

SPIN ANALYTICAL, INC. TERMS AND CONDITIONS OF SALE

These Spin Analytical, Inc. Terms and Conditions of Sale (these "Terms and Conditions") are attached to and an integral part of a Sales Order (the "Sales Order") between Spin Analytical, Inc. ("Seller") and its customer identified in the Sales Order ("Buyer"). Under the Sales Order, Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, the equipment and other goods described or referred to in the Sales Order (the "Goods"). As used herein, this "Agreement" means, collectively, the Sales Order and these Terms and Conditions of Sale.

1. AGREEMENT: Seller's offer to sell the Goods to Buyer is expressly made conditional on the application of this Agreement to Buyer's purchase of the Goods. If there is any inconsistency or conflict between this Agreement (including these Terms and Conditions) and any purchase order issued by Buyer and accepted by Seller (a "Purchase Order"), the provisions of this Agreement shall govern and control. Stenographic and clerical errors are subject to correction.

2. DELIVERY AND SHIPMENT: Unless otherwise specified by Seller in the Sales Order, Seller shall deliver the Goods F.O.B. carrier, at Seller's plant or other shipping point designated by Seller. Title to the Goods shall remain with Seller until the purchase price therefor has been paid in full. The risk of loss or damage to or destruction of the Goods shall be borne by Buyer at all times after delivery by Seller to a carrier for shipment. Seller reserves the right to ship goods on common carriers selected by Seller. Partial shipments shall be permitted and, if delivery is to be made in installments, no breach by Seller with respect to any installment shall be deemed to be a breach by Seller of this Agreement in its entirety. Seller will use commercially reasonable efforts to meet the time for delivery specified in the Sales Order, but does not assume a firm obligation for delivery at that time. Buyer may not cancel this Agreement, or any portion thereof, except with the written consent of Seller.

3. PAYMENT TERMS: Buyer's financial responsibility is at all times subject to Seller's approval, and Seller may at any time require payment in advance or satisfactory security or guarantee that invoices will be promptly paid when due. Seller reserves the right to decline to make deliveries except for cash if Seller determines that Buyer is not financially responsible. If Buyer fails to comply with any of its obligations, Seller reserves the right to withhold further deliveries or to refuse to sell any undelivered Goods and any unpaid amounts shall thereupon become immediately due. Subject to Seller's foregoing rights, and unless otherwise specified by Seller in the Sales Order, (a) all prices quoted are F.O.B. carrier at Seller's plant or shipping point, and (b) payment terms are net 30 (i.e., within thirty (30) days of the date of Seller's invoice).

4. SECURITY INTEREST: Seller retains a purchase money security interest in the Goods until the purchase price for the Goods has been paid in full. Buyer authorizes Seller to prepare and file such financing statements as Seller may require in order to protect Seller's said security interest in the Goods; in furtherance of the foregoing, to the extent that any such financing statement needs to be signed by Buyer, Buyer hereby irrevocably appoints Seller as Buyer's attorney-in-fact with the authority to execute and file any such financing statements on behalf of Buyer. Upon any breach by Buyer of its obligations under this Agreement, Seller will have all rights and remedies of a secured party under the Uniform Commercial Code, which rights and remedies will be cumulative and not exclusive of any other rights or remedies of Seller under this Agreement or available at law or in equity.

5. DEFAULT BY BUYER: In the event of any breach or default by Buyer of its payment or other obligations under this Agreement, Seller may, without notice, suspend delivery of any undelivered Goods, repossess any delivered Goods, and/or terminate Seller's obligations under this Agreement. In addition, Seller shall be entitled to pursue all available rights and remedies therefor and Buyer shall reimburse Seller, upon demand, for all reasonable costs and expenses incurred by Seller in pursuing any such rights or remedies. Further, without limiting Seller's rights hereunder, if Buyer fails to make any payment when due, Buyer shall pay and Seller shall be entitled to collect the overdue payment, plus interest thereon

compounded monthly at a rate equal to the lesser of (a) 1% per month, or (b) the maximum rate permitted by law, until the overdue payment and all accrued but unpaid interest have been paid in full.

6. LIMITED WARRANTY:

6.1 Subject to the further provisions of these Terms and Conditions, Seller warrants ("Limited Warranty") that, for a period of ninety (90) days from the date of original shipment of Goods by Seller (the "Warranty Period"), such Goods will be free from defects in material and workmanship and will be in conformity with Seller's applicable specifications and drawings; provided, that all Goods shall be subject to tolerances and variations consistent with usual industry practices regarding dimensions, straightness, section, composition, mechanical properties, and normal variations in surface and internal conditions and quality and shall also be subject to tolerances and variations consistent with practical testing and inspection methods. Seller shall be liable under the Limited Warranty only if Buyer, within the Warranty Period, notifies Seller in writing of a breach of the Limited Warranty (a "Warranty Claim") and complies with Seller's warranty procedures.

