

## PURCHASING TERMS AND CONDITIONS

THIS PURCHASE ORDER SHALL NOT BECOME BINDING UNLESS THE ACCEPTANCE COPY HEREOF HAS BEEN SIGNED BY SELLER AND RETURNED TO SURGICAL COATINGS, LLC ("Buyer"), EXCEPT THAT SHIPMENT BY SELLER OF ANY GOODS ORDERED HEREUNDER OR DELIVERY TO BUYER OF ANY GOODS ORDERED HEREUNDER SHALL CONSTITUTE ACCEPTANCE BY THE SELLER OF THIS ORDER ACCORDING TO ITS TERMS AND CONDITIONS.

In all cases, these Terms and Conditions supersede and override the Seller's Terms and Conditions.

1. QUALITY, WARRANTIES, REJECTION OF NONCONFORMING GOODS: Seller warrants that goods furnished will meet Buyer's specifications and, therefore, or in the absence of specifications, will conform to Seller's samples approved by Buyer before placement of the order and will be merchantable and fit for the Buyer's purpose. Payment of invoices shall not be deemed an acceptance by the Buyer of goods hereunder. Buyer may reject at any time all goods that do not conform, patently or latently, either to specifications or, if none have been specified, to specifications standard in the industry. Upon receipt of defective goods, the Buyer may cancel any undelivered portion of the order. Buyer may return at Seller's expense, within 90 days after delivery of any goods with patent defects or which are patently nonconforming for credit or replacement at a price charged. Buyer, at its option and without notice to Seller, may retain and repair such goods and deduct the cost of such repairs, including factory overhead at its standard rate, from the purchase price thereunder, or if Buyer has already paid, Seller will reimburse Buyer on demand for all such costs. Buyer may return, at any time and at Seller's expense, any goods with latent defects, or make such repairs thereon as may be required upon discovery of such latent defects and recover from Seller the costs of such repairs in accordance with the preceding sentence. The preceding shall not be in limitation of any rights which Buyer may have at law or in equity because of any breach of warranty, express or implied.

Buyer shall not be liable for any special, incidental, or consequential damages based on breach of contract, warranty, or any other cause whatsoever.

2. MODIFICATION OF AGREEMENT: No modification of this order shall be binding upon Buyer unless made in writing and signed by the authorized representative of Buyer executing this order or his successor.
3. SHIPPING DOCUMENTS/ INVOICES: The bill of lading or other shipping documents for each shipment shall be mailed to the Buyer promptly within the day following shipment, accompanied by invoices as hereinafter provided. Seller's invoices shall be: dated the date on which the goods are accepted by the transportation company, forwarded to Buyer for each separate shipment made against this order, and shall show on separate lines the portions of such shipment which correspond to items from separately numbered orders of Buyer. Seller's invoices shall show Buyer's order number and Seller's item code if applicable. All shipments must be accompanied by packing lists showing the Buyer's order number, description of the material, and quantity. Containers owned by Seller to be returned must bear Seller's name. Goods received by Buyer not covered by any invoice may be held at Seller's risk and expense or returned to Seller at Seller's expense.
4. CANCELLATION: Buyer may, at its option, cancel this order at any time, in whole or in part, by delivery or mailing of written notice thereof to Seller, provided that in such event, Buyer shall reimburse Seller for its unrecovered costs resulting from such Cancellation. The Seller must mitigate such costs.
5. CHANGES: Buyer may, at any time by written change order, make changes in (1) drawings, designs, and/or specifications applicable to the goods covered by this purchase order (2) the method of shipment and packing and/or (3) the place of delivery. If any such changes cause a variation in the cost of furnishing the goods covered hereby, the price of such goods shall be changed in the same ratio, provided, however, that Seller must notify, in writing, and get an approval of Buyer for such change. If any such changes cause an increase or decrease in the time required for performance, a corresponding change shall be made in the delivery date, and the order modified in writing accordingly. **Seller shall not make any changes in the design or composition of any goods ordered hereunder without the prior written approval of Buyer.**
6. EXCESS QUANTITIES: Shipments in quantities greater than ordered shall not be accepted unless authorized in writing by the Buyer and may be returned at Seller's expense.
7. DELIVERY/FORCE MAJEURE: Time is of the essence. 100% ON-TIME DELIVERY IS REQUIRED. Delivery must be at the place and within the time stated on the face hereof. Buyer may cancel the order if the delivery is not so made. Seller shall not be liable for delay in delivery or failure to perform any agreement hereunder resulting in whole or part from acts of God, fire, or other casualties, war or warlike activity, civil commotion, government action, strikes, delays in Seller's source of supply, transportation delays or other causes, whether similar or dissimilar, which are beyond the

