

## TERMS and CONDITIONS

This Agreement contains the terms and conditions that apply to your purchase from the ProHisto LLC entity named on the invoice ("ProHisto") that will be provided to you ("Buyer" or "Customer") on orders for immunohistochemistry or immunodetection products and/or services and support sold in the United States, Canada, Mexico and central American countries directly by ProHisto. ("Region") By accepting delivery of the immunohistochemistry or immunodetection products and/or services and support described on that invoice, Customer agrees to be bound by and accepts these terms and conditions. THESE TERMS AND CONDITIONS APPLY (i) UNLESS THE CUSTOMER HAS SIGNED A SEPARATE PURCHASE AGREEMENT WITH PROHISTO WHICH CASE THE SEPARATE AGREEMENT SHALL GOVERN; OR (ii) UNLESS OTHER PROHISTO STANDARD TERMS APPLY TO THE TRANSACTION. These terms and conditions are subject to change without prior written notice at any time, at PROHISTO'S sole discretion.

1. **ACCEPTANCE:** Performance by ProHisto is expressly made conditional on Buyer's assent to the terms and conditions of this order acknowledgement. Buyer agrees to these terms and conditions which shall prevail over any inconsistent provisions in any form or other paper submitted by Buyer. Any additional or different terms in any Buyer request for quotation, acknowledgment, commencement, or purchase order shall constitute a counteroffer and such counter offer shall not be accepted by ProHisto without written approval by ProHisto. The provisions of any existing written contract between ProHisto and Buyer for the same goods or services shall take precedence over any inconsistent terms or conditions contained in any Order Acknowledgement from ProHisto. ProHisto may, from time to time, change or supplement these terms and conditions. These terms and conditions may NOT be altered, supplemented, or amended by the use of any other document(s). Any attempt to alter, supplement or amend this document or to enter an order for product(s) or services and support that are subject to additional or altered terms and conditions will be null and void, unless otherwise agreed to in a written agreement signed by both Customer and ProHisto.

2. **QUALITY:** All purchases are subject to ProHisto approval not withstanding prior payments and, if not in accordance with the specifications, may, at ProHisto's sole option, be returned to ProHisto at Buyer's expense for transportation. ProHisto reserves the right to change product specifications, quantities, designs or prices without notice and without liability for such changes.

3. **ACCEPTANCE TESTING:** Buyer may test any product provided by ProHisto for conformation to product specifications. Product specifications will be provided upon request. Buyer has fifteen (15) days to conduct acceptance testing and notify ProHisto of any non-conformities. Failure of the Buyer to conduct acceptance testing and notify ProHisto will be deemed acceptance of the product by the Buyer. In the event of a non-conformity, Invenca will repair, replace and / or credit the non-conforming item, at ProHisto's discretion. In the event of a repair or replacement, Buyer agrees to follow all of ProHisto's procedures and to bare the costs of returning the product to ProHisto.

4. **QUANTITY:** Any goods shipped by ProHisto in excess of the quantity designated in any Buyer Purchase Order or tolerance from quantity previously agreed to in writing may be returned at Buyer's sole expense. Buyer agrees to give reasonable notification to ProHisto that the goods in question are being returned.

5. **PRICE:** The price(s) set forth in any ProHisto Order Acknowledgement are firm and shall not be changed without the prior written consent of ProHisto. If no price is specified in the Purchase Order, the goods shall be invoiced at the current list price.

6. **PAYMENT:** Payment is due in full thirty (30) days from invoice date. Where other payment terms are specified on the Order Acknowledgement, payment shall be made in accordance with those terms and conditions. If Buyer's credit has not been established with ProHisto or Buyer has poor payment history as deemed by ProHisto, terms may be payment in advance or C.O.D. All shipments are F.O.B. factory unless otherwise agreed in writing. Items are shipped by a fast/standard method unless otherwise specified, with shipping charges and insurance prepaid and added as a separate charge on the invoice. A 1.5% per month service charge is added to delinquent accounts. In the event that it becomes necessary for ProHisto to incur collection costs or institute a suit to collect any amount due and payable, the customer (Buyer) agrees to pay such additional collection costs, charges, and expenses, including attorney's fees if the account is placed in the hands of an attorney or an agency for collection. Prices are subject to change without notice. Cancellation of orders is subject to approval by ProHisto. A minimum of 20% restocking/service charge will be applied.

