

STANDARD TERMS AND CONDITIONS OF SALE AND WARRANTY

I. Acceptance and Agreement

1. Controlling Terms and Conditions. Upon acceptance of a purchase order from a purchaser ("Buyer") for products of Barben Analyzer Technology, LLC ("BAT") issuance of a confirmation of purchase order by BAT or issuance of an invoice by BAT, these General Terms and Conditions (these "Terms") shall be the only valid and binding terms and conditions applicable to the sale of BAT products. In the event any of the terms and conditions included in Buyer's purchase order are different than those contained herein, the terms and conditions contained herein will prevail and be controlling. Acceptance of products by Buyer from BAT shall constitute acceptance by Buyer of these Terms. Should Buyer elect to use its own or any other form of acceptance, confirmation or acknowledgement, any terms proposed in Buyer's acceptance which add to, vary from, or conflict with these Terms are void and of no force or effect.

2. Modification. These Terms shall constitute the complete and exclusive statement of the terms and conditions of sale between the parties and may hereafter be modified only by written instrument executed by the authorized Representatives of both parties.

II. Terms of Payment

1. Prices. All prices quotations for BAT products will be valid for a period of ninety (90) days, unless otherwise provided by BAT. Price quotations for spare parts, unless otherwise provided by BAT, will be valid for a period of ninety (90) days after the earlier of (i) the date of BAT's quotation to Buyer and (ii) acceptance by BAT of the Buyer's purchase order. BAT reserves the right to change the price quotation for a product to BAT's price in effect for the product at the time an order is released to final manufacture. Prices for products not manufactured by BAT will be the price of such product at the time the product is shipped to Buyer. Copies of data or documentation to be sent with a product will be identified in the quotation of BAT. Buyer may order additional copies of such data or documentation at the prices in effect at the time of such order. BAT is not responsible for errors of its employees or contractors with respect to the verbal pricing or quotation of a product and BAT will not be bound by the terms of such errors.

2. Taxes; Costs; Insurance. Quoted prices are exclusive of all city, state and federal sales, use, excise or similar taxes payable with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the products. Quoted prices exclude shipping or transportation costs or insurance costs. Prices include standard packaging only. Any special handling or packaging requests will result in additional charges to Buyer. BAT will accept valid tax exemption certificates from Buyer. However, Buyer will reimburse BAT for any taxes incurred by it on the sale of a product to the extent such tax exemption certificate proves to be insufficient to the applicable taxing authority for any reason. Such reimbursement must occur within ten (10) days from the date BAT becomes aware of the invalidity of such tax exemption certificate.

3. Payment Terms. Invoices will be issued by BAT as soon as practicable after each product shipment under these Terms.

Payments due BAT for products shipped and any other amounts due BAT by Buyer will be paid to BAT at its principal office in Carson City, Nevada. Unless otherwise agreed to in writing, all invoices will be payable net cash, thirty (30) days from the date of invoicing, assuming Buyer has credit references acceptable to BAT, as determined by BAT in its sole discretion. At BAT's option, Buyer may make payment with an irrevocable letter of credit confirmed by BAT's bank or another major bank as is acceptable to BAT, as determined by BAT in its sole discretion. Whether payment is by cash or irrevocable letter of credit, all payments to BAT must be in U.S. Dollars.

4. Suspended Delivery. BAT may suspend or discontinue delivery of any further products to Buyer if Buyer fails to make a payment to BAT for either the product to be delivered or any products previously delivered. Suspended or discontinued delivery will continue until BAT receives full payment therefore from Buyer or if BAT receives assurances adequate to BAT of performance from Buyer.

5. Right of Setoff. BAT will have the right to setoff and apply any funds received from Buyer for the benefit of any other overdue accounts or amounts owed to BAT by Buyer.

6. Late Payments. Any amounts not properly paid to BAT in accordance with Section II.3. will be deemed by BAT to be late and such overdue amounts will accrue interest at the rate of 1.5% per month. If any overdue amounts have been handed over to an attorney for their collection, Buyer will reimburse BAT for all costs of collection and associated attorneys' fees (with such costs and fees being not less than thirty percent (30%) of the total overdue amount payable).

