

VacuForm, Inc.

PURCHASE ORDER TERMS AND CONDITIONS

ACCEPTANCE OF AGREEMENT/TERMS AND CONDITIONS

(a) This Agreement integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter of this Agreement and constitutes the entire agreement between the parties. (b) Supplier's acknowledgement, acceptance of payment, or commencement of performance, shall constitute Supplier's unqualified acceptance of this Agreement. (c) Additional or differing terms or conditions proposed by Supplier or included in Supplier's acknowledgment are objected to by the Company and its affiliated companies ("Company"), and have no effect unless accepted in writing by Company. (d) All terms, conditions and provisions of the Agreement (including but not limited to warranties of Supplier) shall survive delivery, performance, acceptance of any payment, cancellation, or termination. (e) Company shall not be responsible for any incidental, special, or consequential damages. (f) Estimates or forecasts furnished by Company shall not constitute commitments by Company.

BEST PRICE

If Seller shall sell the same, or substantially similar, goods in similar quantities to any other customer at a lower price than the price in effect for Company, the purchase price in effect hereunder shall be reduced to such lower price. Such reduction shall apply to all unshipped orders hereunder and all orders which were shipped subsequent to the effective date of such lower price. Company, or Company's authorized representatives, may audit Supplier's books and records for the purpose of verifying Supplier's compliance with this provision upon ten (10) days written notice. Supplier shall maintain applicable records for a period of not less than one (1) year after the date of said transaction.

CHANGES

(a) The Company Procurement Representative may at any time, by written notice, make changes within the general scope of this Agreement in any one or more of the following: (i) drawings, designs or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance or point of delivery; and (iv) delivery schedule. (b) If any such change causes a mutually agreed upon increase or decrease in the cost of, or the time required for, performance of any part of this Agreement, Company shall make an equitable adjustment in the Agreement price and/or delivery schedule, and modify the Agreement accordingly. Changes to the delivery schedule will be subject to a price adjustment only. (c) Any claim for an equitable adjustment by Supplier must be submitted in writing to Company within thirty (30) days from the date of notice of the change, unless the Parties agree in writing to a longer period. (d) Nothing contained in this "Changes" clause shall excuse Supplier from proceeding without delay in the performance of this Agreement as changed.

CHARGES TO THE SUPPLIER

In the event that a failure of the Supplier to meet its confirmed delivery obligations results in a subsequent work stoppage at the Company, or results in penalty charges to the Company by its customers for failure to meet delivery obligations, the Company reserves the right to charge back the actual cost of the work stoppage and/or the penalty charges to the Supplier.

COMMUNICATION

Unless the Company gives specific approval in writing to the contrary, at no time should any supplier to the Company communicate directly with any of the Company's customers regarding any topic that relates to the Company. Violation of this clause can result in cancellation of an open "Work" by the Company without penalty.

COMPLIANCE WITH LAWS

Supplier shall comply with all applicable provisions of the Fair Labor Standards Act, the Fair Packaging and Labeling Act, and rules, regulations, and with all other applicable federal, state and local laws, ordinances, regulations and codes, including the identification and procurement of required permits, certificates, licenses, insurance, approvals and inspections including, without limitation, all federal, state or local laws with respect to taxes on income or payroll or otherwise payable to any governmental entity. Supplier is in compliance with Executive Order 11246. Supplier shall, upon request of Company, furnish a certificate relating to compliance with all applicable federal, state and local laws, rules and regulations in such form as Company may from time to time require. Supplier shall indemnify and hold Company harmless from any liability arising from the failure of Supplier to comply with any of the aforesaid laws, rules and regulations.

