

Sales Terms and Conditions

This Agreement relates to the sale by ELUTRASEP INC. (“ELUTRASEP”) of the ELUTRASEP products (“Goods”) and services (“Services”) described on the ELUTRASEP Sales Document to which these Terms and Conditions are attached to the customer named thereon (“Customer”) and is expressly limited to the following terms and conditions. It is a condition of this Agreement that any provisions printed or otherwise contained in any purchase order for the Goods or Services or in any acknowledgement, acceptance or other document from the Customer relating to this Agreement which are inconsistent with or in addition to these terms and conditions shall have no force or effect and shall not constitute any part of the Agreement of purchase or sale. These Terms and Conditions, together with any terms set forth on the face of the ELUTRASEP Sales Document to which it is attached, constitute the entire understanding of the parties on the subject matter hereof and there are no other agreements between ELUTRASEP and Customer with respect to the Goods or Services. All confirmations, invoices and other writings delivered by ELUTRASEP to Customer shall be deemed accepted by Customer together with any terms and conditions set forth thereon unless within ten (10) days of the date thereof Customer gives written notice to ELUTRASEP of Customer’s nonacceptance.

PRICING AND ACCEPTANCE.

2.1 All prices are subject to change without prior notice except for work in progress or where otherwise specifically provided in a written quotation signed by an authorized ELUTRASEP representative.

2.2 The prices stated herein do not include any sales, use or excise taxes, customs duties, imposts or other assessments of any kind, value-added or similar taxes, which may arise from the manufacture, processing, sale or shipment of the Goods or Services, and Customer shall be solely responsible for any and all such taxes, duties or other assessments. If ELUTRASEP has the legal obligation to collect any such taxes, duties or other assessments, the appropriate amount shall be added to ELUTRASEP's invoice to Customer and paid by Customer. If, for whatever reason, ELUTRASEP does not collect any such amount from Customer and ELUTRASEP becomes liable to pay any such taxes, duties or other assessments or any penalties related thereto, Customer shall promptly pay such amounts directly to the appropriate governmental authority or, if ELUTRASEP is required to pay or has paid such amounts, shall pay such amounts to ELUTRASEP in accordance with Section 4 below.

2.3 All orders from Customer are binding upon Customer and may be accepted by ELUTRASEP, at ELUTRASEP’s option, either by sending an order acknowledgement or confirmation, or by delivering the resulting Goods and Services to Customer.

PERFORMANCE, DELIVERY, TITLE, ETC.

3.1 All shipments shall be FOB ELUTRASEP's facility. Title and risk of loss or damage to the Goods and any deliverables of the Services shall pass to Customer upon ELUTRASEP's making delivery to a carrier at such facility in good condition, consigned to Customer, or as Customer may direct.

3.2 Representations as to delivery dates are approximate only, unless ELUTRASEP has given an expressly binding commitment.

Partial delivery or performance of Goods and Services under this Agreement shall be permitted unless Customer has expressly stated in writing on the face of the ELUTRASEP Sales Document or on the Customer's purchase order that partial delivery will not be accepted.

3.3 ELUTRASEP shall not be liable for any delay in performance or nonperformance as the result of war, fire, flood, accidents, acts of God, terrorism, embargoes, acts of third parties, acts of governmental authority or any agency or commission thereof, breakdown of equipment, shortages of material, labor or power, labor strikes, work stoppage or labor unrest, or any other cause beyond ELUTRASEP's reasonable control. If any of the foregoing events occurs, ELUTRASEP may make deliveries of the Goods and Services proportionate to production and/or postpone the shipment or delivery period of the Goods and Services to a reasonable time after the difficulty has ceased, or ELUTRASEP may, at its option upon notice given to Customer within twenty (20) days after the commencement of any such event, declare this Agreement terminated and all rights and liabilities of ELUTRASEP and Customer, except with respect to Goods and Services previously shipped or performed or in ELUTRASEP's inventory, shall cease and terminate. ELUTRASEP shall have no obligation to buy in the open market any article to be used in ELUTRASEP's manufacture or processing when the supplier thereof has defaulted in delivery.

3.4 If this Agreement calls for more than one shipment of Goods or delivery of Services, each shipment and delivery shall constitute a separate sale under the terms and conditions of this Agreement and Customer agrees to accept each shipment and delivery and pay each invoice in full when due at the contract prices regardless of controversies relating to other delivered or non-delivered Goods or Services. If Customer fails to accept or pay for shipment or delivery, or in the event a dispute arises concerning ELUTRASEP's performance hereunder, then ELUTRASEP may, without prejudice to any other lawful remedy and without any liability to Customer, (i) defer further performance hereunder until acceptance or payment by Customer of all previous shipments and deliveries or until the dispute shall have been resolved, or (ii) terminate this Agreement with respect to any unaccepted or undeliverable portion, in which case Customer shall be responsible for any expense or loss sustained by ELUTRASEP in connection with this Agreement.

PAYMENT TERMS.

4.1 The full amount of each invoice for Goods and Services hereunder shall be paid net 30 days from the date of the invoice unless otherwise stated on the face hereof.