7. Buyer's Credit. To the extent BAT permits Buyer to purchase BAT products on credit, Buyer shall provide BAT with such financial and business information BAT from time to time requests for the purpose of establishing and/or monitoring Buyer's creditworthiness. If the credit or financial responsibility of Buyer becomes impaired or otherwise unsatisfactory to BAT, or Buyer shall fail to keep or perform any terms or conditions of this or any other agreement with BAT on its part to be kept or performed, BAT may, at its option, require advance cash payment for products, specify other credit terms or demand satisfactory security to be given by Buyer. Should Buyer fail to make such advance payment, refuse to agree to other credit terms specified by BAT or fail to provide security upon demand therefore, BAT may withhold or cancel further shipment of products to Buyer in accordance with Section II.4.

III. Delivery; Inspection; Acceptance

1. In General. Buyer is solely responsible for arranging for proper receiving, storing, installing, starting up and maintaining all BAT products. BAT will provide Buyer with appropriate price quotations should Buyer request BAT to perform services other than sale and delivery of the products.

2. Cancellation. Buyer may not cancel any purchase order for products placed with and accepted by BAT without BAT's prior written consent. To the extent Buyer cancels an order, Buyer will reimburse BAT for any direct or indirect cancellation charges incurred by BAT, including without limitation reasonable profits

and all costs and expenses incurred by BAT to prepare the products for shipping. Further, all orders cancelled will be subject to a restocking fee to be determined by BAT in its sole discretion, but in no event will such fee be less than twenty-five percent (25%) of the purchase price of the product. For custom orders, BAT reserves the right to charge Buyer a non-cancellation fee equal to up to one hundred percent (100%) of the purchase price of the product, with the specific amount of such non-cancellation fee to be determined in the sole discretion of BAT. Any non-cancellation fee will be communicated to Buyer prior to its effectiveness and BAT will have the right to keep the non-cancellation fee (in addition to any other remedies it may have pursuant to this Section) in the event Buyer cancels such custom order.

3. **Delivery.** Shipments and delivery of products to Buyer shall be subject to BAT's production schedule. Unless otherwise agreed by BAT and Buyer, all shipping dates specified by BAT are approximate only. BAT may, at its option, ship products to Buyer in lots of any size that BAT, in its sole judgment, believes are reasonable. If shipment is delayed at Buyer's request, BAT may invoice Buyer immediately for any products held at BAT's facility and may include in such invoice a reasonable charge for any storage or other costs incurred by BAT as a result of such requested delay. Buyer assumes any damages to the products caused by deterioration resulting from Buyer's requested delay. Unless otherwise stated in Buyer's purchase order, all products are to be shipped via a carrier of BAT's choosing, with all costs and expenses of transportation to be paid by Buyer. Risk of loss or damage to the products in transit shall be borne by Buyer, whose responsibility it shall be to file claims with the carrier in the event of loss of or damage to the products.

4. **Inspection.** Unless otherwise specified in BAT's invoice or packing slip, Buyer will be entitled to inspect all products for their substantial conformity to the terms of Buyer's purchase order after the arrival of the products at Buyer's facility; provided, however, the failure of Buyer to exercise its post-arrival inspection rights within ten (10) days following arrival of the products, and to advise BAT in writing of all defects in or objections to the products which may be disclosed by such inspection within that same ten (10) days, shall constitute full, final and complete acceptance of the products, and Buyer shall not thereafter be entitled to reject the products (or any portion thereof) or to revoke its acceptance thereof with respect to any defects which could have been discovered by such inspection.

5. **Rejection/Product Damage.** Buyer may reject products it inspects in accordance with Section III.4. only to the extent it discovers a defect materially impairing the value of the products. Any claims regarding material defects must be made within thirty (30) days from the date of Buyer's receipt of the products or Buyer will be deemed to have waived such claims. Any lesser defects are governed by the terms of BAT's Standard Limited Warranty, which are incorporated herein by reference. To the extent any damage to the products has occurred during shipping, Buyer's exclusive remedy will be to file a claim with the carrier.

IV. Title; Risk of Loss

1. **Title.** Unless otherwise stated in BAT's quotation to Buyer, title and risk of loss pass Ex Works (pursuant to Incoterms 2000), that is, at the location of BAT upon the loading of the products for shipment.

