

Standard Terms and Conditions of Sale

- I. **GENERAL.** The **purchaser of goods** shall be referred to as “Buyer” and **Drucker Diagnostics, LLC**, shall be referred to as “Seller.” This document and any agreement signed by Seller to which these terms and conditions are attached or made a part thereof are limited to their express terms. Any modification or additional or different terms proposed by Buyer orally or in writing are objected to and rejected. All orders are subject to acceptance by Seller. If the terms and conditions herein shall be deemed to be an offer by Seller, any acceptance by Buyer is limited to acceptance of the express terms and conditions contained herein. All sales are upon the terms herein contained, whether pursuant to Buyer’s written or oral request and notwithstanding any other terms presented by Buyer at the time of such request. Oral statements by Seller’s employees or agents regarding the goods or materials or services (the “goods”) to which these terms apply are not warranties, shall not be relied on by Buyer, and are not part of any contract. No waiver or modification hereof shall be binding upon Seller unless in writing and signed by a duly authorized representative of Seller.
- II. **SHIPPING AND DELIVERY.** Unless otherwise indicated herein, Seller shall determine in its discretion and make arrangement for shipment of the goods. All risk of loss, damage or charge with respect to the goods shall pass to Buyer upon shipment by Seller. Shipment or delivery may be made in separate lots or partial shipments. Buyer may not refuse delivery of any lot or partial shipment or refuse payment therefore because of failure to deliver any other lot or nonconformity in any other lot or partial shipment.
- III. **PURCHASE PRICE AND PAYMENT TERMS.** The price of each shipment of goods shall consist of the prices charged for the goods excluding applicable tax. Prices are subject to change without notice. Goods are sold only in standard packaging quantities. Minimum orders are subject to change without notice.
- IV. **ORDERS AND CREDIT APPROVAL.** Orders will be deemed to have been placed when an order confirmation is received from a Customer Service representative of the Seller. All orders are subject to credit approval, if any, by Seller.
- V. **WARRANTY.** Seller’s goods shall be judged solely on the conformance with Seller’s standard specifications. Seller will not consider other requirements than those stated in the product specifications furnished by the Buyer. Seller shall not be obligated to replace or accept return of goods meeting Seller’s product specifications regardless of the performance of the goods and/or the functionality of the goods as used by Buyer. In no event shall Seller be liable to Buyer or any third party for the effect of Seller’s product, or any modifications of, or additions to, Seller’s product. Seller is under no obligation to inform Buyer of special material formulations or changes

in the manufacture of goods. To the maximum extent allowed, all intellectual property pertaining to the goods are the exclusive property of Seller. No claim against Seller of any kind, whether as to goods delivered or for non-delivery of goods, shall be greater in amount than the purchase price of the goods in respect to which such claim is made; and in no event shall claim be made for indirect, incidental, special or consequential damages (including loss of revenue or profits) exemplary or punitive damages whether or not Buyer has been previously apprised of such damages. Failure of Buyer to give notice of claim within the warranty period as stated in product documentation or in separate written and signed contract with the Buyer, or within 30 days from the date of delivery for items such as accessories and consumables not covered by a specified length of warranty shall constitute a waiver by Buyer of all claims with respect to goods. Buyer's sole and exclusive remedy for breach of this warranty shall be to provide Seller with the notice and receive the remedies as provided above in this Section V. Other than as set forth herein, Seller makes no representations or warranties of any kind, whether express or implied, with respect to the Products. Seller expressly disclaims all warranties of merchantability, fitness for a particular purpose, title, regulatory compliance, and all warranties arising from conduct, course of dealing or custom of trade. Oral statements made by Seller's employees or agents do not constitute warranties. Conformity of the goods to any demonstration unit or sample is not a part of the basis of the bargain between Buyer and Seller. In no event shall Seller be responsible for any damage, change or effect to the goods resulting from or related to any acts or omissions of Buyer or of any agent, distributor or vendor of Buyer or their customers or any intermediary or end user of any product manufactured, distributed or sold by Buyer including, but not limited, to improper storage, handling, installation, modifications, abuse or misuse. The warranty is not transferrable except by our authorized distributors and resellers to their Buyers.

- VI. **INFRINGEMENT AND INDEMNIFICATION.** Buyer agrees to defend, indemnify and hold harmless Seller and its affiliates and its suppliers, and its and their shareholders, directors, officers and employees from and against any and all claims, liability, damages, cost and expenses, including reasonable attorney's fees, resulting from or arising out of (a) the goods; or (b) the possession or use by any person of any Buyer product containing Seller's goods.
- VII. **TAXES.** In addition to the price specified herein, Buyer shall pay the amount of any present or future sales or use taxes, excise taxes, taxes on transportation and other direct or indirect taxes whether such taxes are Federal, State, or Local, applicable to the sale, delivery, use or other handling of the goods sold hereunder.
- VIII. **CANCELLATION.** Unshipped orders, order modifications and/or cancellations must be confirmed in writing to Seller and may be subject to a cancellation charge. Cancellation of unshipped orders for custom-made goods will be reviewed for costs incurred up to the date of the written notice and Buyer will be notified of the related cancellation charges, which will include the cost of any inventories on hand, work in progress, and all other reasonable costs incurred by Seller.
- IX. **FORCE MAJEURE.** Seller shall not be responsible or liable for any loss or damage occurring by reason of delay in performance or non-performance caused by circumstances beyond Seller's reasonable control including, but not limited to, acts of God, fire, flood, war, government action,

accident, labor trouble or shortage, or inability to obtain material, equipment or transportation. If resulting delay occurs, shipments may be proportionately or wholly suspended and resumed upon removal upon such cause. Quantity so affected may be eliminated from the order without liability, but the order shall remain otherwise unaffected.

- X. **GOVERNING LAW, JURISDICTION.** These terms and conditions shall be governed by and construed in accordance with the Uniform Commercial Code as enacted in the State of Delaware and other applicable laws of the State of Delaware without regard to the conflict of laws provisions thereof. Seller and Buyer each hereby consent to personal jurisdiction and venue in the courts in Delaware and further agree that such courts shall have the exclusive jurisdiction to hear and determine any claims or disputes between Buyer and Seller, pertaining directly or indirectly to any goods or materials supplied pursuant to the terms and conditions herein contained. Buyer expressly submits and consents in advance to such jurisdiction and any action or proceeding commenced in such courts. The exclusive choice of jurisdiction set forth in this paragraph shall not be deemed to preclude the bringing of any action by Seller or the enforcement by Seller of any judgment obtained in any such jurisdiction and any other appropriate jurisdiction.
- XI. **DISCLAIMER OF DAMAGES/LIMITATION OF LIABILITY.** Notwithstanding any other provision of this document, buyer expressly agrees that seller is not liable to buyer (or any third party) for any indirect, incidental, consequential, special, or punitive damages arising from this document or the sale of goods. Furthermore, seller's maximum aggregate liability to buyer shall never be more than the value to repair or replace any non-confirming goods purchased and paid for by the buyer.
- XII. **MISCELLANEOUS.** Seller's failure to exercise any privilege hereunder shall not thereafter waive any of the terms, conditions, or provisions, whether the same or similar type. The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision. The rights and obligations of Buyer hereunder may neither be assigned nor delegated without the prior written consent of Seller. Goods sold by Seller may be subject to U.S. export controls. Retransfer of such items to countries or end-users not approved for U.S. export is prohibited except with proper U.S. Government authorization. Violations may result in penalties.

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