CONFIDENTIAL INFORMATION

Any information provided including, but not limited to, specification, drawing, sketch, model, sample, technical information or data (all hereafter designated "information") furnished to Supplier or in contemplation of this Agreement shall remain Company property. All such information in written, graphic, or other tangible form shall be returned to Company upon request. Unless such information was previously known to Supplier free of any obligation to keep it confidential, or has been or so subsequently made public by Company or a third party, it shall be kept confidential by Supplier, shall be used only in the filling of orders and may be used for other purposes upon such terms as may be agreed between Company and Supplier in writing. Supplier agrees to comply with the terms of any Nondisclosure Agreement with Company and to comply with all proprietary information markings and restrictive legends applied by Company to anything provided to Supplier.

DELIVERY

This order is subjected to the delivery date set forth in any purchase order or unless changed by written Agreement. If purchase orders cannot be filled as indicated, Company shall be promptly notified. Time is of the essence in this Agreement, and if delivery of products or rendering of services does not meet agreed upon commitments, Company reserves the right without liability, in addition to its other rights and remedies, to terminate this Agreement any purchase orders thereunder by notice effective when received by Supplier, as to stated items not yet shipped or services not yet rendered, and to purchase substitute items or services elsewhere and charge the Supplier with any losses incurred. Shipments sent C.O. D., without Company's written consent, will not be accepted and will be at Supplier's risk.

EXCESS SHIPMENTS

Materials shipped to Company in advance of the schedule or in excess of the amount specified in this Agreement or on a purchase order may be returned to Supplier at Supplier's expense.

EXTRA CHARGES

No charges of any kind, including charges for boxing or cartage, will be allowed unless specifically agreed to by Purchaser in writing. Price is to cover net weight of material unless otherwise agreed.

FORCE MAJEURE

Any delay or failure of either party to perform its obligations hereunder shall be excused if, and to the extent that it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, action by an Governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, or court injunction or order Agreement, or any Purchase Order issued pursuant hereto; provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party to the other party within ten (10) days. During the period of such delay or failure to perform by Seller, Buyer, at its option, may purchase goods from other sources and reduce its schedules and/or releases to Seller by such quantities, without any liability to Seller, or have Seller provide the goods from other sources in quantities and at times requested by Buyer and at the price set forth in this Agreement, or any Purchase Order issued pursuant hereto. If requested by the Buyer, Seller shall, within ten (10) days of such request, provide adequate assurances that the delay shall not exceed thirty (30) days. If the delay lasts more than thirty (30) days or Seller does not provide adequate assurance that the delay will cease within thirty (30) days, Buyer may immediately cancel the Agreement, or any Purchase Order issued pursuant hereto, without any further liability to Seller.

INDEMNITY

Supplier shall protect, defend, indemnify and hold Company and its agents, employees and related companies harmless from any losses, costs, expenses (including attorney's fees and court costs), claims (including claims of Seller's employees), damages including incidental and consequential, demands, liabilities, suits, actions, recoveries and judgments of every nature and description (collectively, "Losses) arising out of or resulting from the performance or non-performance by Supplier of this Agreement except to the extent that any Loss is caused by the negligence (sole or concurrent) of Company, its agents and employees. As to any claim made by Company hereunder, Supplier expressly waives any insulation from liability or immunity from sit with respect to injuries to Supplier's employees which may be extended to Supplier as a result of any payments made by Supplier to such employees or under any applicable workers' compensation statute or similar law or judicial decision.

INSURANCE

If this order covers the performance of labor for Purchaser, Seller agrees to indemnify and protect Purchaser against all liabilities, claims or demands for injuries or damages to any person or property growing out of the performance of this contract. Seller further agrees to furnish prior to commencement or work insurance carrier's certificate showing that Seller has adequate Workmen's Compensation. Said certificate must set forth the amount of coverage, number of policy and date of expiration, and provide that the amount will not be cancelled or decreased prior to at least ten (10) days after written notice of such cancellation or decrease has been mailed to the Purchaser. If seller is a self-insurer, the certificate of the Department of Labor and industry of the state in which said labor is to be performed must be furnished by such Department directly to Purchaser.