2. **Security Interest.** Buyer grants to BAT a security interest in all products being purchased by Buyer. The security interest granted by Buyer is given to secure payment of the full purchase price and all other charges due and owing BAT by Buyer. This security interest constitutes a "purchase money security interest" pursuant to the Uniform Commercial Code. These Terms constitute a contract and security agreement, and Buyer hereby authorizes and appoints BAT as its attorney-in-fact to sign on Buyer's behalf appropriate financing statements and to file those financing statements with the appropriate agency to perfect the security interest herein granted.

3. **Software/Firmware Licenses.** BAT retains exclusive title to all software and firmware incorporated into the products and Buyer will have no ownership rights with respect to the software or its associated source code. Buyer will retain a nonexclusive, royalty-free license to use the firmware and software incorporated into the products only when operating the products in the configuration in which the products are sold by BAT or subsequently upgraded by BAT. BAT reserves the right to require an additional license and fee for use of software on updated, upgraded or otherwise enhanced computers, processors or controllers. Buyer may not duplicate, decompile, disassemble or in any fashion reverse engineer software object code or firmware and may not duplicate or store on any electronic media software source code. Buyer shall have no rights to software source code and any such stored source code shall either be permanently deleted from Buyer's storage or immediately returned to BAT.

4. **Third Party Licenses.** Certain of BAT's products incorporate third party firmware or software. As a result, license terms other than those of BAT will govern the terms of such firmware or software and such terms may be materially different from those set forth in Section IV.3.

V. Indemnities

1. **In General.** BAT will not be responsible for losses of Buyer resulting from the installation or use of BAT products. Buyer will unconditionally release, indemnify, defend and hold BAT harmless from and against any and all claims, demands, suits, losses, liabilities, judgments, damages, costs and expenses (including without limitation court costs, litigation expenses and attorneys' fees) and causes of action for injury, death or property damage caused by the fault, strict liability or any act or omission of Buyer, its subcontractors, or any of their respective employees, agents or invitees, asserted by any person, including without limitation BAT, Buyer, their subcontractors, or any of their respective employees, agents or invitees, as a result of, arising directly or indirectly from, or incidental to the sale, delivery, installation or use of the products sold by BAT to Buyer. Buyer's Intellectual Property Infringement. Buyer will unconditionally release, indemnify, defend and hold BAT harmless from and against any and all claims, demands, suits, losses, liabilities, judgments, damages, costs and expenses (including without limitation court costs, litigation expenses and attorneys' fees) asserted by or arising in favor of any person or entity for or as a result of infringement or alleged infringement of any patents, copyrights or trademarks, or misappropriation or misuse of any trade secrets or other confidential information, based on or related to Buyer's, its subcontractors' or agents' use or application of any processes, compositions, equipment, machines, articles of manufacture or computer software that are combined with BAT

products or are integrated with BAT products by Buyer in the practice of a process.

VI. Limitations on BAT Liability

1. **Limitation on Liability.** Buyer agrees BAT shall not be liable for any direct, indirect, incidental, punitive or consequential damages, including lost profits, lost savings or loss of use, whether Buyer's claim is based in contract, tort, warranty, strict liability or otherwise, which Buyer may suffer for any reason, including reasons attributable to BAT. Buyer agrees these limitations on BAT's liability are reasonable and reflected in the amounts charged by BAT for its products.
2. **Limitation on Claims.** Any litigation proceedings with respect to defective or nonconforming products or any other claim, whether based in contract, tort, warranty, strict liability or otherwise, must be filed by Buyer within twelve (12) months from the date of shipment of the products or such claim will be precluded by limitations.
3. **Force Majeure.** BAT shall not be liable for either direct or consequential damage caused, either directly or indirectly, as a result of any delay in delivery of failure to perform based upon: (i) any act of God, including but not limited to natural disaster, such as fires, floods, earthquakes or tornadoes; (ii) conditions of strikes, labor disputes or difficulties, riots, war or embargo; or (iii) acts or requirements of governmental or civil authority or restrictive import duties.

