Terms and Conditions

1. General

In these Terms and Conditions (the "Terms") "we," "us," and "our" means Hooke Laboratories, Inc., and "you" and "your" means the person, company, institution, or other legal entity that orders or buys goods or services from us and in each case their respective successors and/or assigns.

Our website constitutes an offer for the sale of products and/or services. Unless otherwise agreed in writing, the terms and conditions set forth in these Terms apply to all products and services sold, offered, or provided by us.

You will be deemed to have assented to these Terms by placing an order with us or by instructing us to proceed with custom services according to a quotation ("Acceptance").

If you object to any of these Terms you must set forth such objection in writing, signed and dated by you, and delivered to us prior to or contemporaneously with your Acceptance. Our failure to object to provisions contained in any purchase order or communication from you (including, without limitation, penalty clauses of any kind), shall not be a waiver of these Terms, nor an acceptance by us of any such provisions. Any such objections or any terms in your purchase order or document of Acceptance which are different from or additional to these Terms are hereby rejected unless specifically accepted by us in a separate contract signed by both you and us, regardless of whether such objections or other terms would materially alter the terms hereof. No course of dealing, custom or usage, which is contrary to these Terms shall apply.

These Terms, including all writings incorporated herein by reference, any quotation issued to you by us, and those specific terms expressly agreed upon by both you and us in writing, constitute the entire contract between us and supersede all prior agreements and understandings between us, whether written or oral, relating to the subject matter hereof. In the event of a conflict, a quotation takes precedence over these Terms, and a separate written agreement signed by both you and us takes precedence over either.

2. Use and Hazards

Our products are sold for research or laboratory use only and not intended to be administered to humans or used for medical diagnostics.

The absence of a specific warning shall not be interpreted to mean that the products have been proven to be non-toxic or safe to be handled without standard safety precautions. The absence of a warning shall not be interpreted as an indication of safety.

You shall comply with and require your agents and employees to comply with all directions, safety notices, warnings, and other instructions furnished by us, and shall use and require your agents and employees to use reasonable care in the use of the products.

WE SHALL HAVE NO OBLIGATION OR LIABILITY FOR ANY FAILURE OF YOU, YOUR EMPLOYEES, AGENTS, OR ANY THIRD PARTY TO OBEY THE PROVISIONS OF THIS SECTION, OR FOR ANY INJURY OR DAMAGE CAUSED, IN WHOLE OR IN PART, BY YOUR FAILURE TO COMPLY WITH APPLICABLE FEDERAL, STATE, OR LOCAL SAFETY REQUIREMENTS. YOU SHALL INDEMNIFY AND HOLD US HARMLESS FOR ANY CLAIMS, LIABILITIES OR LOSSES ARISING OUT OF OR IN CONNECTION WITH ANY SUCH INJURY OR DAMAGE OR CLAIM THEREOF.

3. Web site Information

Information on our web site is correct to the best of our knowledge, but it may contain technical inaccuracies or typographical errors. Information may be changed or updated without notice.

4. Changes and corrections

We reserve the right to correct any typographical or clerical errors in prices or specifications.

All terms, conditions, prices, and specifications are subject to change without prior notice.

5. Financial Condition

We may request that you furnish sufficient information to enable us to assess your creditworthiness. We may, in our discretion, require full or partial payment in advance.

6. Prices and Payment

Terms of sale are net 30 days of date of invoice. Prices are in U.S. Dollars, F.O.B. point of shipment unless specified otherwise in writing.

Prices do not include freight or delivery charges or taxes (use tax, sales tax, excise tax, duty, ad valorem, inspection or testing fee, export duty, import duty, etc.). These charges may be prepaid by us and added to your invoice. If we are required to pay any such tax, fee, duty, or charge, you shall reimburse us therefor or provide us at the time the order is submitted an exemption certificate or other document acceptable to the authority imposing the tax, fee, duty, or charge.
All orders are subject to final acceptance by us. We may, in our sole discretion, refuse to ship orders to a location specified by you. We will select method of delivery; title passes to you upon our delivery of products to the transportation company. We reserve the right to make delivery in instalments.

