



GENERAL CONDITIONS OF SALE AND SUPPLY [CANADA]

1. GENERAL

- a. These general conditions of sales and supply ("General Conditions") are applicable to all sales of products ("Products") and services ("Services") by AVO Diagnostic Services Canada Limited (AVO) to the buyer ("Buyer").
BUYER'S PLACEMENT OF A PURCHASE ORDER FOR PRODUCTS OR SERVICES SHALL CONSTITUTE BUYER'S ACCEPTANCE OF THESE GENERAL CONDITIONS. IN NO EVENT SHALL ANY CONFLICTING OR ADDITIONAL TERMS SET FORTH IN BUYER'S PURCHASE ORDER (OR ANY OTHER DOCUMENT) APPLY TO AVO'S SALE OF PRODUCTS AND/OR SERVICES TO BUYER, UNLESS SPECIFICALLY AGREED TO BY AVO IN A SIGNED WRITING. THESE GENERAL CONDITIONS, DATED April 1, 2023, SUPERSEDE ALL PREVIOUS COMMUNICATIONS ON THIS SUBJECT. AVO reserves the right to amend these General Conditions at any time.
- b. AVO shall have no obligation to sell any Products or Services to Buyer unless and until AVO has issued an order acknowledgement or similar document expressly confirming AVO's acceptance of Buyer's purchase order. Thus, the parties' agreement regarding the sales of Products and/or Services shall consist solely of (i) these General Conditions; (ii) provisions set forth in an order acknowledgement or similar document issued by AVO; (iii) Product or Service description and number, the price, units of Products or Services, and delivery dates and shipment instructions set forth in Buyer's purchase order, provided such terms are accepted in AVO's order acknowledgement; and (iv) any other provisions set forth in a writing signed by both parties. Such documents are collectively referred to herein as this "Agreement."
- c. The use of an electronic signature in accordance with applicable law is a permissible substitute for a handwritten signature.

2. SCOPE OF SUPPLIES AND SERVICES

- a. The Products and Services of AVO are identified in AVO's order acknowledgement and in appendices thereto. AVO shall be entitled to make any changes in such Products and Services which lead to improvements provided such changes do not result in a price increase.
- b. AVO reserves the right to manufacture or source material from its approved suppliers, and perform Services at any AVO location, including alternate AVO manufacturing organizations and locations without Buyer's consent.

3. TECHNICAL DOCUMENTS AND INFORMATION, CONFIDENTIAL INFORMATION

- a. Unless otherwise agreed upon by AVO in a signed writing, statements made in brochures, catalogues, technical documents and the like are not binding.
- b. All technical information and other intellectual property provided by AVO in connection with Services is the sole and exclusive property of AVO and shall not be reproduced, disclosed or produced or relied upon by anyone other than Buyer.
- c. Buyer agrees that any information it obtains about AVO (other than information that is issued by AVO in its published, publicly available materials and on the public portions of its website) is AVO's confidential information ("Confidential Information") irrespective of whether such information is disclosed to Buyer in oral, written or visual form. Confidential Information includes without limitation the business, products, customers, employees or authorized agents, product plans, technical drawings, blueprints, performance data, benchmarking data, pricing, vendors, proposals, trade secrets and ideas, inventions, concepts, techniques, and know-how used by AVO in its manufacturing processes. Buyer agrees that it will maintain the Confidential Information in strict confidence and will not disclose or disseminate it to any third party without AVO's express, prior written consent. Buyer agrees that it will use the Confidential Information only in connection with its purchase and use of Products and Services. Upon AVO's request, Buyer will return to AVO all written or descriptive matter which contain any Confidential Information.

4. REGULATIONS IN FORCE IN THE COUNTRY OF DESTINATION AND SAFETY DEVICES

- a. The Buyer shall, either prior to or at the time it issues a purchase order, identify in writing to AVO all laws, rules, regulations, and orders applicable to the Products and Services ordered by Buyer, including without limitation those relating to environmental issues, health and safety.
- b. Unless otherwise agreed upon by AVO and the Buyer in writing, the Products and Services shall conform to such laws, rules, regulations and orders of which AVO has been specifically informed in accordance with Section 4.a above.

