


Title: Supplier Terms and Conditions of Purchase		Page 0 of 8
Doc # POL.006	Rev. 00	Effective: 03/01/2020

POL.006

Supplier Terms and Conditions of Purchase

Revision	Description of Changes	Effective Date	Author	Approved By
00	Release of initial document.	03/1/2020	Peter Larson	

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Title: Supplier Terms and Conditions of Purchase	Page 1 of 8
Doc # POL.006	Rev. 00 Effective: 03/01/2020

Supplier Terms and Conditions of Purchase

These **Standard Terms & Conditions of Purchase** (these “Terms”), along with the applicable Klarity request for proposal (“RFP”), if any, and the applicable Klarity purchase order (the “Purchase Order”), each as may be amended by Klarity Medical Products, LLC (“Klarity”) from time to time (collectively, the “Agreement”), supersede all prior understandings, transactions and communications, oral or written, with respect to the matters referred to herein, including without limitation the purchase of any goods or services (collectively, “Goods”) by Klarity and form the complete agreement between you the seller of goods or services (“you” or “Seller”) and Klarity. Acceptance by Klarity of your proposal or your acceptance of Klarity’s Purchase Order or other agreement is expressly limited to and conditioned upon your acceptance of and assent to the terms of this Agreement and those referred to herein, including without limitation the terms and conditions of the then current Klarity Supplier Code of Conduct and the then current Klarity Supplier Purchasing Policy, available at: WWW.KLARITYMEDICAL.COM, as amended from time to time by Klarity (collectively, the “Policies”). Any additional, inconsistent or different terms or conditions contained in or made available through your proposal, invoice, or other documents, or materials, or correspondence submitted or otherwise made available by you at any time, whether before or after the date of the Agreement (collectively, “Seller Materials”), are hereby expressly rejected by Klarity. Without limiting the forgoing, no click-wrap or other terms or conditions provided with any Seller Materials will constitute a part or amendment of this Agreement or are or will be binding on Klarity for any purpose. For the avoidance of doubt, you acknowledge that this Agreement applies to all Goods, including without limitation any repaired, re-performed, or replacement Goods provided by Seller. Notwithstanding anything to the contrary, Klarity is not obligated to any minimum purchase or future purchase obligations under this Agreement. You acknowledge that, notwithstanding anything to the contrary contained in any Seller Materials, YOUR ACCEPTANCE OF THE PURCHASE ORDER, OR YOUR PROVISION OF ANY GOODS, IN WHOLE OR IN PART, OR YOUR SUBMISSION OF ANY EMAIL OR OTHER ELECTRONIC CORRESPONDENCE OR OTHER WRITTEN DOCUMENT REFERENCING THE RFP OR PURCHASE ORDER OR YOUR ACCEPTANCE OF ANY AMOUNT OWED PURSUANT TO THE AGREEMENT, OR ANY OTHER MANIFESTATION OF YOUR ASSENT TO THESE TERMS OR THIS AGREEMENT SHALL CONSTITUTE ACCEPTANCE BY YOU OF THIS AGREEMENT.

1. Delivery Date. Seller shall deliver the Goods in the quantities and on the date(s) specified in this Agreement or as otherwise agreed in writing by the parties (the "Delivery Date"). Timely delivery of the Goods is of the essence. If Seller fails to deliver the Goods in full on the Delivery Date, Klarity may terminate the Purchase Order immediately by providing written notice to Seller and Seller shall indemnify Klarity against any losses, claims, damages, and reasonable

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Title: Supplier Terms and Conditions of Purchase	Page 2 of 8
Doc # POL.006	Rev. 00 Effective: 03/01/2020

costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date.

2. Quantity. If Seller delivers more or less than the quantity of Goods ordered, Klarity may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's risk and expense. If Klarity does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis.

3. Delivery Location. All Goods shall be delivered to the address specified in the Purchase Order (the "Delivery Location") during Klarity's normal business hours or as otherwise instructed by Klarity. Delivery shall be made DDP INCOTERMS® 2020. Seller shall give written notice of shipment to Klarity when the Goods are delivered to a carrier for transportation. Seller shall provide Klarity all shipping documents, including the commercial invoice, packing list, air waybill/bill of lading and any other documents necessary to release the Goods to Klarity within 1 business day after Seller delivers the Goods to the transportation carrier. The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence and any other documents pertaining to the Agreement. Title passes to Klarity upon delivery of the Goods to the Delivery Location. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Location. All goods shall be packed for shipment according to Klarity's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide Klarity prior written notice if it requires Klarity to return any packaging material. Any return of such packaging material shall be made at Seller's expense.

4. Amendment and Modification. No change to this Agreement or Products is permitted or binding upon Klarity unless it is in writing, specifically states that it amends this Agreement and is signed by an authorized representative of Klarity, provided however, Seller acknowledge that Klarity may modify these Terms from time to time, in its sole discretion. Notwithstanding anything to the contrary, Seller may not make any changes with respect to the Products or scope of this Agreement, including without limitation any changes or other modifications to the specifications, formulas, designs, raw materials, or component parts for Products, or the place of manufacture thereof, without Klarity's advance written approval, which may be given or withheld in Klarity's in sole discretion.

5. Inspection and Rejection of Nonconforming Goods. Klarity has the right to inspect the Goods on or after the Delivery Date. Klarity, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Klarity rejects any portion of the Goods, Klarity has the right, effective upon written notice to Seller, to: (a) rescind the Purchase Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Klarity requires replacement of the Goods, Seller shall, at its expense,

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Title: Supplier Terms and Conditions of Purchase	Page 3 of 8
Doc # POL.006	Rev. 00 Effective: 03/01/2020



Klarity Medical Products, LLC

promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Klarity may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement, in whole or in part, for cause pursuant to Section 11. Any inspection or other action by Klarity under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement, and Klarity shall have the right to conduct further inspections after Seller has carried out its remedial actions.

