

CELLMARK USA, LLC

GENERAL TERMS AND CONDITIONS OF SALE

The following General Terms and Conditions of Sale ("Terms") apply to the sale of all goods ("Products") sold to the buyer ("Buyer"), as identified in the Sales Confirmation (the "Sales Confirmation") of CellMark USA, LLC ("Seller") or in the contract between Buyer and Seller to which these Terms are attached.

A. AGREEMENT. 1. These Terms, including any modifications to these Terms to which Seller agrees in writing, and the provisions on the face of the Sales Confirmation or the provisions of any contract to which these Terms are attached shall constitute the entire agreement ("Agreement") between Buyer and Seller with respect to the sale of the Products and shall supersede all prior oral or written communications or agreements with respect to the subject matter of the Agreement. 2. **In the event of any inconsistency between these Terms and any other provisions of the Agreement, such other provisions shall prevail.** Buyer expressly waives all provisions contained in any of Buyer's correspondence or forms involved in this sale that negate, limit, extend, or conflict with the Agreement. Specifically, Buyer hereby agrees that the Agreement, including these Terms, shall control to the exclusion of any preprinted terms that are set forth in the Purchase Order of Buyer or any other document of Buyer used by Buyer to initiate or confirm the sale of Products to which the Agreement pertains. 3. Buyer agrees that it has not been induced to enter into the Agreement by any oral or written representation, guaranty, or warranty made by Seller, its employees, agents, or representatives other than as expressly set forth in the Agreement. 4. The Agreement cannot be amended except by a written document that is signed by both parties.

B. PRICE, TERMS OF PAYMENT, CREDIT AND OTHER PAYMENT TERMS. 1. Unless otherwise specified in writing in the Agreement, the terms of this section shall control the prices and the terms of payment that are related to the sale of the Products. The prices of the Products shall be Seller's prices in effect at the time of shipment. 2. Payment is due in US dollars, and Seller's terms of payment shall be Net 30. 3. Seller shall have the continuing right to approve Buyer's credit, and Seller may at any time demand advance payment, satisfactory security, or a guarantee of prompt payment if Seller concludes, in its reasonable discretion, that Buyer's creditworthiness has become materially impaired. Seller shall have the right to suspend future shipments if Buyer refuses or otherwise fails to comply with such a demand by Seller under this Section B 3 or for so long as Buyer is in default with respect to its payment obligations. 4. If Seller directs Buyer to remit payment to a bank or other depository, Buyer agrees that such payment shall not necessarily constitute payment in full or a final settlement of Buyer's account, notwithstanding any language to the contrary on Buyer's check, draft, or other order. 5. Seller reserves the right to impose a finance charge, which will be stated in writing on Seller's invoice, on any overdue amounts. Buyer agrees to pay Seller's costs of collection of overdue invoices, including, but not limited to, attorneys' fees.

C. TRANSPORTATION, PACKING, ALLOWANCES, AND TAXES. 1. The chosen Incoterms rule indicated in the Agreement shall be governed by the most recently published Incoterms, unless otherwise stated in the Agreement. Unless otherwise specified in writing in the Agreement, Seller shall have the right to ship the Products "freight prepaid" and bill Buyer for such freight charges as a separate line item. 2. Seller shall use all reasonable endeavors to meet stated dispatch or delivery dates, but Seller shall have no liability for loss or damage due to delays, including any delays caused by the vessel or carrier. 3. Notwithstanding anything to the contrary provided in the Agreement, where the transportation of the Products is at Seller's expense, Seller reserves the right to select the means of transportation. Regardless of which party hereto chooses the means of transportation, the delivery of a shipment to any common carrier for delivery to Buyer shall constitute delivery to Buyer. 4. Buyer must ensure that the standard type of packaging and packing used by Seller for the Products is suitable for Buyer's transport, offloading, and storage needs. Seller is not liable for damage in transport, offloading, or storage of Products dispatched in Seller's standard packaging or packing or packaging or packing specified by Buyer. 5. Unless otherwise provided in the Agreement, Buyer shall pay all sales, use, delivery, port, excise, value added, and other taxes, duties, or similar charges presently or hereafter payable in respect to this transaction, or if any such charges are paid by Seller for the account of Buyer, Buyer agrees to reimburse the Seller on demand.

