



SURGICAL SPECIALTIES CORPORATION™ TERMS OF SALE

GENERAL TERMS AND CONDITIONS OF SALE

These Surgical Specialties General Terms and Conditions of Sale ("Terms") shall govern all orders for and purchases of products and services ("Product(s)") from Surgical Specialties Corporation and its subsidiaries ("Seller"), unless Seller and buyer of Products ("Buyer") have entered into another written agreement that expressly provides that its terms supersede and replace these Terms with respect to the Products covered by such other written agreement (see Section 14).

1. PRICE

The price for a Product shall be the price stated in Seller's written quotation to Buyer for the Product ("Quote") or, if Seller has not issued a Quote, Seller's applicable list price for the Product at the time Seller receives Buyer's purchase order. Quote are valid for thirty (30) days from the Quote date unless otherwise stated in the Quote. Buyer shall pay any extra costs incurred by Seller as a result of any changes or modifications to Product specifications requested by Buyer. Prices are exclusive of all taxes, fees, duties, levies or other governmental assessments ("Taxes") and, unless otherwise stated in the Quote, also exclude costs including but not limited to shipping and handling charges, freight, insurance and other costs which may be separately billed to Buyer. All Taxes related to Product shall be paid by Buyer, or in lieu thereof, Buyer shall provide Seller with a tax exemption certificate acceptable to the relevant taxing authorities.

2. PAYMENT TERMS

Subject to Section 3, payment terms are net thirty (30) days from date of Seller's invoice, unless otherwise notified and approved in writing by Seller to Buyer at or before the time of shipment. Payment for partial shipments shall be based on units of Product delivered. If payment is not received by the due date, Seller may assess and Buyer agrees to pay a late payment charge on the overdue amount at the lesser of the rate of 1.5% per month or the maximum legal rate, and reasonable legal and other costs incurred by Seller in collecting overdue amounts. Payments due to Seller shall be made without any deduction or offset of any kind.

3. CREDIT TERMS

If Buyer is a new customer or orders custom goods, or if Seller believes that Buyer's performance, including payment, is not assured, Seller may at any time limit or cancel the credit of Buyer as to time and amount, suspend shipments, require alternate payment terms including payment in advance, or demand other assurances of Buyer's performance, failing which Seller may, without prejudice to any other right or remedy Seller may have, by written notice to Buyer, treat such failure as a repudiation by Buyer of that portion of Buyer's order not then delivered, whereupon Seller may cancel all further deliveries, and any amounts unpaid for non-cancelled Product shall immediately become payable.

4. SPECIFICATIONS, ACCEPTANCE, DELIVERY, TITLE AND RISK OF LOSS

Seller continually changes and improves the Products, and the Products supplied to Buyer may not conform in all details with the descriptions and specifications shown in the Seller's catalog or price list. Seller may accept or reject any Buyer purchase order for Product in whole or in part. If a purchase order



is accepted, Seller will use reasonable efforts to ship Product within a reasonable time after ordered, or, if a shipment date is indicated in the Quote, on or before such date. Seller may make delivery in installments, and each installment shall be deemed to be a separate sale. Seller may render a separate invoice for each installment, which invoice shall be paid without regard to prior or subsequent installments. Unless indicated otherwise in the Quote or invoice, delivery shall be made FCA (Incoterms 2000) Seller's facility for international shipping and FOB Seller's facility for domestic shipping; title and risk of loss with respect to all Products shall pass from Seller to Buyer upon transfer of the Product to a third party carrier at Seller's facility.

5. CANCELLATION

Purchase orders may not be cancelled or revised by Buyer without Seller's prior written consent. Upon such cancellation or revision, Buyer shall pay Seller all costs reasonably and necessarily incurred in reliance upon the initial order received by Seller, including cost related to work-in-process and unused raw material, and engineering up to the total amount of the purchase order.

6. REJECTION OF PRODUCT

Any claims for damaged, missing, non-ordered or defective Product ("Rejected Product") must be reported in writing by Buyer within fifteen (15) days from the date of Buyer's receipt of the Product or, for damage or defect not readily discoverable on inspection, within fifteen (15) days of the date of discovery. For any valid claim timely made, Seller, at its option, may repair the Product or replace the Product with an identical or substantially similar Product. THESE ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR DAMAGED OR MISSING PRODUCT, AND, EXCEPT FOR EXPRESS WRITTEN WARRANTY RIGHTS, FOR DEFECTIVE PRODUCT.

