

Repligen Corporation Terms and Conditions of Sale

1. Entire Agreement and Acceptance.

- 1.1. **These Terms and Conditions of Sale (“Terms”) will constitute the final, complete and exclusive statement of the terms governing the purchase and sale of Repligen Corporation including its subsidiaries and affiliates (collectively “Seller”) products and services (collectively “Products”) to your company (“Buyer”).**
- 1.2. Seller’s offer to sell Products to Buyer is expressly conditioned on Buyer’s acceptance of these Terms. If applicable to a Product, Seller’s end user software license, available with the Product or online, is incorporated in these Terms.
- 1.3. Any of the following constitutes Buyer’s unqualified acceptance of these Terms: (1) written acknowledgement of these Terms; (2) issuance of a purchase order for any Products; (3) acceptance of any shipment of Products or performance of installation, maintenance, training or repair services (“Services”), (4) payment for any Products; or (5) any other act or expression, in writing, of acceptance by Buyer.
- 1.4. **THESE TERMS WILL SUPERSEDE ANY CONFLICTING TERMS CONTAINED ON BUYER’S PURCHASE ORDER OR ANY DOCUMENT SUBMITTED BY BUYER, INCLUDING WITHOUT LIMITATION ANY ACKNOWLEDGEMENT WHETHER OR NOT SIGNED BY SELLER.** Seller’s failure to object to any provisions contained in any purchase order, acknowledgement or other document from Buyer will not be construed as a waiver of these Terms nor an acceptance of any such provisions. In the event of a conflict, a quotation issued to Buyer by Seller takes precedence over these Terms, and a written contract duly executed by both parties takes precedence over a quotation, these Terms and any provisions contained in any purchase order, acknowledgement or other document from Buyer.

2. Prices, Taxes and Payment.

- 2.1. **Prices specified in a written quotation from Seller to Buyer for Products will be honored for thirty (30) days. Seller expressly rejects any and all requests by Buyer for a preferred status regarding pricing compared to other customers’ pricing, including, but not limited to, requests for “most favored nation” and “competitive pricing.”**
- 2.2. Any tax, duty, custom, bank, VAT or other fee imposed upon this transaction by any federal, state or local government authority will be paid by Buyer in addition to the price quoted or invoiced. If Seller is required to prepay any such tax, duty, custom or other fee, Buyer will reimburse Seller. Buyer shall have sole responsibility to submit a resale or tax exempt certificate to claim an exemption. Once a resale or tax exempt certificate has been submitted, Seller will maintain a copy of the certificate on file for future reference.
- 2.3. Payment terms are net thirty (30) days after invoice date in the currency specified in the Seller quotation, without right of set-off. Seller will issue invoices on or after date of shipment. Seller reserves the right to: (1) impose a service charge on amounts that are not paid when due of 1.5% per month (18% simple interest per annum) from the due date on the outstanding principal balance; (2) require pre-payment terms from any Buyer whose account is overdue for a period of more than 60 days or who has an unsatisfactory credit or payment record; and/or (3) refuse to sell to any Buyer until overdue accounts are paid in full. Buyer is responsible for all collection costs on past due accounts. Seller reserves any other remedies at law or equity.

3. Orders, Delivery and Shipment.

- 3.1. **All orders are firm after acceptance of purchase order by Seller either by acknowledgement or shipment. Changes to, or cancellation of, an accepted purchase order shall be at Seller’s sole discretion. In the event of a rejection of Buyer’s purchase order, Seller will use good faith efforts to notify Buyer of the rejection within ten (10) business days after receipt of Buyer’s purchase order. For Custom Made-to-Order (“CMTO”) Products (see Section 4), Seller acceptance will occur on mutual written agreement of product specifications, delivery schedule and production and testing techniques.**
- 3.2. Seller will use reasonable efforts to ship Products or provide Services in accordance with the requested delivery date indicated on Buyer’s purchase order; however, in the absence of a special express written agreement, any dates or deadlines provided by Seller are non-binding. Seller accepts no liability for any losses or damages arising out of delays in delivery or performance.
- 3.3. For United States customers, shipment of all Products will be FOB Shipping Point, Freight Prepaid and Added (UCC).
- 3.4. For customers in the rest of the world, shipment of all Products will either be DAP or EXW (Incoterms 2010) as set forth on the applicable purchase order accepted by Seller.
- 3.5. Delivery of Products to the carrier will be deemed satisfactory delivery, and title and risk of loss of Products will pass to Buyer upon such delivery. Buyer shall not have title to software included with a Product, but rather has a limited, revocable, non-transferable, royalty-free license to use such software in connection with the Product. Seller retains all other rights, title and interest in Product software.
- 3.6. All shipment costs will be paid by Buyer. Shipment will be by air freight unless otherwise mutually

