



**FRESENIUS MEDICAL CARE HOLDINGS INC. AND ITS SUBSIDIARIES  
PURCHASE ORDER TERMS AND CONDITIONS**

1. **ACCEPTANCE.** This Purchase Order (the “**Order**”) becomes a binding contract for the purchase of goods and/or services that are described on the face of the Order, subject to the terms and conditions hereof, when accepted by acknowledgement or commencement of performance by Seller. No modification or waiver shall be deemed effected by Seller’s quotation, proposal, acknowledgement or confirmation containing other or different terms unless accepted in writing by Buyer. Notwithstanding, if this Order is given pursuant to any existing or contemporaneous contract between Buyer and Seller, it is subject to the terms of such contract and such terms shall control in the case of any conflict with the provisions hereof.
2. **PRICE.** Unless otherwise stated, all freight charges shall be prepaid and risk of loss and title to the goods will pass to Buyer upon unloading at Buyer’s destination. No charge for insurance on shipments, or for packing, crafting or drayage will be accepted unless there is an express agreement as to such charges. The prices herein shall not be increased without written notification to Buyer and such increased prices shall not apply to any Orders placed prior to the date of such notice. If price is not stated on an Order, Seller agrees to invoice at lowest agreed upon price. Material shipped in excess of quantity designated in this Order may be returned at Seller’s expense.
3. **INVOICE.** After the delivery of goods or at the beginning of each month for the prior month’s performance of services, Seller shall promptly render to Buyer correct and complete invoices that specify at least the following information: Purchase Order Number, Item Number, Description of Goods or Services, Quantities, Unit Prices, Extended Totals and Applicable Taxes. Payment terms are 2%/15, net 60 days from the date of receipt of invoice except in the case of a good faith dispute as to the amount due, or as expressly otherwise agreed in writing by the parties. Seller acknowledges that its failure to render invoices by the fifteenth of the following month may result in delayed payment or rejection of such invoices and Seller assumes all risks from its failure to timely submit invoices. Buyer will remit payments electronically. Buyer shall have the right to set off amounts due to Buyer from Seller against any amounts due Seller.
4. **DEFAULT.** Time is of the essence of this Order. Buyer may by written notice of default to Seller (a) terminate all or any part of this Order if Seller fails to perform, or so fails to make progress as to endanger performance of this Order in accordance with its terms, and does not cure such failure within a period of five (5) business days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure; and (b) procure, on such terms as it will deem appropriate, goods and services similar to those so terminated. Seller will continue performance of this Order to the extent not terminated and will be liable to Buyer for any excess costs for such similar goods and services. As an alternate remedy, and in lieu of termination for default, Buyer, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller’s performance, in which case an equitable reduction in the Order price will be negotiated. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Order, Seller will notify Buyer in writing within two (2) business days. If Seller does not comply with Buyer’s delivery schedule, Buyer may require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by Seller. The rights and remedies of Buyer provided in this Section 4 will not be exclusive and are in addition to any other rights and remedies provided by the Uniform Commercial Code, by law, at equity or under this Order.

