (c) shall be held at Seller's risk; and (d) shall be delivered without cost to EMD Millipore promptly at its written request. Seller shall supply EMD Millipore with an inventory of such property quarterly. Any specifications, drawings, sketches, models, samples, tools, technical information or data, written, oral or graphic or other tangible form shall be immediately returned to EMD Millipore without cost upon its request. The information shall be kept confidential by Seller, shall be used only in the filling of EMD Millipore orders, or in performing hereunder, and may be disclosed or used for other purposes only upon such time as may be agreed between EMD Millipore and Seller in writing. No information furnished by Seller to EMD Millipore or in contemplation hereof shall be considered by Seller to be confidential or proprietary except as specifically agreed to in writing by an authorized agent for EMD Millipore.

11. **NON-ASSIGNMENT.** Assignment of this purchase order or any interest herein or any payment due or to become due hereunder, without the written consent of an authorized agent of EMD Millipore, shall be void and of no effect and may, at the option of EMD Millipore, render this purchase order invalid.

12. **SUBCONTRACTING.** The Seller shall not subcontract or delegate performance of all or any part of the work called for under this purchase order without the prior written consent of an authorized agent of EMD Millipore. EMD Millipore shall have the right to return any goods to Seller that were manufactured in violation in this Section 12, and shall have the further right to a full refund of the purchase price from Seller for such goods.

13. **SET-OFF.** EMD Millipore shall be entitled at all times to set off any amount owing at any time from Seller or any of its affiliates to EMD Millipore or any of its affiliates.

14. **COMPLIANCE WITH LAWS.** Seller warrants that goods manufactured or services performed pursuant to this purchase order are performed or manufactured and shipped in compliance with all applicable federal, state and local laws, rules and regulations, including but not limited to the Toxic Substances Control Act, the Occupational Safety and Health Act, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Resource Conservation and Recovery Act and the Hazardous Materials Transportation Act.

15. **FAIR LABOR STANDARDS ACT.** In accepting this order, Seller warrants that the goods or services to be furnished hereunder were or will be produced in compliance with the requirements (on the date of shipment or performing) of the Fair Labor Standards Act of 1938, as amended, and unless otherwise agreed in writing Seller shall insert a certificate on all invoices submitted in connection with its purchase order stating that the goods or services covered by the invoice were produced in compliance with the requirements of such Act, including without limitation, Sections 12(a) and 15(a) thereof.

16. **INSIGNIA.** Material rejected or not purchased by EMD Millipore which utilizes or carries any EMD Millipore name, trade names, trademarks, insignia, symbols, decorative designs or evidences of EMD Millipore's inspection

(all hereinafter designated "insignia") shall have all such insignia removed by Seller prior to any further sale, use or disposition thereof. Seller agrees to indemnify and hold EMD Millipore harmless from any claim, loss or damage arising out of Seller's failure to do so. This clause shall in no way modify provisions hereof relating to the use of information.

17. **WORK ON EMD MILLIPORE'S OR ITS CUSTOMER'S PREMISES.** If Seller's performance under this purchase order involves operations by Seller on the premises of EMD Millipore or one of its customers, Seller shall comply with applicable provisions of federal, state and local laws and regulations and shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such performance. Except to the extent that any such injury is due solely and directly to EMD Millipore's or the negligence of one or more of EMD Millipore's customers, as the case may be, Seller shall indemnify EMD Millipore and its customers against all loss which may result from any act or omission of Seller, its agents, employees, or subcontractors. Seller shall maintain such Public Liability, Property Damage, Personal Injury and Employee's Liability and Compensation insurance in an amount not less than \$1,000,000.

18. **TERMINATION.** If Seller ceases to conduct its operations in the normal course of business (including inability to meet its obligations as they mature) or if any proceeding under bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or an assignment for the benefit of creditors is made by Seller, then in any such event EMD Millipore may terminate all outstanding purchase orders without liability except for conforming deliveries previously made or for conforming goods covered by this purchase order then completed and subsequently delivered promptly in accordance with the terms of this purchase order. In addition, EMD Millipore shall have the right to terminate this purchase order and its related agreement(s) immediately upon written notice in the event that Seller is in breach of Article 32 hereof.

19. **NONWAIVER.** The failure by EMD Millipore to enforce at any time or for any period of time any of the provisions hereof shall not be a waiver of such provisions nor of the right of EMD Millipore thereafter to enforce each and every such provision.

20. **CANCELLATION.** EMD Millipore may cancel this purchase order at any time upon written notice.

21. **INFRINGEMENT.** The following terms apply to any infringement, or claim of infringement, or any patent, trademark or copyright based on the manufacture, normal use or sale of any material or equipment furnished to EMD Millipore hereunder or in contemplation hereof. Seller shall indemnify EMD Millipore and its customers for any loss, damage, expense or liability that may result by reason of any such infringement or claim (including without limitation attorney's fees and expenses), and shall defend or settle, at its own expense, any action or suit for which it is responsible hereunder. EMD Millipore shall notify Seller of any claim of infringement of which EMD Millipore becomes aware and, where commercially feasible, shall cooperate with Seller to facilitate Seller's defense of any such claims.

22. **DRAWINGS.** EMD Millipore's review and approval of drawings submitted by Seller will be for and will cover only general conformity to specifications. Such approval will not constitute approval of any dimensions, quantities or details of the material shown by such drawings, and shall not relieve the Seller of its responsibilities for meeting all specifications of this purchase order. EMD Millipore retains rights of final approval for all finished products pursuant to Section 9 hereof.