VII. General Provisions

1. **Standard Limited Warranty.** The terms of BAT's Standard Limited Warranty are incorporated herein by reference.
2. **Remanufactured Parts.** Products sold by BAT may contain remanufactured parts. All spare parts sold by BAT will be new or equivalent to new.
3. **Product Changes.** BAT, in its sole discretion, may modify the design and construction of its products and will have no obligation to retrofit previously sold products.
4. **Stenographic Errors.** Any stenographic or clerical errors will be subject to correction and will not be binding upon either BAT or Buyer.
5. **Buyer Data.** If any data supplied by Buyer, whether in the form of Buyer specifications or pursuant to any purchase order or other documentation, proves to be inaccurate, any warranties or other related obligations of BAT relying thereon will be void.
6. **Governmental Procurement.** No governmental procurement regulations or contractual clauses will be binding upon either BAT or Buyer unless such regulations or clauses are required by law or are mutually agreed to by BAT and Buyer.
7. **Export.** Buyer agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions regulations maintained by the Treasury Department's Office of Foreign Assets Control ("OFAC") and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State. At the time the order is placed, Buyer will identify to BAT's satisfaction the end-user application and/or dual applications for the products to be purchased. BAT reserves the exclusive right to refuse to accept any purchase order. Buyer will be responsible for obtaining any license required under EAR, OFAC regulations or ITAR. BAT will identify in writing to Buyer those items, technology

and software for which an export license is required and provide export classification and licensing information necessary for export documents, including but not limited to the appropriate Export Control Classification Number ("ECCN") from the Commerce Control List, the applicability of license exceptions, license numbers and copies of licenses. Buyer agrees to indemnify BAT for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of Buyer's breach of this Section.

8. **Governmental Compliance.** Buyer acknowledges and certifies that to the extent required by law, rule or regulation, Buyer shall comply, and require its subcontractors to comply, with the following: The Foreign Corrupt Practices Act, 15 U.S.C. §78dd-1 et seq.; The Immigration Reform and Control Act of 1986 and related regulations; the Equal Opportunity Clause prescribed in 41 CFR 60-1.4 (race, color, sex, national origin); the Affirmative Action Clause prescribed in 41 CFR 60-250-4 (veterans); the Affirmative Action Clause prescribed in 41 CFR 60-741.4 (handicapped workers); 43 CFR Chapter 1, Subpart 19.7 (Small Business and Small Disadvantaged Business Concerns); 48 CFR Chapter 1, Subpart 20.3 (Utilization of Labor Surplus Area Concerns); Executive Order 12138 (women-owned businesses); 41 CFR 60-1.40 (establishment of a written affirmative action program); 41 CFR 60-1.7 (filing the Employer Information report annually); 41 CFR 60-1.8 (non-segregated facilities); the Fair Labor Standards Act of 1938; and all relevant amendments of such laws, rules and regulations.
9. **Disclaimer of UN Conventions.** In accordance with Article 6 of the United Nations Convention on Contracts for the International Sale of Goods, BAT and Buyer exclude the application of such convention to these Terms, including all terms, obligations, requirements and duties that may be said to exist or arise from such convention. In accordance with Article 3(2) of the Convention on the Limitation Period in the International Sale of Goods, BAT and Buyer exclude the application of such convention from these Terms, including all terms, obligations, requirements and duties that may be said to exist or arise from such convention.
10. **Assignment.** Neither BAT nor Buyer will be able to assign the rights, benefits or obligations resulting from these Terms without the prior written consent of the other.
11. **Entire Agreement.** These Terms represent the entire agreement and understanding relating to the sale of products as between BAT and Buyer. No parol evidence, outside understandings or literature, or prior, present or future course of dealings may vary these Terms.
12. **Survival.** Each of the representations, warranties, covenants and obligations set forth in these Terms shall survive the sale of the products from BAT to Buyer for an indefinite period and each of BAT and Buyer will continue to be bound by these Terms.
13. **Nonwaiver of Default.** Any failure by BAT at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of these Terms or to exercise a right hereunder, shall not operate or be construed as a waiver of such terms, conditions or rights, and shall not affect or impair BAT's right at any time to enforce same.
14. **Governing Law; Venue.** Any and all claims or disputes in any way arising out of or relate to these Terms, their interpretation, construction or performance, or the breach or

