

MABTECH GENERAL TERMS AND CONDITIONS OF SALE - US

1. CONDITIONS OF CONTRACT

1.1 Definitions: In these General Terms and Conditions of Sale (these "Conditions"):

"Buyer" means any person, company or other legal entity, that orders or buys Deliverables from Mabtech;

"Contract" shall have the meaning as set forth in Section 1.2 below;

"Deliverables" means any Products, Equipment, Software or Services supplied by Mabtech;

"Equipment" means all electronic equipment, hardware and other electronic or mechanical items supplied by Mabtech;

"Mabtech" means Mabtech, Inc, a company incorporated in Illinois, USA and its successors and assignees;

"Products" means chemicals and consumables supplied by Mabtech to Buyer in terms of each individual Contract;

"Services" means all advice given and services performed by Mabtech in connection with the Contract;

"Software" means any firmware, software or data compilations (i) identified in the Contract, or (ii) provided to Buyer by Mabtech in connection with installation or operation of the Equipment. For the avoidance of doubt, Software shall not include any "open source" firmware, software or data compilations, as any such "open source" firmware, software or data compilations will be subject to the terms and conditions set out in the relevant "open source" license.

1.2 Each order from Buyer which is accepted by Mabtech shall constitute an individual legally binding contract between Mabtech and Buyer, hereinafter referred to as the "Contract".

2. CONTRACT

2.1 The Contract shall be governed in all respects by these Conditions. These Conditions shall supersede and prevail over any other terms and conditions stipulated or referred to by Buyer, and no alteration of these Conditions will bind Mabtech to or form part of any Contract, unless expressly accepted in writing by Mabtech. No previous correspondence between Buyer and Mabtech nor any promotional or sales literature regarding Deliverables (other than those expressly accepted in writing) shall form any part of or be incorporated into the Contract.

2.2 To the extent that any quotation given by Mabtech is based on Buyer's unique specifications as given to Mabtech, Mabtech shall not be held liable or responsible for the lack of sufficiency, fitness for purpose or satisfactory quality in respect to Deliverables to the extent attributable to Buyer's specifications.

3. PRICE

3.1 The prices of the Deliverables are as stated in Mabtech's official price list as displayed at www.mabtech.com or as stated in the quotation. The price list is subject to change without notice. Shipping costs are prepaid and added to the invoice except when customers designate their own carrier. All prices are stated net of sales and use tax (SUT), value added tax (VAT) and other applicable taxes.

3.2 All quotations given by Mabtech are for budgetary reasons only and shall not constitute a binding offer, unless explicitly agreed to by Mabtech. Deliverables are offered subject to availability. Mabtech, at its discretion, expressly reserves the right to reject any order and/or refuse to sell Deliverables to Buyer.

4. PAYMENT

4.1 Unless otherwise agreed in writing payment in full shall be made to Mabtech in the currency invoiced no later than thirty (30) days from the date of invoice.

4.2 In the event of late payment Mabtech reserves the right: (i) to suspend deliveries and/or cancel any of its outstanding obligations; and (ii) to charge interest at a rate of 2% per month on the unpaid balance as calculated on a day to day basis until the clearing of payment by Mabtech's bank.

5. CHANGES

5.1 Mabtech reserves the right to make any change in the specification of any Deliverable which does not materially affect the use, performance or price thereof.

5.2 Subject to the terms of Warranty per Section 10 below, Deliverables may only be returned at Mabtech's option, and with prior authorization.

6. DELIVERY

6.1 Terms of delivery shall be construed according to Incoterms 2010. Unless otherwise agreed, all orders are shipped FOB (Free On Board) Mabtech's office within the United States and CPT (Carriage Paid To) Mabtech's office for deliveries elsewhere, shipment will be made to Buyer's premises, into the custody of the designated carrier or agent (i.e., customs broker) or to the agreed destination.

6.2 If Buyer fails to accept delivery of any Deliverable within a reasonable period after receiving notice from Mabtech that they are ready for delivery, Mabtech may dispose of or store the Deliverable(s) at Buyer's expense.

6.3 Buyer shall notify Mabtech within five working days in writing of any short delivery or defects reasonably discoverable on careful examination. Mabtech's sole obligation shall be, at its discretion, to replace or repair any defective Deliverables or refund the purchase price of any undelivered Deliverables.

