

## Terms & Conditions

### **HEMO BIOSCIENCE INC. LIABILITY**

#### **Limited Express Warranty**

Purchaser agrees that it shall be fully responsible and liable for all uses of HEMO BIOSCIENCE INC. products. Purchaser accepts any and all responsibility and liability for appropriate use of the product in full compliance with all applicable laws and regulations. Purchaser acknowledges that HEMO BIOSCIENCE INC. makes no express or implied warranty for the fitness of purpose, use, or suitability of this product for uses beyond those described in the product insert and when used according to the procedures and specifications as defined in the Instructions for use. All other implied warranties of merchantability and fitness for a particular purpose are hereby disclaimed by HEMO BIOSCIENCE INC. and waived by Purchaser. Purchaser agrees to indemnify and hold HEMO BIOSCIENCE INC. harmless for any and all damages or claims for damages arising from use of these products beyond those specific uses that are described in the product insert.

### **1. DEFINITIONS AND INTERPRETATIONS**

1.1 In these Conditions:-

"Conditions" means the terms and conditions of sale specified herein and, unless the context otherwise requires, includes any special terms and conditions agreed in writing between HEMO BIOSCIENCE INC. and the Customer;

"Contract" means any contract between HEMO BIOSCIENCE INC. and the Customer;

"Customer" means the individual, firm, organisation, body or company contracting with HEMO BIOSCIENCE INC. in accordance with the Conditions;

"Products" means all Products which HEMO BIOSCIENCE INC. is to supply to the Customer in accordance with the Conditions;

"Order" means an order for Products.

"Supply" means a supply of Products under a Contract.

1.2 The headings in these Conditions are included for convenience only and shall not affect the interpretation thereof.

1.3 Any reference in these Conditions to any provision of a statute shall be construed as reference to that provision as amended, re-enacted or extended at the relevant time.

### **2. INTRODUCTORY**

2.1 A Contract shall be governed by the Conditions to the exclusion of any other terms and conditions. Accordingly:

- (i) the Conditions apply to the exclusion of the standard conditions of trading of the Customer; and
- (ii) the Conditions apply to the exclusion of the prior communings of HEMO BIOSCIENCE INC. and the Customer.

2.2 Any variations of the Conditions which the Customer may seek to impose shall not form part of the Contract unless specifically agreed to in writing on behalf of both parties.

2.3 In entering into the Contract the Customer acknowledges that any representations made and warranties given by HEMO BIOSCIENCE INC. employees or agents are unauthorised and do not form part of the Contract and it does not rely on and waives any claim for breach of, any such representations or warranties.

2.4 Any advice or recommendations given by HEMO BIOSCIENCE INC. in writing and enclosed with Products delivered to the Customer or otherwise communicated to the Customer as to the storage application or use of the Products is given as a guide-line only, does not constitute a representation or warranty and is followed or acted upon entirely at the Customer's own risk and accordingly HEMO BIOSCIENCE INC. shall not be liable for any loss or damage arising from or occurring in connection with such advice or recommendation.

### **3. SPECIFICATIONS**

3.1 Any description of the Products given in writing and enclosed with the Products or otherwise is given by HEMO BIOSCIENCE INC. by way of identification only and the use of such description shall not result in the sale of Products constituting a sale by description.

3.2 The Products are sold subject to all errors or mis-statements as to description, weight, quality; quantity, measurement number or otherwise and the Customer shall have no claim against HEMO BIOSCIENCE INC. in respect thereof.

3.3 HEMO BIOSCIENCE INC. reserves the right to make any changes in the specification of the Products which are required to conform to any applicable regulations, directives and standards issued by all applicable regulatory bodies or which do not materially affect the quality or performance of the Products.

3.4 Any sample of Products given or shown to and inspected by the Customer is given or shown to and inspected solely to enable the Customer to assess for itself the quality of the bulk and shall not result in the sale of the Products constituting a sale by sample.

