

ALL PURCHASES MADE BY ArthroCare Corporation

(Buyer) ARE MADE ON THE FOLLOWING TERMS AND CONDITIONS:

Should the supplier not agree to any or all of the pre-printed terms and conditions, the supplier will express those objections in writing to ArthroCare.

ArthroCare purchasing will respond to those objections in writing to resolve any issues.

1. PRICES AND TAXES

The acceptance of this purchase order constitutes a warranty that the prices to be charged for articles for services ordered do not exceed the lowest price charged to any other customer for similar quantities and delivery requirements. Unless otherwise specified, the prices set forth in the purchase order include all applicable federal, state, and local taxes.

2. INVOICES

Seller will submit invoices in duplicate showing the following information: purchase order number, item number, description of item, size of item, quantity of item, unit prices, each applicable tax, extended totals, and any other information specified elsewhere herein. A Bill of Lading or express receipt must accompany each invoice. Payment of invoice will not constitute acceptance of goods and will be subject to adjustment for errors, shortages, defects in the goods or other failure of Seller to meet the requirements of this purchase order.

Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller or any of its affiliated companies to Buyer.

3. DISCOUNTS

Time in connections with any discount offered by Seller will be computed from the latest of (i) the scheduled delivery date, (ii) the date of actual delivery, or (iii) the date any acceptable invoice is received. For the purchase of earning the discount, payment will be deemed to have been made on the date of mailing of Buyer's check.

4. OVERSHIPMENTS

Buyer will pay only for maximum quantities ordered overshipments will be held by Buyer at Seller's risk and expense for a reasonable time awaiting shipping instructions. Return shipping charges for excess quantities will be at Seller's expense.

5. PACKING AND SHIPMENT

Unless otherwise specified, when the price of this purchase order is based on the weight of the ordered goods, such price is to cover the net weight of material ordered, and no charges will be allowed for packing, handling, transportation, storage or other packing requirements. Unless otherwise specified, Seller will package and pack all goods in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate for the particular goods, (iii) in accordance with I.C.C. regulations, and (iv) adequate to insure safe arrival of the goods at the named destination. Seller will mark all containers with necessary lifting, handling and shipping information and with purchase order numbers, date of shipment, and the names of the consignee and consignor. An itemized packing list must accompany each shipment. No partial or complete delivery will be made prior to the due date or dates shown unless Buyer has given prior written consent.

6. F.O.B. POINT

Unless otherwise specifically provided on the face of this order, the products ordered hereunder will be delivered on an F.O.B. origin basis.

7. RISK OF LOSS OR DAMAGE

Notwithstanding any prior inspections and irrespective of the F.O.B. point named herein, Seller will bear all risk of loss, damage or destruction to the ordered goods until final acceptance of the goods by Buyer at destination. Seller will bear the same risk with respect to any goods rejected by Buyer. Buyer, however, will be responsible for any loss occasioned by the gross negligence of its employees acting within the scope of their employment.

8. NON-DISCLOSURE OF CONFIDENTIAL MATTER

Seller will not quote for sale to others, without Buyer's written authorization, any goods purchased under Buyer's specifications or drawings. All specifications, drawings, samples, and other data furnished by Buyer will be treated by Seller as confidential information of the Buyer, will remain Buyer's property, and will be returned to Buyer on request.

9. PATENT LICENSE

Seller, as part consideration for this purchase order and without further cost to Buyer, hereby grants to Buyer (and, to the extent requested by Buyer, to the government) an irrevocable, non-exclusive, royalty-free license to use, sell, manufacture, and cause to be manufactured products embodying any inventions and discoveries made, conceived or actually reduced to practice in connection with the performance of this purchase order.

10. WARRANTY

(a) Seller warrants that all goods delivered (i) will be free from defects in workmanship, material, and manufacture, (ii) will comply with the requirements of this purchase order, including any drawings or specifications incorporated herein or samples furnished by Seller, (iii) where design is Seller's responsibility, will be free from defects in design, and (iv) will conform to all specifications of the order and Seller agrees not to make any changes to the processes, materials or products delivered without prior written approval from ArthroCare. Seller further warrants that all goods purchased hereunder will be of merchantable quality and will be fit for the purposes intended by Buyer. The foregoing warranties constitute conditions to this purchase order. They are in addition to all other warranties, whether express or implied, and will survive any delivery, inspection, acceptance or payment by Buyer. All warranties run to the benefit of Buyer and its customers.

(b) Buyer's approval of Seller's materials or design will not relieve Seller of any warranties.

