

TERMS AND CONDITIONS

IMPORTANT: THESE TERMS AND CONDITIONS CONSTITUTE A BINDING AGREEMENT BETWEEN BLUE HERON BIOTECH, LLC. AND THE USER OF THIS WEBSITE AND LINKED PAGES HOSTED BY BLUE HERON FOR USE IN ITS ORDERING PROCESSES (collectively referred to as “Website”). READ THESE TERMS AND CONDITIONS BEFORE YOU PROCEED. BY PLACING AN ORDER WITH BLUE HERON THROUGH THIS WEBSITE, YOU CONSENT TO BE BOUND BY THESE TERMS AND CONDITIONS.

These Terms and Conditions set forth the entire agreement (this “Agreement”) applicable to the manufacture and supply by Blue Heron Biotech, LLC., a Delaware corporation (“Blue Heron”), of products (the “Products”) for sale to the user of this Website (“Customer”).

1. **PRODUCTS and ORDER PLACEMENT.** All Products will be manufactured according to detailed specifications (the “Specifications”) provided by Customer in the applicable order (the “Order(s)”) placed through <https://www.blueheronbio.com> (“Website”). Customer shall be solely responsible for assuring that valid passwords for the Website are at all times made available to only its appropriately authorized personnel. Blue Heron supplies the Products solely for research use by Customer. While such research may lead to various uses or applications of progeny or derivatives of the Products, the Products themselves are not made to GMP standards and are not intended for use in humans. Customer affirms that it will take all necessary action to prevent any other use or release of the Products.

2. **SELECT AGENTS.** Customer shall notify Blue Heron prior to the submission of any Specifications that in whole or in part may include or relate to any plant, animal or human pathogen, prion or toxin, including without limitation those published on the Website or by any legal authorities, including without limitation the Select Agent list published from time to time by the US Centers for Disease Control and Prevention (currently at <http://www.cdc.gov/od/ohs/lrsat.htm>). Where Blue Heron reasonably determines after consultation with Customer that any Order or Specifications call for the production of any hazardous or infectious materials or agents, Blue Heron may be required, and in any event reserves the right, to consult with appropriate authorities to confirm Customer’s possession of the necessary permits for possession, transport and use of such materials.

3. **CONFIDENTIALITY and OWNERSHIP.** Blue Heron acknowledges that the Specifications shall remain Customer’s property. Accordingly, Customer will retain intellectual property rights in and title to the Products, and Blue Heron acknowledges that it obtains no rights therein other than for purposes of its fulfillment of the applicable Order. Blue Heron shall treat the Customer’s Specifications as confidential except to the extent any of the same (a) was publicly available at the time it was disclosed or later become so available through no fault of Blue Heron; (b) was previously known to or was independently developed or acquired by Blue Heron; or (c) is disclosed pursuant to section 2 or any applicable law, subpoena or under court order or other legal process, whether executive, administrative, legislative or judicial.

4. **PRICING and PAYMENT.** Unless Blue Heron otherwise separately agrees in writing in particular instances, the prices for the Products shall be as stated on the Website, subject to such changes in pricing of which Blue Heron may subsequently notify Customer from time to time (either directly or on the Website). Any revised pricing will be applicable to Orders submitted following such notice. All prices are FOB Blue Heron’s facility and are exclusive of shipping and handling and all domestic and foreign taxes, excises, duties and the like, and Customer shall be responsible for paying these amounts in addition to the quoted prices. Any Customer changes to an Order following its acceptance but prior to substantial completion will be subject to an additional change order fee of 35% of the original price. Payment terms are net thirty (30) days from the date of Product shipment to Customer. Customer cancellation of any Order (including any changes requested following substantial completion) will be subject to a cancellation fee of 50% of the original price, payable upon receipt of invoice.

5. **SEQUENCE GUARANTEE.** Blue Heron will exert its reasonable efforts in the ordinary course of its business to assure that the Products conform to the applicable Specifications. If any delivered Product fails to conform to the Specifications, Customer must provide Blue Heron with written notice within ten days after Product shipment, describing in detail any sequence or other discrepancy. If no such notice is provided to Blue Heron, the delivered Products will be conclusively deemed accepted by Customer without reservation. Blue Heron will, AS

CUSTOMER'S EXCLUSIVE REMEDY AND BLUE HERON'S SOLE OBLIGATION, either replace any non-conforming Products at no additional charge to Customer, or, where Blue Heron reasonably determines that such replacement would be impracticable or that it otherwise cannot successfully or safely manufacture conforming Products, Blue Heron shall cancel the Order (without cancellation fee) and refund to Customer any payment made for the Products.

6. NO WARRANTY. THE PRODUCTS ARE PROVIDED TO CUSTOMER "AS-IS" AND WITHOUT INDEMNITY OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AND WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR OTHERWISE. BLUE HERON WILL NOT DETERMINE, AND MAKES NO RECOMMENDATIONS AS TO, THE USES TO WHICH CUSTOMER MAY APPLY THE PRODUCTS OR THEIR PROGENY OR DERIVATIVES. CUSTOMER, AND NOT BLUE HERON, SHALL BE LIABLE FOR ANY USE OF THE PRODUCTS OR THEIR PROGENY OR DERIVATIVES, AND FOR ANY RECALL, LOSS, CLAIM, DAMAGE OR LIABILITY OF ANY KIND OR NATURE, WHICH MAY ARISE FROM OR IN CONNECTION WITH THE USE, HANDLING OR STORAGE OF THE PRODUCTS OR THEIR PROGENY OR DERIVATIVES AFTER DELIVERY TO CUSTOMER.

7. LIMITED LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BLUE HERON SHALL IN NO EVENT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR ITS PERFORMANCE OR BREACH, INCLUDING WITHOUT LIMITATION, LOST PROFITS, WHETHER OR NOT BLUE HERON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER OR NOT ANY LIMITED REMEDY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL BLUE HERON'S AGGREGATE LIABILITY UNDER OR IN RELATION TO THIS AGREEMENT OR THE SALE OF THE PRODUCTS EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER TO BLUE HERON FOR THE PURCHASE PRICE OF THE PRODUCTS UNDER THIS AGREEMENT.

8. GOVERNING LAW. This Agreement and all related acts and transactions shall be governed, construed and interpreted in accordance with the laws of the State of Washington, USA, without giving effect to principles of conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or to any purchase or sale of Products.

9. FORCE MAJEURE. If Blue Heron is in whole or in part unable to perform any of its obligations under this Agreement due to causes beyond its reasonable control, including without limitation fire; casualty; flood; unusually severe weather; earthquake; actual or imminent war, terrorism, riot, or insurrection; epidemic; facilities destruction; unavailability of materials or means of transport; or law or regulation (whether existing or changed), such performance shall be excused or the time for such performance shall be extended.

10. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the parties pertaining to the sale of the Products. Except with respect to Customer's Specifications and quantities ordered, or as otherwise explicitly approved in writing by Blue Heron in each instance, Customer agrees that the terms and conditions of this Agreement supersede and shall govern over any and all previous or subsequent Customer ordering forms or terms of purchase, all of which are hereby rejected by Blue Heron. No course of performance by Blue Heron will constitute Blue Heron's acceptance of any such Customer forms or terms of purchase.

If you agree to enter this Agreement under these Terms and Conditions, please so indicate by clicking the "I ACCEPT AND AGREE" button below. Otherwise, click "Back" or the "I DISAGREE" button and you will exit this Website.