D. WARRANTY, REMEDIES FOR BREACH OF WARRANTY. 1. **SELLER MAKES NO GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING THAT OF MERCHANTABILITY, OR THAT OF THE FITNESS OR SUITABILITY OF THE PRODUCTS FOR ANY SPECIFIC PURPOSE, EVEN IF THAT PURPOSE IS KNOWN TO SELLER,** except that Seller warrants that the Products sold hereunder shall conform to the descriptions or specifications stated in the Agreement and be free from liens, security interests, and any other encumbrances therein. 2. **SELLER SPECIFICALLY, BUT NOT BY WAY OF LIMITATION, DOES NOT WARRANT THE ACCURACY OR SUFFICIENCY OF ANY ADVICE OR RECOMMENDATIONS GIVEN TO BUYER IN CONNECTION WITH THE SALE OF PRODUCTS HEREUNDER.** 3. Buyer's receipt of any Products delivered hereunder shall be an unqualified acceptance of and a waiver by Buyer of any and all claims with respect to such Products, except for latent defects, unless Buyer gives Seller notice of claim within ten (10) days after Buyer's receipt of the Products, and in any event, prior to any processing or altering of the Products in any manner from the original condition of delivery, whichever is earlier. Claims for latent defects are barred unless made within thirty (30) days after Buyer's receipt of the Products or prior to any processing or altering of the Products in any manner from the original condition of delivery, whichever is earlier. 4. In the event that Buyer makes any claim pursuant to this section for defective or damaged Products or for any incorrect or short delivery, Buyer shall provide Seller, or its representative(s), with a reasonable opportunity to inspect the relevant Products in the state, condition, and location in which they were delivered. Also in the event that Buyer makes any claim pursuant to this section, Seller shall have the option, in full settlement of such claim, to deliver, within sixty (60) days after receipt of such claim, other Products in replacement of the Products upon which the claim is based or refund the purchase price of the Products upon which the claim is based, and Buyer shall thereupon return to Seller (at Seller's cost and in strict conformity with Seller's shipping instructions) such Products originally shipped. 5. Buyer assumes all risk and liability for the results obtained by the use of any Products delivered hereunder in manufacturing processes of Buyer or in combination with other substances. 6. No claim of any kind, whether related to the Products delivered or for non-delivery of Products, shall be greater in amount than the purchase price of the Products in respect of which such claim is made. 7. **THE REMEDIES OF THIS SECTION SET FORTH THE EXCLUSIVE REMEDIES TO BUYER IN THE EVENT OF ANY BREACH OF WARRANTY BY SELLER WITH RESPECT TO THE PRODUCTS.** 8. **IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, OR FOR ANY INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RESULTING FROM INTERRUPTION OF BUSINESS OR LOSS OF PROFITS, OR EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY OBLIGATION RELATING TO THE AGREEMENT, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FORM (E.G., CONTRACT, BREACH OF WARRANTY, TORT, OR OTHERWISE) IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT AGAINST SELLER.**

E. TERMINATION; CONSEQUENCES OF TERMINATION. 1. In the event that either party to the Agreement alleges that the other party has failed to make any payment when due or has otherwise breached any provision of the Agreement other than the warranty terms (the remedies for breach of warranty are addressed in Section D), the party not in breach shall provide notice of such breach to the other party and, if the breach is capable of remedy, provide the other party with thirty (30) days (or such longer period to which the party not in breach agrees) to resolve the matter to the satisfaction of the party giving such notice. If no such resolution is reached within such time, the Party not in breach shall have the right to invoke the terms of Section I of these Terms or terminate the Agreement by means of notice to the other party. Any such termination of the Agreement shall not be deemed to be a waiver of such party's right to institute legal or equitable proceedings to resolve the dispute. If each party is alleged to be in breach by the other and no resolution of the dispute is reached within the period that is set forth above, then the parties shall submit to binding arbitration in accordance with Section I of these Terms, and unless the parties otherwise agree, the Agreement shall terminate at the conclusion of such proceeding. 2. If either party makes an assignment for the benefit of creditors, admits its failure or inability to pay its debts as they become due, becomes the subject of an "order for relief" within the meaning of that phrase in the United States Bankruptcy Code or becomes the subject of a similar order under any other laws for the protection of debtors or creditors, or applies for or consents to the appointment of a receiver for any of its property, the other party may terminate the Agreement, at any time, effective immediately upon notice to that effect. 3. Upon any termination of the Agreement for any reason, each party shall return to the other party all papers, materials, and other property of the other party that are then in its possession. 4. Notwithstanding any termination of the Agreement and subject to the limitation of liability terms of Section D of these Terms, any duty or obligation that has been incurred under the terms of the Agreement and has not been fully observed, performed, or discharged shall survive such termination until such duty or obligation has been fully observed, performed, or discharged, and any right that has been created under the terms of the Agreement and has not been fully exercised, enforced, or satisfied shall survive such termination until such right has been fully exercised, enforced, or satisfied.