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- agreed. Products shipped with dry ice are subject to a handling charge, which is prepaid by Seller and added to the invoice.
- 3.7. Unless otherwise agreed to by the parties that a "Complete Shipment" is required, Seller may, in its sole discretion, without liability or penalty, make partial shipments of Product to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
4. **Custom Made-to-Order Products.**
- 4.1. **Buyer may not cancel or change accepted purchase orders for CMTO Products.**
- 4.2. Seller may define certain Products as CMTO. Buyer must provide Seller with a purchase order containing the mutually agreed product specifications and delivery schedule prior to the start of manufacturing of a CMTO Product. Seller and Buyer must agree to all production and testing techniques prior to the start of manufacturing of a CMTO product.
- 4.3. Any inventions, discoveries, know-how, processes, software, data and modifications relating to Products made by Seller, or jointly by Seller and Buyer, in the design or manufacture of a CMTO Product are owned by Seller. Buyer hereby assigns and agrees to assign all right, title and interest therein to Seller.
5. **Inspection.**
- 5.1. **Seller encourages Buyer to inspect the Products upon receipt. Buyer must notify Seller's Customer Service Department of any discrepancies between the Products received and the Buyer's purchase order within five (5) business days after receipt.**
- 5.2. If Buyer does not notify Seller in writing of any discrepancy within the five-day period, the Products will be deemed accepted by Buyer. Buyer's Warranty rights will continue to apply.
6. **Seller's Standard Warranty ("Warranty").**
- 6.1. **Seller warrants to Buyer that at the time of delivery: (1) Products will meet the applicable published specifications when used in accordance with the applicable instructions or, in the case of CMTO Products, will conform to the mutually agreed product specifications, in each case for a period of twelve (12) months from shipment of the Products unless otherwise specified in writing, and (2) Services will be performed with the customary care required in published standards for the bioprocessing equipment industry ("Warranty"). When allowed under the statute, any statutory warranty periods are expressly rejected and the terms herein shall apply.**
- 6.2. **SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED. THERE IS NO WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, OR AS TO RESULTS OBTAINED THROUGH USE OF ANY PRODUCT OR SERVICE, WHETHER ARISING BY LAW OR FROM A COURSE OF PERFORMANCE, DEALING OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.**
- 6.3. The Warranty will not apply if Seller determines, in its sole discretion, that Buyer has altered or misused the Products or has failed to use or store Products in accordance with instructions furnished by Seller or that the failure was due to external causes, repair by other than Seller, or acts of nature.
- 6.4. The Warranty and the applicable published specifications for the Products may not be altered except by express written agreement signed by an authorized representative of Seller. Representations, oral or written, which are inconsistent with this Warranty or the published specifications will not be binding on Seller unless agreed to in writing by an authorized representative of Seller.
- 6.5. In the event of a breach of the Warranty for a Product, Buyer must return the Product to Seller for inspection, with shipping to be reimbursed by Seller if there has been a breach of the Warranty. If Seller reasonably agrees that there has been a breach of the Warranty, Seller's sole obligation, and Buyer's sole remedy, will be to repair or replace, at Seller's option, the applicable Product or part thereof, provided Buyer notifies Seller promptly of any breach. If after exercising reasonable efforts, Seller is unable to repair or replace the Product, then Seller will refund to Buyer the amount paid for the applicable Product or part, pro rata based on straight-line depreciation from shipment until the date of Warranty expiration.
- 6.6. If there is a breach of the Warranty for Services, Buyer must notify Seller within ninety (90) days after completion of Services. If Seller reasonably agrees that there has been a breach of the Warranty, Seller's sole obligation, and Buyer's sole remedy, will be at Seller's option to re-perform the Services or refund the amount paid by Buyer for the applicable Services.
- 6.7. Where Seller manufactures CMTO Products for Buyer based on instructions, specifications, or other directions provided by Buyer, Seller is not liable for the lack of sufficiency, fitness for purpose or quality of the Products to the extent attributable to such instructions, specifications, or other directions.
- 6.8. Seller does not warrant third party products or parts purchased through Seller sales channels. Buyer's remedies will be solely from the third party manufacturer.
7. **Intellectual Property.**
- 7.1. **If the intended use as set forth in the applicable Product documentation of any Product sold by Seller to Buyer becomes the subject of a third party suit alleging that such use infringes a**

