

Nittobo America Inc.  
Terms and Conditions of Sale

All sales are subject to the following terms and conditions:

1. **Acceptance of offer:** Seller accepts Buyer's offer to purchase the product listed in the quantity, at the unit price, and on the terms and conditions set forth herein. Buyer's terms and conditions, including those in purchase orders, in no way impinge or supersede the Seller's terms and conditions, and any such conflicting or additional terms are void and have no effect and are not applicable to any sales by Seller. Nittobo America, Inc.'s failure to object to any contrary or additional terms contained in any communication from Buyer shall not constitute a waiver of or an addition to these terms and conditions. Nittobo America Inc. reserves the right at any time to amend these terms and conditions, and communicate any such change to the Buyer. Prices are quoted in U.S. Dollars and are subject to change without notice.
2. **Inspection and Orders:** It is the sole responsibility of the Buyer to establish the adequacy of all products for any particular intended application, use, or purpose. Nittobo America Inc. has adopted a value added sampling policy for this purpose. Upon approval of any product sample, the Buyer shall have ten (10) business days to inspect and test the bulk product received in order to verify that the product substantially conforms to the sample previously approved. In the event that the product bulk is rejected as not substantially conforming to the sample, Buyer must send written notification to the Seller within two (2) business days following the expiration of the ten (10) business day inspection period. Seller shall reserve the right to verify test results of the rejected bulk product. Nittobo America Inc. will use its reasonable efforts to fill orders, but Seller shall not be liable for nonperformance, delays, or damages that are the result of by acts of God or third parties, or other causes beyond its reasonable control. Buyer agrees that in such events Seller may allocate products among all purchasers as it deems reasonable, without liability.
3. **Sample Policy:** Reasonable sample quantities as determined by Seller are complimentary for customers who purchase bulk product. Buyer is responsible to pay for the cost of sample delivery including shipping, export documentation charges, taxes, and customs duties.
4. **Conditions:** All Nittobo America Inc. products (IIC/MBC) are supplied for further manufacture of medical devices/in-vitro diagnostics/laboratory reagents only. Nittobo America Inc. products are not designed for use, and shall not be used, directly as a diagnostic or therapeutic reagent. Products are not for animal or human consumption.
5. **Warranties:** Seller expressly warrants that the bulk product sold by the Seller herein substantially conforms to the sample previously inspected and approved by the Buyer. The warranty set forth herein is conditioned upon proper storage and maintenance in accordance with applicable written recommendations of Nittobo America Inc. Seller makes no other warranties, expressed or implied, including, without limitation, warranties as to description, quality, productiveness, merchantability or fitness for any particular use or purpose.
6. **Terms of Payment:** Amount of invoice is due and payable within thirty (30) days from the date of the invoice unless otherwise agreed in a writing executed by Seller and Buyer. Payment shall be made by the Buyer in U.S. Dollars via bank wire transfer, check drawn on a U.S. based bank, or with VISA or MASTERCARD credit card. The Seller reserves the right to limit the amount of credit card purchases. Buyer's obligation to pay outstanding invoices and all other amounts is absolute and unconditional and is not subject to any abatement, reduction, set-off, defense, counterclaim, interruption, deferment or recoupment for any reason whatsoever. Balances remaining unpaid at due date are subject to an interest charge of 1.5% per month or the highest rate permitted by law, whichever is lower, until paid. The product is deemed accepted following the expiration of the ten (10) business day inspection period. The customer shall pay all wire transfer fees imposed by bank transactions. Seller reserves the right to restrict the terms of payment or to require payment prior to the shipment or end of inspection period if, in the Sellers opinion, Buyers financial condition or other circumstances do not warrant shipment on the terms originally specified in this contract. Buyer shall be liable for, and shall reimburse Nittobo America Inc. for all costs and expenses it may incur in connection with collection of any amounts owed to Seller or enforcement of its rights, including without limitation, reasonable attorneys' fees and expenses, court costs, and cost of collection agencies, and interest at the highest legal rate permitted by applicable law.
