

## ZIRCHROM SEPARATIONS, INC.

### TERMS AND CONDITIONS OF SALE

1. Scope/Binding Effect. THESE TERMS AND CONDITIONS OF SALE ("TERMS") APPLY TO ALL QUOTATIONS AND OFFERS MADE BY AND PURCHASE ORDERS ACCEPTED BY ZIRCHROM SEPARATIONS, INC. ("ZIRCHROM"). TO THE EXTENT THAT THESE TERMS AND CONDITIONS CONFLICT WITH OR ARE DIFFERENT FROM THOSE CONTAINED IN ANY CUSTOMER PURCHASE ORDER OR OTHER PROCUREMENT DOCUMENTS, THESE TERMS WILL CONTROL. CUSTOMER'S ACCEPTANCE AND PAYMENT FOR THE PRODUCTS SHALL CONCLUSIVELY CONFIRM ASSENT TO THESE TERMS.

2. Prices/Payment. All prices are in U.S. dollars and, unless otherwise agreed, payment terms are net 30 days from the date of invoice. Amounts not paid when due will bear a late payment charge of 1½ percent per month or the maximum legal rate, whichever is less.

3. Taxes. All prices are exclusive of any sales, revenue, or excise tax, duties, or other similar charges, all of which will be paid by Customer.

4. Delivery. Delivery terms are as set forth in the applicable ZIRCHROM quotation. Absent statement of a delivery term, delivery is FOB ZIRCHROM's plant supplying the subject products. Title and risk of loss pass to Customer upon delivery to the carrier at the shipping point. ZIRCHROM will follow Customer's shipping instructions; absent such instructions from Customer, ZIRCHROM will ship by the method it deems most advantageous. Delivery dates are estimates only. ZIRCHROM will make commercially reasonable efforts to meet specified delivery dates, but will otherwise not be responsible for delayed deliveries.

5. Acceptance. Customer will accept or reject products within ten (10) days of delivery. Failure to notify ZIRCHROM in writing of nonconforming products within such period shall be deemed an unqualified acceptance. Any use of the products by Customer which is not related to acceptance testing shall constitute acceptance.

6. Modification or Cancellation of Order Forms. No accepted purchase order shall be cancelled or modified except upon the written agreement of both parties. In the event Customer cancels an order after such order has been accepted by ZIRCHROM, Customer shall reimburse ZIRCHROM for all costs incurred as a result of such order.

7. Credit Sales. Prior credit approval and nondelinquent status are necessary before ZIRCHROM will ship on an open account basis. ZIRCHROM may at any time, at its sole discretion, require a letter of credit or wire transfer prior to shipment. Shipment is subject to being withheld, or at the option of ZIRCHROM, canceled, if any amounts are not paid when due or if the financial condition of Customer is such as to give ZIRCHROM, in its judgment, reasonable grounds for insecurity concerning the Customer's ability to perform its obligations.

8. Security Interest. With respect to any credit sale, Customer grants to ZIRCHROM a purchase money security interest in the products sold, and any proceeds thereof, as security for Customer's obligation to pay the purchase price and Customer agrees to execute any financing statement or other instrument required to perfect such a security interest.

9. Warranty. Products are warranted by ZIRCHROM to conform to their applicable specifications and to be free from defects that materially impair use. Where Customer has submitted specifications to ZIRCHROM and ZIRCHROM has quoted a price for supply of such products, the applicable specifications are Customer's specifications where such specifications have been accepted and referenced by ZIRCHROM. ZIRCHROM will replace or refund, at its option, the purchase price of any product found to be defective or nonconforming, provided that Customer gives prompt written notice of the defect or nonconformity, and ZIRCHROM has determined in its sole discretion that Customer has not improperly handled, shipped, or stored a product or subjected the product to misuse, misapplication, accident, alteration, neglect, or improper or inadequate maintenance, installation, location, or repair. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR OBLIGATIONS EXPRESS OR IMPLIED. ZIRCHROM EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. Limitation of Liability. IN NO EVENT WILL ZIRCHROM BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND SUSTAINED FROM ANY CAUSE OR ARISING OUT OF ANY LEGAL THEORY, WHETHER CONTRACT, NEGLIGENCE, STRICT TORT LIABILITY, CONTRIBUTION, INDEMNITY, OR OTHERWISE. IN NO EVENT WILL ZIRCHROM BE LIABLE TO CUSTOMER IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE SUBJECT PRODUCT. THESE LIMITATIONS