7. **SHIPMENT:** Shipment of the goods shall be made in accordance with customary shipping practices for such goods. Unless otherwise stated in any Order Acknowledgement, no charge will be allowed for packing or boxing. Buyer shall absorb and pre-pay all shipping and insurance charges. Goods ordered in error or duplicated because mailed-in order and not clearly marked "CONFIRMING" will be subject to a 20% restocking charge, if approved by ProHisto.

8. **DELIVERY:** Buyer shall notify ProHisto immediately of any situation which may delay or threaten to delay the timely acceptance of services and / or receipt of goods. ProHisto, at its option, may cancel all or any portion of the Order without liability. Acceptance of all or part of the goods, or payment therefore, or failure to notify Buyer promptly shall not waive or affect ProHisto's right to cancel the order or recover damages.

9. **SERVICE AND SUPPORT:** ProHisto endeavors to provide excellent customer and technical support. For end-user Customers, ProHisto promises that its support service will attempt to manage over the telephone or by e-mail any problem involving ProHisto products. However, ProHisto may not be able to understand or resolve any given problem. ProHisto has no obligation to provide service or support until ProHisto has received full payment for the product or service/support contract for which service or support is requested. ProHisto will provide service and support to end users in the Region in accordance with the terms and conditions of the services and support policies and conditions in effect on the date purchased.

10. **RETURNS:** No returns will be accepted without prior authorization, and are subject to approval by ProHisto. If, for any reason, it is necessary to return goods to us, please contact ProHisto for forwarding instructions. This procedure will prevent delays and enable us to resolve the situation to your satisfaction. ProHisto is not liable for goods returned without authorization. Returns must be sent through a traceable carrier.

11. **RISK OF LOSS:** Unless otherwise specified in the Order Acknowledgement, risk of loss will pass to Buyer only after shipment of the goods by ProHisto. Should Buyer receive damaged goods, it is imperative that Buyer save all packing materials for inspection by the carrier. Once the goods are turned over to the carrier by us, they become Buyer's responsibility. While ProHisto will assist Buyer, all claims should be reported to the carrier immediately. Failure to do so makes Buyer, liable for payments of those goods should damage claims be rejected by the carrier. All claims must be made within 7 days of receipt of goods.

12. **WARRANTY:** ProHisto warrants that ProHisto holds clear title to all products transferred to Buyer under this agreement and is under no legal restraint which would prohibit transfer of possession or title to Buyer. ProHisto products are warranted to meet stated quality control specifications and to be free of known defects in material and workmanship. **Products or services are not warranted, nor does ProHisto assume any liability, if products are misused, improperly handled, improperly stored or contaminated while in Buyer's possession. No other warranty or representation is implied or expressed by PROHISTO for its products with respect to merchantability, fitness for a particular purpose, or any other matter.** ProHisto shall not under any circumstances be liable for any incidental, consequential or compensatory damages arising from the use of, or in conjunction with, its products. The maximum liability that can be assumed by ProHisto for breach of warranty shall be the invoice price of the product.

The products offered are for laboratory use only. Products are not intended for medicinal or food use. ProHisto assumes no responsibility if these products are used for medicinal or food purposes, or are misused in any way. ProHisto's products or services are not intended for clinical use and have not been cleared by the F.D.A. and are not CE marked. The information published by ProHisto is, to the best of its knowledge, correct and accurate but is not guaranteed to be so. ProHisto assumes no responsibility with respect thereto and has not verified the values or specifications stated experimentally and does not guarantee their accuracy. The sale of any product by ProHisto does not waive any patent restrictions connected with those products.