reasonable control of Seller. Seller shall notify Buyer promptly as soon as it knows or has reason to believe that any delays in the delivery called for herein may occur. In the event of a failure by Seller to perform hereunder arising from any of the causes or events set forth in the preceding sentence, Buyer shall be entitled to obtain elsewhere goods covered by this order for the duration of such failure and to reduce the number of goods ordered from Seller under this order without any obligation on Buyer's part with regard to such goods. Except to the extent Seller is notified by Buyer, according to the preceding sentence, of Buyer's reduction in the number of goods ordered under this order, delivery of less than all the goods ordered shall not relieve Seller of its obligation to deliver all of the goods hereunder.

8. PRICE: If price is not shown on this order, Seller agrees to sell at a not higher price than that at which the item or items were last sold or at the lowest prevailing market price, whichever is lower, unless Buyer has been notified and has agreed to a different price. If at any time during the pendency of this order, lower net prices are quoted to any person or party for similar items, such lower net prices shall be substituted for the prices contained herein for the term of the lower quotation. Seller agrees to list separately on the invoice any applicable sales, use, turnover, purchase, luxury or similar taxes, customs, duties or charges. If such items are not so separately listed, the number of such items will be considered as included in the total price shown on such invoice. No charge shall be allowed by Buyer for packing or crating unless specified herein. Deposit charges for containers owned by and to be returned to Seller must be separately shown on packing slips and invoices.
9. TERMS OF PAYMENT: Invoices allowing a discount for prepayment shall state clearly the terms and conditions of such discount. All such terms and conditions shall be accepted by Buyer and shall be considered part of the terms and conditions hereof.
10. VERIFICATION OF SUBCONTRACTED PRODUCT: Seller agrees to allow on-premise verification that the purchased product conforms to specified requirements by Buyer or its customer(s), as required.
11. INDEMNIFICATION: Seller agrees to indemnify and save harmless Buyer, its divisions and/or subsidiaries and successors, assigns, customers, and agents from and against all claims, suits, damages, costs, losses, and expenses, including attorneys' fees, in any manner resulting from or arising out of any goods purchased hereunder.
12. GOVERNMENTAL REGULATIONS: Seller warrants that all goods ordered hereunder conform to all applicable Federal, State and local law regulations, including all labeling requirements. All invoices must bear a certification that the goods covered thereby have been produced in accordance with all such laws and regulations, including but not limited to the Fair Labor Standards Act of 1938, as any of such laws and regulations are from time to time in effect. Seller agrees to comply with all currently effective price controls and priorities laws and regulations, if any.
13. BUYER'S INTELLECTUAL PROPERTY RIGHTS AND TOOLS: Any and all designs, documents, processes, know-how, inventions or data furnished by Buyer or prepared at Buyer's direction, including all information relating thereto, as well as any and all improvements or modifications thereto ("Buyer's IP"), shall be and remain the exclusive property of Buyer and shall be kept confidential. Any trademarks, trade names, brand names, patents, slogans, logos, copyrights, trade dress, know-how, and goodwill associated with Buyer's IP, whether or not registered, shall be the sole and exclusive property of Buyer. All such Buyer's IP and all tools, dies, molds, jigs, fixtures, patterns, machinery, special test equipment, special taps and gauges which have been furnished or paid for by, or charged against Buyer ("Buyer's Equipment" and collectively the "Item(s)") will be delivered to Buyer immediately upon request at such place as Buyer shall designate. Freight cost of Buyer's Equipment to and from Seller's plant will be borne by Buyer. Seller agrees that it will (I) not furnish any Items, or goods made therefrom, to anyone else or use them for the production of any material or parts other than for Buyer, without Buyer's prior written consent; (II) maintain, repair (at its own expense) and return the Items in good condition (normal wear and tear excepted); (III) furnish Buyer no less than once every 12 months a written statement specifying the type, serial number or other identifying mark, condition and location of each item, and (IV) pay the replacement cost to Buyer of any Item which becomes lost, damaged (to the point of not being fit for its original purpose) or destroyed before delivery of said item is made to Buyer or its agent.
14. CANCELLATION ON ACCOUNT OF INSOLVENCY: Either party shall have the right to cancel this order in the event that the other party becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or has invoked against any federal or state law relating to relief of debtors or creditors rights.
15. NON-ASSIGNMENT: Seller shall not assign or subcontract this order without Buyer's prior written consent.