6. Price. The price of the Goods is the price stated in the Purchase Order (the "Price"). If no price is included in the Purchase Order, the Price shall be the lower of the price of the Goods at the time Klarity last purchased such Goods, or the price set out in Seller's published price list in force as of date of the Purchase Order. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Klarity. Seller represents and warrants that the price for the Goods is the lowest price charged by Seller to any of its external buyers for similar volumes of similar Goods. If Seller charges any other buyer a lower price, Seller must apply that price to all Goods under this Agreement. If Seller fails to meet the lower price, Klarity, at its option, may terminate this Agreement, in whole or in part, without liability pursuant to Section 11.

7. Payment Terms. Seller shall issue an invoice to Klarity on or any time after the completion of delivery and only in accordance with the Terms. Klarity shall pay all properly invoiced amounts due to Seller within 30 days after Klarity's receipt of such invoice, except for any amounts disputed by Klarity in good faith. All payments hereunder must be in US dollars and made by Klarity's then current accepted payment methods. Without prejudice to any other right or remedy it may have, Klarity reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Klarity to Seller under the Agreement.

8. Warranties. Seller warrants to Klarity that for a period of thirty-six months from the Delivery Date, all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications, drawings, designs, samples and other requirements specified by Klarity, and documentation and materials provided by Seller; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Klarity. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Klarity's discovery of the noncompliance of the Goods with the foregoing

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Title: Supplier Terms and Conditions of Purchase	Page 4 of 8
Doc # POL.006	Rev. 00 Effective: 03/01/2020



Klarity Medical Products, LLC

warranties. If Klarity gives Seller notice of noncompliance with this Section, Seller shall, at its own cost and expense, promptly replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Klarity. Seller shall defend, indemnify and hold harmless Klarity and its subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees and Klarity's customers (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with the products purchased from Seller or Seller's negligence, willful misconduct or breach of the Agreement or Policies. Seller shall not enter into any settlement without Klarity's or Indemnitee's prior written consent. Seller shall, at its expense, defend, indemnify and hold harmless Klarity and any Indemnitee against any and all Losses arising out of or in connection with any claim that Klarity's or Indemnitee's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement without Klarity's or Indemnitee's prior written consent.

9. Insurance. During the term of the Agreement and for a period of three years thereafter, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$3 million dollars with financially sound and reputable insurers. Upon Klarity's request, Seller shall provide Klarity with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name Klarity as an additional insured. Seller shall provide Klarity with 90 days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Klarity's insurers and Klarity or the Indemnitees.

10. Compliance with Law. Seller is compliance with, and shall comply with all applicable laws, regulations and ordinances, and the Policies. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Agreement. Seller shall comply with all export and import laws of all countries involved in the manufacture or sale of Goods under this Agreement. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. Klarity may terminate this Agreement, in whole or in part, if any government authority imposes antidumping duties, countervailing duties or any retaliatory duties on the Goods. Upon Klarity's request, Seller shall provide Klarity with (a) written certification of Seller's compliance with applicable laws, the Agreement, and the Policies; (b) written certification of the origin of any materials in

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Title: Supplier Terms and Conditions of Purchase	Page 5 of 8
Doc # POL.006	Rev. 00 Effective: 03/01/2020



Klarity Medical Products, LLC

the Products; and (c) any additional information regarding the Products requested by Klarity such that Klarity may comply in a timely manner with its obligations under law, regulation, or license or other compliance obligation.

11. Termination. Klarity may terminate this Agreement, in whole or in part, at any time with or without cause for undelivered Goods on written notice to Seller. In addition to any remedies that may be provided under these Terms, Klarity may terminate this Agreement, in whole or in part, with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods, if Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then Klarity may terminate this Agreement, in whole or in part, upon written notice to Seller. If Klarity terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted by Klarity prior to the termination. Nothing in this Agreement shall exclude or limit (a) Seller's liability under Sections 8, 8, 8 and 13 hereof, or (b) Seller's liability for fraud, personal injury or death caused by its negligence or willful misconduct.

12. Waiver. No waiver by any party of any of the provisions of the Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in the Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Provisions of this Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement.

13. Confidential Information. All non-public, confidential or proprietary information of Klarity, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Klarity to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Agreement is confidential, solely for the use of performing the Agreement and may not be disclosed or copied unless authorized by Klarity in writing. Upon Klarity's request, Seller shall promptly return all documents and other materials received from Klarity. Klarity shall be entitled to injunctive relief for any violation of this Section. This Section shall

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Title: Supplier Terms and Conditions of Purchase	Page 6 of 8
Doc # POL.006	Rev. 00 Effective: 03/01/2020



Klarity Medical Products, LLC

not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.

14. Force Majeure. Neither party shall be liable to the other for any delay or failure in performing its obligations under the Agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Agreement. If a Force Majeure Event prevents Seller from carrying out its obligations under the Agreement, Klarity may terminate this Agreement immediately by giving written notice to Seller.

15. Assignment. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Agreement without the prior written consent of Klarity. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Klarity may at any time assign, transfer or subcontract any or all of its rights or obligations under the Agreement without Seller's prior written consent.

16. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Agreement. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

17. Governing Law. All matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Ohio. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Ohio in each case located in the City of Columbus and County of Franklin, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. The rights and remedies under this Agreement are cumulative and are in

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Title: Supplier Terms and Conditions of Purchase	Page 7 of 8	
Doc # POL.006	Rev. 00	Effective: 03/01/2020



Klarity Medical Products, LLC

addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

18. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Purchase Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre- paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

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