6.2 The Limited Warranty shall not apply if the Goods in question have been repaired, altered, or modified by Buyer or any third party. In addition, Seller assumes no responsibility for, and the Limited Warranty shall not apply to, any defects in or damage to Goods caused by or resulting from (a) abuse or misuse, (b) accident, (c) fire, flood, or other act of God, (d) improper installation, (e) neglect, (f) use not in conformity with Seller-recommended capacities, or (g) any equipment or other device not supplied by Seller.

6.3 Upon its receipt of a Warranty Claim within the applicable Warranty Period, Seller shall inspect the Goods in question at Buyer's location or, at Seller's option, at such other location as Seller may designate. If Seller inspects the Goods at Buyer's location, then Buyer shall pay Seller's travel costs, including transportation, meals, and lodging. If Seller elects to require Buyer to ship the Goods to a location designated by Seller, then such Goods must be shipped by Buyer, transportation prepaid at the Buyer's risk and by the most practical method of shipment, to the Seller-designated location. Seller's inspection of Goods covered by a Warranty Claim will not commit Seller to making any repair or replacement hereunder. Upon completion of its inspection of Goods covered by a Warranty Claim, Seller shall notify Buyer of Seller's determination as to whether the Goods are subject to defects or nonconformities that are covered by the Limited Warranty. In all cases, Seller's determination will be final.

6.4 If Seller determines that the Goods covered by a Warranty Claim are subject to defects or nonconformities that are covered by the Limited Warranty, then such Goods will, at Seller's option, be reworked or replaced without charge for the materials or labor used to do so, and the Limited Warranty shall continue to apply to the reworked or replaced Goods for the duration of the original Warranty Period. All replaced Goods and parts become the property of Seller. As an alternative remedy, Seller may elect to issue a credit to Buyer in the amount of the original sales price for said Goods. In no event will Seller be liable for amounts in excess of the net sales price paid by Buyer for any defective or non-conforming Goods. In addition, if any such defective or non-conforming Goods have been shipped by Buyer to a Seller-designated location, then Seller shall (a) return the reworked or replaced Goods to Buyer, transportation prepaid by Seller, and (b) issue a credit to Buyer for the reasonable transportation charges incurred by Buyer in shipping the defective or non-conforming Goods to the Seller-designated location. However, in no event shall Seller have any liability for packing, inspection, labor charges, or other incidental costs incurred by Buyer in shipping any such Goods to the Seller-designated location.

6.5 If Seller determines that Goods covered by a Warranty Claim which were shipped to a Seller-designated location are not subject to defects or nonconformities that are covered by the Limited Warranty, and if Buyer requests the return of such Goods within thirty (30) days following Seller's inspection report, then Seller shall return such Goods to Buyer, transportation prepaid by Buyer. Otherwise, Seller may dispose of such Goods without any responsibility to Buyer.

6.6 THE LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT ARE DISCLAIMED. SELLER'S LIABILITY AND BUYER'S REMEDY FOR ANY BREACH OF THE LIMITED WARRANTY OR FOR ANY DEFECTIVE OR NONCONFORMING GOODS ARE LIMITED TO SELLER'S OBLIGATIONS UNDER THIS SECTION. SELLER DOES NOT ASSUME NOR AUTHORIZE ANY THIRD PARTY TO ASSUME FOR IT ANY OTHER OBLIGATION.

7. LIMITATION OF LIABILITY:

7.1 Seller shall not be liable for Buyer's improper selection of any Goods for any particular application. Seller shall not be liable or deemed in default if prevented from performing any of its obligations by reason of fire, flood, drought, acts of God, accidents, war, riot, strikes, lockouts, embargo, governmental orders, shortages of material, or other causes beyond Seller's reasonable control. The aggregate cumulative total liability for which Seller is obligated to Buyer, whether for breach of warranty or contract, tort (including negligence), strict liability, or otherwise, shall, subject to the further limitations set forth below, be limited to Buyer's direct damages in an amount not to exceed the amounts paid by Buyer to Seller under this Agreement.

7.2 IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE TO PROPERTY, LOSS OF REVENUE OR PROFITS, LOSS OF TIME, OR INCONVENIENCE) IN ANY WAY RELATED TO OR ARISING OUT OF ANY BREACH OF THE LIMITED WARRANTY, ANY PERFORMANCE OR NONPERFORMANCE OF ANY OF THE GOODS, ANY BREACH OR DEFAULT BY SELLER OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, OR OTHERWISE PERTAINING TO ANY OF THE GOODS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.

