

## Genuity Purchase Order Standard Terms and Conditions

**1. CONTRACT OFFER AND ACCEPTANCE.** This Purchase Order is an offer to enter into a contract by Genuity LLC (“Genuity” or “we”) with the supplier identified on the face of this Purchase Order (“Supplier”). We may revoke or modify this Purchase Order at any time prior to Supplier’s acceptance of this offer. Supplier’s acceptance of this offer (including these Terms and Conditions) will be evidenced by: (a) Supplier’s execution of the acknowledgment copy of this Purchase Order or its own order acknowledgment form or other written confirmation (including email), (b) Supplier’s commencement of performance pursuant to this Purchase Order, (c) Supplier’s shipment of any of the components and/or delivery of any of the services specified on the face of this Purchase Order (collectively, “Items”), or (d) Supplier’s acceptance of any payment by us hereunder. Notwithstanding the foregoing, this Purchase Order is not a valid offer unless signed by an authorized representative of Genuity.

**2. NO INCONSISTENT TERMS.** Genuity rejects all additions, exceptions, or changes to these Terms and Conditions, whether contained in any printed form of Supplier or elsewhere. No such inconsistent terms will become a part of this Purchase Order or otherwise binding upon us. If Supplier objects to any specific provision in these Terms and Conditions, this objection must be in writing and received by us at our address on the face of this Purchase Order prior to Supplier’s acceptance of this Purchase Order. Our failure to object to terms contained in any communication from Supplier will not be a waiver of these Terms and Conditions.

**3. FIRM PRICING.** The price for all Items covered by this Purchase Order are firm and shall not be increased by Supplier for any reason. All purchases for which we have furnished Supplier with evidence of applicable tax exemption shall be free from any such taxes. Any additional costs, including for packing, storage, shipping, and duties, must be specifically identified and approved by us in writing prior to shipment.

**4. PAYMENT TERMS.** Supplier will invoice us for the Items only upon the shipment of such Items or the completion of any services related thereto, as the case may be. Unless otherwise agreed, payment terms shall be net 45 days from the later of the date of actual receipt by us of the Items or Supplier’s specific invoice for such Items. Any amount owing by Supplier to us may be set off against any money due Supplier hereunder.

**5. EXACT QUANTITIES.** Supplier must deliver the exact quantities of Items specified in this Purchase Order. We reserve the right to reject incomplete deliveries and to return, at Supplier’s risk and expense, excess or insufficient quantities of Items delivered.

**6. PACKAGING; REQUIRED DOCUMENTS.** All Items shall be packaged, marked, and otherwise prepared for shipment by

Supplier in accordance with our specified instructions and sound commercial practices. Supplier shall mark on packages all necessary safe handling, loading, and shipping instructions. An itemized packing list shall be included with each shipment and, if relevant, a Safety Data Sheet (SDS). Additionally, if and as required by this Purchase Order, Material Traceability Certificate(s) and Certificate(s) of Compliance shall also be included. All packing slips and invoices shall reference the number of this Purchase Order, part number(s) for each Item type, revision levels, and quantities shipped.

**7. SHIPMENT; TITLE; RISK OF LOSS.** Shipping, title, risk of loss, insurance, and duties (when applicable) under this Purchase Order shall be according to Incoterms 2010. Unless otherwise specified herein, the Items will be shipped by Supplier, FOB (Origin), with the common carrier specified by Genuity. Notwithstanding anything in this Purchase Order to the contrary, Supplier shall bear the risk of loss or damage to the Items covered by this Purchase Order until they are delivered to and accepted by Genuity at our facilities or other designated destination, as the case may be.

**8. TIMELY DELIVERY.** Delivery is due on or before the due date(s) specified in this Purchase Order. Time and place of delivery are of the essence in the performance of this Purchase Order. Any provision for delivery in installments shall not be construed as making the obligations of Supplier severable. If delivery cannot be made at the specified time and place, Supplier shall promptly notify us of the earliest possible date for conforming delivery. Notwithstanding such notice, and unless otherwise agreed by us in writing, Supplier’s failure to effect conforming delivery shall entitle us to cancel this Purchase Order without any liability to Supplier, and to return, at Supplier’s sole risk and expense, all or any part of a nonconforming delivery for a full refund of any amounts paid for such returned Items. Our receipt or acceptance of all or part of a nonconforming delivery shall not constitute a waiver of any claim or remedy we have hereunder or under applicable law.