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- valid patent in the country of manufacture or sale or constitutes a misappropriation of a trade secret (“Infringement Claim”), Buyer must promptly notify Seller in writing, permit Seller the sole right to defend, and, at Seller’s request and expense, reasonably cooperate with Seller.**
- 7.2. If Buyer notifies Seller of an Infringement Claim, or if in Seller’s opinion the intended use of the Seller Product may become the subject of an Infringement Claim, Seller may take any action or no action as Seller deems appropriate in its sole discretion, including without limitation: (1) procuring for Buyer the right to continue practicing the intended use of the Product; (2) replacing or modifying any Product so that the intended use becomes non-infringing; or (3) requiring Buyer to return any Product that is the subject of the Infringement Claim and upon return, refund to Buyer the price actually paid by Buyer for the returned Product, pro rata based on the period of time from receipt of the Product by Buyer to return using three-year straight-line depreciation.
- 7.3. Seller will have no obligation under this Section 7 for any Infringement Claim based upon, arising from or caused by: (a) the use of any Product in combination with any system, media or material not provided by Seller or not intended for use with the applicable Products, or any modification to any Product made by Buyer or a third party, or made by Seller at the request or direction of Buyer, if such Infringement Claim would not have occurred but for such combination or modification; (b) any use of any Product other than for the express use for which the Product is sold by Seller as set forth in these Terms or applicable Product documentation; or (c) Buyer’s continued use of any Product after Buyer’s receipt of notice of an Infringement Claim.
- 7.4. THE FOREGOING STATES THE ENTIRE LIABILITY OF SELLER, AND THE EXCLUSIVE REMEDY OF BUYER, FOR ANY INFRINGEMENT OR CLAIMED INFRINGEMENT OF ANY PATENT OR OTHER INTELLECTUAL PROPERTY RIGHT, OR MISAPPROPRIATION OR CLAIMED MISAPPROPRIATION OF ANY TRADE SECRET, BY ANY AND ALL PRODUCTS OR ANY PART THEREOF OR USE THEREOF.
- 7.5. Buyer agrees to be responsible for any liability or loss incurred by Seller as a result of Seller’s manufacture of a CMTO Product based on Buyer’s product specifications, Buyer’s modification or use of any Product other than as specified in the applicable Product documentation and/or for any use requiring third party permission.
- 8. Limitation of Liability.**
- 8.1. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SELLER BE LIABLE UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) FOR: (I) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF BUSINESS, LOSS OF GOODWILL, REPLACEMENT COSTS OR LOSS OF USE) SUSTAINED BY BUYER UNDER THESE TERMS OR FROM THE USE OF PRODUCTS OR SELLER’S PERFORMANCE OF SERVICES, EVEN IF SELLER WAS NOTIFIED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, OR (II) ANY DAMAGES IN EXCESS OF AN AMOUNT EQUAL TO THE AMOUNT PAID BY BUYER FOR THE PRODUCT OR SERVICES AT ISSUE.**
- 8.2. Seller will not be liable for any loss, damage or penalty as a result of any delay in or failure to manufacture, deliver or otherwise perform hereunder due to any cause beyond Seller’s reasonable control, including without limitation failure of suppliers.
- 9. Authorized Use.**
- 9.1. **The purchase of Seller Products conveys to Buyer the right to use such Products in compliance with the intended use statement specified in the Product documentation that accompanies each Product.**
- 9.2. Each Product also may be accompanied by limited use information or limited use label licenses. Unless otherwise expressly stated in the Product documentation, the Products have not been tested for safety or efficacy.
- 9.3. Buyer will be solely responsible for:
- obtaining any necessary intellectual property permissions for Buyer’s use,
 - compliance with any and all applicable laws and regulatory requirements,
 - determining that the Product is suitable for Buyer’s purposes, and
 - conducting all necessary testing required for applicable Buyer processes.
- 10. Use Restrictions.**
- 10.1. Buyer agrees that Products are intended solely for: (a) generation of a finished product manufactured by Buyer, (b) incorporation into a finished product manufactured by Buyer, or (c) Buyer’s research purposes. Products are not intended for diagnostic or therapeutic use or for use in vivo with humans or animals.
- 10.2. Unless expressly stated, Products are not manufactured under GMP standards or GMP certified.
- 10.3. Buyer shall not use Products in any manner that does not comply with all applicable laws.
- 10.4. Buyer’s warranty rights with respect to a Product shall be deemed null and void if such Product is used for any purpose not permitted in this Section or permitted as indicated in Seller documentation