Defective products must be accompanied by a written explanation of failure. Approval is subject to the following exclusions:

a. All products must be tested upon receipt and all deficiencies must be reported to ProHisto no later than 15 days after the date of receipt of the column.

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b. Maximum warranty period is limited to 90 days on any product unless previously agreed upon in writing. Any labeling or other notice regarding shelf life of any product does not constitute any warranty period. Shelf life labeling or notice is a suggestion to assist Buyer's good lab practice and chemical hygiene.

c. Transfer of any liquid product from its original container voids any warranty and any right to claim.

d. Use of any liquid product with other similar liquid products from other manufacturers designed for a similar use voids any claim for warranty and any right to claim.

e. Removal or replacement of the original labeling voids any warranty and any right to claim.

f. Chemical contamination with any foreign substance voids any warranty and any right to claim.

g. Exposure to atomic radiation, excessive heat (100F) for any period exceeding one minute (Amplifier trays exempted), excessive UV radiation, X-rays, plasma arc, electrolysis or any other high energy source transmission shall void any warranty and any right to claim.

h. Incorrect selection of storage conditions or inadequate storage by customer for their particular use or incompatibility of equipment shall not constitute a warrantable event.

i. For products supplied by, but not manufactured by ProHisto, the warranty is limited by the terms of the original manufacturer's warranty.

j. Buyer agrees and represents that it is buying for its own end use only, and unless an authorized distributor of ProHisto not for resale or redistribution.

k. **Buyer/end-user warrants that they have sufficient knowledge, training, facilities and skills to safely use, store and dispose or recycle products provided by ProHisto.** Buyer also accepts products and any services under the condition that Buyer has adequate casualty, property and general liability insurance or surety bond.

13. **ASSIGNMENT:** Buyer shall not assign, in whole or in part, to any person, firm, corporation or governmental agency, its rights, interests or obligations under any Order Acknowledgement without prior written approval from Invenca.

14. **GOVERNING LAW:** These Terms and Conditions and any contract by any Purchase Order or Order placed hereunder shall be governed by the laws of the State of South Carolina without regard to its choice of law rules. Jurisdiction to resolve any dispute regarding these Terms and Conditions and/or Purchase Order is held by the state courts of the State of South Carolina located in the Counties of Richland or Greenville. Should the matter require federal jurisdiction, then jurisdiction shall be held by the federal courts located in South Carolina.

15. **SEVERABILITY:** If any provision or any portion of this Purchase Order is determined to be invalid or unenforceable, the remaining provisions of this Purchase Order shall not be affected thereby, and shall be binding upon ProHisto and Buyer, and shall be enforceable as though the invalid or unenforceable provision, or any part thereof, were not contained in this Order Acknowledgement.

16. **INDEMNITY:** Buyer and / or contractor will indemnify, defend and hold harmless ProHisto LLC and its equity affiliates or subsidiaries against all liabilities, losses and expenses, including counsel fees and disbursements, arising from the breach of any of these Terms and Conditions, or for personal injury or property damage relating directly or indirectly to the performance of any goods or service provided.

17. **CONFIDENTIALITY:** During the course of this agreement, ProHisto may disclose to Buyer or Buyer may become aware of information that Invenca deems proprietary and confidential. Buyer will maintain in confidence all ProHisto information disclosed by ProHisto to it or otherwise acquired by Buyer, its employees, agents or contractors, whether disclosed by ProHisto or otherwise acquired by Buyer prior to, on or after the effective date of this Agreement. During the term of this Agreement and for a period of five (5) years after its termination or expiration, Buyer will not, unless expressly authorized in writing by ProHisto and signed by an authorized representative of ProHisto: (i) disclose Confidential Information in any matter whatsoever, in whole or in part, to any third party, or (ii) use Confidential Information for any purpose other than the purposes of this Agreement. Buyer will return to ProHisto or destroy all copies of Confidential Information and any documents created by Buyer that incorporate Confidential Information to ProHisto upon ProHisto's request except that a single copy may be retained in Buyer's confidential files to monitor compliance with this Agreement.

