

ANUVA PURCHASE ORDER TERMS AND CONDITIONS

1. **DELIVERY.** Time is and shall remain of the essence with respect to this order, and no act of Buyer including modification of this order or acceptance of late deliveries, shall constitute a waiver of this provision. Buyer also reserves the right to (a) refuse or return at Seller's risk and expense shipments made in excess of the order or in advance of the scheduled delivery date(s). and (b) defer payment on advance deliveries not returned until the scheduled delivery date. All deliveries shall be FOB Origin, unless otherwise noted in the purchase order. Seller shall promptly notify Buyer of any event or potential event which may delay the timely performance of this order.
2. **PACKING and SHIPPING.** Products shall be suitably packed, marked and shipped in accordance with the requirements of common carriers and in the manner specified in this order. The cost of packing is included in the price, unless otherwise noted in this order. The cost of transport and storage will be paid by Anuva.
3. **CANCELLATION/SUSPENSION/RESCHEDULE.** Buyer shall have the right to cancel this order or any part hereof at any time and for any reason. If cancellation is for cause, Buyer shall have no liability to Seller with respect to the canceled part of the order. Cause shall include, without limitation, a material breach of Seller's obligations hereunder, (provided, however, that if the material breach is other than more than a thirty (30) day delay in delivery or a failure to comply with other material terms of the order's terms and conditions, Buyer shall provide Seller with notice and a twenty (20) day opportunity to cure such breach) or the insolvency of Seller or an assignment by Seller for the benefit of creditors. If cancellation is for Buyer's convenience, Buyer's liability shall be limited to the actual expenditures of Seller incurred up to the date notice of cancellation is received by Seller (to include Seller's normal loadings), plus actual expenditures of Seller incurred after notice of cancellation is received by Seller in storage, calculation and pursuit of termination charges, cost incurred in terminating subcontracts and supplier contracts, and so forth, plus a reasonable profit on both pre and post cancellation costs, less any costs Seller may recover within ninety (90) days after cancellation through its reasonable efforts in returning or reusing goods purchased for the performance of Buyer's cancelled order. An event of force majeure shall excuse Seller's performance for the duration of the event. Seller shall deliver to Buyer all goods completed for this order and all work in process as Buyer may require, as of the date of receipt of notice of cancellation. Buyer may also suspend at any time Seller's performance under this order pending Buyer's determination of whether or not Buyer will cancel any part of this order. Upon receipt of notice of suspension, Seller will immediately cease performance under this order and take all reasonable action to mitigate costs for which Buyer will be liable hereunder in the event of cancellation. If Buyer subsequently elects to cancel any part of this order, Buyer's liability shall be as set forth above for cancellation. Buyer shall have the right to reschedule delivery of this order at any time at least 30 days prior to the date of scheduled delivery at no cost or expense to Buyer. In the event of a suspension of performance, whether or not followed by a cancellation, Buyer shall be liable also for Seller's costs related to such suspension. No suspension may aggregate more than ninety (90) days under any one order.
4. **CHANGES.** Buyer may at any time make changes (a) in the applicable drawings, designs, or specifications, (b) method of shipment or packing, or (c) place of delivery by notifying Seller of such change in writing. If any such change results in an increase in Seller's cost or time to perform, Seller shall so notify Buyer in writing of its claim for an adjustment to this order, and if Buyer elects thereafter to proceed with the change, this order shall be amended to reflect a mutually agreed adjustment to the price or time for delivery. No claim by Seller for an adjustment in price or delivery terms shall be effective unless furnished to Buyer in writing within sixty (60) days of its receipt of Buyer's change notice.
5. **PRICE AND PAYMENT.** Seller warrants that the price of the Products ordered hereunder does not exceed the lowest price charged by Seller to its other customers at the time of delivery for same quantities of comparable Products. Seller shall only invoice Buyer upon shipment. Unless otherwise noted on the front of this order, Buyer shall pay all complete and correct invoices within thirty (30) days after the date of receipt of the invoice.
6. **WARRANTY.** Seller warrants that Seller has the right to sell and furnish the Products, that, to the extent the Products are of Seller's design, the Products and their use do not infringe any patent right, copyright, trade secret, mask work, or other intellectual property right of any third party, and that all Products will conform to Buyer's specifications, drawings and samples in all respects and be free from defects in workmanship. Seller further warrants that all services will be furnished in a professional manner and conform to Buyer's written requirements. These warranties shall survive inspection, acceptance and payment for a period of one (1) year. In the event any or all of the Products ordered hereunder fail to conform to these warranties. Buyer may, at its option, require Seller to repair or replace nonconforming Products or refund any amounts paid for such Products and cancel this order in whole or in part. In the event Buyer elects repair or replacement the cost of inspection, transportation, repackaging, reworking, and re-inspection by Buyer shall be at Seller's expense.

