

Diamond Diagnostics Inc.
Terms and Conditions of Sales

1. All orders placed with Diamond Diagnostics, Inc. are subject to the Conditions and Terms listed below and constitute a contract upon acceptance at Seller's Home Office. These are the only Conditions and Terms. There are no other Conditions and Terms unless accepted in writing specifically signed by an authorized officer of Diamond Diagnostics.
2. Definitions
 - a. "Buyer" The person or institution identified as Buyer or Customer on the face hereof.
 - b. "Goods" The items on the face hereof which are being sold by Seller to Buyer under the terms of this Agreement.
 - c. "Seller" Diamond Diagnostics Inc.
 - d. "Seller's Home Office" Sellers facility at 333 Fiske St, Holliston, MA 01746 USA
3. Pricing

Prices are in U.S. Dollars and are applicable for continental United States, Alaska, Hawaii and Puerto Rico. Prices are subject to change without notice except when specifically guaranteed in writing. Printed and quoted prices do not include sale taxes unless specifically stated. All prices are firm for delivery period specified, based on receipt of a purchase order within stated limits of the quotation. Purchase Orders received after this time are subject to review for price adjustment. We reserve the right to correct all typographical and clerical errors which might occur in our prices and specifications.
4. Return Shipments

Return Shipments of Diamond Diagnostics product must be pre-arranged with a Diamond Customer Support Representative. You must obtain a Return Merchandise Authorization (RMA) number and shipping instructions from us. Returns are only allowed up to 30 days after the original shipment date of the product. Unauthorized returns will be refused and credit will not be allowed. Authorized returns must be in undamaged condition with the customer's name and address clearly indicated on the outer shipping container. Customer must prepay and absorb all transportation charges. All returned products must be packaged and labeled in accordance with all IATA shipping regulations. Unopened Diamond consumables product returned is subjected to a 25% Restocking Charge. Refurbished instrumentation, New Instrumentation, Refrigerated product, Hazardous Material, Opened Product, OEM Items and Service Parts are non-returnable and non-refundable. Warranty information is available under separate cover. Items must be properly decontaminated before packing and shipping to our facility. Failure to follow these procedures will result in return of goods to the Buyer without credit to their account or Service work being done.
5. Order & Payment Conditions
 - Minimum Order for Laboratories and End-Users are \$50. Minimum order for distributors is \$250.
 - Specifications: Diamond Diagnostics reserves the right to offer our latest and improved models at the time of shipments.
 - Shipments: All shipments are EXW Holliston, MA, USA, freight prepaid and added to the invoice unless otherwise specified on the order quotation. Unless specific instructions are provided, shipment will be made by the least expensive method.
 - Taxes: Prices quoted do not include any state, local, or federal taxes. Buyer shall pay all taxes, including sales and use taxes, and shall reimburse Seller promptly if Seller pays any tax for which buyer is so obligated.
 - Payment: Payment Terms are provided to customer on an individual basis. Order acceptance is subject to approval from Diamond Diagnostics Credit Department. Open balances not paid when due shall bear interest at 12% per annum until paid in full (Diamond reserves the right to alter interest terms). If Buyer fails to comply with any terms of payment or any requirement to secure payment, Seller reserves the right to withhold further deliveries or terminate this contract and any unpaid amount shall thereupon become immediately due from Buyer to Seller. Payment due date may not be changed under any circumstance, including, but not limited to delivery delay caused by the customer, customs, freight forwarder, warranty claim or other dispute that may arise. The costs related to issuance of payment or transfer of funds is to be borne by Buyer. Payment is considered completed upon the full credit to the Seller's bank account. The full title of the Goods does not transfer from Buyer to Seller until payment is completed in full.
 - Damages or Shortages: Claims for shortages in shipment must be made within five (5) working days of receipt of the material. If the outer crate or carton is damaged in any way, the customer should not sign the bill of lading until carrier notes such damage on the bill of lading. Without this notification, carriers usually refuse customer damage claims and Seller reserves the right to do same.
 - Delivery: Delivery dates are approximate and based on production schedules at time of quotation. Diamond Diagnostics shall not be liable for damages to the Buyer for any default or delay in deliver for any reason. Every effort will be made to meet the delivery quoted, but failure to meet the estimated delivery will not be considered cause for cancellation and/or claims which may arise from such delay. In no event shall Seller be liable for delays or non-performance caused by fire, flood, drought, acts of God, war riots, strikes, lockouts, embargo, or governmental orders.
 - Cancellation: No notice of cancellation, termination, waivers, amendments, or modifications shall relieve Buyer from any obligation under this agreement without prior written consent of the Seller, which consent must be signed by an authorized officer of Seller in Seller's Home Office. For Standing Orders, cancellations prior to one year minimum term are subject to and contingent upon payment by Buyer of the difference between discounted and list pricing. For specifically manufactured items, any consent by Seller to cancel or terminate this agreement shall be subject to and contingent upon payment by Buyer of a minimum charge equal to (1) fifty percent (50%) of the established list or quoted price for all items completed prior to cancellation, plus (2) an amount equal to all costs incurred by Seller plus 24% thereof for all incomplete items, plus (3) charges for packing and storing, but in any case subject to a minimum order net value of \$50.
 - Acceptance: Orders, terms, and specifications are subject to approval of Diamond Diagnostics. No variation shall be binding unless in writing, signed by an executive officer of the Seller.
 - Sales Agents: No person acting as an agent of Diamond Diagnostics shall have authority to bind Diamond Diagnostics to any contract. All quotation for product must originate at, and all must be accepted and signed by an executive officer of the Seller.
 - Cost of Collection: Buyer will be liable to Diamond Diagnostics for all costs of collection, including without limitation attorney fees.
 - Assignment: Buyer may not assign any of its rights or obligations under agreement with Diamond Diagnostics without prior written consent of the Seller.
6. Limitation of Liability in General