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- accompanying the Product, or in violation of a use restriction set forth in this Section.
- 10.5. Buyer agrees to indemnify Seller and hold Seller harmless from and against any and all claims, damages, losses, costs, expenses and liability arising from use not permitted under this Section or violation of a use restriction set forth in this Section.
- 11. Returned Products.**
- 11.1. **Products may be returned only with the express prior written authorization of Seller.**
- 12. Installation or Technical Assistance.**
- 12.1. When Buyer purchases a Product, Seller may provide installation, training, maintenance, repairs or other services as may be expressly agreed on by Seller and Buyer. For details, please contact Repligen Customer Service.
- 12.2. If Seller installs or services a Product on Buyer's premises, Buyer is responsible for ensuring that the workplace where the Product is to be located or serviced is safe. It is the Buyer's responsibility to place the Product (removed from its packaging) at the installation site, to avoid any additional manual handling.
- 13. Compliance with Laws and Regulations.**
- 13.1. Seller certifies that, to its knowledge, the Products are produced in material compliance with applicable federal, state, and local laws and regulations, including applicable requirements of the Fair Labor Standards Act of 1938, as amended.
- 13.2. Buyer understands and acknowledges that Seller is a United States corporation and subject to the provisions of the Foreign Corrupt Practices Act of 1977 of the United States of America, 91 Statutes at Large, Sections 1495 et seq. and the laws of the foreign countries in which Seller does business, including the UK Bribery Act and similar anti-corruption laws of other nations (each and collectively, "Anti-Corruption Laws"), which prohibits the making of corrupt payments.
- 13.3. Under the Anti-Corruption Laws, it is unlawful to pay or to offer to pay anything of value to foreign government officials, or employees, or political parties or candidates, or to persons or entities who will offer or give such payments to any of the foregoing in order to obtain or retain business or to secure an improper commercial advantage. Buyer further understands and acknowledges that the Anti-Corruption Laws applies to all Seller's offices, operating segments, divisions, subsidiaries, and affiliates worldwide, and also applies to third parties that represent Seller, including without limitation consultants, sales agents, joint-venture partners, representatives, distributors, contractors, and other business partners.
- 13.4. Buyer further understands and acknowledges that it has an obligation to abide by the Anti-Corruption Laws and that it is familiar with the provisions of Anti-Corruption Laws. Buyer hereby agrees that it will not take or permit any action that will either constitute a violation under, or cause Seller to be in violation of, the provisions of Anti-Corruption Laws, including without limitation, that Buyer, its affiliates and their respective employees and agents shall not directly or indirectly make an offer, payment, promise to pay, or authorize payment, or offer a gift, promise to give, or authorize the giving of anything of value for the purpose of influencing an act or decision of an official of any government (including a decision not to act) or inducing such an official to use his/her influence to affect any such governmental act or decision in order to assist Buyer in obtaining, retaining or directing any business relating to Seller's Products. Buyer shall run appropriate anti-money laundering and other checks to prevent illegal transactions occurring in relation to Seller Products and in any event, no less than is required by applicable law and regulation. Buyer shall not make any sales of Products to persons or entities that fail such checks.
- 13.5. In addition to all other contractual, legal and equitable remedies, Seller has the right to instruct Buyer to stop marketing, offering to sell, selling, distributing and otherwise supplying Seller Products on notice from Seller if Seller or any its licensors, after performing reasonable diligence, provides reasonable written documentation in reasonable detail to Buyer demonstrating that the Buyer or any Buyer affiliate or any of their respective employees or agents is not complying with Anti-Corruption Laws.
- 13.6. Notwithstanding any other provision of this Agreement, if Seller becomes aware of what it determines in good faith to be a breach of this Section 13 with regard to Anti-Corruption Laws, Seller is entitled to terminate this Agreement, and any other agreement between the parties, with immediate effect and without liability to Buyer.
- 13.7. Buyer agrees to comply with all export laws and restrictions and regulations of the United States Department of Commerce or other United States or other sovereign agency or authority, and not to export, or allow the export or re-export to any countries, or release to a national of a restricted country, of any technical data or any direct product thereof in violation of any such restrictions, laws or regulations, or unless and until all required licenses and authorizations are obtained to the countries specified in the applicable U.S. Export Administration Regulations (or any successor supplement or regulations). Certain Seller Products are export-controlled, and Buyer will require US export licenses to export same to certain countries and must restrict access to permitted users.
- 13.8. Seller is an Equal Opportunity Employer. It does not discriminate in any phase of the employment

