

# SPEX CertiPrep/SamplePrep STANDARD TERMS

## 1. OFFER AND ACCEPTANCE

All quotations are firm for the thirty (30) days unless otherwise specified, but may be withdrawn at any time. Acceptance by Seller is expressly limited to the terms hereof, and no oral statement shall modify or add to the agreement between the parties. These Standard Terms shall be part of any subsequent contract between the parties unless Seller otherwise specifically agrees in writing to modifications expressly set forth in writing and signed by Seller's authorized representative.

## 2. PRICES/CHARGES/TAXES

The prices quoted do not include any hazardous packaging charges, shipping charges, sales, use or excise tax imposed with respect to this sale or purchase. Any additional charges and/or tax will be paid by the Buyer and may be included with any invoice. Foreign orders are accepted subject to United States and public carrier regulations, as well as current export prices.

## 3. DELIVERY

Any time of delivery stated is approximate only. Seller shall not be liable for delay in performance or inability to perform occasioned by any unforeseen conditions, including but not limited to, labor disputes, embargo, war, damage to factory, governmental law and regulation, inability to obtain labor materials, act of God, or other causes beyond Seller's reasonable control affecting Seller, its suppliers, or any shipper.

## 4. WARRANTY

For any item sold by Seller to Buyer or any repair service, Seller agrees to repair or replace, without charge to buyer for labor materials or workmanship of which Seller is notified in writing before the end of the applicable period set forth below, beginning from date of shipment or completion of service or repair, whichever applicable.

- (a) Chemical products. Certified Reference Materials, Sample Preparation Equipment and consumables. Two years or as stated on label with the following exceptions:
  - (I) Computers and their peripherals
  - (II) Alumina, tungsten carbide, agate and zirconia grinding vials
  - (III) Glassware and glass products
- (b) Repairs, replacements or parts - the greater of 30 days and the remaining original warranty period for the item that was repaired.
- (c) Installation services - 90 days
- (d) The above warranties do not cover components manufactured by others and which are separately warranted by the manufacturer. Seller shall cooperate with Buyer in obtaining the benefits of warranties by manufacturer of such items but assumes no obligations, with respect thereto.

All defective items replaced pursuant to the above warranty become property of the Seller.

This warranty shall not apply to any components subjected to misuse due to common negligence, adverse environmental conditions, or accident, nor to any components which are not operated in accordance with the printed instructions in the operational manual. Labor, materials and expenses shall be billed to the Buyer at the rates in the effect for any repairs or replacements not covered by this warranty.

This warranty shall not apply to any SPEX CertiPrep/SamplePrep manufactured components that have been repaired, altered or installed by anyone not authorized by SPEX CertiPrep/SamplePrep in writing.

THE ABOVE WARRANTIES AND ANY OTHER WARRANTIES SET FORTH IN WRITING HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES OR GUARANTEES EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE, OR OTHER WARRANTIES.

## 5. LIMITATION OF LIABILITY:

- (a) Seller's liability hereunder from any and all causes, based on any legal theory or cause of action, shall be limited to general money damage in an amount not to exceed the moneys paid by the Buyer to the Seller for the product giving rise to the cause of action or damage. Such limitation shall be the extent of Seller's liability regardless of the form in which any legal or equitable action may be brought against the Seller (e.g. Contract, negligence or otherwise) and the foregoing shall constitute the Buyer's sole remedy.
- (b) Seller shall not be liable or deemed in default for any delay or failure to perform under this agreement for interruption of services resulting directly from any cause beyond the Seller's reasonable control including, but not limited to, strike, embargo, government regulation, or inability to buy materials. If performance by the Seller is delayed by reason thereof, it shall notify the Buyer, and time and performance shall be extended for the period of such contingency.
- (c) REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND IN NO EVENT SHALL THE SELLER BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGE WHICH THE BUYER MAY INCUR OR EXPERIENCE ON ACCOUNT OF ENTERING OR RELYING UPON THIS AGREEMENT, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 6. INSPECTION AND ACCEPTANCE

Orders are accepted based on Buyer's inspection and acceptance at the Seller's factory. If Buyer does not inspect the merchandise at the Seller's plant, then Seller will furnish, on request, a report to Buyer that materials were inspected and tested and were found to have met specifications.

## 7. EX-WORKS POINT

All sales are EX-WORKS, Metuchen, New Jersey unless otherwise specified. All delivery and handling charges, hazardous packaging charges, shipping charges, sales, use of excise tax imposed shall be paid for by the Buyer.

## 8. REGULATIONS/RESTRICTIONS

Seller endeavors to comply with all regulations regarding shipments of "Hazardous" articles. Some of the Materials and Standards listed in our catalog are considered "Hazardous" by the Department of Transportation (DOT), the International Air Transportation Association, the U.S. Coast Guard, the U.S. Postal Service or United Parcel Service and, as such, must be shipped under the restrictions imposed by these agencies and carriers.