**9. INSPECTION; REJECTION; CORRECTIVE ACTIONS.** Items are subject to Genuity’s reasonable inspection, testing, and approval at our facilities or other designated destination, as the case may be. Genuity may, at its discretion, employ either a 100% inspection or a sample plan. We reserve the right to reject Items which are not in accordance with this Purchase Order, including the samples, models, drawings, diagrams, schematics, designs, descriptions and specifications for such Items attached hereto or incorporated by reference herein (collectively, “Specifications”). Lots which fail to pass inspection based on a sampling plan may be subsequently 100% inspected by Genuity, with Supplier to be charged for all such inspection costs. Rejected Items may be returned to Supplier for a full refund, at Supplier’s sole risk and

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expense. Payment for any Items hereunder shall not be deemed acceptance of the Items. Without limiting the foregoing, if Gentuity notifies Supplier of a recurring problem with an Item, whether or not such problem has resulted in a customer incident or complaint involving any of our medical device products, Supplier will perform an internal investigation and root cause analysis of such problem. Any investigations and corrective actions undertaken by Supplier will be documented in accordance with Gentuity's then-current quality requirements for such Items as provided to Supplier for incorporation herein ("Quality Requirements"), and a written report of the related findings and corrective actions will be provided to Gentuity. Supplier understands and agrees that each of Gentuity's Notified Bodies and regulatory and administrative authorities, as applicable, reserves the right to conduct any inspection of Supplier and its premises without advance notice. In addition, nothing in these Terms and Conditions shall relieve Supplier from the obligation to make full and adequate testing and inspection of all Items prior to their shipment to Gentuity in accordance with the Quality Requirements.

**10. WARRANTIES.** Supplier expressly warrants that all Items delivered hereunder will: (i) be new, of merchantable quality, suitable for the uses intended, of the grade and quality specified, (ii) be free from all defects in design (except to the extent that the design was supplied by Gentuity), material and workmanship, (iii) fully conform to all Specifications and Quality Requirements for such Items, (iv) fully comply with all applicable laws and regulations, (v) be in accordance with the then-current highest industry standards, and (vi) be free of liens and encumbrances. In addition, Supplier expressly warrants that the Items will not be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended, or within the meaning of any applicable state or municipal law in which the definitions of "adulteration" and "misbranding" are substantially identical with those contained in such Act. All of these warranties shall survive any delivery, inspection, testing, approval, acceptance, payment, and sale or lease of our medical device products incorporating the Items, and shall extend to Gentuity, its successors, assigns, and customers. These warranties shall be construed as conditions as well as warranties and shall not be deemed to exclude Supplier's standard warranties or other rights or warranties, including all original manufacturers' and suppliers' warranties. At its sole expense and Gentuity's sole option, Supplier shall replace or repair any Items not conforming to the foregoing warranties. If after notice Supplier fails promptly to replace or repair any such nonconforming Item, we may do so without further notice and Supplier shall promptly reimburse us for all costs incurred thereby. Notwithstanding the foregoing, if Supplier is unable to replace or repair any such nonconforming Item

or if Gentuity, in its sole discretion, otherwise elects, Supplier shall promptly refund to us the full purchase price paid by us for all such Items, with Supplier being solely responsible for all costs associated with the return of the nonconforming Items.

**11. INTELLECTUAL PROPERTY RIGHTS.** (a) Supplier acknowledges and agrees that all Specifications are and shall remain Gentuity's sole and exclusive property and shall be returned promptly to Gentuity (together with all copies), at our sole discretion, upon the earlier of our request or the termination or completion of this Purchase Order. Supplier acknowledges and agrees that all such industrial and intellectual property shall be treated as confidential and proprietary to Gentuity and shall not be disclosed by Supplier to any third party or used by Supplier except as specifically required in the course of performing this or other Purchase Orders exclusively for Gentuity. Unless we have otherwise agreed in writing, information and material furnished or disclosed by Supplier to us shall not be considered to be confidential or proprietary and shall be acquired by us free of restrictions of any kind. (b) Supplier acknowledges and agrees that any copyrightable Item made, designed or developed for Gentuity in connection with the performance of this Purchase Order shall be a "work made for hire" within the meaning of Section 201 of the Copyright Law of 1916, as amended ("Work Product"). Supplier hereby assigns to us any and all inventions, discoveries, computer programs, software, data, technologies, designs, innovations and improvements, and the related copyrights, patents, trademarks, trade names and other industrial and intellectual property rights and applications therefor, made or conceived by or on behalf of Supplier or its agents in connection with the creation and delivery of all Work Product under this Purchase Order. Supplier hereby appoints any of our officers as its duly authorized attorney, and Supplier agrees to cooperate to the extent we may reasonably request, for the purposes of executing, filing, prosecuting and protecting the foregoing. (c) Supplier represents and warrants that any pre-existing industrial and intellectual property of Supplier (as fully evidenced by Supplier's written records), together with any Work Product, that is incorporated in the Items will not infringe any United States or foreign copyright, patent, trademark, trade name, or misappropriate any trade secret or any other proprietary, industrial property, intellectual property, contract or other right held by any third party. Except to the extent required by law, Supplier shall make no reference, advertisement, or promotion regarding our purchase or use of the Items covered by this Purchase Order without our express prior written agreement.

