



Terms and Conditions – Product sales

Acceptance

These Terms and Conditions of Sale (this “Contract”) shall govern all orders for the purchase of products from Newcells Biotech Ltd. or its affiliates (hereinafter referred to as “NEWCELLS”, “we” or “our”). The purchaser (hereinafter referred to as “Purchaser”, “you”, or “your”) will be deemed to have assented to this Contract by ordering products. No variation of these terms and conditions will be binding upon NEWCELLS unless agreed to in writing and signed by an authorized representative of NEWCELLS.

Payment terms

All new accounts are required to pre-pay for first order. A pro-forma invoice will be issued at the time of order. All other accounts invoices are issued at time of shipment and are payable within 30 days thereafter, unless otherwise required by NEWCELLS. Payments should be made to Newcells Biotech Ltd., Biomedicine West, International Centre for Life, Times Square, Newcastle upon Tyne, NE1 4EP, UK. Please contact us for bank account details when submitting remittance by bank wire transfer.

Any products and services tax, sales tax, use tax, manufacturers tax, occupation tax, excise tax, value added tax, duty, customs, inspection or testing fee, or any other tax, fee or charge of any nature imposed by any government authority or measured by the transaction between NEWCELLS and Purchaser will be paid by Purchaser in addition to the purchase price. If NEWCELLS is required to pay any such tax, fee or charge, then Purchaser will reimburse NEWCELLS immediately upon receiving a request in writing from NEWCELLS.

If the Purchaser fails to make any payment when due under this Contract, then the Purchaser will pay to NEWCELLS interest on the amount unpaid from the date one day after when payment was due until payment is made. The interest rate applied will be 8% above the Base Rate current at the day the debt was due. Interest will accrue at this rate monthly.

Prices

Please refer to the website or contact NEWCELLS. Prices are subject to change without notice.

Shipping and delivery

Orders from European countries shall be shipped delivery duty unpaid (“DDU”) from Newcells Bioscience Ltd., Newcastle upon Tyne, UK (freight pre-paid and added to your invoice as a separate item).

Purchaser assumes all responsibility for the importation of the product, including the obtaining of all required permits, licenses or certificates. NEWCELLS shall in no event be liable for the failure of any government to issue such permits, licenses or certificates.

Risk of loss or damage to the products and/or deliverables of services, as well as the obligation to bear any costs relating thereto, shall pass to the Purchaser upon NEWCELLS’s making delivery to a carrier at NEWCELLS’s facility in good condition. Title to the products shall pass from NEWCELLS to Purchaser when NEWCELLS has been paid the purchase price in full.

Claims and returns

Product returns will not be accepted by NEWCELLS without prior written authorisation. Request to return products must be made within seven days of receipt. NEWCELLS reserves the right to test a sample of the product prior to authorising the return of the remaining product and to deny return if, in the opinion of NEWCELLS, the product complaint is a result of inappropriate usage or handling rather than a failure of the product to meet specifications as outlined on our Product Information, when used under normal conditions in your laboratory. Return of custom products will not be authorised if such product meets the specifications on the custom order form. In case of a purchasing error or change in the order after the product has been shipped, a 25% restocking fee will be charged. If NEWCELLS makes a shipping error, either a replacement product will be shipped at no charge or the customer’s account will be credited.

Authorised uses

Products are sold for laboratory Research Use Only, Not For Diagnostic or Therapeutic Use, and are not to be administered to humans.

The products and services are have been produced using technology licensed by NEWCELLS from Third Parties. These Licenses contain certain User restrictions that can be viewed at the User License Conditions on the NEWCELLS website.

No resale

The Purchaser shall not make products or any portion of them, in any way, shape or form, including as a component of another product available for the purpose of further resale or alter or remove the product label and the NEWCELLS mark of origin without the express written permission of NEWCELLS.

Catalogues; price lists and advertisements

Any descriptions or illustrations contained in NEWCELLS's catalogues, price lists and advertisements or otherwise communicated to Purchaser are intended merely to present a general idea of the products so described. Nothing contained in any of them will form any part of this Contract.

Warranty

All products supplied by NEWCELLS are warranted to meet the specifications provided in our Product Information when used under normal conditions in your laboratory for a period expiring three months after the date of their purchase or the expiry date specified on the packaging of the product, whichever is earlier. Should any product fail to perform as specified during the warranty period NEWCELLS will credit the purchase price to the customer's account or replace the product free of charge. This warranty is exclusive and limits our liability to the replacement of the product or, at our option, full credit of the original purchase price. ANY PRODUCT NOT COVERED BY AN EXPRESS WRITTEN WARRANTY IS SOLD "AS IS", WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED. This warranty will not apply to product that fails to perform its specific function due to misuse, improper storage, use beyond expiry date or accidental damage to the product.