Whenever possible, Seller ships in accordance with the method specified or implied on your order. Seller reserves the right to alter that procedure to comply with the above indicated regulations. Also, because of such compliance, Seller charges for the required special packaging and appropriate shipping documents. The amount will vary with the quantity and mix of materials as well as method of shipment. Our sales staff will gladly quote the fees for a proposed purchase.

## 9. PAYMENT

Payments shall be made in full within 30 days from the date of invoice, unless otherwise specified. A monthly service charge will be added to balances extended beyond 30 days equivalent to 1 1/2 percent per month (except where local laws prohibit it, in which case the rate will be the highest allowed under law).

Seller will have no liability under Warranty while Buyer is delinquent or any payment is due to Seller.

Buyer shall be liable for payment of the goods covered by this Agreement as soon as they have been delivered to carrier. However, title to such goods shall remain with Seller until payment has been made in full.

If shipment is deferred at Buyer's request, payment shall nevertheless be due after notice to Buyer that the goods are for shipment.

Reasonable storage charges shall be paid by the Buyer after seven days unless prior agreement was made set forth in writing and signed by the Seller's authorized agent.

## 10. DESIGN/MANUFACTURING CHANGES

Seller reserves the right to make any changes in details of design/manufacture or construction.

## 11. CANCELLATION

An order once placed and accepted by Seller may be canceled only upon Seller's written consent. Restocking charges of twenty-five (25) percent will apply on any order canceled within 60 days of the scheduled ship date. Any cancellation request for orders scheduled to ship within 30 days from request day will not be granted.

## 12. PATENTS/COPYRIGHTS

If any item of Seller's design is sold hereunder when used for its normal purpose are charged with infringement of a United States patent issue on or before the date of this contract and if the Buyer has given prompt written notice of such charge, Seller at its option (a) shall obtain for Buyer the right to use such items, free of charge, or (b) shall substitute for such items other equally suitable items, or (c) at Seller's own expense shall institute or defend any suit or legal proceeding which may arise as a result of such charge and, in any such suit or legal proceeding, shall satisfy any final award for such infringement. Buyer's obligations hereunder are subject to the conditions that the charged infringement not arise from the combination of the items furnished with the other equipment or devices not furnished by Seller, or from modification or alteration of the equipment, or from the use of the entire responsibility for any claim or charge of patent infringement by Seller, in no case shall the liability of the Seller exceed the limitations set forth in paragraph of this Agreement.

The products sold are for Buyer's individual use and may not be copied, duplicated or replicated. Buyer shall be liable for all damages, special and/or consequential, including anticipatory profits incurred by Seller as a result of such conduct.

## 13. SAFETY OBLIGATIONS

Buyer shall use operating procedures in the use of all products supplied by the Seller, including Safety Data Sheets supplied with chemicals and the use of all safety devices and guards when operating equipment, and Buyer shall maintain the same in proper working order. If Buyer fails to observe the obligations in this paragraph, Buyer agrees to indemnify and hold Seller harmless from any liability or obligation incurred by Buyer to persons injured directly or indirectly in connection with the use or the operation of the equipment. The foregoing indemnification shall in no event be deemed to have expanded Seller's liability for the items.

Seller's products are not for any cosmetic, drug, food, or household application. Our acceptance of a purchase order is with the understanding that only qualified individuals trained and familiar with procedures suitable to the products ordered will handle them.

## 14. BUYER'S RIGHTS

The Buyer may cancel an order if the Seller has materially breached this contract and any money paid to date will be reimbursed. The foregoing shall be the exclusive remedy of Buyer for any breach by Seller.

## 15. SELLER'S RIGHTS

Seller has the option to reject or cancel an order with no penalty if, for any reason, it becomes impractical or impossible to manufacture the ordered products.

## 16. BUYER'S DEFAULT

If the Buyer fails to pay the price as it becomes due or wrongfully rejects acceptance of the merchandise hereunder or any part thereof, then the Seller shall have the right to recover, in addition to the purchase price of the said merchandise, all costs incurred by said Seller to collect the same. Said collection costs shall include, but are not limited to, all monthly service charges together with all court costs and attorney fees. In addition to the foregoing and all other remedies which the Seller may have hereunder or by law, the Seller without notice (a) may bill and declare due and payable all undelivered products under this or any other contract with the Buyer and/or (b) may defer shipment hereunder and under any other contract until such default, breach or repudiation is removed and/or (c) may cancel any undelivered portion of this and/or any other contract in whole or in part (the Buyer remaining liable for damages).

## 17. GOVERNING LAW

Any contract arising from here shall be interrupted and governed under the laws of the state of New Jersey and any disputes arising hereunder or in connection with the rights and obligations of this Agreement shall be resolved only in the State Federal Courts in New Jersey.

## 18. ENTIRE AGREEMENT

This contract contains the final and entire agreement between the Seller and Buyer and no understanding, representations, agreements, modifications, alterations, or additions shall be effective unless agreed to in writing and signed by Seller and Buyer.