7. RETURN OF PRODUCT

Product returns will only be accepted within ninety (90) days of date of invoice (subject to the shorter period for claim reporting in Section 6). Seller's prior approval to return Product (including Rejected Product) is required. Contact Seller's Customer Service Department at 877-991-1110 (US) or 732-626-6466 (international) for a returned goods authorization number ("RGA"). The request for Product returns must include the reason, catalog number, lot number, quantity, invoice number and RGA. All items must be returned unopened, in full boxes only, and, with the exception of Rejected Product, are subject to a 20% restocking charge. Product that has been opened, damaged or tampered with and Product manufactured on a "special order" or "custom order" basis, is not returnable.

8. SATISFACTION GUARANTEE

Only on first time orders of finished and sterilized Products sold under Seller's brand(s), if Buyer is not satisfied after using a Product, and if the Product is returned in accordance with Section 7, Buyer may receive a full refund for the entire first time order of the Product with no restocking charge.

9. LIMITED WARRANTY

Seller warrants to Buyer that, for the earlier of one (1) year after the date of invoice or until the Product is used by Buyer or its customer, the Product will be free from defects in material and workmanship when stored and used in accordance with Seller's instructions for storage and use and in accordance with



applicable regulatory requirements. Such warranty extends only to the Buyer, is not transferable and does not extend to the benefit of any other person or entity. Any description of Product, affirmation of fact or promise is for the sole purpose of identifying Product, and any sample or model used in connection with a Quote is for illustrative purposes only, and the foregoing are not part of any contract between Seller and Buyer and do not constitute a warranty that Product shall conform to the foregoing. In the event Seller gives technical or instructional advice with respect to the Products, such advice is given without liability on Seller's part. THE WARRANTIES IDENTIFIED IN THE FIRST SENTENCE OF THIS SECTION 9 ARE SELLER'S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO PRODUCT AND ARE IN LIEU OF ALL OTHER WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, ALL OF WHICH OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.

10. BUYER'S REPRESENTATIONS AND INDEMNITY

- a. Buyer represents and warrants that all Products shall be promoted, sold and used only in strict accordance with Seller's applicable written instructions, warnings and other written information in the instructions for use and other Product documentation and Seller's written communications, and shall not be misused in any way. Buyer also will satisfy its responsibilities under the Safe Harbor Regulations relating to program "fraud and abuse" promulgated under the Social Security Act and Medicare and Medicaid Patient and Program Protection Act.
- b. Buyer will indemnify and hold harmless Seller, its affiliates and their respective employees, agents, successors, directors, officers, and assigns from and against any suits, losses, claims, demands, liabilities, costs and expenses (including attorneys' and accounting fees) that Seller may sustain or incur as a result of any act or omission of Buyer, its affiliates and their respective directors, officers, agents, employees, successors or assigns, Buyer's customers, end users of Products, auxiliary personnel (such as freight handlers) or other parties, arising out of, directly or indirectly, (i) a failure to use Products in accordance with the package labeling or the requirements of the warranty, (ii) a failure to perform Buyer's obligations contained herein, (iii) Buyer's sterilization of or modifications to Product or combination of Product with any other product(s), or (iv) Seller's manufacture and sale of custom Product or other performance in compliance with requests, specifications or designs furnished by Buyer.

11. COMPLIANCE WITH LAWS / REGULATORY MATTERS

- a. For Products other than finished and sterilized Products intended to be sold under the Surgical Specialties brand or private label versions of such finished and sterilized Products ("Other Products"), and without limiting the generality of Section 10, unless otherwise expressly stated in writing by Seller, no claim or representation is made or intended (i) that any Other Product has been cleared, approved, registered or otherwise qualified by Seller with any federal, state, provincial, foreign or any other governmental or quasi-governmental agency or regulatory body (collectively, "Regulatory Agencies") or under any laws, rules or regulations governing medical products (collectively, "Regulatory Laws"), (ii) that any Other Product will satisfy the requirements of any Regulatory Agencies or Regulatory Laws, or (iii) that any Other Product or its performance is suitable, safe or effective, or has been validated for, any specific use or application. Buyer warrants that Other Products shall not be used for any purpose that would require



approval of Regulatory Agencies or under Regulatory Laws unless such required approval is obtained, for which Buyer shall be solely responsible. For all Products, Buyer shall maintain and provide Seller with such records and reports as Seller deems necessary or advisable to enable Seller to satisfy and conform to all Regulatory Laws, including product liability and traceability, quality assurance and complaint incident reports, in such form as may be requested by Seller, and in sufficient detail to enable Seller to take corrective action. Buyer shall notify Seller immediately of any adverse event report, field corrective action or recall involving any Other Product.