INTELLECTUAL PROPERTY

Subparagraph (a) is NOT applicable for commercial off-the-shelf purchases unless such off-the-shelf product is modified or redesigned pursuant to the Agreement. (a) Supplier agrees that Company shall be the owner of all inventions, technology, designs, works of authorship, mask works, technical information, computer software, business information and other information conceived, developed or

otherwise generated in the performance of this Agreement by or on behalf of Supplier. Supplier assigns and agrees to assign all right, title, and interest in the foregoing to Company, including without limitation all copyrights, patent rights and other intellectual property rights and further agrees to execute, at Company's request and expense, all documentation necessary to perfect title in Company. Supplier agrees that it will maintain and disclose to Company written records of, and otherwise provide Company with full access to, the subject matter covered by this clause and that all such subject matter will be deemed confidential information of Company and subject to the protection provisions of the clause entitled "Confidential Information" of Company. "Supplier agrees to assist Company, at Company's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this clause. (b) Supplier warrants that the work performed and delivered under this Agreement will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Supplier agrees to defend, indemnify and hold harmless Company and its customers from and against any claims, damages, losses, costs and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the work performed and/or products delivered under this Agreement infringes or otherwise violates the intellectual property rights of any person or entity.

INTERPRETATION

Irrespective of the place of execution or performance, this Agreement and any purchase orders shall be governed by and construed in accordance with the laws of the State of Ohio.

INVOICING, PAYMENTS, TAXES, AND DUTIES

(a) Unless otherwise provided, terms of payment shall be 2% 45, Net 60... a 2% early pay discount with a 45 day payment or the net amount due in 60 days from the latest of the following: (i) Company's receipt of the Supplier's proper invoice; (ii) scheduled delivery date of the work; or (iii) actual delivery of the products or services covered by this Agreement. Services performed under this agreement shall only be due upon completion of the Work and shall be payable when the Work has been performed to the satisfaction of Company. All Work shall be delivered free from all claims, liens, and charges whatsoever. Company reserves the right to require, before making payment, proof that all parties furnishing labor and materials for the Work have been paid. Company shall have a right of setoff against payments due or at issue under this Agreement or any other Agreement between the Parties. (b) Supplier shall: (1) render original invoice, or as otherwise specified in this Agreement, showing Agreement and order number, through routing and weight; (2) render separate invoices for each shipment within twenty-four (24) hours after shipment; and (3) mail invoices with copies of bills of lading and shipping notices to the address shown on this Agreement or purchase order. If prepayment of transportation charges is authorized, Supplier shall include the transportation charges from the FOB point to the destination as a separate item on the invoice stating the name of the carrier used. (c) Payment shall be deemed to have been made as of the date of mailing Company's payment or electronic funds transfer. (d) Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. (e) Receipt and acceptance of payment shall not constitute acceptance of products and/or services under this Agreement.

MEDIATION

In the event of any dispute between the parties hereto regarding any matter arising out of or relating to this Agreement, or its breach, and the parties have not been successful in resolving such dispute through negotiation, the parties agree to attempt to resolve the dispute through mediation by submitting the dispute to a sole mediator selected by the parties or, at any time at the option of a party, to mediation by the American Arbitration Association (“AAA”). Each party shall bear its own expenses and an equal share of the expenses of the mediator and the fees of the AAA. All defenses based on passage of time shall be suspended pending the termination of the mediation. Nothing in this clause shall be construed to preclude any party from seeking injunctive relief in order to protect its rights pending mediation. Until final resolution of any dispute hereunder, Supplier shall diligently proceed with the performance of this Contract as directed by Company.

NO EXPECTATION OF CONTINUED ORDERS

This Agreement does not create any rights to the Supplier to expect continued purchase orders from Company.

PACKING FOR SHIPMENT

All products ordered shall be suitably packed for shipment and no charge shall be made for container, wrapping materials, ESD packaging, packing, cartoning, crating, delivery, drayage, storage unless specifically authorized in the purchase order or this Agreement.