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process against any person because of race, color, creed, religion, national origin, sex, sexual orientation, age, veteran or handicapped status.

13.9. Seller certifies that it complies with the European General Data Protection Regulation (GDPR) when applicable.

14. Dispute Resolution.

14.1. Any and all disputes arising out of, resulting from or relating to these Terms or the sale or performance of the Products will be first escalated to senior management for resolution. If senior management does not resolve the dispute within sixty (60) days after written notice of a dispute by either party, either party may initiate mediation.

14.2. Each party commits to attending at least one mediation session and participating in good faith in the mediation process for a period of sixty (60) days; however, each party reserves the right to initiate court proceedings at any time to seek injunctive or other temporary relief.

14.3. If a party initiates mediation, the parties will engage in non-binding mediation before a sole mediator ("Mediator") selected from Judicial Arbitration and Mediation Services, Inc., or its successor ("JAMS"), with such mediation to be held in the neutral location determined by the Mediator. A representative of each party with authority to resolve the dispute will participate in the mediation. The parties will share the costs of the Mediator and mediation equally, except that each party will pay its own attorneys' fees and expenses.

14.4. If the representatives of the parties have not been able to resolve the dispute within such sixty-day period: (1) for end users located in the United States, the parties hereby consent to the exclusive jurisdiction of the state and federal courts in Boston, Massachusetts regarding any disputes arising out of, relating to or resulting from this Agreement, and (2) for end users located outside the United States, any dispute will be resolved by final and binding arbitration under the then current procedural Commercial Arbitration Rules of the International Chamber of Commerce. The place of arbitration will be London, England, and the language of the arbitration proceeding will be English. Any award rendered in such arbitration may be enforced by either party in any court of competent jurisdiction, to whose jurisdiction for such purposes each party hereby irrevocably consents and submits. The arbitrators' decision will be final and nonappealable, except as provided in the appeal procedures under the Commercial Arbitration Rules or applicable law. Notwithstanding anything to the contrary in this Agreement, either party may apply to a court of competent jurisdiction for a preliminary injunction or other equitable relief at any time.

15. Governing Law.

15.1. For customers in the United States, these Terms will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, but without giving effect to its conflict of laws provisions.

15.2. For customers in the United Kingdom, these Terms will be governed by and construed in accordance with the laws of England, but without giving effect to its conflict of laws provisions.

15.3. For customers in Europe, these Terms will be governed by and construed in accordance with the laws of Switzerland, but without giving effect to its conflict of laws provisions.

15.4. The United Nations Convention on Contracts for the International Sale of Goods will not apply.

16. General.

16.1. Orders are not assignable or transferable, in whole or in part, without the express prior written consent of Seller.

16.2. Nothing in this document is intended to create any rights in third parties against Seller.

16.3. These Terms may be modified and any breach may be waived, but only in writing and signed by the party against whom enforcement thereof is sought. The waiver by either party of any provision of these Terms will not operate as a waiver of such provision at any other time.

16.4. If any provision of these Terms is held illegal, invalid or unenforceable, such provision will be deemed revised to the maximum extent lawfully permissible, and the remainder of these Terms will remain in full force and effect.

16.5. In these Terms, words in the singular include the plural and vice versa. The headings are only for convenience.

16.6. Clerical or computer errors on the face of any Seller invoice will be subject to correction by Seller.