

Terms and Conditions of Sale

Your purchase of CoronaCheck™ Rapid Test (also referred to as the “product”) is subject to the following terms and conditions (this “Agreement”):

1. Your Acknowledgements.

1.1 You understand and acknowledge that the CoronaCheck™ Rapid Test has limitations on its performance that are specifically identified by the U.S. Food and Drug Administration (“FDA”) in its *Policy for Diagnostic Tests for Coronavirus Disease-2019 during the Public Health Emergency*, issued on March 16, 2020 (“March 16 FDA Policy Statement”).

1.2 You understand and acknowledge that this test has not been reviewed by the FDA.

1.3 You understand and acknowledge that negative results do not rule out SARS-CoV-2 infection, particularly in those who have been in contact with the virus. Follow-up testing with a molecular diagnostic should be considered to rule out infection in these individuals.

1.4 You understand and acknowledge that results from antibody testing should not be used as the sole basis to diagnose or exclude SARS-CoV-2 infection or to inform infection status.

1.5 You understand and acknowledge that positive results may be due to past or present infection with non-SARS-CoV-2 coronavirus strains, such as coronavirus HKU1, NL63, OC43, or 229E.

1.6 You understand and acknowledge that (i) false positives and false negatives occur with the CoronaCheck™ Rapid Test and additional testing and appropriate follow-up is required, (ii) patients should not avoid swab testing based on the results of the CoronaCheck™ Rapid Test and (iii) we are not authorized by the March 16 FDA Policy Statement to sell CoronaCheck™ Rapid Test to consumers for home use; only to medical professionals for point-of-care.

1.7 You understand and acknowledge that we are not the manufacturer of the CoronaCheck™ Rapid Test, solely the distributor, and that we are relying on the performance characteristics of the CoronaCheck™ Rapid Test disclosed to us by the manufacturers of the product. We do not and have not independently evaluated the product.

1.8 You understand and acknowledge that the test may not detect the presence of the virus during the 14 day incubation period prior to onset.

2. Cancellation and Changes; We have No Obligation to Fulfill Orders; Shortages.

2.1 Once you have placed your order, you cannot cancel or change it without our written consent.

2.2 Your placement of an order for CoronaCheck™ Rapid Test does not in any way guarantee your order or obligate us to fulfill your order. We do not guarantee that we will be able to fulfill your order, given the potential shortage of the product. We reserve the right to apportion products then available for delivery among our customers. In the event that an order is not fulfilled in whole or in part, your only remedy will be our refund to you of the price actually paid for the product.

3. Shipping; Risk of Loss and Title. Your order of CoronaCheck™ Rapid Test may not begin to ship until up to 30 days following submission of your order online, and once shipping commences, the length of delivery time will vary. Title to and risk of loss of the product will pass to you when the product is loaded onto the commercial carrier for delivery to you.

4. Taxes and Fees. Our product prices do not include any taxes, duties, levies or other government fees that may apply to your order. If they apply, it will be your responsibility to pay them. If we pay them, we will invoice you for them. If you claim any exemption, you must provide a valid, signed certificate or letter of exemption for each respective jurisdiction.

5. Returns

5.1 CoronaCheck Customer Services must pre-authorize all product returns. CoronaCheck Customer Services will approve return of any product that is damaged on receipt, provided you contact CoronaCheck Customer Services within five days after receiving the product and provided such damage or defect has not been caused by any failure by you or the carrier to handle or store products using reasonable care or as otherwise indicated on the label. If you do not contact us within this five day period, we will deem the product to be accepted.

5.2 If we exercise our discretion to authorize a product for return then the product must arrive at our facilities in a condition satisfactory for resale. Any return not due to our error is subject to a restocking charge of 25% of the sale price. We do not credit shipping charges. You will not receive credit for any product returned without our prior consent.

6. No Warranties

6.1 THE PRODUCT IS PROVIDED "AS IS" WITHOUT REPRESENTATION, WARRANTY OR INDEMNITY OF ANY KIND, EITHER EXPRESS, OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES (a) OF MERCHANTABILITY; (b) OF FITNESS FOR ANY PARTICULAR PURPOSE; (c) THAT THE PRODUCTS ARE ERROR-FREE OR WILL ACCOMPLISH ANY PARTICULAR RESULT; (d) NON-INFRINGEMENT; AND/OR (e) THE USE OF THE PRODUCT WILL MEET THE USER'S REQUIREMENTS OR WILL BE ERROR-FREE.

