

# TERMS AND CONDITIONS OF SALE

## General

BY AGREEING TO PURCHASE PRODUCT, CUSTOMER EXPRESSLY ACCEPTS THE TERMS AND CONDITIONS SET FORTH HEREIN.

Acceptance of this purchase order by any means of acknowledgement or shipment of any goods or performance of work or services ordered hereunder constitutes acceptance by Femasys Inc. ("hereinafter referred to as either "Seller" or "Femasys") and you, the Customer, of the terms and conditions contained herein. No terms stated by Customer in accepting, confirming, or acknowledging this order shall be binding upon Seller if inconsistent with, or in addition to, the terms stated herein, unless accepted in writing by Seller. If, however, a written contract is already in existence between Customer and Seller covering the purchase of the goods, work, or services covered hereby, the terms of such contract shall prevail to the extent such contract is inconsistent with these terms.

## Product Purchases and Prices

The products and prices are those stated in Customer's invoice (the "Products") from Seller at the prices indicated therein. Products are subject to availability.

## Delivery Terms

Products will be shipped F.O.B. shipping point with standard freight pre-paid by Seller and added to the Customer's invoice along with a nominal handling charge. If Customer requests expedited or priority shipment and/or air shipment, Seller will prepay the additional charges and add them to the Customer's invoice for the products shipped. Risk of loss will pass to the Customer when the Products have been delivered by Seller to Federal Express for delivery to Customer. Insurance, if required, must be specified by Customer, at its own cost.

## Payment Terms

1. By advance payment at the time of order via ACH or and/or credit cards (MasterCard, Visa and American Express), and Seller reserves the right to charge an additional percentage fee for credit or debit purchases; or
2. Seller permits payment using purchase orders with prior credit approval, with payment in full due Net 30 days from the date of invoice. Seller reserves the right to charge a service charge of 1.5% per month (or the maximum rate permitted by law, if less) on unpaid balances over thirty days.
3. Customer agrees to pay all reasonable attorneys' fees and expenses incurred by Seller in enforcing its rights hereunder and collecting amounts owed by Customer.

## Force Majeure

Neither party shall be liable to the other party in respect of any delay or failure to perform that results from any event or cause that is beyond the reasonable control of the party obligated to perform.

## Return Policy; Limited Warranties

All returns of Femasys products for replacement or credit that were shipped in error; were delivered after the expiration date for the product; or have been specifically authorized for return by Femasys, will be processed in accordance with the requirements stated herein ("Return of Goods Policy").

1. All products returned to Femasys ("Returned Products") for replacement or credit must be in saleable condition, defined as follows:
  - a. unopened (no damage to sterile seal);
  - b. unmarked;
  - c. undamaged;
  - d. temperature controls uncompromised (for select temperature sensitive products eligible for return); and
  - e. in original packaging.
2. All Returned Products must include a Returned Goods Authorization ("RGA") number. Customer must contact the Customer Service department at 1-877-336-2562 or customerservice@femasys.com in order to obtain an RGA number. The following information will be required for the assignment of the RGA number:
  - a. Reason for the Return
  - b. Item/Product Number
  - c. Quantity of Returned Products
  - d. Original Purchase Invoice Number
  - e. Date of Invoice
  - f. Purchase Order Number
  - g. Lot Number (if applicable)
  - h. Serial Number (if applicable)
3. All Returned Product requests must be initiated with Customer Service within sixty (60) days following the date of invoice for the Returned Product.
4. A prepaid shipping label will be provided via email to Customer upon issuance of the RGA number. All returns must include the RGA number to ensure the applicable

credit is applied to the respective return product order. If a Returned Product does not have a RGA number, a credit cannot be processed.

5. All RGA numbers and prepaid shipping labels not used within sixty (60) days of issuance will be deemed cancelled and null and void. The Customer must contact Customer Service for issuance of a new RGA number and prepaid shipping label, provided the product is still eligible for return.
6. The following items are not eligible for return:
  - a. special/custom orders;
  - b. bulk purchased products;
  - c. discontinued products;
  - d. expired products or products having less than 120 days shelf life before expiration; or
  - e. products with no RGA number.
7. Restocking Fee. All Returned Products are subject to a restocking fee of 30% of the purchase price of the Returned Product. This fee will be deducted from the credit issued.
8. Damaged in Transit/Shipped in Error. In the event damage or breakage that occurred during or resulting from Femasys' packing and / or loading is noted upon arrival at Customer's location, the Customer should do the following or no credit will be allowed:
  - i. Accept the Products delivered by the carrier and note the visible damage or breakage on the carrier's delivery documents and have the carrier sign the document.
  - ii. Within forty-eight (48) hours of receipt from the carrier, promptly notify Customer Service Department of the damage or breakage.
9. Concealed Damage. Concealed damage or breakage which occurred during or resulting from Femasys' packing or loading of Products must be reported within five (5) business days of delivery. Customer must notify Customer Service Department of the following concealed damage or breakage:
  - a. Over-packs (e.g., multiple SKUs in a master case); or,
  - b. Damage or breakage concealed within palletized shipments.
10. Defective/Mislabeled Products. The Customer must report receipt of any defective/ mislabeled product to Customer Service Department within forty-eight (48) hours of discovery, providing the following information:
  - a. Customer name and address;
  - b. Customer contact and phone number;
  - c. Product number and description
  - d. Lot number, if applicable
  - e. Nature of problem and quantity involvedFemasys will investigate the potential defect/mislabeling and will notify the Customer of any action to be taken. Determination of a product defect or mislabeling will be made by Femasys, which determination will be final.
11. The authorization to accept any Returned Product, and provide a replacement or credit for such return, will be granted in Femasys' sole discretion and Femasys reserves the right to refuse the return of any Femasys product.
12. THE CUSTOMER'S RIGHT TO RETURN PRODUCT IN ACCORDANCE WITH THE TERMS OF THIS SECTION AND RECEIVE EITHER A REPLACEMENT PRODUCT(S) OR A CREDIT FOR THE PURCHASE OF A NEW PRODUCT IS THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY. FEMASYS SHALL NOT BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH THE USE OF ITS PRODUCTS, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT FEMASYS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND (D) THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. FEMASYS DOES NOT GIVE, AND EXPRESSLY DISCLAIMS, ANY IMPLIED WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## Product Traceability and Reporting

For as long as the Customer is in possession or control of any of the products of Seller, Customer will report to Seller any death or serious injury which may have been caused by or contributed to the products within forty-eight (48) hours by contacting the Customer Service department at 1-877-336-2562 or customerservice@femasys.com. To facilitate compliance with any medical device reporting requirements (including, without limitation, 21 CFR 803 et seq.) Customer agrees to cooperate fully with Seller by providing prompt access to any documents or records of Seller which may be reasonably required by Seller to so comply.