Azco Biotech, Inc General Terms of Sale

- 1. <u>Parties</u>: Azco Biotech, Inc. is hereinafter referred to as "Seller" and the customer is hereinafter referred to as "Buyer", collectively Azco and customer are referred to as "Parties".
- 2. <u>Agreement:</u> A quotation is provided as an offer by Seller, issuance of a purchase order or payment by the Buyer is considered acceptance of the offer and acceptance of the foregoing terms. The supply of products by Seller and payment by Buyer constitute mutual consideration to support the promises and creates a binding contract between the Parties.
- 3. <u>Integration</u>: This agreement between Buyer and Seller represents the entire agreement of the Parties and supersedes all other oral or written agreements between the Parties.
- 4. Payment: Seller's standard payment terms for goods sold within the U.S. are net due 30 days after shipment of the order by Seller. Seller's standard payment terms for goods shipped outside the U.S. are 100% prepayment prior to shipment. For Custom Manufactured products, such as the Dr. Oligo or Oligo Master systems, Seller requires 50% with purchase order and net upon shipment by Seller to Buyer.
- 5. <u>Price:</u> The price agreed to between the Parties is provided to Buyer via Seller's quotation, either formal or informal, the price supplied is in U.S. Dollars and unless otherwise agreed does NOT include shipping.
- 6. <u>Shipping</u>: Seller provides all products F.O.B. origin. Risk of loss passes to Buyer upon transfer of goods to a common carrier. Seller's standard shipping term is prepay and add costs to the final invoice. Shipping charges include the cost of shipping along with any packaging or crating charges.
- 7. <u>Taxes and Duties:</u> Sales taxes, duties and other Government imposed tariffs are the responsibility of the Buyer. Seller will charge sales tax in the State of California and add this tax to the invoice.
- 8. <u>Irrevocable Agreement</u>: Once Buyer receives the down payment from Seller towards the production of a *Custom Manufactured* product, or the purchase order if no down payment is required, the agreement becomes irrevocable and is binding on the Parties as well as their successors and assigns in interest. Custom Manufactured products are product that are not routinely stocked by Seller and made to requirements provided by Buyer, these products include, but are not limited to; Dr. Oligo 96, Dr. Oligo 192, Oligo Master LS, Oligo Master GS, custom dyes or phosphoramidites, and any other instrument or reagent made to the Buyer's requirements.
- Returns: Buyer may return products within 30 days after shipment by Seller for any reason subject to a 20% restocking
 fee. Custom Manufactured products, such as the Dr. Oligo or Oligo Master systems, are not returnable, once the down
 payment is received by Seller, the order is irrevocable.
- 10. Warranties: Seller expressly warrants that all goods supplied by Seller will conform strictly to the specifications, designs, drawings or samples provided by seller and are free from defects in material and workmanship, are merchantable and are fit ONLY for their intended use. Most nstruments provided by Seller include warranties, the length of the warranty will be specified on the quotation and agreed to between the Parties. Should any part fail during the warranty period due to normal wear and tear, the part will be replaced by Seller free of charge. Inside the U.S. Seller will include labor and travel expenses with the warranty. Outside the U.S. borders, unless otherwise agreed to, Seller's warranty does NOT include travel and labor charges and are PARTS ONLY. Additionally, Sellers warranties exclude failures due to user negligence, or unforeseeable acts such as floods, fire, earthquake, acts of terrorism, etc. Sellers warranties also specifically exclude consumable parts. The list of consumables is unique to each instrument and will be provided to Buyer at time of sale. Other than the warranties discussed supra, Seller makes no other warranties either express or implied including warranties of merchantability or fitness for intended use.
- 11. Research Use Only: All reagents supplied by Seller are intended for Research Use Only. Use of products for diagnostic or therapeutic use may be covered by proprietary rights not include by Seller to Buyer.
- 12. <u>Seller Liability Insurance</u>: Seller represents that it maintains a valid Liability Insurance Policy with Scottsdale Insurance. The limits of liability are: \$1,000,000 per incident and \$2,000,000 aggregate. Buyer may be named as an insured, Seller will provide a certificate representing Buyer as a named insured, the fee to be a named insured is \$150.
- 13. <u>Subcontractors and Assignments</u>: Seller retains the right to assign it's duties under this and all agreements to subcontractors. All other rights and liabilities of the Parties remain in full force and effect with any assignment.
- 14. <u>Disputes:</u> Disputes between the Parties will first be negotiated between the Parties. Should good faith negotiations fail, either party may file suit in a court of competent jurisdiction WITHIN THE STATE OF CALIFORNIA. All disputes shall be interpreted and governed in all respects according to the laws of the state of California.
- 15. Remedies: The Remedies between the parties are LIMITED to the value of the agreement. In no instance will Seller be liable to Buyer for Compensatory, Consequential or Punitive damages exceeding the value of the agreement between the parties. It is understood between the parties that Buyers loss of income or business opportunity due to delays or breach in performance by Seller are too speculative and are not compensable. If Buyer refuses to accept Sellers performance for any reason, after notification that Seller is ready to perform, Buyer agrees to pay Seller a "penalty" in the amount of 2% of the value of the agreement per month, or faction thereof, of delay.