F. FORCE MAJEURE. 1. If either party is unable to fulfill any obligation under the Agreement (except the obligation to pay monies that are due) as a result of any cause that is beyond such party's reasonable control, including, but not limited to, Acts of God, fire, earthquake, hurricane or other windstorm, labor disputes, whether or not the demands of labor are within the ability of the party to meet, embargoes, unavailability or shortage of power, labor, transportation, raw materials, or usual means of supply, equipment failure (which is not the result of a failure to properly maintain such equipment), shortage or curtailment of energy sources, wars, rebellions, civil disorders, regulations or acts of government, government agencies, or instrumentalities, or any other causes whether similar or dissimilar to the foregoing (hereinafter referred to as a "Force Majeure

Event"), the party whose performance has been so affected shall immediately give notice to the other party and shall take commercially reasonable steps to resume performance. Upon giving such notice, the party whose performance has been so affected shall be excused from performance to the extent so affected. If the period of nonperformance exceeds thirty (30) days from the effective date of such notice of the Force Majeure Event, the parties shall meet to discuss the circumstances surrounding the Force Majeure Event and agree to new conditions for the resumption of performance of the affected party and any required modification of other terms of the Agreement. Buyer may not cancel or rescind any contract so suspended by a Force Majeure Event unless specifically agreed to by Seller in writing. **2.** Neither Buyer nor Seller shall be liable for any damages resulting from any delay or failure of performance arising from any Force Majeure Event. **3.** In the event of a Force Majeure Event that affects Seller, Seller shall have the right to allocate its available Products among its own uses and its customers, including those not under contract, in such manner as Seller may deem fit, Seller shall have no obligation to purchase substitute Products or transportation in order to complete delivery to Buyer, and if Seller contemplated a specific source of supply, manufacture, or transportation, whether or not specified in the Agreement, Seller shall not have any obligation to deliver Products to Buyer from or by any other source.

G. TITLE AND RISK OF LOSS. Title, risk of loss or damage, and other incidents of ownership shall pass to Buyer in accordance with the applicable Incoterms. Notwithstanding delivery and the passing of title and risks of the Products or any other provisions of these Terms to the contrary, Buyer shall not be deemed to be the owner of the Products hereunder until Seller has received in cash or cleared funds for payment in full of the price of the Products and any other goods agreed to be sold by Seller to Buyer and for which payment is then due. Until such time as Seller has been paid in full for the Products, Buyer agrees to keep the Products separate, properly stored, protected, insured, and identified as Seller's property. Seller reserves the right to reclaim goods in lieu of payment.

H. CONFIDENTIALITY. **1.** The confidentiality provisions of these Terms shall govern the relationship between the parties only if no separate confidentiality agreement is already in place and in effect at the time the Agreement takes effect. **2.** Any proprietary or confidential information of either party (the "disclosing party") that is disclosed to the other party (the "receiving party") or of which the receiving party becomes aware as a result of performance under the Agreement shall remain the sole property of the disclosing party. Proprietary and confidential information of either party and the specific terms of the Agreement are hereinafter referred to as "Confidential Information." **3.** The receiving party agrees to maintain the confidentiality of such Confidential Information, disclose such Confidential Information only to those employees or other representatives of the receiving party who are bound by confidentiality terms at least as restrictive as those of the Agreement and who need to know the information to enable the receiving party to perform hereunder, not disclose any such Confidential Information to any third party, and not use such Confidential Information except for the purposes of the Agreement and then only in accordance with the terms of the Agreement. The receiving party shall be liable for any breach of these confidentiality terms by any of its employees or representatives. Each party agrees that any proprietary or confidential information of the disclosing party shall not be deemed to be Confidential Information or subject to the terms of this section if (i) such information is already in the receiving party's possession as of the effective date of the Agreement or was independently developed without any reference to or use of the Confidential Information of the disclosing party, or (ii) at the time of disclosure or thereafter such information becomes rightfully available to the receiving party from a third party without any secrecy restriction, or (iii) at the time of disclosure or thereafter such information is generally available to the public, as evidenced by generally available documents or publications. **4.** At the expiration or any termination of the Agreement, upon request of the disclosing party, the receiving party agrees to return to the disclosing party all copies of any Confidential Information of the disclosing party furnished to the receiving party pursuant to the Agreement. **5.** The confidentiality terms of the Agreement shall survive any expiration or termination of the Agreement and shall bind each party hereto for two (2) years after any such expiration or termination.

