

## STANDARD TERMS AND CONDITIONS

**General:** Unless otherwise agreed in writing, Labsphere, Inc. ["Labsphere"], as Purchaser or Seller, sells and purchases its products exclusively on these terms and conditions, and these terms and conditions shall apply to all orders placed at any time. In the event of a conflict between these Terms and Conditions and any quotation or purchase order with conflicting terms which have been expressly accepted by Labsphere, the provisions of such quotation or purchase order shall control.

**Prices:** Unless otherwise agreed in writing, prices do not include the cost of freight or handling, or cost or charges for insurance or any production, sales, use, transfer, transportation, excise or other tax, tariffs, or custom duties.

**Payment:** Terms of payment, unless otherwise agreed in writing, are net 30 days from invoice date, in U.S. dollars. Labsphere reserves the right to charge interest on any unpaid balance at a rate of up to 1-1/2% per month (or the highest rate permitted by applicable laws, if lower) from the due date. Labsphere Custom Order terms of payment are: thirty percent (30%) due at time of order acceptance, thirty percent (30%) due at time of shipment, balance due per agreed terms.

**Taxes:** All sales, use, excise, gross receipts, and other similar taxes are the responsibility of the Seller, and the Seller shall promptly pay or reimburse Purchaser for payment of any such taxes on demand.

**Shipment:** : Delivery is ex works, i.e., risk of loss and title shall pass to Purchaser upon delivery of product to the carrier. Unless otherwise agreed in writing, prices do not include the cost of freight or handling, or cost or charges for insurance or any production, sales, use, transfer, transportation, letter of credit fee, excise or other tax, tariffs, or custom duties. Diversion contrary to U.S. law is prohibited.

**Substitutions; Variations in Quantity; Cancellation:** Orders accepted by Seller may not be cancelled or changed prior to shipment, except with written consent and upon payment of a cancellation charge. The cancellation charge for non-custom orders shall be ten percent (10%) for orders canceled more than thirty (30) days prior to shipment, and twenty-five percent (25%) for orders canceled less than thirty (30) days prior to shipment. Upon cancellation of a Labsphere Custom order, all amounts paid or due prior to cancellation shall be retained by Labsphere as the cancellation fee. Pre-payments set in Payment section above are relinquished to Labsphere. Unless otherwise agreed in writing, Seller shall not substitute components, materials, finished goods or accessories for those ordered.

**Warranty and Disclaimers:** Seller warrants that product supplied hereunder shall, at the time of delivery to Purchaser conform to the published specifications of Seller and to be free from defects in material and workmanship under normal use and service. Seller's sole obligation and liability under this warranty is limited to the repair or replacement at its factory, at Seller's option, of any such product which proves defective within one year after the date of original shipment from Seller's factory and is found to be defective in material or workmanship by Seller's inspection.

Any technical advice, information, suggestions, or recommendations given to Purchaser by Seller with respect to the product or the suitability or desirability of the product for any particular use or application are based solely on the general knowledge of Purchaser, are intended for information guidance only. Purchaser takes sole responsibility for the use and applications to which the product is put and shall conduct all testing and analysis necessary to validate the use and application to which Purchaser puts the product.

SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, OF THE PRODUCT SUPPLIED

HEREUNDER, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED. SELLER SHALL HAVE NO LIABILITY FOR LOSS OF PROFITS, OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES. SELLER SHALL IN NO EVENT BE LIABLE IN RESPECT OF THIS ORDER AND/OR PRODUCT DELIVERED ON ACCOUNT OF THIS ORDER FOR ANY AMOUNT GREATER THAN THAT PAID TO SELLER ON ACCOUNT OF THIS ORDER.

**Returns:** Return of products for replacement, credit or refund shall be at the sole discretion of Seller. All returns shall be subject to a twenty five percent (25%) restocking charge and Purchaser shall prepay all shipping charges, duties, taxes and fees. Prior to returning any product, Purchaser shall obtain a Return Material Authorization (RMA) number from Seller's Customer Service Department and mark the outside of all packages with the RMA number.

**Repeat Shipments:** Repeated acceptances of orders does not imply any agreement on the part of Seller to continue the acceptance of orders in the future.

**Price Variations:** Seller shall have the right to increase contract prices to reflect any increase in costs arising after the date of any quotation as a result of: any alteration in or addition to Purchaser's requirements; Purchaser's instructions or lack of instructions; any interruptions, delays, overtime work, mistakes, alterations arising from the work of other contractors found to be outside agreed tolerances, delays caused by other contractors, and any other cause for which Seller is not directly responsible.