5. PRICES; CANCELLATION POLICY

- a. Unless otherwise agreed upon all prices shall be FCA origin (Incoterms, latest issue), including standard packaging, in U.S. Dollars without any deductions whatsoever. Any and all additional charges, such as, but not limited to, freight charges, special packaging requirements, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the Buyer. Likewise, the Buyer shall be solely responsible for the payment of any and all taxes, fees, levies, customs duties and the like which are due as a result of, or are levied out of or in connection with the sale of Products and Services by AVO, and Buyer shall indemnify and hold AVO harmless in the event AVO is liable for any such payments as a result of Buyer's failure to pay.
- b. Prices are subject to change without notice.
- c. Cancelled orders may be subject to a cancellation fee.

6. TERMS OF PAYMENT

- a. Unless otherwise agreed upon, payments shall be made by the Buyer prior to testing, net, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like.

- b. The due date for payment shall not be extended if transport, delivery, erection, commissioning or Buyer's possession of the Products or Services is delayed or prevented due to reasons beyond AVO's control, or if unimportant parts are missing, or if post-delivery work may nevertheless be carried out by Buyer even though delivery of the Products or Services has not yet occurred.
- c. Unless otherwise expressly stated in the Agreement, AVO shall have the right to make delivery in instalments. All instalments shall be separately invoiced and paid as billed without regard to subsequent deliveries. Failure to pay for any instalment when due shall excuse AVO from making further deliveries. Delay in delivery of any instalment shall not relieve Buyer of its obligation to accept remaining instalments.
- d. If Buyer fails to make any payment when due, Buyer shall be liable, without reminder, for interest with effect from the date on which the payment was due at a rate of 1.5% per month. Payment of the interest does not release Buyer from its obligation to make payments on the agreed dates or from any obligation to pay damages which might exceed the interest due.

7. SECURITY INTEREST

Buyer hereby grants to AVO a purchase money security interest in all Products sold to Buyer as security for the due and punctual performance by Buyer of its obligations hereunder. Buyer hereby authorizes AVO to file a financing statement evidencing such security interest, and Buyer agrees to execute such documents to evidence and perfect such security interest as AVO may require.

8. DELIVERY TIME

- a. Buyer shall take delivery of Products and Services as stated in the applicable purchase order and order acknowledgement. It is acknowledged and understood that if the purchase order and/or the order acknowledgement contain an estimated delivery date, it will be necessary for Buyer and AVO to confer and agree on a specific delivery date. Unless otherwise agreed to in writing, AVO will be deemed to have met its delivery responsibilities if, on or before the delivery date, AVO has sent a notice to the Buyer informing it that the Products are ready for shipment, and in the case of Services that AVO is ready to fulfil its obligation to provide Services.
- b. AVO 's compliance with its delivery obligations is conditioned on Buyer's continued fulfilment of all of its obligations, including without limitation payment obligations and cooperation obligations.
- c. In addition to any other rights and remedies available to AVO, AVO shall have the right to extend the time for delivery for a period that is reasonable under the circumstances, in the event that: i) the information required by AVO for performance of this Agreement is not received by an agreed to date, or if the Buyer subsequently changes any such information; ii) AVO is prevented or hindered from performing based on circumstances beyond its reasonable control, without its fault or negligence, including without limitation, acts of God, valid or invalid action by governmental authority, acts of war, terrorism, freight embargoes, pandemics or epidemics, quarantine restrictions, fires, floods, windstorms, explosions, riots, natural disasters and unusually severe weather, sabotage, labour problems, inability to obtain electrical service, fuel or transportation, or court injunction or order; or iii) the Buyer fails to perform any of its obligations under this Agreement in a timely manner, including without limitation if the Buyer fails to make payment for the current or for previous orders in a timely manner. AVO reserves the right to restrict the Buyer's access to service delivery in the event of overdue payment.
- d. Any failure of AVO to deliver the Products or Services on a timely basis shall not constitute a breach of this Agreement, shall not entitle Buyer to terminate the Agreement and shall not entitle Buyer to any damages for such failure, and Buyer's sole remedy for such failure shall be to cancel the order at issue, unless such failure results from the wilful misconduct or gross negligence of AVO.

9. RISK OF LOSS

- a. Title to the Products and risk of loss passes to Buyer on the date of shipment from AVO 's plant of manufacture or other facility.
- b. If shipment is delayed at the request of Buyer, at the fault of Buyer or due to reasons beyond AVO 's reasonable control, the risk of the loss shall pass to Buyer at the time originally agreed to for shipment. From and after such time, the Products shall be stored and insured on the account at the expense of, and at the risk of Buyer.