7. INDEMNITY. Seller shall defend, indemnify and hold Buyer, its officers, employees, and customers harmless from and against all liability, loss and expenses of any kind, including attorneys fees. arising out of any claim of infringement of any patent, copyright, trademark, mask works, or any other intellectual property right of any third party in connection with the Products to the extent the Products are of Seller's design. If an injunction is issued as the result of any claim of such infringement, and as a result Buyer or its customers are unable to use the Products, in addition to the aforesaid indemnity. Seller shall, at Buyer's option, (a) refund to Buyer any amounts paid by Buyer with respect to the enjoined Products, or (b) furnish to Buyer non-infringing substitute Products of like kind, quality, form, fit and function. Seller shall also indemnify Buyer and hold it harmless from and against all liability, loss and expenses of any kind resulting from any claim asserted against Buyer at law or equity by any person on account of damage to property, or injuries to or death of any person, which arises out of or in connection with Seller's performance of this order, but only to the extent that such liability, loss or expenses are due directly or indirectly to a breach of Seller's warranty or a willful or negligent act or omission of Seller. Except as set forth in this Clause 7 and Clause 11, Seller shall not be liable to Buyer for incidental, or consequential or special damages under any theory or for any reason under this order.

8. BUYER'S PROPERTY. All specifications, drawings, tools, materials, and other items furnished by Buyer for Seller's use hereunder, and any items furnished by Seller as a deliverable hereunder, and returned to Seller for re-work or repair, shall be and remain the property of Buyer. Buyer shall have the right to enter upon the premises of Seller at any reasonable time and with reasonable notice remove any of the foregoing without being guilty of trespass or liable to Seller for damages of any sort. All items of Buyer's property furnished in connection with this order shall be appropriately and prominently marked as Buyer's property. Seller shall maintain all Buyer's property and return same to Buyer in the same condition as delivered to Seller, normal wear and tear excepted. Unless authorized by Buyer in writing, Seller shall only use Buyer's property for furnishing of Products to Buyer.

9. CONFIDENTIALITY. Seller acknowledges that during the course of performing any work hereunder, Seller may develop or learn information which is confidential and proprietary to Buyer, its vendors or its customers, ("Information"), Seller agrees not to disclose such information to any third party or otherwise to use such information, directly or indirectly, without the prior written consent of Buyer. Seller shall not disclose to Buyer any confidential or proprietary information of any third party without the prior written consent of such third party Seller shall protect all Buyer documentation furnished to Seller in the course of performing this order to the same extent as it protects its own valuable confidential information. but not less than a reasonable standard of care.

10. COMPLIANCE WITH LAWS. Seller shall at all times comply with all federal, state and local laws, regulations, rules and standards applicable to the performance of this order, including, without limitation, any laws and regulations related to health, safety, environmental protection and discrimination in employment, such as the Occupational Safety and Health Act, the Fair Labor Standards Act, the Toxic Substance Control Act, Workers' Compensation laws, state Right to Know laws and regulations. and all statutes. Executive Orders and related regulations, dealing with equal opportunity, affirmative action, minority or women-owned businesses, handicapped workers, and Viet Nam-era Veterans, if applicable according to their terms.

11. INSURANCE and INDEMNITY. Seller shall indemnify and hold Buyer harmless from and against any claim of personal injury (including death) and property damage arising out of Seller's performance of any work ordered here-under. Seller shall maintain all insurance and/or bonds required by law, including without limitation: (a) Workers' Compensation and related insurance as prescribed by law in the state in which the work will be performed; (b) Employer's Liability Insurance with limits of at least \$100,000 for each occurrence; and (c) Comprehensive general public liability insurance, and comprehensive motor vehicle liability insurance if use of a motor vehicle is required; covering claims for personal injury (including death) and property damage arising out of or in connection with the performance of Seller's services hereunder, with limits of at least \$1,000,000 per occurrence. Seller shall furnish evidence of such insurance upon request.

12. INDEPENDENT CONTRACTOR. Seller is an independent contractor and not an employee or agent of Buyer, and shall have no authority to commit or create any liability on the part of Buyer in any manner whatsoever.

13. SOURCE INSPECTION. Buyer reserves the right to perform source inspections during normal business hours. Suppliers of medical devices or components should be advised they may be subject to unannounced inspection by regulatory authorities. In the event the Suppliers' defect results in a recall of the finished product, responsibilities of each party should be agreed.

14. FLOWDOWNS. Supplier is advised that certain orders may contain additional, specific, requirements or flowdowns that they are obligated to conform to.

15. MISCELLANEOUS. This order shall be governed and construed in accordance with the laws of the State of Florida (for Anuva Manufacturing Services) or North Carolina (for Anuva Innovations or Anuva Services) without regard for its conflict of laws rules.

In the event that any provision of this Agreement shall be adjudged illegal or otherwise unenforceable, such provision shall be severed, and the balance of this Agreement shall continue in full force and effect.

Seller shall not assign this order and/or any work hereunder without the prior written consent of Buyer. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns.

No failure on the part of either party hereto to exercise, and no delay in exercising, any right or remedy available to it shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy hereunder preclude any other right or remedy. No waiver shall be effective unless it is made in writing, executed by the party to be charged.