QUALITY AND INSPECTION

Except as otherwise agreed in writing, all products and/or services must be as specified in this Agreement or any purchase order and acceptance will be subject to Company’s inspection. If for any reason specifications are omitted, incomplete or changed according to Supplier practices, Supplier shall so advise Company before a purchase order is processed and in any case, material and workmanship must be free from any and all defects and must comply with applicable specification tolerances, and quality standards. Company shall determine whether Supplier’s proposed change may affect the quality of a finished device. Company shall determine whether Supplier’s proposed change may affect the quality of a finished device. Unless otherwise specified, all products and/or services furnished may be subject to inspection. If through failure to satisfy this inspection, products are found to require additional inspection, Supplier shall be liable for those expenses, and for corrections made to the products, as deemed necessary by Company. Company additionally reserves the right to return in whole or part for full credit at expense and risk to Supplier, any shipments failing to meet Company inspection criteria. Product replacement shall be optional and determined by Company. Company reserves the right to inspect applicable raw in process, or finished materials at Supplier’s plant at any operation, with minimum prior verbal or written notice of 24 hours.

TERMINATION FOR DEFAULT

(a) Company, by written notice, may terminate this Agreement for default, in whole or in part, if Supplier fails to comply with any of the terms of this Agreement, fails to make progress as to endanger performance of this Agreement, or fails to provide adequate assurance of future performance. Supplier shall have ten (10) days (or such longer period as Company may authorize in writing) to cure any such failure after receipt of notice from Company. Default

involving delivery schedule delays shall not be subject to the cure provision. (b) Company shall not be liable for any work not accepted; however, Company may require Supplier to deliver to Company any supplies and materials, manufacturing materials, and manufacturing drawings that Supplier has specifically produced or acquired for the terminated portion of this Agreement. Company and Supplier shall agree on the amount of payment for these deliverables. (c) Supplier shall continue all work not terminated. (d) If after termination under paragraph (a), it is later determined that Supplier was not in default, such termination shall be deemed a Termination for Convenience. (e) All terms, conditions and provisions of the Agreement (including but not limited to warranties of SUPPLIER) shall survive cancellation or termination of this Agreement.

TRANSPORTATION

Transportation charges on materials sold F.O.B. destination must be prepaid if possible. No parcel post insurance charges will be allowed unless authorized by Company. If routing of freight shipment is not specified by Company, Supplier shall be responsible for arranging shipment via direct truck routing providing the least expensive rate. Supplier shall also be responsible for loss or damage resulting from improper loading, blocking or staying materials for transit.

WAIVER, APPROVAL, AND REMEDIES

(a) Failure by Company to enforce any of the provision(s) of this Agreement shall not be construed as a waiver of the requirement(s) of such provision(s), or as a waiver of the right of Company thereafter to enforce each and every such provision(s). (b) Company's approval of documents shall not relieve Supplier from complying with any requirements of this Agreement. (c) The rights and remedies of Company in this Agreement are cumulative and in addition to any other rights and remedies provided by law or in equity.

WARRANTY

Supplier warrants that all work, products, and/or services ("Work") furnished pursuant to this Agreement shall strictly conform to applicable specifications, drawings, samples, and descriptions, and other requirements of this Agreement and be free from defects in design, material and workmanship. The warranty shall begin upon final acceptance and extend for a period of (i) the manufacturer's warranty period of six (6) months, whichever is longer, if Supplier is not the manufacturer and has not modified the Work or, (ii) one (1) year of the manufacturer's warranty period, whichever is longer if the Supplier is the manufacturer of the Work or has modified it. If any non-conformity with Work appears within that time, Supplier, at Company's option, shall promptly repair, replace, or re-perform the Work. Transportation of replacement Work and return of non-conforming Work and repeat performance of Work shall be at Supplier's expense. If repair or replacement or re-performance of Work is not timely, Company may elect to return the non-conforming Work or repair or replace Work or re-procure the Work at Supplier's expense. All warranties shall run to Company, its successors and assigns, its customers and users of its products. Any implied warranty of merchantability and fitness for a particular purpose is hereby disclaimed.