Should you delay payment beyond the date it is due, interest may be charged on the unpaid balance at the rate of one and one-half percent (1.5%) per month, and we, at our option and without prejudice to our other lawful remedies, may defer delivery or cancel the contract.

If you provide a purchase order number which proves to be erroneous or invalid, you agree to pay the invoice(s) upon receipt of proof of delivery or a proof of shipment from us.

7. Performance and Delivery

With regard to custom services, we will perform all services according to the supplied quotation using generally prevailing industry standards, except as agreed otherwise. Cancellation of services before the services are completed will not obligate us to provide a refund or bill for an amount less than quoted. Partial charges or charges in full may be billed depending upon the progress of the service from the starting date.

8. Delays

Time shall not be of the essence of this agreement.

Any shipment, delivery, or performance dates provided by us are approximate only and do not constitute any guarantee of shipment, delivery, or performance by or on any particular date, except as explicitly agreed by us in writing.

In the case that shipment, delivery, or performance dates are agreed separately, we shall not be liable for loss, damages, or non-performance resulting from delays in receipt of your specifications or instructions from you, changes in specifications, force majeure, including but not limited to strikes, labor disturbances, material shortages, non-manufacturing conditions, delays or failures of carriers or communication, epidemics, fire, flood, storms, accident, riot, acts of terrorism, war and invasion, governmental requisition or priorities, acts of God, or other causes beyond our reasonable control.

In the event of such delays, the delivery date shall be extended for a period equal to the time lost by reason thereof, or we at our option may cancel the delivery and refund any amounts paid by you, as your sole and exclusive remedy. We shall undertake to notify you promptly of any significant delay and will specify the revised delivery date as soon as practical.

IN NO EVENT SHALL WE BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES ARISING OUT OF A DELAY IN, CANCELLATION OF, OR FAILURE TO DELIVER, OR FAILURE TO MANUFACTURE, OR PERFORM SERVICES.

9. Inspection and Returns

Upon your receipt of goods shipped hereunder, you shall inspect the goods and notify us via the method(s) specified on our website of any claims for shortages, defects, or damages. If you fail to so notify us within 10 days after you receive the goods, the goods shall conclusively be deemed to conform to these Terms and to have been irrevocably accepted by you.

As title passes to you upon delivery of products to the transportation company, you are responsible for damage claims with the shipping company.

Authorization for all product returns must be approved by us. Returns will be authorized at our sole discretion. Many products cannot be accepted for return due to limited shelf life. If a return is approved, a restocking charge of 25% or $25 (whichever is greater) may be charged on returns that are not the result of any error or fault of ours. Shipping charges will not be credited.

10. Services – Materials and Data

With regard to custom services, you will supply us with data and/or materials for completion of services. All of the submitted data and materials shall be exclusively owned by you. Upon payment of invoice you will also own all materials produced in conjunction with the performance of the services. You may at any time request to be sent back all data and/or remaining materials at your expense, otherwise, the materials and data will be stored at our facility and/or a subcontractor’s facility, or destroyed by us if no request for return is received within 30 days of the completion of services.

11. Warranty

We warrant to you that our goods shall conform substantially to the description of such goods as provided in our catalogues, website, and literature accompanying the goods until their respective expiration dates or, if no expiration date is provided, for 90 days from the date of your receipt of such goods.

This warranty does not apply to products that have been the subject of alteration, misuse, or abuse.

This warranty applies under the provisions that (1) for consumable products, the products remain in the original container (2) products are handled and stored in accordance with our recommendations, (3) product has been installed, maintained and operated within the limits specified by us, (4) you promptly send us notice of defect and satisfactory proof thereof, including allowing us the opportunity to inspect the products, and in the event of repair or replacement, you return the product to us, freight prepaid.

Defective products or parts replaced by us shall become our property.