(c) If any goods delivered do not meet the warranties specified herein or otherwise applicable, Buyer may, at its option, (i) require Seller to correct any defective or nonconforming goods by repair or replacement at no cost to Buyer, or (ii) return such defective or nonconforming goods to Seller at Seller's expense and recover from Seller the order price thereof, or (iii) correct the defective or nonconforming goods itself and charge Seller with the cost of such correction.

11. INSPECTION AND ACCEPTANCE

Notwithstanding any prior inspection or payments, all goods will be subject to final inspection and acceptance at Buyer's destination within a reasonable time after delivery. In case any item is defective in material or workmanship, or otherwise not in conformity with the requirements of this purchase order, Buyer will have the right to reject it, to require its correction or to accept it with an adjustment in price. Any item that has been rejected or required to be corrected must be replaced or corrected by and at the expense of Seller promptly after notice.

If, after being requested by Buyer, Seller fails to promptly replace or correct any defective item, then Buyer may, at its option (i) by contract or otherwise, replace or correct such item and charge to Seller the cost occasioned thereby, (ii) without further notice, cancel this purchase order for default in accordance with Item 13 below, or (iii) require an appropriate reduction in price.

12. CHANGE ORDERS

(a) The Buyer may at any time, by a written order, suspend performance hereunder, increase or decrease the ordered quantities, change the due date or make changes in any one or more of the following:

(i) applicable drawings, designs or specifications;

(ii) method of shipment or packing; and/or

(iii) place of delivery.

(b) If the change causes an increase in the cost or the time required by Seller for performance of this purchase order and Seller so notifies Buyer, than an equitable adjustment will be made in the order price or delivery schedule or both, and the purchase order will be modified accordingly in writing. No claim by Seller for such an adjustment will be valid unless asserted within twenty (20) days from the date of receipt by Seller of the notification of change; provided, however, that such period may be extended upon the written approval of Buyer.

(c) Nothing in this Item 12 is intended to excuse Seller from proceeding with this purchase order as changed or amended.

13. CANCELLATION FOR DEFAULT

(a) It is understood and agreed that time is of the essence for this order because the goods or services ordered herein are needed for products of Buyer that have a very short, carefully timed market life; failure of Seller to deliver on the due date could cause Buyer's products to be unmarketable. Buyer may, by written notice, cancel this order in whole or in part if, in Buyer's good-faith opinion, Seller (i) has failed to make delivery of the items or to perform the services within the time specified herein, or any extension thereof by written change order or amendment; or (ii) has failed to replace or correct defective items in accordance with the provisions of Items 10 or 11 above; or (iii) has failed to perform any of the other provisions of this purchase order; or (iv) has so failed to make progress under this purchase order as to endanger performance in accordance with its terms.

(b) If all or a portion of this purchase order is cancelled for Seller's default, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, goods or services similar or substantially similar or substantially similar to those cancelled. Seller will then be liable to Buyer for any excess costs occasioned thereby.

(c) If all or a portion of this purchase order is cancelled for Seller's default, Buyer may require Seller to transfer title and to deliver to Buyer, in the manner and to the extent directed by Buyer, (i) all completed items not yet delivered and (ii) any partially completed items and materials that Seller has produced or acquired for the performance of the terminated portion.

Seller will, upon direction of Buyer, protect and preserve the property listed in this paragraph that is in the possession of Seller. Payment for completed items delivered to and accepted by Buyer under this paragraph will be in an amount (not to exceed the contract price) agreed upon by Seller and Buyer; however, Seller's obligation to carry out Buyer's direction as to delivery, protection, and preservation of the property will not be contingent upon prior agreement as to such amount.

(d) Nothing in this Item 13 is intended to excuse Seller from proceeding with any uncanceled portion of this purchase order.

14. TERMINATION FOR CONVENIENCE

(a) At any time for convenience, Buyer may terminate work under this purchase order, in whole or in part, by written notice.

(b) Upon such termination, Seller will, to the extent and at the times specified by Buyer, stop all work under this purchase order, place no further orders for materials to complete the work, assign to Buyer all Seller's interests under terminated subcontracts and orders, settle all claims thereunder after obtaining Buyer's approval, protect all property in which Buyer has or may acquire an interest, and transfer title and make delivery to Buyer of all articles, materials, work in process, and other things held or acquired by Seller in connection with the terminated portion of this purchase order. Seller will proceed promptly to comply with Buyer's instructions respecting each of the foregoing without awaiting settlement or payment of its termination claim.