### **4. SUPPLY**

4.1 No Order submitted by the Customer shall be deemed to be accepted by HEMO BIOSCIENCE INC. unless and until confirmed in writing by HEMO BIOSCIENCE INC.'s authorised representative.

4.2 HEMO BIOSCIENCE INC. reserves the right to refuse to supply a Customer with all or any Products.

4.3 All Orders are accepted subject to the availability of Products. HEMO BIOSCIENCE INC. has the right to make deliveries of Orders in part where delivery in full cannot be made.

4.4 The Customer shall be deemed to have accepted that the Products supplied by HEMO BIOSCIENCE INC. are free from damage and defects and are in accordance with the terms of the relevant Order in all respects unless the Customer notifies HEMO BIOSCIENCE INC. of any damage, defect or discrepancy within 24 hours of delivery of the Products in question.

### **5. PRICE AND PAYMENT**

5.1 The price of the Products shall be the price agreed between HEMO BIOSCIENCE INC. and the Customer for each consignment of the Products.

5.2 HEMO BIOSCIENCE INC. reserves the right, by giving notice to the Customer at any time before delivery of the Products, to increase the price of the Products to reflect any increase in cost to HEMO BIOSCIENCE INC. which is due to any factor beyond the control of HEMO BIOSCIENCE INC. (such as, but without limitation, increase in the cost of labour, materials or other costs of manufacture) or to reflect any change in or delay caused by any instructions of the Customer or failure of the Customer to give HEMO BIOSCIENCE INC. adequate information or instructions.

5.3 The price is exclusive of any applicable tax, which the Customer shall be additionally liable to pay to HEMO BIOSCIENCE INC.

5.4 Where HEMO BIOSCIENCE INC. agrees to deliver the Products otherwise than at HEMO BIOSCIENCE INC.'s premises the Customer shall be liable to pay HEMO BIOSCIENCE INC.'s charges for transport, packaging and insurance.

5.5 The Customer shall pay in full an invoice raised in respect of a Supply within one calendar month of the day on which the invoice is raised or such later date as HEMO BIOSCIENCE INC. may specify in writing. Interest on the unpaid amount of an invoice shall accrue from day to day from the date upon which such amount is due and payable until payment in full has been made and shall be payable on demand. Such interest shall accrue at the rate of 4 per cent per annum above the then Prime base rate and shall be deemed to be an amount due in terms of the invoice.

5.6 The Customer shall not under any circumstances be entitled to withhold payment under any invoice, or to set-off any amount due under an invoice against any amount owed or alleged to be owed by HEMO BIOSCIENCE INC. to the Customer.

5.7 The Customer shall be deemed to accept the total sum due specified in any invoice issued by HEMO BIOSCIENCE INC. unless the Customer notifies HEMO BIOSCIENCE INC. that it does not accept such a sum within 15 days of the date of invoice.

## **6. DELIVERY**

6.1 Delivery of the Products shall be made by HEMO BIOSCIENCE INC. to the premises of the Customer using its normal or usual means which it may from time to time determine.

6.2 Any dates quoted for delivery of the Products are approximate only and HEMO BIOSCIENCE INC. shall not be liable for any delay in delivery of the Products whatsoever caused.

6.3 Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by HEMO BIOSCIENCE INC. to deliver any one or more of the instalments in accordance with these Conditions or any claims by the Customer in respect of any one or more instalment shall not entitle the Customer to treat the Contract as a whole as repudiated.

## **7. RISK AND PROPERTY**

7.1 Risk in the Products shall pass from HEMO BIOSCIENCE INC. to the Customer at the time of delivery to the premises of the Customer at which it was agreed delivery would be made or at the moment when the goods are delivered into the hands of the Customer's carriers.

7.2 The property in the Products shall not pass from HEMO BIOSCIENCE INC. to the Customer until HEMO BIOSCIENCE INC. shall have received payment of the full price of the Products.