Buyer will not use ProHisto's name in any publicity or advertising without ProHisto's prior written approval. The Buyer's obligation of non-disclosure and non-use will not apply to any information or data disclosed to it by ProHisto which: (i) is or becomes known to the public without fault of the Buyer; (ii) was known to Buyer or to the public prior to the disclosure of the information by Invenca to Buyer; (iii) is rightfully obtained by Buyer from a third party that has no obligation to Invenca prior to the disclosure of the information by ProHisto to Buyer; or (iv) was developed by Buyer without the benefit of any Confidential Information. Neither ProHisto nor Buyer will publicly disclose any information about this Agreement, including its existence, without the prior written consent of the other.

Should Buyer use a subcontractor or consultant for any portion of its performance under this Agreement, Buyer will require such subcontractor or consultant to execute a confidentiality and nondisclosure undertaking in substantially the same form as set forth in this section. Buyer agrees that under no circumstances will Buyer utilize any plans, drawings, sketches, specifications or any other writings given to them by ProHisto for any purpose other than expressly agreed upon and stated in the Order Acknowledgement. In addition, specific transaction volumes between ProHisto and Buyer will be treated as confidential. Buyer, without express written permission from ProHisto will, not make any news release, public announcement, denial or confirmation of any dealings Buyer has with ProHisto without prior written permission. ProHisto may at its discretion, publish or make a general reference regarding the Customer relationship but shall not mention any person or transaction volume by name or amount, respectively. If notified in writing by Customer/Buyer to cease using any general reference ProHisto agrees to comply.

18. **RECALLS:** Recall Notifications, if any, will be mailed to the "Ship To" address on the Order Acknowledgement.

19. **ADDITIONAL TERMS:** Any Order Acknowledgement may include additional terms as ProHisto may make a part hereof by attachment or incorporation by reference when specified on the face hereof.

20. **EXCUSE OF PERFORMANCE:** The obligation of ProHisto to provide products and services pursuant to purchase order(s) may be suspended in the event of: (i) act of God, war, riot, fire, explosion, accident or flood; (ii) lack of adequate fuel, power, raw material, labor, containers, transportation or facilities; (iii) compliance with governmental requests, laws, regulations, orders, or other required licenses or approvals; (iv) breakage or failure of machinery or apparatus; (v) national defense requirements or any other event beyond the reasonable control of Invenca; (vi) labor trouble, strike or lockout, provided that Invenca shall not be required to settle a labor dispute against its own best interest; (vii) any such event that prevents the delivery, transportation, or acceptance of the products or service.

21. **INDEMNIFICATION** Buyer agrees to indemnify, hold harmless and defend ProHisto from and against any and all liabilities, claims, penalties, forfeitures, suits and the costs and expenses incident thereto, including costs of defense, settlement, and reasonable attorney's fees, which it may hereafter incur, become responsible for or pay out as a result of injury to any persons, destruction or damage to any property, contamination or adverse effects on the environment, or any violation of governmental laws, regulations, or orders to the extent that such damage was caused by: (i) the breach by the Buyer of any term of this agreement, or (ii) any negligent or willful act or omission by the Buyer, the Buyer's employees, officers, directors, agents, or assigns.

22. **NOTICE:** Any notice to be given under this agreement required to be in writing shall be addressed and deposited with the United States Postal Service, postage prepaid and by facsimile transmission as follows:

To ProHisto : ProHisto, LLC  
Attn: Director of Operations  
7001 St. Andrews Road  
Suite 333  
Columbia, S.C. 29212  
Fax No: (803) 407-0260

To Buyer: To the address listed on the Order Acknowledgement.

Should either party's address change, written notification must be sent certified mail return receipt ten (10) days in advance of when the change of address is to be in effect for purposes of this Agreement.