5. **DELIVERY.** Seller shall notify Buyer within one (1) business day of any situation which may delay or threaten to delay the timely performance of this Order. In addition to Buyer's other rights or remedies, all or any portion of this Order are, at Buyer's option, subject to cancellation, refusal and redelivery without liability on Buyer's part if delivery is not made as or when specified or within a reasonable time if not specified.
6. **FORCE MAJEURE.** Failure of Seller to make, or of Buyer to take, any deliveries hereunder (or portion thereof) when due and covered by this Order, as a result of any cause beyond the reasonable control of the party so failing, shall not subject such party to any liability to the other resulting therefrom. "Force Majeure" does not include, and this Section shall not apply to, delays due to any acts of regulatory authorities including, but not limited to, those relating to quality, safety, manufacturing standards, or performance of the goods such as products recalls, import alerts or holds, or other sales restriction.
7. **WARRANTIES.** Seller represents and warrants that all goods provided will: (a) be free of any lien, security interest, encumbrance or any claim of any nature by any third person and that Seller will convey clear title in the goods to Buyer; (b) be of merchantable quality; (c) be free from all defects in design, workmanship and materials, and fit for the particular purposes for which they are purchased; and (d) conform with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved or adopted by Buyer. Seller additionally represents and warrants that: (1) Seller shall perform the services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Order; (2) the prices for the goods or services sold to Buyer under this Order are not less favorable than those currently extended to any other customer for the same or similar goods and/or services in equal or lesser quantities; and (3) Seller shall not act in any fashion or take any action that will render Buyer liable for a violation of any applicable anti-bribery legislation (including without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act 2010), which prohibits the offering, giving, or promising to offer or give or receiving, directly or indirectly, money or anything of value to any third party to assist it, them or Buyer in retaining or obtaining business or in procuring the goods or services. Buyer's inspection, test, acceptance, or use of the goods shall not affect Seller's obligations under these warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section with regard to goods or services, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or nonconforming goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable services. If Seller fails to correct defects in or replace nonconforming goods within ten (10) calendar days from the date the Buyer notifies Seller of the defect or defects, Buyer may, on ten (10) calendar days prior written notice to Seller, either (A) make such corrections or replace such goods and charge Seller for all costs incurred by Buyer, or (B) revoke its acceptance of the goods in which event Seller shall be obligated to refund the purchase price and make all necessary arrangements, at Seller's cost, for the return of the goods to Seller. All warranties of Seller herein or that are implied by law shall survive any inspection, delivery, acceptance, or payment by Buyer. Any attempt by Seller to limit, disclaim, or restrict these warranties or any remedies of Buyer, by acknowledgment or otherwise, in accepting or performing this Order, will be null, void, and ineffective without Buyer's written consent.
8. **INDEMNIFICATION.** Seller shall indemnify and hold Buyer and its affiliates and their respective officers, directors and employees harmless and, on Buyer's request, shall defend each of them from and against any or all third party claims, demands, litigation, or proceedings of whatever kind, whether based upon negligence, breach of express or implied warranty, strict liability, infringement of intellectual property rights, or any other theory, and from and against all direct, indirect, special, punitive, incidental or consequential damages of every kind whatsoever, arising out of, by reason of, or in any way connected with the goods and/or services, the design, manner

of preparation, manufacture, construction, completion, or delivery or non-delivery of any goods and/or services by Seller, any breach by Seller of any of its obligations hereunder, or any other act, omission or negligence of Seller or any of Seller's employees, workers, servants, agents, subcontractors, or suppliers. Seller shall, on request, pay or reimburse Buyer or any other party entitled to indemnification hereunder for all costs and expenses, including attorneys' fees, as incurred by Buyer or such other party in connection with any such claim, demand, litigation, proceeding, loss, or damage. In addition, for infringement claims, Seller will, at its own expense and at Buyer's option, either procure for Buyer the right to continue using the allegedly infringing item, replace it with a non-infringing equivalent, or remove it and refund the purchase price and the transportation and installation costs thereof.

9. **LIMITATION OF LIABILITY.** BUYER'S AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS ORDER IS LIMITED TO THE AMOUNT PAID BY BUYER FOR THE GOODS AND/OR SERVICES. TO THE MAXIMUM EXTENT ALLOWABLE UNDER APPLICABLE LAW, BUYER SHALL NOT BE LIABLE UNDER THIS ORDER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOST REVENUES EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
10. **CODE OF CONDUCT.** As stated in the Fresenius Medical Care Code of Ethics and Business Conduct, Buyer upholds the values of quality, honesty and integrity, innovation and improvement, respect and dignity, as well as lawful conduct, especially with regard to anti-bribery and anti-corruption. Buyer upholds these values in its own operations, as well as in its relationships with business partners. Buyer's continued success and reputation depends on a common commitment to act accordingly. Together with Buyer, Seller is committed to uphold these fundamental values by adherence to applicable laws and regulations.
11. **COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.** Seller warrants that the goods will have been produced and/or the services will have been provided in compliance with all applicable federal, state and local laws, orders, rules and regulations. In the event that goods ordered herein are foods, drugs, devices or cosmetics, Seller further warrants that for the purpose of the Federal Food, Drug and Cosmetic Act, no commodity or article listed herein which falls within the scope of said Act is adulterated or misbranded within the meaning thereof or is an article or commodity which may not, under the Act, be introduced into interstate commerce. Seller shall comply with The Federal Occupational Safety and Health Act of 1970 as amended and all applicable standards and regulations issued thereunder. Seller warrants that with respect to the production of the goods, and/or the performance of the services covered by this Order, it has fully complied with the provisions of the Fair Labor Standards Act of 1938 as amended, and all applicable regulations and orders issued thereunder. The Equal Opportunity clause in Section 202 of Executive Order (E.O.) 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793) and the Vietnam Era Veteran's Readjustment Assistance Act of 1974 (38 U.S.C. 4212), and the implementing rules and regulations in Title 41, Part 60 of the Code of Federal Regulations (41 CFR Sections 60-1.4, 60-250.5 and 60-741.5) are incorporated herein by reference unless this Order is exempted by rules, regulations, or orders of the U.S. Secretary of Labor issued pursuant to Section 204 of E.O. 11246 or provisions of any superseding E.O. As used in said clause, "**Contractor**" means Seller.
12. **CONFIDENTIAL INFORMATION.** Notwithstanding any document marking or verbal understanding to the contrary, any knowledge or information that the Seller has disclosed or may later disclose to Buyer, and which in any way relates to the goods or services covered by this Order will not, unless otherwise specifically agreed to in writing by Buyer, be deemed to be confidential or proprietary information, and will be acquired by Buyer, free from any restrictions. Seller will not transmit to Buyer any sensitive personal information, including, but not limited to, identified health information, financial information, social security numbers, biometrics or other personally identified or identifiable information of like sensitivity. Seller will keep confidential any business, technical, process, financial, customer, employee or other information derived from