enforcement thereof, or any claims or disputes in any way concerning the conduct of any party in connection with these Terms or otherwise (whether sounding in contract, in tort or based on statute or regulation) shall be governed exclusively by the laws of the State of Nevada, except for any rule of law of the State of Nevada that would make the law of another jurisdiction apply. Venue for any disputes under these Terms will be in Carson County, Nevada and the parties hereto hereby subject themselves to the jurisdiction of the Nevada courts. The parties hereto irrevocably agree any legal proceeding arising out of or in connection with these Terms shall be brought in the state district courts of Carson County, Nevada. The parties hereto voluntarily agree Carson City, Carson County, Nevada is the most convenient forum and understand the choice of forum and jurisdiction is an integral and vital part of these Terms. By agreeing to venue in Carson City, Carson County, Nevada, the parties hereto fully intend to waive their rights, if any, to venue in any place other than Carson City, Carson County, Nevada. The parties hereto deem these Terms performable in Carson City, Carson County, Nevada, whether or not any part of these Terms is actually performed in Carson City, Carson County, Nevada. In addition, Buyer agrees the price it is agreeing to pay for BAT products reflect an analysis of the elimination of uncertainty regarding the jurisdiction and venue for any dispute.

WARRANTY

I. Limited Warranty

1. Limited Warranty. Barben Analyzer Technology, LLC (BAT) offers a limited warranty on each of its products against failure due to defects in material and workmanship for a period ending the earlier of (i) fifteen (15) months from the date of the invoice relating to the sale of the product and (ii) twelve (12) months from the date of installation of the product (collectively, the "Initial Warranty"). During the Initial Warranty, BAT offers a limited warranty against failure due to defects in material and workmanship on each part of a product repaired or replaced by an authorized service person for a period ending the later of (a) the remaining term of the Initial Warranty of the product and (b) ninety (90) days from the date of such repair or replacement. After expiration of the Initial Warranty, BAT offers a limited warranty against failure due to defects in material and workmanship on each part of a product repaired or replaced by an authorized service person for a period ending ninety (90) days from the date of such repair or replacement. BAT further offers a limited warranty that the products and parts it sells will conform to BAT's written specifications therefore. The foregoing limited warranties cover parts and labor only and BAT does not warrant and will not reimburse the buyer of its products ("Buyer") for any costs relating to the access by service persons of BAT to the product at issue. The foregoing limited warranties cover only the repair or replacement of defective parts and such determination will be in the sole discretion of BAT. In its sole discretion, BAT may make repairs or replacements under these limited warranties with either new or refurbished parts. To the extent Buyer's product cannot be remedied under these limited warranties through repair or replacement of parts, Buyer may return the product for a refund of the purchase price, less a reasonable reduction in such purchase price equal to the depreciation expense incurred by Buyer relating

to such product. The limited warranties of this Section I.1. are further subject to those warranty exclusions set forth below in Section I.2.

2. Limited Warranty Exclusions. Excluding the warranties provided for in Section I.1., BAT provides all products to Buyer "as-is," without any other warranty of any kind. BAT disclaims any and all express or implied warranties of merchantability, fitness for a particular purpose and non-infringement of the intellectual property of others. BAT makes no warranty, express or implied, as to the design, sale, installation or use of its products. BAT's warranties will not be enlarged by, nor will any obligation or liability of BAT arise due to BAT providing technical advice, facilities or service in connection with any product. There is no warranty by BAT with respect to any product's: (i) uninterrupted or error-free operation; (ii) actual performance, other than the product's capability to meet BAT's specifications therefore; (iii) removal or installation from a worksite or process; (iv) electronic components or associated accessories (including without limitation circuit boards and integrated circuits); (v) maintenance (including without limitation gasket and seal replacements, adjustments, minor repairs and other inspection requirements, preventative or otherwise); (vi) use under inappropriate conditions or not in accordance with operating instructions; or (vii) use in connection with the operation of a nuclear facility. There is no warranty for labor expenses associated with field repairs or the repair or replacement of defective parts in the engine or power unit of any product if such product has been in the possession of the owner or operator for greater than twelve (12) months. There is no warranty for products determined to be, in BAT's sole discretion, damaged as a result of (a) misuse, neglect or accident; (b) improper application, installation, storage or use; (c) improper or inadequate maintenance or calibration; (d) operation outside of the published environmental specification; (e) improper site preparation or maintenance; (f) unauthorized repairs or replacements; (g) modifications negligently or otherwise improperly made or performed by persons other than BAT; (h) Buyer-supplied software or supplies; (i) use in conjunction with or interfacing with unapproved accessory equipment; (j) use of ABC-style or dry powder fire suppression agents; or (k) leaked sample materials. To the extent a BAT product is used in connection with the operation of a nuclear power facility, Buyer agrees to indemnify and hold BAT harmless from any and all actions, claims, suits, damages and expenses arising from such use. BAT provides no warranty on the oral representations made by its personnel while they are attempting to assist Buyer in the operation of a product. This Standard Limited Warranty does not apply to items consumed by the products during their ordinary use, including but not limited to fuses, batteries, paper, septa, fittings, screws, fuses, pyrolysis, dryer or scrubber tubes, sample boats, furnaces or UV lamps.

