

## TERMS OF SALE

# To set up an account or place an order with Stallergenes Greer, please contact a Customer Care Specialist at **800.378.3906**

### STALLERGENES GREER - TERMS AND CONDITIONS OF SALE AND SERVICE

**NOTICE:** ALL TRANSACTIONS BETWEEN GREER LABORATORIES, INC., A NORTH CAROLINA CORPORATION D/B/A “**STALLERGENES GREER**” (TOGETHER WITH ITS AFFILIATES, COLLECTIVELY “**SELLER**”) AND BUYER (TOGETHER WITH ITS AFFILIATES, COLLECTIVELY, “**BUYER**”), AND ALL DOCUMENTS PERTAINING TO SUCH TRANSACTIONS, ARE SUBJECT TO AND CONDITIONED UPON THESE TERMS AND CONDITIONS OF SALE AND SERVICE (“**TERMS**”) AND THESE TERMS ARE INCORPORATED BY REFERENCE INTO AND ARE A PART OF ALL TRANSACTIONS BETWEEN SELLER AND BUYER. NO TERM CONTAINED IN ANY BUYER CORRESPONDENCE OR ANY SALES DOCUMENTS ISSUED BY BUYER, OTHER THAN BUYER’S ACCEPTANCE OF THESE TERMS, SHALL BECOME A PART OF THE TRANSACTION BETWEEN THE PARTIES OR BIND.

### Order Process; Acceptance

“**Sales Documents**” include any Other Written Agreement (as defined below), quotation, proposal, statement of work (“**SOW**”), service request, order confirmation, order acceptance, and invoice of Seller issued in writing (including via email or electronically) by an authorized representative of Seller. Buyer’s purchase of Products (defined below) from Seller, and any Services (defined below) will be governed solely by these Terms and any applicable Sales

Documents issued by Seller in connection with such Products and Services (collectively, the “**Contract**”). All sales of products and any other goods sold by Seller (individually, “**Product**” and collectively, the “**Products**”) and any services performed by Seller (“**Services**”) are subject to [final written acceptance] in North Carolina by Seller [through the execution of a mutually executed written agreement between Seller and Buyer relating to the purchase of Products or Services (each, an “**Other Written Agreement**”) and no orders are binding on Seller until so accepted]. Seller’s catalog and any quotations do not constitute an offer to sell Products or Services and are subject to change prior to the execution of an Other Written Agreement. In the event an inconsistency exists between these Terms and an Other Written Agreement, the terms of such Other Written Agreement shall prevail to the extent of such inconsistency. Buyer may order Products by executing an Other Written Agreement with Seller that references the name and number of the Product(s), quantity per Product, requested delivery date, account number, vial size and dilution, aqueous or glycerinated formulation, and skin prick test or multiple dose vial as shown in the catalog. Prior to accepting an Other Written Agreement, Buyer’s Physician license must be on file with Seller and proper identification will be required from institutions. Buyer may request Services by submitting an SOW describing Services and referencing a performance date.

### Shipping and Handling, Price; Payment

All prices for Products and Services will be as stated in writing by Seller in its Sales Documents and, prior to Seller’s written acceptance of an order,