Disclaimer

THIS LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY PROVIDED BY NEWCELLS IN CONNECTION WITH THE PRODUCT AND IS, WHERE PERMITTED BY LAW, IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS, GUARANTEES AND REPRESENTATIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE IN CONNECTION WITH THE PRODUCT, HOWEVER ARISING (WHETHER BY CONTRACT, TORT, NEGLIGENCE, PRINCIPLES OF MANUFACTURER'S LIABILITY, OPERATION OF LAW, CONDUCT, STATEMENT OR OTHERWISE), INCLUDING, WITHOUT RESTRICTION, ANY IMPLIED WARRANTY OR CONDITION OF QUALITY, MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTY OR CONDITION OF QUALITY, MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, TO THE EXTENT THAT IT CANNOT BE EXCLUDED UNDER APPLICABLE LAW, WILL BE LIMITED IN DURATION TO THE WARRANTY PERIOD STIPULATED UNDER THE ABOVE LIMITED WARRANTY.

IN NO EVENT WILL NEWCELLS BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES, COSTS OR EXPENSES, LOST PROFITS, FAILURE TO REALIZE EXPECTED SAVINGS, ANY ECONOMIC LOSSES OF ANY KIND, ANY LOSS OR DAMAGE TO PROPERTY, ANY PERSONAL INJURY, ANY DAMAGE OR INJURY ARISING FROM OR AS A RESULT OF MISUSE OR ABUSE, OR THE IMPROPER STORAGE, USE BEYOND EXPIRATION DATE, ACCIDENTAL DAMAGE TO THE PRODUCT OR ANY COSTS ARISING FROM THE USE, THE RESULTS OF USE, OR THE INABILITY TO USE, THE PRODUCT, HOWEVER ARISING (WHETHER IN CONTRACT, TORT, NEGLIGENCE PRINCIPLES OF MANUFACTURER'S LIABILITY, OPERATION OF LAW, CONDUCT, STATEMENT OR OTHERWISE).

Indemnity

Purchaser shall, at your own expense, indemnify, defend and hold NEWCELLS, its directors, officers, employees, agents, successors and assignees harmless from and against any and all losses, costs, damages and expenses (including, reasonable attorneys' fees and other costs of defending any action) (collectively, "Losses") that we may incur in any way arising out of or relating to (a) any breach by you of your obligations under this Contract, (b) any use of the products not in compliance with the uses stated in the Product Information or the User License Conditions, (c) any failure of you to comply with good laboratory practice, laws, regulations, guidelines or decisions in the handling or use of the products, (d) any violation or infringement of any patent, trade secret, copyright, trademark, industrial design, licenses, or other intellectual or proprietary rights ("Intellectual Property Rights") of a third party by you in the handling or use of the products, or (e) any other use or misuse of the products by you including without limitation any claim of product liability or any similar claim relating to the quality of the products or an alleged defect or deficiency in the products.

Intellectual property rights

NEWCELLS has not verified the possible existence of third party Intellectual Property Rights which might be infringed as a consequence of product manufacture, use, sale, offering to sale or import, and NEWCELLS shall not be held liable for any loss or damages in that respect. The sale shall not, by implication or otherwise, convey any license under any intellectual property right and Purchaser expressly assumes all risks of any intellectual property infringement. Nothing contained in this Agreement will be construed as an assignment to Purchaser of any Intellectual Property Rights in or to the products. All Intellectual Property Rights in or to the products are and will remain the sole and exclusive property of NEWCELLS and are reserved by NEWCELLS.

Entire agreement; inconsistent documents

This Contract and any invoice, statement of work, or the like (if any) issued by NEWCELLS to which this Contract is attached and/or which includes this Contract constitutes the complete and entire statement of all terms, conditions and representations of the agreement between NEWCELLS and Purchaser with respect to its subject matter. Any proposal for additional or different terms from those in this Contract or documents as aforesaid or any attempt by Purchaser to vary in any degree any of the terms of this Contract or any other document is hereby objected to and rejected, but such proposals shall not operate as a rejection of this Contract, which shall be deemed irrevocably accepted by Purchaser without said additional or different terms, unless NEWCELLS specifically agrees to same in writing. Any waiver, amendment or other modification of this Agreement will not be effective unless in writing and signed by the party against whom enforcement is sought.

Invalidity of particular provision

If any provision of this Contract or any part of any provision (in this section called the "Offending Provision") is declared or becomes unenforceable, invalid or illegal for any reason whatsoever including, without limiting the generality of the foregoing, a decision by any competent courts, legislation, statutes, bylaws or regulations or any other requirements having the force of law, then the remainder of this Contract will remain in full force and effect as if this Contract had been executed without the Offending Provision.

Arbitration

All disputes arising out of or in connection with this Contract, or in respect of any defined legal relationship associated therewith or derived therefrom shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration. The appointing authorities shall be the London Court of International Arbitration. The place of arbitration shall be London, UK. This Section will not apply to any action or proceeding by NEWCELLS to collect any payment due to it under this Section. Further, either party will have the right to apply to a court of competent jurisdiction for a preliminary or interim injunction or other equitable relief to preserve the status quo or prevent irreparable harm pending resolution of the matter by arbitration.

Governing law

This Contract shall be governed by and be construed in accordance with the laws of England and the laws of the UK applicable therein without regard to conflicts of law that would apply a different body of law. The United Nations Convention on Contracts for the International Sale of Goods will not apply in any way to this Contract.

Newcells Biotech Limited

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