3. Non-BAT Products. BAT does not in any way warrant products it does not manufacture except to the extent the warranty of the manufacturer of the product at issue passes through or is otherwise assigned to BAT. If a manufacturer warranty is so assigned to BAT, BAT will only be bound to comply with the length of time associated with such warranty. All other terms of such warranty will be governed by this Standard Limited Warranty and BAT's General Terms and Conditions incorporated herein by reference.

4. Expenses on Non-Warranty Work. All repairs or replacements by BAT after the expiration of any applicable limited warranty period will be performed in accordance with BAT's standard rate for parts and labor. Further, if upon BAT's inspection and review, BAT determines the condition of the products is not caused by a defect in BAT's material and workmanship, but is the result of some other condition, including but not limited to damage caused by any of the events or conditions set forth in Section I.2., Buyer shall be liable for all direct expenses incurred by BAT to conduct the inspection and review of the product.

5. Exclusive Remedy. The foregoing limited warranty constitutes Buyer's exclusive remedy with respect to products sold by BAT and BAT's liability shall be exclusively limited to the written limited warranty specified herein. No employee, Representative or agent of BAT is authorized to either expressly or impliedly modify, extend, alter or change any of the limited warranties expressed herein to Buyer.

6. Procedure and Costs. All limited warranty claims must be made in writing promptly following discovery of any defect. Buyer must hold defective products for inspection by BAT. If requested by BAT, Buyer must send the product to BAT for inspection. Any such returns by Buyer will be at Buyer's expense and Buyer will remain liable for any loss of or damage to the product during such product's transportation to BAT. No products will be sent to BAT for inspection unless BAT has authorized Buyer to do so.

7. Terms and Conditions. BAT's General Terms and Conditions are incorporated herein by reference and Buyer accordingly agrees to be bound by the terms thereof.

II. Limitations on BAT Liability

1. In General. Buyer agrees BAT shall not be liable for any direct, indirect, incidental, punitive or consequential damages, including lost profits, lost savings or loss of use, whether Buyer's claim is based in contract, tort, warranty, strict liability or otherwise, which Buyer may suffer for any reason, including reasons attributable to BAT. Buyer agrees these limitations on BAT's liability are reasonable and reflected in the amounts charged by BAT for its products.

2. Force Majeure. This Standard Limited Warranty does not cover and BAT shall not be liable for either direct or consequential damage caused, either directly or indirectly, as a result of: (i) any act of God, including but not limited to natural disaster, such as floods, earthquakes, or tornadoes; (ii) damages resulting from or under the conditions of strikes or riots, war, damages or improper operation due to intermittent power line voltage, frequency, electrical spikes or surges, unusual shock or electrical damage; or (iii) accident, fire or water damage, neglect, corrosive atmosphere or causes other than ordinary use.

3. Limitation on Warranty Claims. Prior to any obligation of BAT to perform any limited warranty service as set forth herein, Buyer must have: (i) paid all invoices to BAT in full, whether or not they are specifically related to the product at issue; and (ii) notified BAT of the limited warranty claim within sixty (60) days from the date Buyer knew or had reason to know of the defect.