10. FORWARDING, TRANSPORT AND INSURANCE

- a. Buyer's purchase order shall specify any requirements regarding forwarding, transport and insurance. All shipments shall be FCA origin (Incoterms, latest issue) at Buyer's expense and risk. Objections regarding forwarding or transport shall upon receipt of the Products or of the shipping documents be immediately submitted by the Buyer to the last carrier.
- b. In no event shall AVO be deemed to assume any liability in connection with any shipment. Buyer shall be solely responsible for procuring insurance against all risks.

11. INSPECTION AND ACCEPTANCE OF PRODUCTS AND SERVICES

- a. According to its own practices, AVO shall inspect the Products before shipment, and shall inspect its work after fulfilling the Services. If the Buyer requests further testing, this has to be specially agreed upon in writing by the parties and paid for by the Buyer.
- b. The Buyer shall inspect the Products and Services including partial deliveries thereof within a reasonable period following arrival at Buyer's premises (or completion of the Services as the case may be) but in any event within ten (10) days of such arrival or completion, and shall immediately notify AVO in writing of any failure of the Products or Services to conform to the requirements of this Agreement. If the Buyer fails to provide such notice within such time period, the Products and Services, including partial deliveries of the Products and partially completed Services, shall be deemed to have been accepted.
- c. After having been notified of any such failures, AVO shall use commercially reasonable efforts to remedy such failures within a reasonable period of time, and Buyer shall cooperate with AVO 's efforts to do so. After remedying such failures, further acceptance testing may be performed by Buyer in accordance with Section 11.b above. If AVO is not able, despite commercially reasonable efforts, to remedy any such failures, AVO shall replace the Products at issue or re-perform the Services at issue, which shall be AVO 's sole liability, and Buyer's sole remedy, for AVO 's failure to remedy any such failures.
- d. Acceptance shall be automatically deemed to have occurred without further action by Buyer as soon as Buyer commences use of the Products or Services (including partial delivery of Products or partial delivery of Services).
- e. Deficiencies of any kind in Products or Services including partial deliveries of Products and partial completion of Services shall not entitle the Buyer to any rights or claims other than those expressly stated in these General Conditions.

12. WARRANTY AND LIABILITY

a. Warranty Period

The warranty period applicable to the Products and Services ("Warranty Period") shall, (i) in the case of Products, be a 12-month period commencing upon shipment of the Products, except in the case of Products with a shelf-life of less than 12-months, in which case the Warranty Period shall be the shorter period specified for shelf-life in AVO's storage and shelf life requirements, and (ii) in the case of Services, shall be a 12-month period commencing upon AVO's completion of the Services. In the event shipment of the Products is delayed by Buyer or by reasons beyond AVO's reasonable control, the Warranty Period shall end on the earlier of 12 months from the date of shipment or 18 months from the date that AVO notifies Buyer that the Products are ready for shipment, except in the case of Products with a shelf-life of less than 12-months, in which case the Warranty Period shall be the shorter period specified for shelf-life in AVO's storage and shelf life requirements.

With respect to any replacement or repaired parts provided by AVO pursuant to Section 12.c below, the Warranty Period shall be the original Warranty Period applicable to the Products that were the subject of such replacement or repairs. The Warranty Period will be deemed ended, and AVO shall have neither liability nor obligation to provide any remedy in the event:

- i. Buyer or a third party performs any repairs or modifications to the Products without AVO's prior written authorization;
- ii. Buyer fails to mitigate any damage resulting from a failure of any Product or Service to conform to its warranties; or
- iii. Buyer fails to give AVO timely notice of a failure of a Product or Service to conform to its warranties, or fails to give AVO the opportunity to remedy any breach of warranty.

b. Warranty

During the Warranty Period, AVO warrants that (i) the Products will be free from defects in materials and workmanship and will substantially conform to any AVO specifications referenced in the order acknowledgement and (ii) the Services will be performed in a good and workmanlike manner and will substantially conform to any AVO specifications referenced in the order acknowledgement.