drawings, specifications and other data and materials furnished by Buyer in connection with this Order (in whatever form or format) and will not divulge, export, or use, directly or indirectly, such information for the benefit of any other party or for any other purpose other than fulfillment of this Order without obtaining Buyer's prior written consent. Except as required for the efficient performance of this Order, Seller will not use such information or make copies or permit copies to be made of such drawings, specifications, or other data without the prior written consent of Buyer. If any reproduction is made with prior consent, this notice will be provided. Upon completion or termination of this Order, Seller will promptly return to Buyer all materials incorporating any such data and information and any copies, except for one record copy. Seller agrees that no acknowledgment or other information concerning this Order and the goods or services provided will be made public by Seller without the prior written agreement of Buyer.

13. **WORK ON BUYER'S PREMISES.** If Seller's work under this Order requires Seller to be on Buyer's premises or at Buyer's direction, Seller will take all necessary precautions to prevent any injury to persons or damage to property, including following any rules, procedures or other requirements of Buyer.
14. **INSURANCE.** Seller will maintain Comprehensive General Liability (including Contractual Liability coverage insuring the liabilities assumed in these terms), Automobile Liability and Employers' Liability insurance with limits as reasonably required by Buyer, as well as appropriate Workers' Compensation insurance as will protect Seller from all claims under any applicable workers' compensation and occupational disease acts. At Buyer's request, Seller will furnish to Buyer a Certificate of Insurance completed by its insurance carrier(s) certifying that the required insurance coverage is in effect, with waiver of subrogation, naming Buyer as an additional insured, and containing a covenant that such coverage and will not be canceled or materially changed until ten (10) days after prior written notice has been delivered to the Buyer.
15. **SOFTWARE PURCHASES.** With regard to Buyer's purchase or license of software goods and/or services, Buyer's, its affiliates', and its and their authorized users' (collectively, "**Users**") access and use of the software, these terms and any other terms accepted in writing by the Buyer, shall control over any additional purported terms imposed by any website to which any User is granted access in connection with this Order, notwithstanding "clicking" on an "I Agree" icon or other indication of assent to such additional terms, it being understood and agreed that this Order shall not be enlarged except by a written agreement that is executed by each of the parties hereto. Additionally, Seller agrees that its end user agreements shall not apply to such Users.
16. **ASSIGNMENT.** Seller shall not assign orally, in writing or by operation of law, in whole or in part, to any person, firm, corporation or government agency its rights, interests or obligations under this Order without the prior written consent of Buyer. Any purported assignment in violation of this provision shall be null and void.
17. **GOVERNING LAW.** This Order, these terms, and all related transactions, will be interpreted under and governed by the laws of the Commonwealth of Massachusetts in the United States of America without regard to its conflict of law principles.
18. **ENTIRE AGREEMENT.** Provided that there is no written contract, duly executed by both parties, applying to the transaction in question, this Order, with such documents as are expressly incorporated by reference, is intended by the parties as a final expression of their agreement with respect to such terms as are included in it, and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of trade will be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.