6.4 Where delivery of any Product requires an export license or other authorization before shipment, Mabtech shall not be responsible for any delay in delivery due to delay in, or refusal of, such license or authorization.

7. DELAY IN DELIVERY

7.1 Any time or date for delivery given by Mabtech to Buyer is an estimate of the date on which the Deliverables will be delivered to Buyer. Mabtech will make a good faith effort to meet the delivery date, but time shall not be of the essence with regard to delivery at such time or date. Mabtech shall not be liable for any liability, loss, expense, claim or damage incurred by Buyer arising from any delay in delivery of the Deliverables or any part thereof, and further, without limitation to the foregoing, in no event shall Mabtech be liable for any indirect or consequential damages or economic loss including, loss of profit, arising from any delay in delivery.

7.2 Buyer shall not be entitled to reject the Deliverables or part thereof based solely on short delivery.

8. RISK AND TITLE

The risk of loss to the Deliverables shall transfer to Buyer in accordance with the agreed delivery terms. Full legal and equitable title and interest in the Deliverables shall pass to Buyer upon full payment. Buyer agrees not to dispose of or resell the Deliverables until it has been paid in full.

9. INTELLECTUAL PROPERTY

All intellectual property rights vested in the Deliverables and any related documentation, as between Buyer and Mabtech, shall remain with Mabtech and no license to manufacture, copy, resell, or sublicense, or create derivative works is granted to Buyer. Any data relating to the manufacture or design of the Deliverables as disclosed by Mabtech or otherwise obtained by Buyer in connection with the use of the Products shall be deemed the intellectual property of Mabtech and may not be used or disclosed to third parties without Mabtech's written consent. Buyer agrees and warrants not to take any action to reverse engineer any of the Deliverables.

10. WARRANTY

10.1 Mabtech warrants that (i) Mabtech has good title to the Deliverables and will transfer such title as it may have in the Deliverables to Buyer, and (ii) the Deliverables shall be in accordance with Mabtech's specifications at the time of shipment or agreed upon specifications (within accepted or stipulated tolerances), with Mabtech's sole liability and Buyer's exclusive remedy for a breach of the foregoing warranties is limited to repair, replacement or refund at the sole discretion of Mabtech.

10.2 *Warranty with respect to Services.* Mabtech warrants that all Services will be carried out with reasonable care and skill. Mabtech's sole liability for breach of this warranty shall be at its discretion to give credit for or reperform the Services in question.

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10.3 *Warranty with respect to Equipment.* Equipment of Mabtech's own manufacture is warranted from date of delivery to be free of defects in workmanship or materials under normal usage for a period of one year. Any claim shall be submitted in writing within such period. Mabtech's sole liability and Buyer's exclusive remedy for a breach of this warranty is limited to repair, replacement or refund at the sole discretion of Mabtech. Such right for warranty repairs or replacement will not extend the warranty period.

10.4 *Warranty with respect to Software.* Mabtech warrants, for a period of three months from the date of delivery that any Software substantially conforms to its published specifications and that the media on which the Software resides will be free from defects in materials and workmanship under normal use; any warranty claim shall be submitted by Buyer in writing within such period. Mabtech does not warrant that the Software is error free or that Buyer will be able to operate the Software without problems or interruptions. Mabtech's sole liability and Buyer's exclusive remedy in the event of breach of this warranty is limited to repair, replacement or refund, at the sole discretion of Mabtech.

10.5 All warranty claims shall be made in writing to Mabtech no more than 14 days from discovery of the defect.

10.6 Mabtech hereby expressly disclaims, and Buyer hereby expressly waives, any warranty regarding results obtained through the use of the Deliverables, including without limitation any claim of inaccurate, invalid or incomplete results. **ALL OTHER WARRANTIES, REPRESENTATIONS, TERMS AND CONDITIONS (STATUTORY, EXPRESSED, IMPLIED OR OTHERWISE) AS TO QUALITY, CONDITION, DESCRIPTION, MERCHANTABILITY, FITNESS FOR PURPOSE OR NON-INFRINGEMENT (EXCEPT FOR THE IMPLIED WARRANTY OF TITLE) ARE HEREBY EXPRESSLY EXCLUDED.**

11. LIMIT OF LIABILITY

11.1 Mabtech shall have no liability under the warranties in Section 10 with respect to any defect in a Deliverable arising from: customizations per specifications or materials supplied by Buyer; ordinary wear and tear; willful damage or negligence by Buyer or its employees or agents; abnormal working conditions at Buyer's premises; failure to follow Mabtech's instructions (whether oral or in writing); misuse, alteration or repair of the Deliverables without Mabtech's approval; or if full payment for the Deliverables has not cleared.

