

LEICA MICROSYSTEMS TERMS & CONDITIONS OF SALE OF GOODS AND SERVICES

These Terms and Conditions of Sale of Goods & Services (“**Terms**”) are applicable to all quotations, purchase orders, service requests and all other sales of goods and/or services (collectively, “**Orders**”) by Leica Microsystems Inc. or its corporate affiliates (“**Affiliate**”) (selling entity hereinafter referred to as “**Leica**”) to the buyer purchasing goods and/or services from Leica (“**Buyer**”). *However, these Terms do not apply to goods or services provided by the Leica Biosystems Division of Leica Microsystems Inc.* These Terms are the only terms and conditions applicable to the sale or other provision of Leica’s goods and services to Buyer except those that relate to prices, quantities, and delivery schedules, and any other terms included in Leica’s quotation, which terms will control in the event of any conflict with these Terms, unless otherwise agreed upon by Leica in a signed writing. Leica hereby objects to and rejects any other terms and conditions appearing on, referenced in, or attached to Buyer documents. Buyer’s submission or acceptance of an Order, as well as its acceptance of goods and/or services requested in an Order, will constitute its acceptance of these Terms.

1. **Prices.**

- a. Prices quoted are exclusive of, and Buyer agrees to pay, shipping and related fees, foreign, federal, state, local excise, sales, use, personal property and any other taxes or duties, except only taxes based on Leica’s income. Any certificates or other evidence of applicable exemptions to such taxes or duties must be provided to Leica prior to invoicing or such taxes or duties will be charged to Buyer; provided, however, if Leica does not collect such items from Buyer and is later requested or required to pay the same to any taxing authority, Buyer shall promptly make payment to Leica or directly to such taxing authority if requested by Leica.
- b. Leica does not represent its prices are equal to or lower than those charged to other customers or comparable to prices offered by a third party.
- c. The parties agree that the pricing in Leica’s quotation properly reflects any and all discounts (including without limitation the value of any discounts, rebates, or other price concessions) and for medical products, such discounts are intended to reflect discounts or other reductions in price within the meaning of the discount exception to the Federal Anti-Kickback Statute 42 U.S.C. Section 1320a-7b(b)(3)(A). Buyer agrees to properly report and appropriately reflect such discounted prices for medical products on cost reports or claims submitted to any state or federal program that provides reimbursement to Buyer for the discounted goods and/or services. Buyer also agrees to retain invoices and other price documentation and make them available to federal and state officials upon request.

2. **Payment.**

- a. Payment is due net 30 days from the later of Buyer’s receipt of invoice or delivery of goods or services. Leica may charge one and one-half percent (1.5%) or the highest rate allowed by law, whichever is lower, on overdue accounts. Leica may require payment in advance if in its opinion Buyer’s financial condition appears to call for such action.
- b. Payments are not subject to setoff or recoupment for any present or future claim Buyer may have.
- c. If Buyer fails to make any payment when due, Leica may immediately repossess all goods not paid in full and may suspend provision of goods and services. Leica will also be entitled to reimbursement of any reasonable out-of-pocket expenses incurred in collecting payments due, including without limitation attorneys’ and collections fees.

3. **Cancellation; Suspension.**

- a. Buyer may not cancel Orders for custom goods or goods that have left Leica’s dock. All other Orders for goods are subject to 10% cancellation fee.
- b. If Buyer fails to make timely payments or breaches any other material obligation under these Terms and such failure continues for thirty (30) days after receipt of written notice thereof from Leica, or has a receiving order in bankruptcy made against it, makes any arrangement with its creditors, or has a receiver appointed, Leica may without prejudice to its other rights: (i) demand immediate payment of all unpaid accounts; (ii) suspend further deliveries and/or services; (iii) repossess all unpaid goods delivered under this agreement and collect reasonable costs in recovering said goods; (iv) uninstall all software; and/or (v) cancel this agreement.

4. **Purchase Money Security Interest.** Until Buyer has paid the entire purchase price, Buyer grants and conveys to Leica and Leica retains, a purchase money security interest in the goods. Upon request by Leica, Buyer will execute any document necessary for Leica to perfect the security interest, and Buyer authorizes Leica to file this Agreement and any appropriate financing statement for purposes of such perfection.