**12. GENTUITY TOOLS AND OTHER PROPERTY.** All tools, dies, molds, patterns and other equipment and materials furnished by us to Supplier or paid for by us, directly or indirectly, and any

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replacements, shall remain our property. Supplier shall safely store such property separately from Supplier's property, shall plainly identify such property as our property and shall not use such property except in filling this or other Purchase Orders for us. All such property shall be held at Supplier's risk, shall be insured by Supplier at its expense for an amount equal to its replacement cost (with Genuity named as loss payee), and shall be returned promptly to us or our designee upon the earlier of our request or the termination or completion of this Purchase Order.

**13. HARMFUL MATERIALS.** Supplier warrants that each and every chemical substance constituted or contained in the Items delivered to us in the United States is on the list of chemical substances compiled and published by the administrator of the U.S. Environmental Protection Agency pursuant to the Toxic Substances Control Act, as amended, or is otherwise in compliance with said Act. Furthermore, if the Items contain toxic chemical substances which exceed the *de minimis* concentration allowed in the reporting list under SARA Section 313 of the Community Right to Know Act, then Supplier shall promptly report same to us and shall supply without request by us, Manufacturer's Safety Data Sheets for such Items and toxic chemical substances.

**14. CHANGES; NOTIFICATION REQUIREMENTS.** We may, at any time, by written notice to Supplier, make changes in Specifications, Quality Requirements, method of packing or shipment, quantity ordered, destinations, and delivery schedules. If any such change causes a material increase or decrease in Supplier's cost or the time for performance, an equitable adjustment shall be made to the price and/or delivery schedule. Claims for such an adjustment must be made by Supplier within 15 days from the date of receipt by Supplier of notice of the change. NOTWITHSTANDING ANYTHING IN THIS PURCHASE ORDER OR ANY OTHER DOCUMENT TO THE CONTRARY, SUPPLIER AGREES NOT TO MAKE ANY CHANGES TO THE SPECIFICATIONS FOR ANY ITEM COVERED BY THIS PURCHASE ORDER OR TO THE PROCESS USED TO PRODUCE OR OTHERWISE PROVIDE ANY ITEM, OR TO MAKE ANY SUBSTITUTION FOR THE ITEMS SPECIFIED IN THIS PURCHASE ORDER, WITHOUT GENUITY'S EXPRESS PRIOR WRITTEN APPROVAL OF ANY SUCH CHANGE OR SUBSTITUTION. WITHOUT LIMITING THE FOREGOING, IF MATERIAL TRACEABILITY CERTIFICATE(S) AND/OR CERTIFICATE(S) OF COMPLIANCE ARE REQUIRED, NO MODIFICATION TO OR SUBSTITUTION OF ANY COMPONENT PARTS, TOOLING, SOURCES OF RAW MATERIALS, PROCESSES, OR MANUFACTURING SITES MAY BE MADE WITHOUT GENUITY'S EXPRESS PRIOR WRITTEN AGREEMENT. SUPPLIER SHALL NOTIFY GENUITY AT LEAST

60 DAYS IN ADVANCE OF ANY SUCH PROPOSED MODIFICATION, SUBSTITUTION, OR OTHER CHANGE.

**15. LEGAL COMPLIANCE; RECORDS.** Supplier shall comply with all applicable federal, state, and local governmental laws, ordinances, codes, rules, regulations and orders in the performance of this Purchase Order, including, without limitation, the Occupational Safety and Health Act, the Fair Labor Standards Act of 1938, Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, and Executive Order 11246, along with the implementing rules and regulations of the office of Federal Contracts Compliance. These terms and conditions incorporate by reference the terms and requirements of the equal opportunity clause set forth at 41 C.F.R. § 60-1.4(a). At our request, Supplier shall provide appropriate certificates of compliance. Supplier shall obtain all permits or licenses required in connection with the manufacture, sale, lease, shipment, installation, use and operation of the Items covered by this Purchase Order. Supplier shall comply with the record keeping requirements set forth in the Quality Requirements and as otherwise required by all applicable laws and regulations.

