

**PURCHASE ORDER TERMS AND CONDITIONS FOR SUPPLIERS WORKING WITH  
BAXTER MANAGED EUROPE PERTAINING TO PURCHASE ORDERS.**

**ACCEPTANCE**

This order is Buyer's offer to the Seller and becomes a binding contract subject to the terms and conditions stated herein, when accepted by acknowledgement or commencement of performance by Seller. Any additions, exceptions, or changes to these terms proposed by Seller are hereby rejected unless approved by Buyer in writing. If Seller objects to any of these terms and conditions hereof, it shall notify Buyer immediately in writing and the Purchase will not be deemed finalized until agreement has been reached between Buyer and Seller on the extent of the validity of the terms and conditions of Purchase. In case of cross-border trade, the INCOTERMS of the International Chamber of Commerce in Paris may apply from time to time.

**WARRANTY**

Seller expressly warrants that goods shall be in good merchantable condition, shall conform to this order, to specifications, drawings, or description relating to such goods and that such goods shall be fit for the intended purposes and shall be free from defects in materials and workmanship. Seller further expressly warrants that the services ordered shall be provided by qualified, reasonably skilled and trained personnel, in accordance with the general industry standards. Seller warrants that it has clear title to the goods and services shall be delivered free of liens and encumbrances. All of the above mentioned warranties shall be applicable to Buyer, its customers and the users of the goods or services or products into which such goods may be incorporated.

**INSPECTION**

Goods purchased under this order are subject to Buyer's reasonable inspection, testing, and approval at Buyer's destination. Buyer reserves the right to reject and refuse acceptance of goods which are not in accordance with this order or Seller's representation or warranties, expressed or implied, Buyer will charge Seller for the cost of inspecting rejected goods. Rejected goods may be returned to Seller, or held by Buyer, at Seller's Risk and expense. Payment for any goods under this order shall not be deemed acceptance of the goods.

**INDEMNIFICATION**

Seller agrees to defend, indemnify and hold harmless Buyer, its affiliates, successors, assigns, employees, agents, customers and users of the goods or services with respect to all claims, liability, damage, loss and expenses, including attorneys' fees, incurred relating to or caused by :

1. actual or alleged patent, copyright or trademark infringement or violation of any other proprietary right arising out of the purchase, sale or use of the goods or services covered by this order ;
2. actual or alleged defect in the services or in the design, manufacture, or material of the goods ;
3. actual or alleged breach of warranty ;
4. failure of Seller to deliver the goods or services on a timely basis ; or
5. failure of the goods or services to comply with applicable laws and regulations.

In the event of a claim under this section, Buyer may at its option terminate this order or defer acceptance of balance of the goods or services ordered until the claim is resolved. If Buyer is enjoined from use of the goods, Seller shall at Buyer's option, either procure for Buyer and its affiliates the right to continue using the goods, replace the goods with substantially equivalent goods, modify the goods so as to be usable by Buyer, or repurchase the goods at the price set forth in this order.

## **REGULATORY COMPLIANCE**

Seller will comply with all relevant legislation and standards related to environmental, safety and hygiene matters in providing goods and/or services to Buyer. Seller shall (1) inform Buyer promptly of any significant adverse event that affect or may affect the quality of the goods and/or services; (2) will allow Buyer to inspect Seller's facilities and (3) implement promptly any corrective action as may be requested by Buyer including corrective action items complying with the Buyer's own environmental, safety and hygiene program.

## **RECALL**

In the event that a recall of the goods is necessitated by defect, a failure to conform to the specifications, applicable laws, or any other reason within the Seller's control, Seller shall bear all costs and expenses of such recall, including without limitation, costs of notifying customers, customers refunds, costs of returning goods, lost profits, and other expenses incurred to meet obligations to third parties.

## **INSURANCE**

Seller shall maintain in force at its expense an appropriate liability insurance covering any damages caused by the Seller, its employees or its agents for the goods and services supplied. If services are performed under this order on Buyer's premises, Seller shall obtain Premises-Operations, Personal Injury, and Independent Protective Liability endorsements, and shall further obtain Worker's Compensation, Employer's Liability and Automotive insurance coverage. If requested, Seller shall furnish Buyer with a certificate evidencing the required insurance.