5. **Delivery.**

- a. Delivery terms are FOB Shipping Point (Incoterms 2010) prepaid and add, unless otherwise agreed to in writing by Leica. Title and risk of loss or damage to the goods pass to Buyer upon delivery to carrier at the point of shipment. Leica will arrange for an appropriate means of transportation of goods. Buyer agrees to pay all transportation charges incurred after goods are delivered to the carrier unless Leica otherwise agrees in writing. Buyer shall bear any special expenses, including special handling, packaging and additional freight charges, if Buyer furnishes special transportation instructions. When “export packing” is required, Buyer shall be responsible for any extra charges such as export duties, licenses, fees and the like.
- b. Orders for goods to be exported are subject to Leica’s ability to obtain export licenses and other necessary papers within a reasonable period. Buyer will furnish all Consular and Customs declarations and will accept and bear all responsibility for penalties resulting from errors or omissions therefrom. Buyer will not re-export goods or any products or items which incorporate goods if such re-export violates local or U.S. export laws.
- c. Delivery dates are approximate and not guaranteed. Leica will not be liable for any damages or costs resulting from delays in performance.
6. **Acceptance.** Acceptance of the goods and services will occur the earliest of: (i) Buyer’s written acknowledgement of acceptance; (ii) successful completion of any testing agreed upon by the parties in writing; (iii) if the foregoing is inapplicable, upon delivery unless Buyer provides Leica with written notice of rejection within 2 days after delivery or another period agreed to in a signed writing by the parties. Buyer may reject goods and/or services only if they do not meet Leica’s published specifications or are otherwise defective, Buyer provides a detailed writing as to how goods and/or services do not meet specifications or are defective, and Buyer provides Leica thirty (30) days to correct the same.
7. **Installation; Maintenance.** Unless otherwise indicated by Leica, Buyer assumes responsibility for installation of goods. Buyer also assumes responsibility for maintenance of goods and ensuring its site meets all specifications and other criteria identified by Leica as necessary in order to support the goods and services. Leica will make installation, support and maintenance services available at Leica’s then-prevailing rates. Leica has no obligation to install, support or maintain goods not sold or manufactured by Leica or its Affiliates.
8. **Field of Use.** Certain goods are FDA cleared and labeled for specific clinical applications. Unless otherwise labeled, all other goods are intended to be made commercially available “For Research Use Only. Not for use in diagnostic procedures.” Buyer assumes the risk for any claims proximately caused by Buyer using Leica goods beyond their stated field of use. Specific product indications and more information available at www.leica-microsystems.com.
9. **Rights and Use.** Buyer represents it is buying goods for its own internal use only and not for resale or export. The foregoing does not apply to Leica’s authorized third party sellers.
10. **Warranty.** Leica warrants the goods and services in accordance with its standard warranty policy available at http://www.leica-microsystems.com/fileadmin/downloads/Other/Certificates/Leica_US_Warranty_Policy_April_21_2015.pdf. THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. No employee or agent of Leica, other than an officer of Leica by way of a signed writing, is authorized to make any warranty in addition to the foregoing.
11. **Proprietary Rights.** Leica and its licensors will retain all intellectual property rights to its goods and services, including without limitation, designs, drawings, patterns, plans, specifications, technology, technical data, software and information, technical processes and business methods, whether patentable or not, arising from the sale or other provision of goods and/or services to Buyer. Buyer agrees not to enforce against Leica or Leica’s customers any patent rights that include any system, process or business method utilizing or otherwise relating to goods and/or services delivered pursuant to an Order. Leica will not furnish any data, other than installation and specification data, unless it is specifically requested in an Order. The parties will separately negotiate rights and price for such data.
12. **Software.** Leica grants Buyer a non-transferable, non-sublicenseable and non-exclusive license to use software contained, delivered separately, pre-loaded, installed or embedded in the goods (“Firmware”) as necessary to operate the goods in compliance with accompanying documentation. All free standing software is licensed, not sold, to Buyer and subject to Leica’s

licensing agreement accompanying the software (“License”). All rights, title and interest in Firmware and software not expressly granted to Buyer herein or in the License remain the exclusive property of Leica or its licensors. Buyer and any third party acting through Buyer may not (i) use Firmware or software for any purpose not expressly permitted by these Terms or the License, (ii) reproduce Firmware or software or any component thereof or any documentation related thereto, (iii) modify or create derivative works of Firmware or software, (iv) decompile, disassemble, compile or reverse engineer Firmware or software or otherwise attempt to gain access to the source code, or (v) not use, duplicate or disclose any technical data or any information regarding the Firmware or software for any purpose. These rights are subject to any third party license underlying any component or application of the software. Leica is not responsible and bears no liability for malfunction or inoperability of goods, software or Firmware, resulting from (i) Buyer directly or indirectly engaging in any of the foregoing items (i) through (v) above, (ii) changes to or de-commitment of operating systems or other applications by any original equipment manufacturer, (iii) introduction of a virus or other malware caused directly or indirectly by Buyer, or (iv) inoperability or incompatibility with any Buyer network. Any such actions will render any remaining warranty immediately void and of no further force or effect. For avoidance of doubt, Buyer may not transfer or install software or Firmware on any goods not acquired from Leica and software and Firmware will only be installed and used on the specific, single workstation for which it is licensed, excluding only updates (published by Leica for general customer distribution at no charge, i.e., error correction or patch).

13. **Compliance with Laws.**

- a. Parties agree to comply with applicable federal, state or local laws, orders, regulations and/or ordinances, including without limitation, those of their respective countries of incorporation or principal place of business, as applicable under these Terms, including without limitation anti-bribery, anti-corruption, import/export and patient health information privacy laws.
- b. The parties acknowledge Leica does not provide any goods or services that generates, transmits or receives any individually identifiable information that constitutes "Protected Health Information" ("PHI") as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and as such, HIPAA's regulations regarding the handling of PHI do not apply to such goods or services. Buyer will use reasonable efforts not to disclose to Leica or its Affiliates any PHI and will de-identify any PHI in any goods returned or otherwise provided to Leica or its Affiliates, and indemnify, defend, and hold Leica and its Affiliates harmless from any liabilities in connection with any such PHI. However, in the event PHI is inadvertently so disclosed, Leica will treat such information as confidential and in accordance with applicable laws and regulations.