7. **Delivery and Risk of Loss:** The product shall be shipped by the Seller to the Buyer by parcel post, express shipment, customer selected courier, or in any other manner deemed most expeditious by Seller in Seller's sole discretion. The product shall be shipped to the address set forth on the invoice. All shipments will be Ex Works (EXW) Seller's place of shipment. The costs of delivery are the responsibility of the Buyer. Shipping costs can be prepaid by Nittobo America Inc. and added to the customer invoice. All shipments are insured at Buyer's expense and made at Buyer's risk. Identification of the goods to the contract shall occur once the product is placed in the hands of the carrier. Shipment and risk of loss shall thereafter be on the Buyer.
8. **Limitation of Liability:** Buyer's exclusive remedy in the event that any of the goods do not conform as warranted shall be replacement of the product. Any product claimed to be non-conforming must be shipped by the Buyer to the Seller's place of shipment at Buyer's expense, including transportation and handling costs, unless the parties have otherwise agreed in writing. No product will be accepted for return, credit or replacement without prior written authorization by Seller. Buyer expressly waives any right to special, consequential, punitive, compensatory, incidental damages or attorney's fees, whether based in contract, warranty, tort, including without limitation, negligence, or any other legal or equitable theory. Nittobo America Inc.'s total liability for any claim or action shall not exceed the purchase price of the products out of which such claim or action arose. Buyer agrees and acknowledges that the ultimate use of the product is within the sole control of the Buyer and Buyer will indemnify, hold harmless and defend Seller from all liability, expenses, costs, damages, and/or losses, including costs and attorney's fees, for loss, damage, or injury to person or property in any manner arising out of or incidental to the use of the product. Buyer shall be liable to Seller for all attorney's fees and costs incurred by Seller relating in any manner to this sale or the product in any claim, action or lawsuit initiated by Seller against Buyer or initiated by Buyer against Seller in which Seller prevails.
9. **Taxes:** Unless otherwise expressly provided on this invoice, Buyer shall pay all excise, sales, use, transfer or other taxes, duties or customs fees or similar payments due in connection with the sale of the product described herein. If Seller is required to prepay any such tax or fee, Buyer will promptly reimburse Seller.
10. **Applicable Law:** These terms and conditions shall be governed and interpreted in accordance with the laws of the State of California, without reference to its conflict of laws provision, including its provisions of the Uniform Commercial Code and shall not be governed or interpreted in accordance with the provisions of the 1980 U.N. Convention on Contracts for the International Sale of goods. Any suit, claim or lawsuit arising from this sale or the product may proceed only in the U.S. District Court for the District of California in Riverside, California or the California Superior Court, Riverside County. Buyer consents to the jurisdiction of such court or courts and agrees to appear in any such action upon written notice thereof.
11. **Intellectual Property and Confidentiality:** Buyer may not change, adulterate, obscure, remove or deface trademarks, trade names or labels appearing on any product of Nittobo America Inc.
12. **Entire Agreement:** This invoice, including these terms and conditions of sale, contains the entire understanding and agreement between the parties, and all of their prior written or oral agreements, understandings or arrangements are merged herein. No amendment or modification shall, be binding upon either party unless in writing and signed by the parties. No course of dealings between the parties shall be relevant to supplement or explain any of its terms.
13. **Non-Waiver:** Seller's failure to insist upon the strict performance of any term or condition herein shall not be deemed a waiver of any of Seller's rights or remedies hereunder, nor of its right to insist upon the strict performance of the same or any other term herein in the future. No waiver of any term or condition hereunder shall be valid unless in writing and signed by Seller.
14. **Set Off:** Buyer shall not be entitled to set-off any amounts due Buyer against any amount due Seller in connection with this transaction.
15. **Severability:** If any one or more of the provisions set forth herein is held to be invalid, illegal or unenforceable, such provision shall not affect the validity or enforceability of any other provision hereof.
16. **Definitions:** "Seller" means Nittobo America Inc. "Buyer" or "Customer" means the party to whom the product has been shipped as set forth on the face of this invoice. "Product" means any products listed or described on the face of this document.
17. **Relationship:** The relationship created between Buyer and Seller shall be strictly that of supplier and customer. Neither party is constituted an agent or legal representative of the other party for any purpose whatsoever, and neither party is granted any right or authority hereunder to assume or create any obligation, express or implied, or to make any representation, warranties or guarantees on behalf of the other party.