11.2 Neither party shall be liable for any indirect or consequential, or punitive damages of any kind from any cause arising out of the sale, installation, use or inability to use any Deliverable, including without limitation, loss of profits, goodwill or business interruption.

11.3 The total liability of Mabtech arising under or in connection with the Contract, including for any breach of contractual obligations and/or any misrepresentation, act or omission (including without limitation, negligence and liability for infringement of any third party intellectual property rights) shall be limited to damages in an amount equal to the amount paid to Mabtech by Buyer under the Contract.

11.4 The exclusions of liability in these terms and conditions shall only apply to the extent allowed by law.

11.5 Mabtech shall not be bound by any representations or statements on the part of its employees or agents, whether oral or in writing, including errors made in catalogues and other promotional materials.

12. RESTRICTED USE

The Products are sold for Buyer's internal research use only and for the purpose described in the specific Product documentation. Any other use will void any warranties made by Mabtech in connection therewith. Buyer is solely responsible for compliance with any regulatory requirements relating to Buyer's use of the Deliverables including but not limited to compliance with all relevant directives, laws and regulations relating to sanctions, anti-bribery and anti-corruption. In addition, Buyer shall indemnify, defend and hold Mabtech harmless from and against any and all claims, damages, losses, costs, expenses and other liability of whatever nature that Mabtech suffers or incurs by reason of any such unapproved use.

13. INDEMNITIES

Except where the claim arises as a result of the negligence or breach of representation by Mabtech, Buyer shall indemnify and defend Mabtech with respect to any claim which may be made against Mabtech: (i) arising in connection with Buyer's use of the Deliverables; and/or (ii) alleging that Buyer's use of the Deliverables may infringe the intellectual property rights of any third party.

14. INSOLVENCY

In the event that Buyer becomes bankrupt or, being a company, goes into liquidation, Mabtech shall be entitled to immediately terminate the Contract upon notice and shall have the right to repurchase its Products with a reprocessing and handling fee of 50%, all of which without prejudice to any other rights of Mabtech hereunder.

15. FORCE MAJEURE

Mabtech shall not be liable with respect to the nonperformance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control including but not limited to strikes, lock outs or labor disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, military actions, blockades, sabotage, revolution, riot, civil commotion, war or civil war, plant breakdown, computer or other equipment failure and inability to obtain equipment.

16. SOFTWARE LICENSE

Subject to the terms of any separate software license agreement executed by the parties concerning any Software, Buyer is hereby granted a personal, limited non-exclusive license to use the Software solely in object code format and solely for its own internal business purposes subject to the terms contained herein. Buyer shall not: (i) use the Software for purposes other than those for which it was designed; (ii) use the Software in connection with other manufacturers' products unless such connectivity is authorized in the Product documentation; (iii) grant, assign, sublicense, transfer, or otherwise make available to third parties any access, use or right whatsoever in the Software; (iv) disclose to third parties any information contained in the Software; (v) copy or reproduce the Software (except for one copy for back-up purposes or as may otherwise be permitted by applicable law); (vi) alter or modify the Software; or (vii) reverse engineer, decompile, disassemble or create any derivative works based upon the Software except as expressly permitted by mandatory law.

17. DATA PROTECTION

Buyer and Mabtech shall comply with data protection laws applicable to their respective processing of personal data under the Contract.

18. GOVERNING LAW AND DISPUTES

18.1 This Contract shall be governed by and construed in accordance with the substantive laws of the State of Ohio and the parties hereby submit to the non-exclusive jurisdiction of the courts of the State of Ohio.

18.2 Mabtech shall be entitled to offset any sums owed by Buyer.

18.3 In the event of a litigated dispute between the parties, the prevailing party shall be awarded its reasonable attorney's fees and associated costs.

18.4 In the event that any provision of this Contract shall be held to be invalid or unenforceable for any reason whatsoever, it is agreed that such invalidity or unenforceability shall not affect any other provision of this Contract and the remaining covenants, restrictions and provisions hereof shall remain in full force and effect and any court of competent jurisdiction may so modify the objectionable provision as to make it valid, reasonable and enforceable.

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