## **RISK OF LOSS**

Seller shall bear the risk of loss or damage to the goods covered by this order until they are delivered to and accepted by the Buyer.

## **PRICE**

Unless otherwise specified, the prices stated on the front of this order include all charges for packing, hauling, storage, transportation to point of delivery, and taxes. Sale and use taxes not subject to exemption shall be stated separately in Seller's invoice. Seller warrants that the prices quoted in this order are no greater than those currently charged to any other buyer for similar quantities of goods or services. Any price reduction extended to the others by Seller prior to delivery shall also be extended to Buyer.

## **PROPRIETARY INFORMATION**

Seller understands that during work on this order, he may gain access to information that is designated as proprietary to the Buyer or to other parties and agrees not to use any such proprietary information without prior written approval of the Buyer.

## **USE OF SELLER'S INFORMATION**

All information disclosed to Buyer in connection to this order is furnished as part of consideration for Buyer's placement of this order. This information is not to be treated as confidential or proprietary, and no claim will be asserted against Buyer, its assigns, or customers, for its disclosure or use.

## **BUYER-FURNISHED MATERIAL**

Seller shall not use, reproduce, or appropriate for or disclose to anyone other than the Buyer, any material, tooling, dies, drawings, design, or other property or information furnished by Buyer without Buyer's prior written approval. Title to all material shall remain in Buyer at all times, and where practicable the material shall be clearly marked or tagged to indicate this ownership. Seller bears the risk of loss or damage to the material until it is returned to Buyer. All material,

whether or not spoiled or used, shall be returned to Buyer at termination or completion of this order unless Buyer shall otherwise direct.

#### **ASSIGNMENT; SUBCONTRACTING**

Seller shall not assign this order or subcontract any material portion of the performance of it without Buyer's prior written consent.

#### **SUBSTITUTION**

No substitution of any material may be made without Buyer's prior written consent.

#### **SHIPMENT OR DELIVERY SCHEDULE**

Shipment or deliveries shall be strictly in accordance with the schedule established by this order. If Seller does not; or appears that it will not meet such schedule, it will promptly inform Buyer in writing of the reasons of such delay and the estimated duration of such delay. Buyer may, in addition to any other rights or remedies provided by law or this order, require that Seller ship via expedited routing to meet such schedule or to recover the time lost, and the cost difference shall be paid by Seller. Transport takes place at the Seller's risk. The risk of any deterioration, accidental destruction, remains with the Seller until delivery is completed to the delivery address notified by Buyer.

#### **OVER-SHIPMENT**

Over-shipment of material not approved by Buyer in writing will be returned at Seller's expense, if such over-shipment exceeds 10% of the total ordered volume or value, whichever is smaller.

#### **TERMINATION AND REMEDIES**

Buyer may terminate this order, or any part thereof, by written notice to Seller. If Seller defaults for any reason including, but not limited to the following circumstances:

- a. If Seller fails to perform within the time specified or extension agreed to in writing by Buyer
- b. If Seller fails to comply with other provisions of this order, or fail to make progress so as to endanger its performance of this order in accordance with its terms, and does not remedy such failure within ten (10) days of notice from the Buyer or such longer period as Buyer may in writing authorize.
- c. If Seller becomes insolvent or is subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors. In the event of default or breach by Seller or rightful rejection of acceptance of the goods by Buyer, Buyer may cancel the order and recover so much of the price as has been paid together with any incidental and consequential damages. In addition to any other remedy, provided by law or this contract, Buyer may 'cover' by making, in good faith and without unreasonable delay, and reasonable purchase of or contact to purchase goods in substitution for those due from the Seller and shall recover from Seller as damages the difference between the cost of 'cover' and the contract price together with any incidental or consequential damages.

#### **COMPETENT COURTS**

Any dispute arising out of or in connection with this order shall be settled by mutual agreement. In case the dispute cannot be settled by mutual agreement, it will be submitted to the competent courts.