14. **Limitations of Liability.** EXCEPT AS OTHERWISE REQUIRED BY LAW, IN NO EVENT WILL LEICA BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES BASED UPON BREACH OF ANY WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF LEICA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT OF LIABILITY, LEICA'S MAXIMUM LIABILITY HEREUNDER WILL NOT EXCEED THE PRICE OF THE GOODS OR SERVICES FURNISHED BY LEICA GIVING RISE TO THE CLAIM. Leica's rights and remedies in these Terms are in addition to, and not in lieu of, any other rights or remedies Leica may have at law or in equity.

15. **Confidentiality.** “Confidential Information” means any confidential or proprietary information that a party (“Discloser”) discloses to the other party (“Recipient”) under this Agreement. Confidential information does not include any information that (i) is already in Recipient’s possession without obligation of confidence; (ii) is independently developed by Recipient as shown by Recipient’s records; (iii) becomes publicly available without breach of this Agreement; (iv) Recipient otherwise received legally from a third party without obligation of confidence; (v) Discloser authorizes in writing to be disclosed; or (vi) must be disclosed pursuant to a court or government agency order or rule, provided that before disclosing any Confidential Information, Recipient, to the extent permissible by law, provides reasonable notice of such order or rule giving Discloser opportunity to object to or limit such disclosure. Recipient agrees to exercise reasonable care to protect Confidential Information from unauthorized disclosure, which care shall not be less than Recipient exercises to protect its own confidential information. Recipient will use the Confidential Information solely for purposes of this Agreement and will disclose the Confidential Information only to its employees or agents who need to know such information and are contractually required to comply with these obligations of confidentiality. Notwithstanding any other provision in

this Agreement, Discloser may seek provisional remedies in a court of competent jurisdiction, with or without notice, to enforce these obligations. Recipient’s duty to hold Confidential Information in confidence expires five (5) years from receipt of such Confidential Information.

16. **Force Majeure.** Except for Buyer’s payment obligations, neither party shall be liable for delays in performance, in whole or in part, or any loss, damage, cost or expense, resulting from causes beyond its reasonable control, such as acts of God, fire, strikes, epidemics, embargos, acts of government or other civil or military authority, war, riots, delays in transportation, difficulties in obtaining labor, materials, manufacturing facilities or transportation, or other similar causes (“Force Majeure Event”). In such event, the party delayed shall promptly give notice to the other party. The party affected by the delay may: (i) extend the time for performance for the duration of the Force Majeure Event, or (ii) cancel all or any part of the unperformed part of this agreement if such Force Majeure Event lasts longer than sixty (60) days. If a Force Majeure Event affects Leica’s ability to meet its obligations at the agreed upon pricing, or Leica’s costs are otherwise increased as a result of such Force Majeure Event, Leica may increase pricing upon written notice to Buyer.
17. **Governing Law; Venue.** This Agreement is governed by and construed in accordance with the laws of the location of Leica or Delaware, at Leica’s option, without regard to conflicts of laws provisions. The parties consent to the sole and exclusive venue and jurisdiction of the federal and state courts situated in or having jurisdiction over the location of Leica, or Delaware, at Leica’s option. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. Any action by Buyer for loss or damage arising from or related to the goods and/or services must be commenced within the earlier of one (1) year from the date of delivery or occurrence of the event, or such claim will be forever barred. If Leica substantially prevails in any legal dispute, Buyer shall pay all reasonable costs incurred by Leica, including but not limited to collection costs, attorneys’ fees and costs of legal action.
18. **Assignment.** Neither party may assign this agreement or any rights or obligations under this agreement without the prior written consent of the other party, provided Leica may assign this agreement to an Affiliate. Any attempted assignment of this agreement or rights or obligations hereunder in violation of the foregoing will be null and void.
19. **Notices.** All notices must be sent to the attention of the General Counsel at the address in Leica’s quotation and delivered via certified mail, return receipt requested, or a nationally recognized overnight delivery service with signature of the recipient required. Notices shall be deemed effective upon receipt.
20. **Entire Agreement; Modifications; Waiver; Survival.** These Terms are the entire agreement between the parties, there being no other promises, terms, conditions, or obligations, referring to the subject matter not contained or referred to herein. If any provision of these Terms to any extent is declared invalid or unenforceable, the remainder of these Terms will not be affected thereby and will continue to be valid and enforceable to the fullest extent permitted by law. Any modifications hereto must be in writing and signed by both parties. Leica’s failure to strictly enforce any of these terms shall not be considered a waiver of any of its rights hereunder. The termination or expiration of this agreement will not affect the survival and continuing validity of any provision which expressly or by implication is intended to continue in force after such termination or expiration