4.2 Payment by check or bill of exchange will be effective only after these instruments have cleared and been paid. Any discounts and expenses shall be borne by Customer.

4.3 ELUTRASEP reserves the right to assess a late fee equal to one and one-half percent (1.5%) per month or, if lower, the maximum amount permitted by applicable law, on all amounts not paid when due, calculated on a daily basis beginning with the 1st day following the invoice due date. Any check or remittance received from or for the account of Customer may be accepted and applied by ELUTRASEP against any indebtedness owing by Customer, without prejudice to, or the discharge of, the remainder of any such indebtedness regardless of any condition, provision, statement, legend or notation appearing on, referring to or accompanying any check or remittance. Product Guide Brochure 2009 www.elutraSep.com
Appendices 12.0

4.4 At any time, when in ELUTRASEP's opinion the financial condition of Customer so warrants, or if Customer fails to make payment when due or otherwise defaults hereunder, ELUTRASEP may change any terms of payment, suspend any credit previously extended to Customer, require partial or full payment in advance and delay shipment until such terms are met, and pursue any other remedies available at law. In such event, if Customer refuses to accept such changes, any outstanding order may be cancelled without any liability to ELUTRASEP. In the event of bankruptcy or insolvency of Customer or in the event any proceeding is brought by or against Customer under any bankruptcy or insolvency laws or their equivalent, ELUTRASEP may cancel any order then outstanding without liability to Customer.

LIMITED WARRANTY.

5.1 Subject to the limitations of Section 6 below and unless otherwise expressly provided herein, ELUTRASEP warrants only that the Goods and Services will conform to ELUTRASEP's published specifications for such Goods and Services in effect at the time of order acceptance.

5.2 Customer agrees that ELUTRASEP's sole liability, and Customer's sole and exclusive remedy, pursuant to any claim of any kind against ELUTRASEP, including without limitation any claim in contract, negligence or strict liability, shall be, at ELUTRASEP's option, (a) re-delivery of any non-conforming Goods or reperformance of any non-conforming Services or (b) a refund of the price allocable to the non-conforming Goods or Services.

5.3 Promptly upon receipt of each delivery of Goods and Services hereunder, Customer shall examine such Goods and deliverables of such Services for any defects, damage or shortage. All claims, including without limitation for non-conforming Goods or Services, shortage or any other cause whatsoever, shall be deemed waived unless made in writing and received by ELUTRASEP by (a) 14 days after Customer's receipt of the Goods or Services, in the case of any non-conformities or deficiencies reasonably ascertainable by

visual inspection or routine testing procedures, (b) 30 days after Customer learns of the facts giving rise to the claim, in the case of any other non-conformities or deficiencies not reasonably ascertainable by visual inspection or routine testing procedures, or (c) 30 days after Customer's receipt of such shipment. Customer's failure to give notice of any claim within the applicable time period specified above, shall be deemed an absolute and unconditional waiver of such claim, irrespective of whether the facts giving rise to such claim shall have been discovered or whether processing or use of the Goods or Services shall have then taken place.

5.4 Returned Goods (other than defective products) must be returned within 30-days, freight prepaid by the Customer and will not be accepted without prior written authorization of ELUTRASEP. The Goods must be returned in their original packaging and in resaleable condition. Special orders or non-stocked items may not be returned unless defective. Discontinued Goods may not be returned.

5.5 THE LIMITED WARRANTY IN SECTION 5.1 ABOVE IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES AND ELUTRASEP HEREBY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR (B) ANY IMPLIED WARRANTY THAT ANY USE OF THE GOODS OR SERVICES WILL NOT VIOLATE OR INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHTS OF THIRD PARTIES, WITH RESPECT TO THE GOODS OR SERVICES, OTHER THAN AS EXPRESSLY SET FORTH IN SECTION 5.1 ABOVE.

LIMITATION OF LIABILITY AND REMEDY.

6.1 CUSTOMER ACKNOWLEDGES AND AGREES THAT THE AMOUNTS WHICH ELUTRASEP IS CHARGING HEREUNDER DO NOT INCLUDE ANY CONSIDERATION FOR ELUTRASEP'S ASSUMPTION OF THE RISK OF CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH USE OF THE GOODS OR SERVICES BY CUSTOMER. ACCORDINGLY, CUSTOMER AGREES THAT ELUTRASEP SHALL NOT IN ANY EVENT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS OR OTHER ECONOMIC LOSS, ARISING IN CONNECTION WITH CUSTOMER'S USE OF OR INABILITY TO USE THE GOODS OR SERVICES. THIS LIMITATION OF LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE AND INDEPENDENT OF ANY FAILURE OF ESSENTIAL PURPOSE OF THE LIMITED WARRANTY AND REMEDIES PROVIDED HEREUNDER.