IN NO EVENT WHATSOEVER SHALL DIAMOND DIAGNOSTICS BE LIABLE TO BUYER, ITS AFFILIATES, SUCCESSORS, ASSIGNEES, VENDEES OR TRANSFEREES, OR TO ANY THIRD PARTY, FOR ANY ECONOMIC LOSS, PHYSICAL HARM, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS AND/OR LOST BUSINESS OPPORTUNITIES) ARISING OUT OF, RESULTING FROM OR RELATING TO IN ANY WAY THIS AGREEMENT OR ACTS OR OMISSIONS IN CONNECTION HERewith (INCLUDING WITHOUT LIMITATION THE PERFORMANCE WHETHER OR NOT TIMELY OR NON-PERFORMANCE OF THIS AGREEMENT AND THE LOSS OR LOSS OF USE OF ANY OF THE GOODS OR OTHER PROPERTY, REGARDLESS OF WHETHER THE GOODS OR THE USE THEREOF RESULTS IN DAMAGE OR HARM ONLY TO THE GOODS OR TO OTHER PROPERTY OR WHETHER THE SELLER AND/OR OTHERS MAY BE WHOLLY, CONCURRENTLY, PARTIALLY, JOINTLY, OR SOLELY NEGLIGENT OR OTHERWISE AT FAULT.
7. Limitations of Actions

Except as may be governed by other applicable law regarding personal injury, all actions brought hereunder must be commenced within one (1) year from the date of the breach.
8. Additional Provisions
 - a. Severability: If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants or conditions shall remain in full force and effect and shall in no way be affected, impaired or invalidated unless the entire purpose of the Agreement is thereby defeated.
 - b. Amendment: This Agreement may not be changed or modified orally but only by an agreement in writing agreed to by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought and executed by both parties.
 - c. Enforcement: If the Seller fails to enforce any claim or exercise any of the rights to which it is entitled pursuant to the agreement or the laws, it shall not constitute a waiver of such rights and shall not relieve the Buyer from compliance with its obligations. In case Seller is entitled to any right pursuant to the agreement or the laws, and there is no compulsory regulation specifying that only a certain right can be exercised among the rights, the Seller shall be entitled to exercise any of such rights individually or jointly.
9. Governing Law and Choice of Forum:

All of the foregoing Conditions and Terms and all aspects of this contract shall be governed by the law of the Commonwealth of Massachusetts. All legal and equitable actions brought in relation hereto shall be brought in the appropriate state and federal courts in Massachusetts, unless Seller elects to file an action against the Buyer in any other Court outside of Massachusetts or otherwise waves this provision.