8. INFRINGEMENT CLAIMS:

8.1 Seller agrees to (a) defend Buyer against any claim that any Goods infringe any third party patent rights or misappropriate any third party trade secrets (an "Infringement Claim"), and (b) indemnify and hold harmless Buyer from and against any damages finally awarded against Buyer in any litigation for such Infringement Claim or settlement of such Infringement Claim made by Seller; provided, that Seller's obligations hereunder are subject to (i) Seller's receipt of timely notice from Buyer of such Infringement Claim, (ii) Seller's right to control and direct the defense of such Infringement Claim, and (iii) Buyer cooperating with Seller in such defense (subject to Seller reimbursing Buyer for reasonable out-of-pocket expenses incurred by Buyer in providing such cooperation).

8.2 In the event of an Infringement Claim, Seller shall have the right, at its own option and expense, to modify or replace the Goods in question so that such Goods become non-infringing.

8.3 Seller's obligations under this Section 8 shall not apply to any Infringement Claim to the extent that the claim of infringement or misappropriation is caused by (a) use of the Goods in question in combination with goods not branded by Seller, (b) modification of the Goods in question by Buyer or any third party, (c) Seller's compliance with any designs, specifications, instructions, or technical information furnished by Buyer, or (d) Buyer non-compliance with Seller's specifications for the Goods in question.

8.4 The foregoing states the entire liability of Seller, and Buyer's exclusive rights and remedies, with respect to any actual or alleged infringement or misappropriation of any patents, trade secrets, or other proprietary or intellectual property rights related in any way to any of the Goods.

9. EXPORT; TAXES:

9.1 Buyer shall be responsible for obtaining, and this Agreement is subject to, any applicable export approvals as may be required by the U.S. Government. Except as otherwise expressly agreed in writing by Seller, any and all customs, duties, taxes, and other fees in any form which may be charged or assessed with respect to the importation into any foreign country of any Goods or technical data related thereto shall be for the account of and paid for by Buyer.

9.2 Buyer agrees to furnish Seller with an exempt purchase or resale certificate or, in the absence of same, to assume and pay all foreign and U.S. Federal, state, local, and other taxes, duties, and governmental charges, excepting only taxes based on Seller's net income, based on or related in any manner to this Agreement or the purchase, sale, or use of any of the Goods (collectively, "Taxes"). The purchase price for the Goods does not include, and Buyer shall pay on demand, and shall defend, indemnify, and hold harmless Seller from and against any claims for, any and all Taxes.

10. GENERAL PROVISIONS:

10.1 This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, covenants, understandings, representations, warranties, and undertakings, whether written, electronic, or oral, between the parties regarding such matters.

10.2 No amendment or modification of this Agreement shall be binding unless it is in writing and is signed by an authorized representative of the party against whom enforcement of the amendment or modification is sought; without limiting the generality of the foregoing, no Purchase Order shall be deemed to be an amendment of this Agreement unless (a) such Purchase Order expressly states that it is intended to be an amendment of this Agreement and the respect(s) in which this Agreement is intended to be amended, and (b) such Order is signed by a duly authorized representative of Seller.

10.3 A waiver by Seller of any of the terms and conditions of this Agreement shall not be deemed to be a continuing waiver, but shall apply solely to the instance to which the waiver is directed.

10.4 If any term or provision of this Agreement or any Order, or the application thereof to any circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application thereof to circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

10.5 This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire, United States of America. The provisions of the United Nations Convention on the International Sale of Goods shall not apply and are disclaimed. All legal and equitable actions brought in relation to this Agreement or any of the Goods shall be brought in the appropriate state or Federal courts of the State of New Hampshire, USA, and Buyer consents to the jurisdiction of said courts. No action shall be brought for any breach of this Agreement more than one (1) year after the occurrence of the cause of action therefor.

10.6 Buyer may not assign or transfer this Agreement, nor any of Buyer's rights or obligations hereunder, without Seller's prior written consent; provided, that this Agreement may be assigned by Buyer to a successor to Buyer's business, including a purchaser of all or substantially all of Buyer's assets. Any assignment or transfer of this Agreement made in violation of the foregoing terms will be null and void. Subject to the foregoing, this Agreement will be binding on and for the benefit of Seller's and Buyer's respective successors and assigns.

10.7 In the event of any arbitration proceeding or litigation arising from any breach of this Agreement by Buyer, or the enforcement of any of the provisions of this Agreement against Buyer, Buyer shall reimburse Seller, upon demand, for the costs and expenses (including reasonable attorneys' fees) incurred by Seller in such arbitration proceeding or litigation.