23. **GOVERNING LAW.** The contract resulting from acceptance of this purchase order by Seller shall be governed and construed by the laws of the Commonwealth of Massachusetts.

24. **NON-DISCRIMINATION IN EMPLOYMENT.** The Seller in performing the work required by this order, shall not discriminate against any person in the employment process because of race, creed, color, sex, age, religion, national origin and veteran or handicap status. The employment process includes but is not limited to employment advertising, job postings, interviews, testing, recruiting, pay, promotion, transfer, demotion, hiring, educational opportunities, lay-offs and recall.

25. **CHANGES CONTROL; QUALITY OBLIGATIONS.** a) Change Control. Supplier agrees not to make any such modification to the goods, including changes in the goods' components, manufacturing methods, materials, manufacturing sites, equipment, testing protocols, control systems, and any other aspect of the goods' configuration or performance that affect its form, fit or function, nor discontinue the goods, without EMD Millipore's prior written consent. Supplier will apply all reasonable efforts to provide EMD Millipore with as much advance notice as possible and, whenever possible, provide at least twelve (12) months notice; b) Access to Facility; Audit. Upon five (5) days written notice, Supplier will allow EMD Millipore to visit its manufacturing facility during normal business hours, for the purpose of conducting audits required by EMD Millipore's Quality Management System; c) Corrective Actions. EMD Millipore will notify Supplier promptly of any nonconformity of the goods to their Specifications, customer complaints or failures that may relate to the goods. Supplier shall generate a failure mode analysis and subsequent report of the causes for the failure or errors to EMD Millipore within thirty (30) days and, if necessary, create and implement a corrective action on a timely manner; d) Record Retention. Supplier shall maintain records, to the extent it deems necessary, relating to the manufacture of goods purchased by EMD Millipore for a period of no less than seven (7) years from the good's date of manufacture. Such records must be made available to EMD Millipore in a promptly manner in order to resolve any issue that requires the gathering of historical information.

26. **INDEMNIFICATION.** Seller shall indemnify, defend, and hold harmless each of EMD Millipore, its affiliates, subsidiaries, divisions, distributors, employees, agents, representatives and customers, and its or their respective successors and assigns (each an "Indemnified Party") from and against, and in respect of, any and all actions, claims, suits, judgments, damages, liabilities, losses, costs, and expenses (including, without limitation, attorneys' fees) of every kind whatsoever (collectively, "Damages") arising in any manner out of or from, or in connection with any actual or alleged (i) patent, copyright or trademark infringement, or violation of any other proprietary right, arising out of the purchase, sale, distribution or use of any goods, (ii) breach by Seller of any term or condition of this agreement, (iii) personal injury, wrongful death or property damage arising out of or relating to any goods or services, (iv) any violation on the part of the Seller of any and all federal, state, county, or municipal laws, ordinances, regulations and orders in respect to any goods or services, including, without limitation, United States import or export control law, regulation, treaty or other international agreement to which the United States adheres or complies or any applicable export, import or other laws of any other jurisdiction; and (v) wrongful or negligent act or omission by Seller or its officers, directors, shareholders, employees, agents, representatives or subcontractors.

27. **FORCE MAJEURE.** Neither party shall be liable for any delay or failure of performance due to causes beyond its reasonable control provided it shall have given notice of any such cause and shall have used its best efforts to mitigate said delay or failure. The Parties shall use due diligence and all commercially reasonable efforts to promptly address, remedy and/or remove any cause of a force majeure event.

28. **PUBLICITY.** Seller shall make no reference, advertisement, or promotion regarding or mentioning EMD Millipore without the prior written consent of EMD Millipore.

29. **LIMITATION OF LIABILITY.** IN NO EVENT WILL EMD MILLIPORE BE LIABLE TO SELLER FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE, OR OTHER ECONOMIC LOSS.

30. **CONFIDENTIALITY.** Seller shall keep confidential and secret any and all Confidential Information of EMD Millipore or its affiliates that may be disclosed by or on behalf of EMD Millipore. "Confidential Information" shall consist of trade secrets, know-how, proprietary information, formula, processes, records, techniques, specifications, information relating to the EMD Millipore's or its affiliates' past, present and future marketing and research and development activities and any other information that should reasonably be understood to be confidential that are disclosed to Seller by EMD Millipore or its affiliates, whether disclosed in writing, verbally or by any other means.

31. **Independent Contractor Relationship.** Seller will act solely as an independent contractor in relation to performance under this Agreement, and nothing herein shall be construed to create the relationship of employer and employee, partnership, or joint venture between EMD Millipore and Seller, or EMD Millipore and Seller's officers, directors, employees or agents.

32. **Social Responsibility.** As an affiliated company of Merck KGaA, Darmstadt, Germany, EMD Millipore conducts its business in accordance with the principles of sustainable development and complies with internationally recognized fundamental environmental, labor and social standards, as described in the Values, Social Charter and Code of Conduct as adopted by Merck KGaA, Darmstadt, Germany and affiliated companies. EMD Millipore requests from Supplier, and Supplier undertakes to also comply with fundamental environmental, labor and social standards. EMD Millipore further requests from Supplier, and Supplier undertakes to ensure that its suppliers and subcontractors will comply with such standards.