7.3 Until such times as the property in the Products passes from HEMO BIOSCIENCE INC. to the Customer, the Customer shall ensure that the Products are kept at the Customer's premises, that no security is granted over the Products, that the Products are at all times separate from other products, are clearly labelled as the property of HEMO BIOSCIENCE INC., and generally are stored in such manner as to be readily identifiable as the property of the HEMO BIOSCIENCE INC..

7.4 The Customer irrevocably authorises HEMO BIOSCIENCE INC., in the event that:-

(i) the agreed credit period expires without payment of the full price for the Products being made HEMO BIOSCIENCE INC.; or

(ii) there occurs any of the events set out in condition 10; below to enter (without notice and at any time) into the premises at which the Products are stored, for the purposes of collecting and removing the Products and the Customer shall be responsible for all the costs and expenses incurred by HEMO BIOSCIENCE INC. in so doing, and the Customer shall have no claim against HEMO BIOSCIENCE INC. in respect of any damage caused by HEMO BIOSCIENCE INC. in taking reasonable steps to gain access to the Products for the purposes of their collection and removal.

## 8. WARRANTY

All warranties implied by statute or common law which may lawfully be excluded are hereby excluded. HEMO BIOSCIENCE INC. accordingly disclaims all liability for loss or damage howsoever caused (including loss or damage caused by the negligence of HEMO BIOSCIENCE INC., its employees or agents) arising out of the purchase, possession, use or re-sale by the Customer of the Products provided that nothing herein provided shall exclude the liability of HEMO BIOSCIENCE INC. for death or personal injury resulting directly from the fault or negligence of HEMO BIOSCIENCE INC., its employees or agents.

## 9. LIMITATION OF LIABILITY

If any Products delivered by HEMO BIOSCIENCE INC. breach any warranties implied whether by statute or at common law, and HEMO BIOSCIENCE INC. is found to be liable to the Customer, HEMO BIOSCIENCE INC.'s liability shall be limited to replacing the Products with products which conform to the warranty so breached.

## 10. TERMINATION

HEMO BIOSCIENCE INC. may give summary notice orally or in writing to terminate a Contract upon the happening of any of the following events:-

(A) where the Customer is an individual or a firm:-

(i) the presentation of a petition or application for the appointment of a trustee, administrator, receiver or similar officer in respect of all or part of the estate or the Customer;

(ii) the Customer becoming, in the opinion of HEMO BIOSCIENCE INC. formed on reasonable grounds, unable to pay its debts as they fall due;

(iii) the Customer becoming or being declared insolvent;

(iv) the Customer ceasing or threatening to cease to carry on business;

(B) where the Customer is a Company:-

(i) the making of an order, or the passing of a resolution, for the winding-up of the Customer (other than for the purpose of a reconstruction previously approved in writing by HEMO BIOSCIENCE INC.);

(ii) the appointment of a receiver or administrator or similar officer or any property of the Customer;

(iii) the proposal of a voluntary arrangement under Chapter 11 Bankruptcy in respect of the affairs of the Customer;

(iv) the Customer becoming unable to pay its debts.

(v) the Customer ceasing to or threatening to cease to carry on business;

(C) failure by the Customer to pay HEMO BIOSCIENCE INC. on the due date any sums payable by the Customer to HEMO BIOSCIENCE INC. under any other Contract.

## 11. GENERAL

11.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

11.2 No waiver by HEMO BIOSCIENCE INC. of any breach of the Contract by the Customer shall be considered as a waiver of the subsequent breach of the same or any other provision.

11.3 If any provision of these Condition is held by any competent authority to be valid or enforceable in whole or in part the validity of the other provisions in question shall not be affected thereby.

11.4 The Conditions and any Contract shall be construed and given effect according to North Carolina Law.

11.5 The Customer hereby prorogates the non-exclusive jurisdiction of the North Carolina Courts.