THIS WARRANTY IS EXCLUSIVE, AND WE MAKE NO OTHER WARRANTY, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

Our sole and exclusive remedy and your exclusive remedy with respect to defective or nonconforming goods shall be the repair or replacement of such goods free of charge, upon the return of such goods in accordance with our instructions (if requested by us), although at our discretion we may alternatively provide a credit or refund.

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12. Liability

IN NO EVENT SHALL WE BE LIABLE UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY LOSS, DAMAGE OR EXPENSE (INCLUDING BUT NOT LIMITED TO LOST PROFITS), EVEN IF WE KNEW OF THE POSSIBILITY OF SUCH LOSS, DAMAGE, OR EXPENSE.

NEITHER WE NOR YOU SHALL BE LIABLE TO THE OTHER FOR SPECIAL OR CONSEQUENTIAL DAMAGES OR FOR DAMAGES FOR LOSS OF USE ARISING DIRECTLY OR INDIRECTLY FROM ANY BREACH OF CONTRACT, MATERIAL OR OTHERWISE, OR FROM ANY TORTIOUS ACTS OR OMISSIONS OF THEIR RESPECTIVE EMPLOYEES OR AGENTS, AND IN NO EVENT SHALL OUR LIABILITY EXCEED THE PRICE OF THE GOODS OR SERVICES SOLD.

If we manufacture custom goods for you based on instructions, specifications, or other directions you provide to us, we shall not be liable for the lack of sufficiency, fitness for purpose or quality of the goods to the extent attributable to such instructions, specifications, or other directions.

13. Technical Assistance

If we, without separate compensation therefor, provide you with advice, information, or other assistance concerning any product or service supplied hereunder, the provision of such advice or assistance will not subject us to any liability whether in contract, tort (including negligence and strict liability) or otherwise. We make no warranty regarding such advice, information, or assistance.


14.1 We warrant to you that the manufacture and sale by us of goods manufactured by or for us without reliance upon instructions, specifications, or other directions provided by you and delivered hereunder, to our knowledge will not infringe the claims of any patent, trademark or copyright ("Intellectual Property") of any third party. We do not warrant that the manufacture and sale by us of goods manufactured in reliance upon instructions, specifications, or other directions provided by you or your use or resale of goods delivered hereunder will not infringe the claims of any Intellectual Property of any third party.

14.2 If any claim is made against you or us for infringement of Intellectual Property rights of any third party arising directly and solely from the manufacture or sale of goods by us in circumstances in which the manufacture of such goods was not based upon instructions, specifications, or other directions provided by you, you shall assume the defense of any ensuing litigation and conduct all negotiations for settlement of such claims and will bear the costs of any payment made in settlement or resulting from an award; provided that you shall give us notice in writing as soon as a reasonably practicable of any such claim being made or action threatened or brought against you, shall make no admission of liability or take any other action in connection with such matter and shall permit us to defend such claim and shall (at our expense) give all reasonable information, co-operation and assistance to us (including without limitation lending your name to proceedings) in relation thereto.

The foregoing describes our entire liability to you and your exclusive remedies against us in connection with claims made against you based on or resulting from such infringement of Intellectual Property rights of third parties.

14.3 If any claim is made against us for infringement of Intellectual Property rights of any third party as a result of (i) the manufacture or sale of goods based upon instructions, specifications, or other directions provided by you or (ii) your use or resale of goods purchased from us, you shall indemnify us, defend and hold us harmless from any and all costs, damages and expenses (including reasonable attorneys' fees and other costs of defending any action) that we may incur as a result thereof. You shall fully cooperate with us in any investigation relating to any such claims and make available to us all related statements, reports and tests available to you.

15. Disclosure of Information

Any information, suggestions or ideas given to us by you are not secret or submitted in confidence, except as may be otherwise provided in writing, signed by both parties.