- b. For all Products for which Seller holds the regulatory approval, (i) Buyer shall immediately notify Seller of any complaint relating to such Products and cooperate in Seller's investigation thereof, (ii) Seller will be responsible for adverse event reporting, and (iii) Buyer shall carry out any Product field corrective action or recall only at the direction of Seller and as directed by Seller. For all Products for which Buyer holds the regulatory approval, Buyer shall be responsible for adverse event reporting and carrying out any Product field corrective action or recall, but shall notify Seller immediately of any such report, field corrective action or recall.
- c. For a listing of where Seller's Products are registered, see "Regulatory Listings by Country".

12. FORCE MAJURE

Seller shall not be liable for any delay or failure of performance where such delay or failure arises or results from any cause beyond Seller's reasonable control, including fire, explosion, riot, labor disputes, power loss or reduction, acts of war or terrorism, plant breakdown, equipment failure, inability or delay in obtaining materials, unusually severe weather, flood, earthquake or other act of God, or governmental regulation. In such event, Seller shall have the right to apportion Product then available for delivery among its various customers in such manner as Seller may consider fair and equitable.

13. LIMITATION OF LIABILITY

To the fullest extent allowed by law, in no event shall Seller be liable, under any legal theory or statute or on any other basis, for special, indirect, exemplary, punitive, multiple or consequential damages arising out of or caused by Product or Seller's breach of these Terms or of any purchase order or other terms relating to Product, whether or not foreseeable and whether or not Seller is advised of the possibility of such damages.

14. SOLE TERMS / ORDER OF PRECEDENCE

These Terms, together with a Quote (if any), any applicable written conditions of use, any other terms and conditions expressly agreed to in writing Seller (collectively, "Seller's Terms"), and only Buyer's statement on its purchase order (if accepted by Seller) of the name or identity of the Product(s) purchased, quantity, delivery date, bill to and ship to address and, if accurate, price, constitute the complete, exclusive and entire agreement between Seller and Buyer with respect to purchases of Product, and Seller's offer to sell Product is expressly limited to such terms. Such terms shall take precedence over and supersede and replace all prior or contemporaneous understandings or agreements, written or oral, and any of Buyer's additional or different terms and conditions, which are



hereby rejected and shall be void. Any acceptance by Seller of any offer of Buyer is expressly conditioned on Buyer's assent to and acceptance of Seller's Terms to the exclusion of any terms on any purchase order or other document submitted by Buyer. Except as otherwise provided in these Terms, in the event of an inconsistency between these Terms and Seller's Terms, Seller's Terms shall supersede and take precedence over the inconsistent provision(s) of these Terms, and all other provisions of these Terms shall remain in full force and effect. No course of prior dealings or usage of trade shall be relevant to supplement or explain any terms or conditions recited herein.

15. NO IMPLIED RIGHTS

Nothing in these Terms shall be deemed or construed (i) as a license or grant to Buyer of any intellectual property rights of Seller; or (ii) to limit Seller's rights to enforce its patent or other intellectual property rights.

16. ERRORS

Buyer assumes all responsibility for errors in sketches, prints, specifications and samples submitted to Seller and/or approved by Buyer. Seller reserves the right to correct clerical or typographical errors or omissions.

17. GOVERNING LAW

Any contract between Seller and Buyer relating to Product, including these Terms, and any disputes relating thereto, shall be governed by and construed in accordance with the laws of the State of New York, U.S.A., excluding (i) choice of law provisions thereof and (ii) the United Nations Convention on Contracts for the International Sale of Goods.

18. EEO/AFFIRMATION ACTION

Seller agrees, in connection with performance of work, not to discriminate against any employee or applicant for employment because of race, sex, religion, color, age, or national origin. The Equal Employment Opportunity clause of Section 202, paragraph 1 through 7 of Executive Order 11246, as amended and revised order #4 relative to equal employment opportunity and the implementing rules and regulations of the office of Federal Contracts Compliance and incorporated herein by specific reference.

19. EXPORT CONTROLS

Buyer will not export or transfer Product for re-export in violation of any United States laws (including the U.S. Export Administration Regulations and economic sanctions programs maintained by the U.S. Government, such as the Office of Foreign Asset Control of the United States Department of Treasury) or the laws of any other jurisdiction, or to any denied or prohibited person, entity, or embargoed country in violation of such laws (including prohibited parties set forth on a list published by the U.S. Government).

20. MISCELLANEOUS

No amendment of Quotation or these Terms or modification thereof shall be binding unless in writing and



signed by Seller and a duly authorized representative of Buyer. Seller's failure to exercise any rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights or any other rights hereunder. If any provision of these Terms shall be held to be invalid or unenforceable for any reason, such provisions shall, to the extent of such invalidity or enforceability, be severed. The word "including" means "including without limitation."

Rev: November 10, 2016