prices are subject to change by Seller at any time without notice. If no price has been stated in the Sales Documents, the price will be as set forth on Seller’s standard price in its catalogs or price lists in effect at the time of delivery, and as increased to account for costs of changes or modifications to the Products or Services for the particular Contract. Seller will arrange shipment consistent with Buyer’s designated delivery date, and at Buyer’s expense for all customs, duties, and fees. Shipping and insurance charges are prepaid and will be added to the invoice in addition to the stated price. In addition to any shipping or insurance charges, Seller reserves the right to charge additional handling, processing, picking, packing, crating, storage, coordination, or similar fees, which shall be stated separately on the Sales Documents. Additionally, Seller shall have no obligation to pass along all or any discounts or rebates it may receive from any handler, shipping carrier, third-party transportation provider, or similar vendor. Unless otherwise requested by Buyer, extracts are shipped overnight for next-day delivery and all other Products ship via UPS 3 Day Select® or Ground. Shipments with ice packs are available upon Buyer’s written request, for an additional charge. In the event that, between the date of the order on the Sales Documents and the date of delivery of the Products, there is an increase in cost to manufacture and/or to deliver the Products for any reason, then, unless expressly stated otherwise in Seller’s Sales Documents, Buyer agrees that Seller may: (i) add the amount of such increase to the price of the Products; or (ii) cancel the Contract without liability. Unless expressly stated otherwise in the Sales Documents, prices for Products shall assume delivery is made FOB, Seller’s facility in Lenoir, North Carolina, excluding standard packing, assembly, disassembly, handling, shipping, transportation, or other in-transit costs.

## Payment Terms; Minimum Order

All invoices and payments will be in US Dollars. Unless expressly stated otherwise in the Sales Documents, payment terms are cash on, or prior to, delivery of Products or prior to the performance of any Services. Buyer shall timely pay all amounts due in full, and without deduction or setoff regardless of any dispute that may arise between Buyer and Seller, net without discount for shipping or other transfer, regardless of any dispute or controversy that may arise. A minimum order of \$25 is required.

## Inspection; Acceptance

Buyer shall inspect all Products and Services immediately upon their delivery or performance, and prior to use or resale. Immediately and no later than seven (7) days after delivery of a Product or completion of a Service, Buyer must give written notice to Seller of any claim Buyer makes based upon any alleged shortage, defect, or discrepancy of Products sold or Services provided, based upon the condition, grade, patent defects in, or quantity of Products or Services, and such notice must indicate the basis of the claim in detail, state the invoice number, invoice date, SOW, and information, such as a serial number, on the Product itself or the Product label or packaging. Buyer's failure to comply within the time specified in this Section 4 constitutes Buyer's irrevocable acceptance of Products delivered or Services performed and will bind Buyer to pay to Seller the full price of such Products and Services.

## Returns

Buyer must contact one of Seller's Customer Care Specialists at 800.378.3906 for prior approval for all Product returns. Any shipping error must be reported within 7 days of receipt of the order. A Return Materials Authorization Number must accompany all product returns to Seller within 10 days of the return notification. Buyer shall pre-pay any other transportation charges for any authorized returns of Products. Buyer specifically acknowledges and agrees that Products custom manufactured for Buyer cannot be returned.

## Insurance

Upon request by Seller from time to time, Buyer will deliver to Seller a current certificate of insurance evidencing product and commercial liability coverage of not less than \$5 million per occurrence.

## Limited Warranty

Subject to the provisions in these Terms and in the Sales Documents: (i) for Products manufactured by Seller, Seller warrants only that at the time of delivery solutions in unopened and undamaged vials are sterile and correctly labeled; (ii) for Products not manufactured by Seller, SELLER MAKES NO WARRANTY AS TO SUCH PRODUCTS, and Seller shall only assign to Buyer, to the extent Seller is authorized by the manufacturer to do so, all manufacturer's warranties as to those Products; and (iii) when Services are performed, unless applicable law, regulation, or professional standards require a different warranty, Services will have been performed in a workmanlike manner (collectively,



the **“Limited Warranty”**). Unless expressly stated otherwise in the Sales Documents, the Limited Warranty shall expire: (a) one (1) month from the Delivery Date for Products; or (b) for Services, seven (7) days after the completion of such Services (collectively, the **“Warranty Period”**). Buyer must give Seller detailed written notice of any Products or Services which Buyer alleges do not conform to the Limited Warranty, which must be made within seven (7) days after Buyer is aware of the alleged non-conformity and, in any event, within the Warranty Period. For any Products that Seller determines do not conform to the Limited Warranty, Seller’s sole liability and obligation, and Buyer’s sole and exclusive remedy, will be, at Seller’s choice, to replace such non-conforming Product, or to refund the purchase price for such non-conforming Product. For any Services which Seller determines do not conform to the Limited Warranty, unless required otherwise by applicable law, regulation, or professional regulatory body, Seller’s sole liability and obligation, and Buyer’s sole and exclusive remedy, will be, at Seller’s choice, to correct or repeat such Services. EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY PROVIDED IN THIS SECTION 7, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, STATUTORY OR OTHERWISE, REGARDING OR RELATING TO PRODUCTS, SERVICES, OR ANY CONTRACT, AND SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS AND IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO PRODUCTS AND SERVICES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