**16. CANCELLATION.** (a) We may, by written notice to Supplier, cancel the whole or any portion of this Purchase Order in the event of: (i) proceedings, voluntary or involuntary, in bankruptcy or insolvency, by or against Supplier, (ii) the appointment, with or without Supplier's consent, of any trustee or receiver for any substantial portion of Supplier's assets, (iii) any assignment for the benefit of Supplier's creditors, or (iv) Supplier's breach of any provision of this Purchase Order. In the event of any such cancellation, we may require Supplier to deliver to us, in the manner and to the extent directed by us, any completed or partially completed Items, against our payment of the portion of the price properly allocable to such Items. Supplier shall continue performance of this Purchase Order to the extent not cancelled. Notwithstanding the foregoing, we may cancel this Purchase Order, in whole or in part, at any time for our convenience by notice to Supplier in writing. Supplier's sole compensation for such termination shall be payment by us of the percentage of the total Purchase Order price corresponding to the proportion of work completed in filling such Purchase Order prior to such notice (it being understood and agreed that Supplier will refund all amounts pre-paid by Genuity for any work not completed or Items not delivered by Supplier prior to any notice of cancellation). Except to the extent specifically set forth herein, we shall have no obligation or liability to Supplier in respect of the cancelled portion of this Purchase Order. Our rights set forth in this Section shall be in addition to all of our other rights, by law and under contract, in the event of Supplier's default. (b) All of Supplier's obligations set forth

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in this Purchase Order shall survive the cancellation, termination, or completion of this Purchase Order.

**17. RECALL.** In the event that an investigation or recall of the Items is necessitated by a defect, a failure to conform to the Specifications, Quality Requirements, applicable laws, or any other reason within the Supplier's control, Supplier shall immediately notify Gentuity of any such defect or failure and assist and cooperate with Gentuity in the conduct of such investigation or recall. Notwithstanding the foregoing, Gentuity will be solely responsible for all communications with any regulatory authorities regarding any recalls or complaints associated with our medical device products incorporating any Items.

**18. ASSIGNMENT.** Supplier shall not delegate or subcontract any obligations or assign any rights under this Purchase Order without our express prior written consent, and any such attempted delegation, subcontract or assignment shall be void.

**19. GOVERNING LAW AND VENUE.** This Purchase Order and the rights and obligations of the parties hereunder shall be governed by and interpreted, construed and enforced as a legally binding contract in accordance with the laws of the Commonwealth of Massachusetts (without giving effect to the conflict of laws rules thereof). Supplier agrees to the exclusive jurisdiction of any court sitting in Boston, Massachusetts to resolve any dispute arising hereunder. Notwithstanding the foregoing, we shall have the right to institute judicial proceedings in any court of competent jurisdiction to seek injunctive or equitable relief arising from any breach of the confidentiality or intellectual property provisions hereunder.

**20. AUTHORIZATION.** Supplier represents and warrants that it has been duly authorized to execute and perform this Purchase Order, and the person accepting this Purchase Order on Supplier's behalf has the legal power and authority to do so.

**21. INDEMNIFICATION.** Supplier shall indemnify and hold Gentuity, together with its affiliates, and their respective successors and assigns, harmless against any and all claims, losses, liabilities, damages, costs or expenses, including reasonable attorneys' fees and court costs, arising out of the breach by Supplier of Section 11 (Intellectual Property Rights) or Section 15 (Legal Compliance; Records) of these Terms and Conditions or any other material breach, negligence or willful misconduct by Supplier in the performance of its obligations hereunder.

**22. SEVERABILITY.** In the event that any one or more provisions contained in this Purchase Order shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

**23. ENTIRE AGREEMENT.** Upon acceptance by Supplier, this Purchase Order, including these Terms and Conditions and all attachments hereto and other documents incorporated by reference herein, together with any non-disclosure agreement executed by Supplier and Gentuity ("NDA"), is the complete and exclusive statement of the contract between Gentuity and Supplier with respect to our purchase of the Items. No waiver, consent, modification, amendment or change of the terms of this Purchase Order shall be binding unless in writing and signed by us and Supplier. In case of a conflict between the terms on the face of this Purchase Order and these Terms and Conditions, the terms on the face of this Purchase Order shall control only with respect to the specific commercial terms therein. Notwithstanding anything herein to the contrary, the contractual relationship between Supplier and Gentuity, including this Purchase Order, will be governed exclusively by the terms and conditions of Gentuity's standard Master Supply Agreement (or any comparable master supply or services agreement) that has already been mutually executed by Supplier and Gentuity and is in full force and effect as of the date of this Purchase Order.