

CEPHEID TERMS AND CONDITIONS

Customer's Terms. Any other document provided by Customer, INCLUDING OTHER TERMS AND CONDITIONS SUBMITTED WITH ANY PURCHASE ORDER, and not expressly agreed to in writing by both parties shall have no binding effect. Cepheid's Terms and Conditions are binding unless an agreement modification is submitted and mutually approved by Customer and Cepheid.

Acceptance of Purchase Orders: Purchase Orders are binding only upon acceptance by Cepheid. Cepheid shall only accept Purchase Orders that are issued in conformance with the provisions of Cepheid's Terms and Conditions (and attached Quotation as appropriate). Upon acceptance of a Purchase Order, Cepheid's Terms and Conditions (and attached Quotation as appropriate) and such accepted Purchase Order shall constitute a contract between the Customer and Cepheid. ("Agreement")

Price: The sales price(s) for Cepheid products ("Products") shall be the listed or posted price(s) of Cepheid in effect at the time of shipment, or the price stated in a written Quotation provided by Cepheid. Cepheid's quotations are subject to change at any time prior to acceptance of an order and expire ninety (90) days from the date of the quote. The reasonable cost of packing, crating, shipping, and insurance are prepaid and shall be added to the invoice. Where applicable, the Customer shall pay directly all import duties. Price(s) do not include GST. GST shall be added to the invoice as a separate line item.

Delivery. Products shall be packed in Cepheid's standard shipping packages and shipped by method and carrier to be selected by Cepheid, unless otherwise specified by Cepheid. Cepheid shall use reasonable effort to effect shipment of the Products on or before quoted shipment dates; however Cepheid shall not be liable for any delay or failure in delivery where such delay or failure results from any cause beyond Cepheid's control, including, but not limited to, strike, boycott, embargo, or government regulation. Cepheid may make deliveries in installments, and each installment shall be deemed to be a separate sale, for which a separate invoice shall be rendered by Cepheid. Cepheid shall also have the right, to the extent necessary in Cepheid's reasonable judgment, to apportion fairly among its various Customers in a manner deemed equitable by Cepheid, the Products then available for delivery.

Title and Risk of Loss. Title and risk of loss with respect to all Products, except software, shall pass from Cepheid to Customer upon delivery. Risk of loss with respect to software shall pass from Cepheid to the Customer upon delivery. Delivery shall be deemed made upon transfer of possession to a common carrier F.O.B. Origin.

Acceptance of Products. Customer shall inspect all Products within 30 days of receipt thereof, and may reject any Product that is defective provided that (i) it is (or has been) a standard product offered by Cepheid, and (ii) it has not been used, abused, or damaged by the Customer or Customer's agents. Any Product not properly and timely rejected by the Customer shall be deemed accepted. To reject a Product, Customer must notify Cepheid in writing within 30 days of receipt of the Product, obtain a Return Material Authorization number, if applicable, and promptly return the rejected Product to Cepheid, freight collect. Cepheid shall promptly repair or replace the rejected Product with conforming Product. Any Products shipped by Cepheid in error and not purchased by Customer may be returned to Cepheid using the same procedure for returns of rejected Product. Notwithstanding anything to the contrary in this section, consumable Products (including reagents and kits) purchased by Customer are non-returnable/non-refundable after shipment of such Products subject to Customer's right to inspect such Products within 30 days of receipt thereof for defects.

Payment Terms. Payment terms are cash on delivery, except where Customer has established and maintained open account credit to Cepheid's satisfaction. Cepheid reserves the right to require alternative payment mechanisms, including without limitation, Sight Draft, Letter of Credit, or Payment in Advance. Payment terms for sales on open account are net thirty (30) days from date of Cepheid's invoice to Customer. Customer's obligation to pay for Products is not conditioned on Customer's inspection of the Products. Any invoiced amount which is not paid when due shall bear a late charge at the rate of one and one-half percent (1-1/2%) per month.

Customer's Financial Condition. Cepheid's obligations under the Agreement are subject to Cepheid's approval at all times of Customer's financial condition. If the financial condition of Customer at any time becomes unsatisfactory to Cepheid or if Customer fails to make any payment when due, Cepheid may (i) defer or decline to make any shipment of Products to Customer, or (ii) revoke any open account credit Customer has.

