

## **GENERAL TERMS & CONDITIONS**

1. **Authority:** If the customer (“Customer”) has a long term sales agreement (“Agreement”) with Asahi Intecc USA, Inc. (“Seller”), their acceptance of the products they have ordered through a purchase order (“PO”) indicates their acceptance of the terms and conditions in the Agreement. Where the language in the Agreement conflicts with the language of these terms and conditions (“T&C’s”) or the PO, the Agreement will control; where the language in the PO conflicts with the language in these T&C’s, these T&C’s will control. If the Customer does not yet have an Agreement, their acceptance of these products indicates their agreement to the T&C’s, and acknowledgement that any language in the PO that contradicts with or is extraneous to the language in these T&C’s is hereby rendered null and void.
2. **Packing:** Unless otherwise agreed to in writing, the product(s) will be shipped to the Customer in the Seller’s standard packaging.
3. **Delivery:** The Seller will use a recognized courier, such as FedEx and UPS, to ship the products(s) for the Customer to the place of delivery designated on the purchase order; but in no event shall the Seller be liable for any delay in delivery or assume any liability in connection with the shipment.
4. **Title and Risk of Loss:** All products will be shipped F.O.B. Shipping Point, meaning the risk of loss or damage to the products shall pass to the CUSTOMER upon shipment. The parties agree that the title to the products shall pass to the CUSTOMER once they’re shipped. THE OCCURRENCE OF ANY SUCH LOSS OR DAMAGE SHALL NOT RELIEVE THE RESPONSIBLE PARTY OF ANY OBLIGATION HEREUNDER.
5. **Payment:** Unless otherwise agreed upon, the purchase price and any additional charges including taxes, shipping, and insurance are required to be paid Net 30 days after the date of invoice. The Customer shall pay to the Seller all applicable sales taxes, value-added taxes and any other similar taxes and public charges imposed on the sale and purchase of the product(s) unless the Customer provides the Seller with written certification of its status as a non-profit or other tax-exempt organization. If the Customer fails to make a full payment on or before the due date stipulated on their invoice and fails to cure such a failure within thirty (30) days after receiving written notice from the Seller, it will pay the Seller delinquent interests on the overdue amount at the rate of eight (8) percent per annum or the maximum interest rate permitted by law, whichever is lower.
6. **Cancellation:** If the Customer (i) commits any breach of the provisions herein, including any payment obligations, which is not cured within thirty (30) days after receiving written notice of such breach from the Seller, or (ii) enters bankruptcy, insolvency, voluntary or involuntary liquidation, or files a petition for bankruptcy or petition for any similar relief from debtors, the Seller may, in its sole discretion: (i) cancel any orders immediately by providing written notice to the Customer; (ii) require the Customer, at its own expense, to return all unpaid-for product(s) back to the Seller; and allow the Seller to recover possession of the product(s), for which the Customer waives any and all damages caused by such recovery; (iii) make all sums payable immediately due; and (iv) exercise any other right or remedy available to the Seller at law or in equity.
7. **Warranty:** The Seller warrants the product(s) to be free from defects in material and workmanship for their entire sterilization validity period (the “Warranty Period”). A warranty claim for a defect in materials or workmanship in the product(s) (a “Defect”) shall be allowed only when submitted to the Seller, in writing, within thirty (30) days after discovery of such Defect, and in any event, within the Warranty Period of the product(s). The Customer shall also allow the Seller to inspect the product(s) to verify whether any Defect exists. If the Seller determines that a certain product(s) has any Defect during the Warranty Period, and on the condition that the Customer is not then in material breach hereunder, the Seller will give the Customer a credit equal to the price of the product(s).

Notwithstanding the preceding paragraph, the Customer may submit only within thirty (30) days after the date of delivery of the product(s), any claims (including but not limited to warranty claims) for the product(s) on the grounds that (i) the Seller shipped the product(s) in error; (ii) packaging or crating of the product(s) was damaged before shipment; or (iii) the sterilization validity period of the product(s) is expired when delivered to the Customer. If the Customer fails to submit a claim in writing within thirty (30) days after the date of delivery of the product(s), the Customer shall be deemed to have waived any and all claims for the product(s) for the above reasons.

If the Customer makes a claim on the product(s) under this warranty section, where possible, the Customer shall return the product(s) in its original packaging. If the Seller determines that there exists any Defect for any reason listed in the preceding paragraph, the Seller shall not charge any restocking fee and the Seller shall pay all return shipping and insurance charges, and other similar charges when returning product(s) under this warranty section.

THE WARRANTIES IN THIS SECTION ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

In no event shall the Seller be liable to the Customer for any special, consequential or incidental damages, including, loss of profits, loss of goodwill, or loss of use, arising out of, or in connection with, the ordering of product(s)

8. **Indemnification.** The Seller shall defend, indemnify and hold harmless the Customer from and against any liability, damage, loss or expense (including reasonable attorneys' fees) in connection with any third party claims, suits or proceedings caused by design defect, manufacturing defect or failure to warn regarding the product(s); provided that the Customer: (i) gives the Seller prompt written notice of any such claim; (ii) allows the Seller to control the defense and settlement of such claim; (iii) refrains from entering into any settlement that would compromise such a claim without the Seller's prior written consent; and (iv) provides all reasonable assistance requested by the Seller in the defense or settlement of such a claim.

The Seller's indemnity provided in the previous paragraph shall not apply if: (i) the product(s) was used in breach of the Instructions for Use, Product Manual or any other documents provided by the Seller for the product(s) (the "Product Documents"); (ii) the product(s) has been subject to unusual physical stress, misuse, improper operation, neglect, alteration, improper installation, improper repair, improper testing, wear and tear whether normal or from mishandling or misuse; (iii) the product(s) has been used in combination with tools, devices or equipment other than with those for which the product(s) was designed; (iv) the product(s) has been used in any manner or medical procedures that are not explicitly permitted in the Product Documents; (v) the product(s) has not been maintained in accordance with the Product Documents and industry standards; (vi) any other equipment or technology creating an adverse impact on the product(s) has been introduced; or (vii) the product(s) has been subject to modifications, alterations or additions, without the prior written consent of the Seller.

9. **Force Majeures:** The Seller shall not be responsible for shipment issues due in to Force Majeure conditions. The term "Force Majeure" shall refer to any event beyond the control of the parties, including, without limitation, fire, flood, epidemics, strikes, riots, civil commotions, warlike conditions, war, embargoes, and governmental actions or decrees.
10. **Governing Law and Jurisdiction:** This order shall be governed by and under the laws of the State of California. Any dispute or controversies arising under this order shall be brought in the state or federal courts located in Orange County, California.

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