c. Remedy for Breach of Warranty In the event of any breach by AVO of any warranty set forth in Section 12.b above, AVO shall, at its sole option, either replace or repair the Products, or repair or re-perform the Services. Such remedies shall be AVO's sole liability and Buyer's sole remedy for breach of any warranty set forth in Section 12(b) above. Buyer agrees to cooperate with AVO in any effort it makes to supply the foregoing remedies. Any repair or reperformance performed at Buyer's facility shall be at the expense of Buyer.

d. Exclusions from Warranty

The warranties set forth in Section 12(b) above do not cover any condition(s) (i) which cannot be proved to have its origin in defective materials or workmanship; (ii) which results from normal wear and tear, electric overload, environmental pollution, improper maintenance or repair, neglect, failure to assemble, install or operate the Products in strict conformity with instructions provided by AVO; (iii) which result from failure to store Products in accordance with AVO's storage and shelf life requirements or (iv) any other cause beyond AVO's reasonable control.

e. No Other Warranties

The warranties set forth in section 12(b) above are exclusive and in lieu of any other warranties, express or implied including but not limited to any implied warranty of merchantability or fitness for a particular purpose. no course of dealing and no product description shall be deemed a warranty of any goods deliverable by AVO.

f. The warranty rights and remedies set forth herein cannot be assigned to any third party without the prior written approval of AVO.

g. The Buyer shall comply with AVO procedures then in effect concerning the return of Products under warranty or for repair.

13. LIMITATION OF LIABILITY

a. THE LIABILITY OF AVO WITH RESPECT TO A CLAIM OF ANY KIND, WHETHER AS TO QUALITY OR AMOUNT OF PRODUCTS OR SERVICES DELIVERED OR FOR A NON-DELIVERY OF PRODUCTS OR SERVICES, SHALL NOT EXCEED THE INVOICE PRICE OF THE QUANTITIES OF PRODUCTS OR SERVICES AS TO WHICH THE CLAIM IS MADE. THIS LIMITATION SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT IS AVO LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS OR REVENUE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE MATERIALS OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF AVO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. AVO shall not be liable for any faults of electrical apparatus that have appeared during the performance of a Service and after the performance thereof, in particular for any unforeseeable events taking place during testing as well as the consequences thereof that are discovered later.

c. In the case of Services being performed in the area of the Buyer or in the place that has been agreed on with the Buyer, AVO holds no liability for damages to people or property present there the security of which/whom should be ensured by the Buyer.

d. Test results give a picture at a particular point in time and reported results interpretations are relevant only at the time of measurement. Recommendations and lifespan projections are indicative and are provided without prejudice. They do not constitute a warranty or guarantee.

14. INDEMNIFICATION

Buyer assumes all responsibility and liability for injury or damages resulting from its handling, possession, use or sale of Products or Services supplied hereunder, including, but not limited to any injury or damage resulting from the use of Products in Buyer's operations or in combination with other substances or products, and agrees to hold harmless, defend and indemnify AVO from and against all claims, losses, liabilities and expenses (including attorney's fees and other litigation or settlement costs) arising out of such handling, possession, use or sale. The foregoing duty of Buyer to hold harmless, defend and indemnify AVO shall not apply to the extent such claim, loss, liability or expense results from the wilful misconduct or gross negligence of AVO.

15. GENERAL

a. This Agreement shall be governed by the substantive laws of the State of Texas, without regard to the conflicts of laws rules thereof. The UN Convention on Contracts for The International Sale of Goods shall not apply to this Agreement. Buyer agrees to waive its rights to a trial by jury in any dispute under this Agreement. The parties hereby submit to the jurisdiction of any Texas state or federal court sitting in Texas over any action or proceeding arising out of or relating to this Agreement, and each party hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such Texas state or federal court.

b. These General Conditions are between AVO and Buyer only. There are no third party beneficiaries of any of the terms or conditions hereunder, and all Services provided hereunder are performed solely for the benefit of Buyer.

- c. Buyer may not assign its rights or obligations hereunder without the prior written consent of AVO.
- d. All controversies and claims arising out of or relating to any contract between AVO and Buyer, or the breach thereof must be instituted within one year after the occurrence giving rise to the controversy or claim.
- e. The failure of AVO to enforce any provision of this Agreement shall in no way be construed as a waiver of such provisions or in any way affect the validity of this Agreement, in part or in full, or affect the right of AVO to enforce any other provisions of this Agreement.
- f. If any provision contained in this Agreement or any application thereof shall for any reason be held invalid, illegal or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.

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