Limited Warranty. Cepheid warrants that the Products (i) shall be free from defects in material and workmanship for a period of one year after shipment, (ii) conform to Cepheid's published specifications for the Products, and (iii) are free of liens and encumbrances when shipped to Customer. It is the responsibility of Customer to determine and Customer assumes the risk for (i) the suitability of the Products for Customer's intended use, and (ii) their compliance with applicable laws, regulations, codes and standards. Specific terms of the warranty or warranties for the Products are set forth in Cepheid's current user's manual, catalog, or written guarantee covering such Products. Cepheid does not warrant any defects in any Products caused by (i) improper installation, removal or testing, (ii) Customer's failure to provide a suitable operating environment for the Products, (iii) use of the Products for purposes other than that for which they were designed, (iv) unauthorized attachments, (v) unusual physical or electrical stress, (vi) modifications or repairs done by other than Cepheid or a Cepheid authorized service provider, or (vii) any other abuse, misuse, or neglect of the Products. This warranty extends to Customer only, and not to Customer's customers, except as agreed to in writing by Cepheid. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE FACE HEREOF. CEPHEID DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESSED OR IMPLIED, REGARDING THE PRODUCTS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CEPHEID SHALL HAVE NO STRICT LIABILITY, GOODS LIABILITY OR NEGLIGENCE, WHETHER ACTIVE OR PASSIVE.

LIMITATION OF REMEDIES. CUSTOMER'S EXCLUSIVE REMEDY FOR ANY DEFECTIVE PRODUCT IS LIMITED TO THE REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCT. IF CEPHEID CANNOT OR DOES NOT REPAIR OR REPLACE A DEFECTIVE PRODUCT, CEPHEID SHALL REMOVE THE PRODUCT AND RETURN THE PURCHASE PRICE FOR THE DEFECTIVE PRODUCT AND CEPHEID SHALL HAVE NO LIABILITY FOR GENERAL, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES ARISING FROM A DEFECT IN ANY PRODUCTS.

LIMITATION OF LIABILITIES. EVEN IF CEPHEID CANNOT OR DOES NOT REPAIR OR REPLACE ANY DEFECTIVE PRODUCTS AND CUSTOMER'S EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE, CEPHEID'S ENTIRE LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE FOR ANY DEFECTIVE PRODUCT, AND CEPHEID SHALL HAVE NO LIABILITY FOR GENERAL, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES ARISING FROM A DEFECT IN ANY PRODUCT.

Patents. Cepheid shall settle or defend any suit or proceeding brought against Customer if and to the extent the suit or proceeding is based on a claim that any Products as sold directly infringe any issued United States patent. Cepheid shall pay all damages and costs finally awarded against Customer on account of any actual infringement. Customer shall: (i) within ten days after receipt by Customer of a communication, notice or other action relating to an alleged infringement, inform Cepheid in writing of the event and furnish to Cepheid a copy of any communication, and (ii) give Cepheid all authority (including the right to exclusive control of the defense of any suit or proceeding), information and assistance necessary to settle or defend the suit or proceeding. Cepheid shall not be bound in any manner by any settlement made without its prior expressed written consent. In the event Products are held to constitute infringement and their use is enjoined, Cepheid may, at its option, (i) obtain for Customer the right to continue using the Products, (ii) modify the Products so that they become non-infringing, or (iii) remove the Products, grant Customer a credit and accept their return. Cepheid has no obligations under this section if the alleged infringement arises out of: (i) Cepheid's compliance with Customer's specifications, (ii) Customer's addition to or modification of a Product, or (iii) Customer's use of a Product with products provided by parties other than Cepheid. Cepheid's obligations under this section do not apply to any alleged infringement occurring after Customer has received notice of the alleged infringement unless Cepheid subsequently gives Customer express written consent for the continuing alleged infringement. Cepheid shall not be liable for any incidental or consequential damages arising out of a patent infringement. Cepheid's liability hereunder shall not exceed the purchase price paid by Customer for the allegedly infringing Products. The foregoing states the sole and exclusive liability of Cepheid with respect to patent infringement and is in lieu of any and all other warranties, expressed or implied, in regard thereto.

Applicable Law and Venue. The Agreement shall be governed by and construed in accordance with the internal laws of the State of California, U.S.A.

Assignment. Neither party may transfer or assign any of its rights, duties or obligations under this Agreement without the prior written consent of the other Party and such consent shall not be unreasonably withheld; PROVIDED THAT either party may assign all of its rights and obligations to a corporation which has acquired substantially all of the business and assets of the assignor and assumed in writing the obligations of a party to this Agreement, or to a corporation surviving a merger and consolidation to which the party to this Agreement is a party.

Entire Agreement; Modification. This Agreement and any documents referred to in this Agreement: (i) are the final, complete, and exclusive statement of the terms of the agreement of the parties concerning the subject matter of those documents; (ii) supersede all prior written and oral agreements and understandings between Cepheid and Customer with respect to the Goods, and (iii) may be modified only by a signed writing.