I. DISPUTE RESOLUTION. **1.** Subject to the terms of Section E of these Terms that describe circumstances under which a party not in breach has the right to terminate the Agreement without submitting to arbitration, all disputes that the parties cannot settle shall be resolved by binding arbitration in accordance with the terms of this Section I. **2.** Any binding arbitration hereunder shall be held in Stamford, Connecticut in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, and any such arbitration shall be before one arbitrator. After the arbitrator gives the parties written notice of the decision, the arbitrator shall have 30 days thereafter to reconsider and modify such decision if any party so requests within 10 days after the decision. Thereafter, the decision of the arbitrator shall be final, binding, and non-appealable. Judgment upon the award rendered by the arbitrator may be entered in any state or federal court having in personam and subject matter jurisdiction. **3.** Notwithstanding the above provisions, each party shall have the right, without awaiting the outcome of the arbitration, to seek from an appropriate court provisional remedies, including, but not limited to, temporary restraining orders or preliminary injunctions before, during, or after arbitration. A party's seeking any such remedies shall not be deemed to be a waiver of either party's right to compel arbitration. It is agreed by the parties that any such court may only award injunctive relief and not monetary damages.

J. CHOICE OF LAW; CAUSES OF ACTION. **1.** The Agreement, the performance of the parties hereunder, and any disputes arising out of or related to the Agreement shall be governed by and construed in accordance with the laws of Connecticut (the "State") that are applicable to contracts made and performed entirely within the State by residents of the State without presumption or construction against the party responsible for the drafting of any particular terms that are set forth in the Agreement. **2.** Buyer waives all claims arising from breach of warranty by Seller unless Seller receives written notice of any such breach in accordance with Section D. **3.** Any other cause of action by a party hereto that is intended to assert a claim arising out of or related to the Agreement other than a claim of breach of warranty or a claim within the scope of the arbitration provisions shall be brought within twelve (12) months of the date on which such cause of action accrues. Any such cause of action not commenced within such period shall be barred. In any lawsuit between the parties related to the Agreement, the prevailing party shall be entitled to recover, in addition to any damages awarded to it, its reasonable fees of attorneys and related court costs.

K. CONSTRUCTION. Captions are used herein for convenience only and shall not be used in the construction or interpretation of the Agreement. All words importing the singular include the plural and vice versa, as the context may require. Capitalized terms shall have the meanings ascribed to such terms throughout the Agreement. The official text of the Agreement, any notices, and any accounts, statements, or other documents that are required by the terms of the Agreement shall be in English. In the event of a dispute concerning the construction or meaning of one or more of the above referenced items, reference shall be made only to the particular item or items, as the case may be, as written in English and not to any translation of such item or items into any other language. The parties disclaim the application to the Agreement of the United Nations Convention on Contracts for the International Sale of Goods.

L. WAIVERS. Any failure to enforce or any delay in enforcing compliance with any terms of the Agreement shall not constitute a waiver of such terms in the future or of any other terms. A waiver of any terms of the Agreement or of any rights or obligations of any party hereunder shall be effective only if it is in writing and signed by the party waiving compliance, and any such waiver shall be effective only in the specific instance and only for the specific purpose stated in such written instrument.

M. SEVERABILITY. If any terms of the Agreement are determined by a court of competent jurisdiction to be invalid or unenforceable, such terms shall be deemed to be amended to the extent necessary in that jurisdiction to conform to applicable laws or regulations, or if such terms cannot be so amended without materially altering the intention of the parties, such terms shall be stricken, and the remainder of the Agreement shall continue in full force and effect in so far as it remains a workable instrument to accomplish the substantial portion of the intents and purposes of the parties.

N. SCOPE OF REMEDIES. **1.** Except as specifically provided in Section D of these Terms, no remedy made available by any of the terms of the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder. **2.** It is expressly agreed that a breach under Section H of these Terms by one party will cause immediate and irreparable harm to the other party and that a remedy at law would be inadequate. Therefore, in addition to any and all remedies available hereunder, the party not in breach will be entitled to seek a preliminary injunction or other equitable remedies, without the requirement of posting any bond in connection therewith, in all legal proceedings arising out of or related to any such threatened or actual breach under Section H of these Terms.

O. ASSIGNMENT. **1.** No relationship of agency, employment, joint venture, or partnership is created by the Agreement. **2.** Neither the Agreement nor any portion hereof shall be assigned or delegated by Buyer without the written consent of Seller, which consent shall not be unreasonably withheld. The Agreement shall inure to the benefit of and be binding upon the parties, their successors, and permitted assigns.