### Limitation of Liability

SELLER’S MAXIMUM AGGREGATE LIABILITY UNDER, ARISING OUT OF, OR RELATING TO A CONTRACT, OR PRODUCTS OR SERVICES WILL NOT EXCEED THE AMOUNT BUYER PAID TO SELLER FOR THE PARTICULAR PRODUCTS OR SERVICES AT ISSUE, REGARDLESS OF THE THEORY OF RECOVERY. UNDER NO CIRCUMSTANCES

SHALL SELLER OR ITS AFFILIATES BE LIABLE TO BUYER FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE THEORY OF RECOVERY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE TERMS CONTAIN BUYER’S SOLE AND EXCLUSIVE REMEDIES RELATING TO THESE TERMS, A BREACH OF THESE TERMS, THE SALES DOCUMENTS, OR THE PRODUCTS, OR SERVICES, REGARDLESS OF THE THEORY OF RECOVERY.

### Indemnification

Buyer shall indemnify and defend Seller and its affiliates, and their respective officers, directors, employees, and agents from all claims, losses, expenses (including attorney’s and expert witness fees), causes of action, damage to persons or to property, and liabilities of every kind, arising directly or indirectly from fulfillment of the Agreement, the sale of Products or Services or Buyer’s breach of its representations or covenants hereunder or under any Sales Document.

### Confidentiality; Intellectual Property; No License

Buyer shall keep confidential Seller’s trade secrets and any other proprietary and/or confidential commercial information, including the existence of a relationship with Seller, and shall not disclose any such information to any third party without Seller’s prior written permission. Buyer acknowledges and agrees that all such proprietary and/or confidential information and other property will remain the property of Seller and its affiliates. All intellectual property rights currently existing or arising out of or in connection with the Products or Services shall be the sole and exclusive property of Seller and its affiliates.



## Reputable Seller

Buyer represents to Seller that: (a) neither Buyer nor its employees, affiliates, representatives, or agents have been debarred, suspended, or proposed for debarment by any federal, state, or local agency (“**Ineligible Person**”); and (b) it shall notify Seller immediately if any such person or entity becomes listed as an Ineligible Person. If any such person or entity becomes an Ineligible Person or Seller learns that Buyer’s representations were false, Seller shall have the right to terminate any Contract or business relationship with Buyer, whether covered by the Agreement or otherwise, immediately, in addition to any other remedy available to Seller.

## Assignment

Buyer may not assign or transfer any Contract or any interest therein or monies payable thereunder without the prior written consent of Seller.

## Governing Law; Venue

Each Contract is governed by the laws of the State of North Carolina, without giving effect to its choice of law provisions. Buyer consents to the personal jurisdiction of the North Carolina State Courts and the United States District Court for the Western District of North Carolina, and Seller and Buyer agree that such courts shall constitute the sole and exclusive judicial forum(s) and venue for the resolution of any and all matters, disputes, and controversies arising out of or relating to a Contract, the Products or Services, or these Terms.

## Entire Agreement

Unless mutually agreed upon in writing elsewhere, a Contract, including these Terms, constitutes the sole and exclusive agreement between the parties pertaining to Products, and supersedes all previous and contemporaneous agreements, understandings, proposals, negotiations or discussions, usages of trade, and courses of dealing, whether written or oral, between the parties.

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