INCLUDE ANY LIABILITY THAT MAY ARISE OUT OF THIRD-PARTY CLAIMS, AND CUSTOMER AGREES TO PROCURE SUCH INSURANCE, IF ANY, AS IT DEEMS APPROPRIATE TO COVER SUCH CLAIMS. ANY LAWSUIT BY CUSTOMER AGAINST ZIRCHROM WILL BE FILED WITHIN ONE YEAR FROM DELIVERY OF THE SUBJECT PRODUCT BY ZIRCHROM. ZIRCHROM'S EXCLUSIVE LIABILITY FOR PRODUCT RELATED CLAIMS WILL BE PURSUANT TO ITS EXPRESS WARRANTY, PRODUCT REPLACEMENT OR REFUND, AT ZIRCHROM'S OPTION, IS THE EXCLUSIVE REMEDY UNDER THIS WARRANTY. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OR OF ANY LIMITED WARRANTY REMEDY. CUSTOMER ACKNOWLEDGES THAT IT HAS RECEIVED AND READ ALL MATERIAL SAFETY DATA SHEETS, HAZARD COMMUNICATION LABELS AND CONSUMER INFORMATION SHEETS PROVIDED BY ZIRCHROM.

11. Disclaimer/Indemnity. Except in the case of noncompliance with ZIRCHROM's warranty, ZIRCHROM will have no responsibility for any claim, damage, loss, or expense that arises following delivery of products to Customer, including, without limitation, any claim or loss arising out of transportation, storage, siting or location, application, maintenance, or other actions of Customer in making use of products following delivery, and Customer will defend, indemnify and hold ZIRCHROM harmless from any such claim or loss.

12. Force Majeure. ZIRCHROM shall not be responsible for delays caused by acts of God, fires, floods, strikes, accidents, delay by suppliers of material, shortages of material, inability to obtain necessary labor or manufacturing facilities, or other causes beyond its reasonable control.

13. Disputes. The rights and liabilities of the parties arising out of or relating to this agreement will be governed by the laws of the state of Minnesota; venue in any lawsuit between the parties will lie exclusively in state or federal courts in Minneapolis, Minnesota; and the prevailing party in such litigation will be entitled to recover all reasonable attorneys' fees and other expenses (in addition to statutory "costs" of litigation), including attorneys' fees and expenses in connection with any trial, appeal, or petition for review.

14. No License to ZIRCHROM Technology. Customer acknowledges and agrees that the products provided under these sales terms and conditions convey no license or other right, express

or implied, to Customer in any ZIRCHROM technology or intellectual property.

15. Miscellaneous. These Terms supersede all previous agreements and constitutes the entire agreement between the parties related to the subject matter herein. No oral statements or prior written material not specifically incorporated herein shall be of any force and effect and no changes in or additions to these Terms shall be recognized. No modification, variation, amendment or supplement to these Terms shall be effective for any purpose whatsoever unless reduced to writing and signed by each party. Approvals or consents hereunder of the parties shall also be in writing. Each provision of these Terms shall be severable. If any provision of these Terms or the application thereof to any circumstance, person or place, shall be held by a court or other tribunal of competent jurisdiction to be invalid, unenforceable or void, the remainder of these Terms and such provision as applied to other circumstances, persons or places shall remain in full force and effect. The waiver by either party of a breach or default in any of the provisions of these Terms by the other party shall not be construed as a waiver of any succeeding breach of the same or any other provision hereof, nor shall any delay or omission on the part of either party in exercising or availing itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.