(c) Within six (6) months after such termination, Seller may submit to Buyer its written claim for termination charges, in the form and with the certifications prescribed by Buyer. Failure to submit the claim within six months will constitute a waiver of all claims and a release of all Buyer's liability arising out of the termination.

(d) The parties may agree upon the amount to be paid Seller for such termination. If they fail to agree, Buyer will pay Seller the following amounts:

(i) The contract price for all items completed or services rendered in accordance with this purchase order and not previously paid for.

(ii) The actual costs incurred by Seller which are properly allocable under recognized commercial accounting practices to the terminated portion of this purchase order, plus a fair and reasonable profit on such costs. If it appears that Seller would have sustained a loss on the order, no profit will be allowed, and an adjustment will be made reducing the amount of the settlement to reflect the indicated rate of loss.

(iii) The reasonable costs incurred by Seller in making settlement hereunder and in protecting property in which Buyer has or may acquire an interest.

(e) Payments made under Items 14 (d) (i) and (ii) above may not exceed the aggregate price specified in this purchase order less payments otherwise made or to be made. Any amounts payable for property lost, damaged, stolen or destroyed prior to delivery to Buyer will be excluded from amounts otherwise payable to Seller under this Item 14.

15. REMEDIES

The remedies stated herein are in addition to all other remedies at law or in equity.

16. INDEMNIFICATION

(a) Seller agrees to indemnify Buyer, its agents, customers, successors, and assigns against any loss, damage, and liability (including costs and expenses) for actual or alleged infringement of any patent, copyright or trademark arising out of the use or sale of the goods by Buyer, its agents or customer; provided, however, that Buyer must notify Seller of any suit, claim or demand involving such infringement and permit Seller to defend against or settle the same. If any injunction is issued as the result of any such infringement, Seller agrees, at Buyer's option, to (i) refund to Buyer the amounts paid to Seller for the goods covered by the injunction, or (ii) furnish Buyer with acceptable and noninfringing goods.

(b) Seller agrees to indemnify Buyer against any and all liability and expense resulting from any alleged defect in the goods, whether latent or patent, including allegedly improper construction and design, or from the failure of the goods to comply with specifications.

(c) Seller warrants that there are no liabilities for royalties, mechanics liens or other encumbrances on the goods supplied and agrees to indemnify Buyer against any such liabilities.

(d) The above indemnifications are in addition to all other rights or indemnification of Buyer against Seller.

17. NOTICE OF DELAYS

Whenever any event delays or threatens to delay the timely performance of this purchase order, Seller will immediately notify Buyer of such event and furnish all relevant details. Receipt by Buyer of such notice will not constitute a waiver of the due dates hereunder.

18. NO ASSIGNMENTS

No right or obligation under this purchase order (including the right to receive moneys due) may be assigned by Seller without the prior written consent of Buyer, and any purported assignment without such consent will be void. Buyer may assign this purchase order at any time if such assignment is considered necessary by Buyer in connection with a sale of Buyer's assets or a transfer of its obligations.

19. NO WAIVER

The failure by Buyer to enforce at any time any of the provisions of this purchase order, or to exercise any election or option provided herein, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this agreement or any part thereof, or the right of Buyer thereafter to enforce each and every such provision.

20. ENTIRE AGREEMENT

Unless a separate, valid agreement regarding the subject matter herein has been signed by both parties, the terms and conditions set forth herein constitute the entire agreement between Seller and Buyer. Buyer shall not be bound by any terms of Seller's acceptance which are inconsistent with the terms herein set forth. Acceptance by Seller of these terms may be made either by written acceptance or by delivery of any products or performance of any work described on the face of this document. This contract shall not be modified, supplemented, qualified or interpreted by any trade usage or prior course of dealing not made a part of the contract by its express terms.

21. APPLICABLE LAW

The contract between the parties is made, governed by, and shall be construed in accordance with the laws of the State of Texas. The courts of Travis County, Texas (or, if there is exclusive federal jurisdiction, the United States District Court for the Western District of Texas) shall have exclusive jurisdiction and venue over any dispute arising out of this agreement and sale, and Seller hereby consents to the jurisdiction of such courts.

22. ERRORS

Stenographic and clerical errors are subject to corrections.

23. ATTORNEY'S FEES

Reasonable attorney's fees and costs shall be awarded to the prevailing party in the event of litigation involving the enforcement or interpretation of this agreement or any request for shipment release issued and accepted under the terms and conditions of this agreement.