16. Authorized Uses

16.1 Unless otherwise expressly indicated in our catalogues or on the label or other documentation accompanying the goods, the goods are intended for laboratory research use only and are not to be used for any other purposes including, but not limited to, unapproved commercial purposes, diagnostic purposes, therapeutic purposes, investigational use, in foods, drugs, devices or cosmetics of any kind, or for consumption by or use in connection with or administration or application to humans. You acknowledge that the goods have not been tested by or for us for safety or efficacy in humans. Without limiting the foregoing restrictions, you warrant to us that should you use or sell the goods for any use other than laboratory research use, you shall conduct all necessary tests, comply with all applicable regulatory requirements, issue all appropriate warnings and information to subsequent purchasers and/or users and be responsible for obtaining any required Intellectual Property rights.

16.2 You represent and warrant to us that you will properly use, and, to the extent authorized, market any goods purchased from us and any final articles made from them in accordance with the practices of a reasonable person who is an expert in the field, including, but not limited to, a technically qualified individual (46 C.F.R. § 712.3(w)), and in strict compliance with all applicable national, state, provincial, and local laws and regulations, now and hereafter enacted.

16.3 You have the responsibility to warn your customers, employees and any auxiliary personnel (such as freight handlers, etc.) of any risks involved in using or handling the goods. You agree to comply with instructions for use of the goods furnished by us, if any, and not to misuse the goods. If the goods purchased from us are to be repackaged, relabeled or used as starting materials or components of other products, you will verify our assay of the goods, qualify the goods provided by us for such applications, and comply with all governmental requirements relating to labeling or providing other communications to your customers. You acknowledge that we provide Material Safety Data Sheets (MSDS) for our products, and that they are available electronically on our web site at hookelebts.com, and that you are willing and able to access MSDS by these means. You also agree to inform your employees of the risks, if any, involved in using or handling the goods and to train and equip them to handle the goods safely.

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16.4 You acknowledge that products received from us may be subject to U.S. export control laws and regulations. You represent and warrant to us that you will not, directly or indirectly, (1) sell, export, reexport, transfer, divert, or otherwise dispose of any products, software, or technology (including products derived from or based on such technology) received from us to any destination, entity, or person prohibited by the laws or regulations of the United States, or (2) use the product for any use prohibited by the laws or regulations of the United States and/or your local jurisdiction, without obtaining prior authorization from the competent government authorities as required by those laws and regulations.

17. Compliance with Laws and Regulations

We certify that to the best of our knowledge all goods and services are produced and supplied in compliance with all applicable federal, state, and local statutes, rules, regulations, ordinances, and orders.

18. Indemnity

As far as permitted by S.C. law, assume liability for any loss, damages, and expenses (including reasonable attorneys' fees and other costs of defending any action) that we may incur as a result of any claim of negligence, breach of implied warranty, strict liability in tort, or other theory of law, by you, your officers, agents or employees, your successors and assigns, and your customers, whether direct or indirect, in connection with the use or resale of any goods sold pursuant hereto either as a standalone product or a component part of another product, or by reason of your breach of or failure to perform any of your obligations hereunder, except to the extent provided in section 14.2 above or caused by a breach by us of the express warranty set forth in section 11 herein. You shall notify us promptly of any incident involving goods sold pursuant hereto resulting in personal injury or damage to property, and you shall fully cooperate with us in the investigation of such incidents and provide us with all relevant statements, reports and tests available to you.

19. Limitations of Actions

Any action for a breach of contract arising out of our acceptance of your order or arising out of your acceptance of goods or services supplied must be commenced within one year after the cause of action has accrued.

20. Headings

Headings are used for convenience only and shall not be taken into account in the interpretation of the operative portions hereof.

21. Severability

If one or more of these Terms are held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining Terms shall be unimpaired.

22. Miscellaneous

These Terms shall be governed by and construed in accordance with the laws of South Carolina, without giving effect to the principles of conflicts of laws. Our exercise of any option, or failure to exercise any rights hereunder shall not constitute a waiver of our rights to damages for breach of contract and shall not constitute a waiver of any subsequent failure, delay, or breach by you. We may assign our rights and/or obligations under these Terms to any person in whole or in part.

1/01/2014 Hookelabs, Inc.

OFFICE OF THE GENERAL COUNSEL
MUSC/MUHA

APPROVED AS TO FORM

By: Q. Casey
Date: 2/21/14

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