

# SERIM RESEARCH CORPORATION

## Terms and Conditions

1. Acceptance by Seller is expressly limited to Buyer's assent to these terms and conditions. Except to the extent expressly stated on the face side hereof, the terms and conditions stated herein constitute the entire contract between the parties and supersedes in their entirety all prior written and oral agreements, understandings and representations. No additional or different terms and conditions of any prior or subsequent purchase order, acknowledgement or other notification from the Buyer to the Seller shall be of any effect regardless of any provision to the contrary appearing thereon, and no subsequent modifications or changes shall be effective unless in writing signed by both the Seller and Buyer.
2. Title to all products will pass to Buyer on delivery to carrier at Seller's plant regardless of any provisions for payment of freight or insurance by Seller, or of the form of shipping documents. If shipment is consigned to Seller, it shall be for the purpose of securing Buyer's obligation under this order. Risk of damage or loss following such delivery to carrier shall be on Buyer notwithstanding selection of carrier by Seller. Seller shall be in no way and to no extent be liable or responsible for safe or prompt arrival of any shipment.
3. Seller makes the following warranties and only the following warranties:
  - a. The products conform to the standard of identity and quality, if any, stated on the face side hereof.
  - b. The products are free from defects in materials and workmanship.
  - c. The products as furnished to the Buyer do not infringe any unexpired United States Letters Patent covering the product itself. Seller agrees to defend and save the Buyer harmless from any liability resulting from any suit alleging such infringement; provided however, that Buyer gives Seller prompt written notice of any patent infringement suits threatened or filed against the Buyer and shall permit the Seller, if it so elects, to defend, settle or otherwise terminate such suit. Without liability to the Buyer, the Seller shall have the option whenever the Seller deems it necessary or expedient for the protection of its patent rights or for the avoidance of litigation to discontinue shipment of the product to the Buyer. Notwithstanding the preceding, any patent infringement arising out of the Buyer's utilization and/or embodiment of the product furnished by the Seller in combination with other products is the sole liability of the Buyer. In the event such combination is charged with infringing or is found to infringe a patent, the Buyer agrees to defend and save the seller harmless from any liability or expense resulting therefrom. The Buyer shall give the Seller prompt written notice of any patent infringement suits threatened or filed with respect to such combination of products.
  - d. For the purpose of Section 301 of the Federal Food, Drug and Cosmetic Act, no product listed herein which falls within the scope of the Act is adulterated or misbranded, within the meaning thereof or is an article which may not, be introduced into interstate commerce.

EXCEPT AS SPECIFICALLY STATED IN THE IMMEDIATELY PRECEDING PARAGRAPH, SELLER MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4. In the event of delivery by Seller to Buyer of any of the products listed herein in damaged or defective condition or in the event of a breach of any of the warranties made by Seller hereunder, Seller's only liability to Buyer or to anyone else shall be limited to the replacement, or at its option, payment of the cost of such replacement of such damaged, defective or nonconforming product. In no event shall liability of the Seller to the Buyer or to anyone else for any bodily or property injury, loss or damage exceed Seller's net invoice price of such damaged or defective or nonconforming products. Seller shall not be liable for any indirect, special incidental or consequential damages of any nature whatsoever. Buyer agrees to indemnify Seller and hold Seller harmless against all claims, actions, proceedings, expenses, costs and liabilities asserted against the seller by any person with respect to the sale or use of any products sold hereunder, and all loss, injury or damages resulting therefrom, expressly including, but not limited to, any claim, action, proceeding, expense, cost or liability arising out of the negligence of the Buyer.
5. Each product shall be inspected by the Buyer within 5 days after receipt of such product. Failure to so inspect shall constitute a waiver of Buyer's rights of inspection and shall be equivalent to acceptance of such product. If the Buyer after such inspection rejects any such product shipped pursuant to this contract, he shall fully specify all claimed defects and non-conformity in a notice of rejection sent to Seller within ten days after receipt of the product. The failure to specify any defect or non-conformity shall constitute a waiver of that defect or non-conformity. Materials shall not be returned to Seller without Seller's express permission.
6. Orders are not assignable or transferable, in whole or in part, except with the written consent of Seller.
7. Stenographical, clerical or computer errors on the face of any invoice of Seller are subject to correction.
8. Seller shall not be liable for failure or delay in shipment of any accepted order or any part thereof by reason of shortage of materials, labor difficulties, floods, fire, government priorities, actions taken or threatened by any governmental agencies, acts of God, or other contingencies or acts not within the sole control of Seller. Seller reserves the right during the periods of any shortage to allocate its available supplies among any or all of its purchasers on such basis as it may determine equitable without any liability therefore to Buyer.
9. Seller shall have the right to deliver any products ordered by a Buyer in separate shipments and on different dates. In the event of Seller's default in connection with any such installment delivery. Seller shall be deemed to be in default only as to the products delivered or to be delivered in such installment, and such default shall not constitute a total breach of the order as a whole nor shall it substantially impair the value of the order as a whole.
10. This order and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Indiana.
11. A minimum order and minimum quantity required by Seller shall be as specified on the price list in effect on the date of the receipt of Buyer's order by Seller.
12. Terms of sale are Net 30 days from date of invoice for US customers unless noted differently on page 1, payment in advance is required for International customers. No other discounts except as stated herein or on the face of the invoice shall be allowed. Each complete shipment to the one address will be considered for discount and transportation purposes. All transportation except redelivery charges, demurrage and charges for unloading will be prepaid. Prices shown on any invoice are subject to change.
13. If Seller is compelled to take legal action to enforce any provisions of this invoice, Buyer agrees to reimburse Seller for all attorney's fees and expenses in connection with said legal action.
14. To ensure that Serim products are of the highest quality, Serim does not re-stock or re-sell returned products. Returned products are subject to a processing fee of 50% of the purchase price. Shipping costs for returned products are the responsibility of the customer.
15. Serim distributors are responsible for storing, handling, and shipping Serim products according to requirements listed in the product Instructions for Use (IFU) and listed on bottles and kit labels