6.2 ELUTRASEP's liability for breach of warranty or for any loss or damage resulting from any other cause whatsoever, including alleged negligence, shall not exceed the lesser of (i) the cost of correcting any non-conformities in the Goods or Services or (ii) the cost of replacing the Goods or reperforming the Services. In no event (including

unenforceability of the above limitations and independent of any failure of essential purpose of the limited warranty and remedies provided hereunder) shall ELUTRASEP's aggregate liability for damages under this Agreement exceed the purchase price previously paid by Customer for the non-conforming Goods or Services. The parties acknowledge that the limitations set forth in this Section 6.2 are integral to the prices charged under this Agreement and that, were ELUTRASEP to assume any further liability other than as set forth herein, such prices would of necessity be set substantially higher. Customer expressly agrees that this limitation of damages and remedies shall constitute the exclusive remedies and measure of damages available to Customer and all other remedies and measures of damages which might otherwise be available under the law of any jurisdiction are hereby waived by Customer.

6.3 Without limitation to the generality of the foregoing limitation, ELUTRASEP shall not be liable for any damage or loss caused by the improper or unapproved use of the Goods. The Goods are for research use only and are not to be used for human diagnostic or drug purposes unless expressly approved for such purposes by the Food and Drug Administration in the U.S. or the appropriate regulatory agency in other countries. Without limitation to the generality of the foregoing, Customer shall handle and use the results of the Goods in conformity with (a) good laboratory practice, (b) all applicable laws and regulations, guidelines and decisions of judicial or regulatory bodies and (c) any patent and other proprietary rights of third parties. Customer shall defend, indemnify and hold harmless ELUTRASEP from and against any and all losses, costs and expenses, including without limitation reasonable attorneys' fees, in any way arising out of or relating to (a) any use of the Goods not in compliance with the uses stated above, (b) any failure of Customer to comply with good laboratory practice, laws, regulations, guidelines or decisions in the handling or use of the Goods, (c) any violation or infringement of any patent or other proprietary rights of third parties by Customer in the handling or use of the Goods, or (d) any other use or misuse of the Goods by Customer.

6.4 Except as otherwise agreed in writing by ELUTRASEP's authorized representative, the purchase of Goods only conveys to Customer the non-transferable right for Customer only to use the quantity of Goods and components of Goods purchased in compliance with the applicable intended use statement, limited use statement or limited label license. Unless otherwise authorized, no right to resell the Goods, or any portion of them, is conveyed.

ARBITRATION.

Any dispute arising between Customer and ELUTRASEP relating to, in connection with, or arising out of this Agreement shall be resolved exclusively by binding arbitration in Atlanta, Georgia in accordance with the then-current commercial rules of the American Arbitration Association, and judgment upon the award entered by the arbitrator(s) may be entered in any court having jurisdiction thereof. If any arbitral or judicial proceedings shall be commenced to enforce or interpret this Agreement, the prevailing party in such action or proceedings shall be entitled to recover its reasonable attorneys' fees, costs and expenses in connection with such action or proceedings. Customer and ELUTRASEP

each consent to the non-exclusive jurisdiction of the courts of the State of Georgia and the federal courts of the U.S. located in Los Angeles County for the enforcement of any arbitration award hereunder and each consents to the service of process in the manner provided for other notices under Section 8.1 below.

GENERAL

8.1 Notices and other communications required or contemplated by this Agreement shall only be effective if delivered in writing to the party for whom intended at its "Invoice Address" if to Customer or the ELUTRASEP Inc. contact address if to ELUTRASEP, either by (i) personal delivery, (ii) postage prepaid, return receipt requested, registered or certified mail, (iii) nationally recognized, overnight courier, such as Federal Express or UPS, or (iv) facsimile with a confirmation copy sent simultaneously by any of the other methods described above. Notice by registered or certified mail shall be effective on the date officially recorded as delivered to the intended recipient by return receipt or equivalent, and in the absence of such record of delivery, the effective date shall be presumed to have been the fifth (5th) business day after deposit in the mail. Notices delivered in person or sent by courier shall be effective on the date of personal delivery. Notices delivered by facsimile shall be deemed to be effective on the date sent. Notice not given in writing shall be effective only if acknowledged in writing by a duly authorized representative of the party to whom it was given.

8.2 No rights or obligations hereunder may be assigned by Customer without the prior written consent of ELUTRASEP, and any attempted assignment or delegation without such consent shall be void.

8.3 This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia applicable to contracts entered into and performed in Georgia by Georgia corporations, without regard to its conflicts of laws rules, regardless of whether one or more of the parties hereto may now be or hereafter become a resident of another state or country. This Agreement shall not be subject to the 1980 United Nations Convention on Contracts for the International Sale of Goods.

8.4 If the Goods or Services are to be used in the performance of a U.S. Government contract or subcontract, Customer shall notify ELUTRASEP of the U.S. Government contract number and furnish ELUTRASEP with copies of all applicable U.S. Government procurement regulations. Customer agrees to hold ELUTRASEP harmless from all losses, claims and expenses (including attorney's fees, expenses and court costs) in connection with any actual or asserted violation of such procurement regulations where Customer has failed to notify ELUTRASEP of their applicability in the manner provided in this Section.

8.5 The failure by either party to exercise any of its rights under this Agreement on one occasion shall not be deemed a waiver of such right or any other right on that or any other occasion.

8.6 If any provision hereof is determined to be invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability, and the balance of this Agreement shall be interpreted as if such provision were so excluded.