16. NO WAIVER OF RIGHTS: Any waiver of any provision to this order shall not constitute a waiver of any continuing or succeeding breach of such provision, a waiver, or modification of the provision itself or of any other rights arising under this order.
17. GOVERNING LAW: The validity, interpretation, and enforceability of this order shall be governed in all respects by the laws of the State of New Jersey and any conflicts arising hereunder adjudicated in the courts located in the State of New Jersey.
18. FAIR LABOR STANDARDS ACT: Seller hereby agrees that the goods will be produced in compliance with the Fair Labor Standards Act, as amended and agrees to so certify on its invoice.
19. COMPLIANCE WITH LAWS: Seller shall comply with all laws, ordinances, and government rules, regulations and orders applicable to this order including, but not limited to (a) all laws, ordinances and government rules, regulations and order regarding a restricted, toxic and hazardous substances applicable to the goods, their manufacturing process(es), or any by product or waste generated in connection with the goods or such process(es) and (b) applicable Federal Acquisition Regulation Clauses relating to SELLER'S CERTIFICATION OF NON-SEGREGATED FACILITIES FAR 52 222-21, EQUAL OPPORTUNITY FAR 52222-26, AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS FAR 52 222-35, AFFIRMATIVE ACTIONS FOR HANDICAPPED WORKERS FAR 52 222-36, UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS FAR 52 219-8, 9 AND UTILIZATION OF LABOR SURPLUS AREA CONCERNS FAR 52 220-3, 4, which to the extent applicable, are hereby incorporated onto this order.
20. AFFIRMATIVE ACTION OBLIGATION: Buyer is a government contractor within the meaning of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veteran Readjustment Assistance Act of 1974. Accordingly, the provisions of these laws, and the regulations promulgated pursuant to these laws by applying to subcontracts and subcontractors are incorporated herein by reference.
21. CONFIDENTIALITY: Seller agrees that all technical information, know-how, trade secrets, processes, pricing, design, processes, and proprietary information furnished by Buyer is Buyer's confidential, proprietary information, constitutes valuable trade secrets and shall remain the exclusive property of Buyer ("Confidential Information"). All Confidential Information disclosed by Buyer to Seller shall be kept secret and confidential by the Seller and shall not be divulged by Seller to any third party or used by Seller otherwise than in connection with this agreement. Seller shall limit dissemination of Confidential Information to Seller's employees who need to know and have agreed to maintain such information as confidential. In the event Seller fails to comply with the above, Seller agrees that Buyer will be substantially and irreparably harmed, that damages are impossible to ascertain in advance, that monetary damages will not be sufficient compensation, and that Buyer will be entitled to specific performance and injunctive relief (in addition to any other rights or remedies which it may have at law). Unless otherwise agreed in writing, no commercial or technical information disclosed in any matter at any time by the Seller to Buyer shall be deemed secret or confidential.