7. Intellectual Property

7.1 Ownership. As between you and us, we exclusively own or license all intellectual property rights relating to our products.

7.2 Intellectual Property Infringement. We want to avoid claims of intellectual property infringement. If we believe a product we have sold to you may be subject to a claim for intellectual property infringement, you must allow us (at our option) to either (a) secure for you the right to continue using the product; (b) substitute the product with another suitable product with similar functionality; or (c) tell you to return the product to us and we will refund to you the price you paid.

8. Limitations and Exclusions of Liability

(A) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE WILL NOT 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, PUNITIVE, MULTIPLE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO ALL COSTS OF COVER, LOST PROFITS, LOST DATA, LOSS OF BUSINESS, LOSS OF GOODWILL OR LOSS OF REVENUE) THAT YOU MIGHT INCUR UNDER THE AGREEMENT, OR THAT MAY ARISE FROM OR IN CONNECTION WITH OUR PRODUCTS, EVEN IF WE HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

(B) IN ADDITION, OUR MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, OR ANY PRODUCT, IS LIMITED TO 200% OF THE AMOUNT YOU PAID TO US FOR THE SPECIFIC PRODUCT PURCHASED THAT GAVE RISE TO THE LIABILITY.

(C) THE PROVISIONS ABOVE IN THIS SECTION 8 DO NOT LIMIT OUR LIABILITY, IF ANY, THAT CANNOT BE LIMITED BY LAW.

9. Miscellaneous

9.1 No Assignment. You may not delegate any duties nor assign any rights or claims hereunder without our prior written consent, and any such attempted delegation or assignment will be void.

9.2 Governing Law; Arbitration. The Agreement and performance under it will be governed by the laws of the state of Maryland, without recourse to its conflicts of laws provisions. Any action arising under the Agreement must be brought within one year from the date that the cause of action arose. The U.N. Convention on Contracts for the International Sale of Goods is hereby expressly excluded. Any dispute, controversy or claim arising out of or in any way related to this Agreement or the CoronaCheck™ Rapid Test shall be resolved by mediation and arbitration held in Montgomery County, Maryland in accordance with the commercial mediation and arbitration rules of the American Arbitration Association as then in effect. Any arbitration proceeding will be heard by three (3) arbitrators, one (1) designated by each party within thirty (30) days of submission of the notice of arbitration and the third selected by the party designated arbitrators no more than thirty (30) days later, whose decision shall specify findings of fact and conclusions of law. Judgment on the arbitrators' award may be entered in any court having appropriate jurisdiction.

9.3 Restrictions. (a) You must use our products in accordance with our instructions; (b) you are solely responsible for making sure that the way you use our products complies with applicable laws, regulations and governmental policies; (c) you must obtain all necessary approvals and permissions you may need; and (d) it is solely your responsibility to make sure the products are suitable for your particular use.

9.4 Uncontrollable Circumstances. We will not be responsible or liable for failing to perform our obligations under the Agreement to the extent caused by circumstances beyond our reasonable control.

9.5 No Waiver; Invalidity. Our failure to exercise any rights under the Agreement is not a waiver of our rights to damages for your breach of contract and is not a waiver of any subsequent breach. If any provision or part of the Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of the Agreement. No person other than you or us will have any rights under the Agreement.

9.6 Headings. Headings are for convenience only and shall not be used in the interpretation of this Agreement.

9.7 Confidentiality. You agree to keep confidential any non-public technical information, commercial information (including prices, without limitation) or instructions (including any gene sequences, oligo types or sequences) received from us as a result of discussions, negotiations and other communications between us in relation to our products.

9.8 Notices. Any notice or communication required or permitted under this Agreement must be in writing and will be deemed received when personally delivered, or 3 business days after being sent by certified mail, postage prepaid, to a party's specified address.

9.9 Amendment. No waiver, consent, modification, amendment or changes to the terms of this Agreement will be binding unless in writing and signed by both of us. Our failure to object to terms contained in any subsequent communication from you will not be a waiver or modification of our Agreement.

9.10 Severability. Any provision of the Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.