

PARTSSOURCE, INC.
TERMS AND CONDITIONS OF PURCHASE
Effective March 27th, 2015

- 1. TERMS OF PURCHASE; ENTIRE AGREEMENT** – These Terms and Conditions of Purchase are incorporated by reference into any and all orders placed by PartsSource, Inc. (“Buyer”) for the purchase of products and/or services (together, the “Good(s)”). All purchase orders and other documented orders from Buyer, together with these Terms and Conditions of Purchase, shall be referred to and considered the “Agreement” and/or the “Purchase Order(s)”, and shall contain the entire agreement between the Buyer and Seller with respect to the purchase and sale of Goods. Seller is an independent contractor and under no circumstances may Seller represent itself as an agent of or for Buyer. Additionally, Seller and Buyer acknowledge and agree that the sale of the Goods described herein is not a consumer transaction.
- 2. ACCEPTANCE OF TERMS AND CONDITIONS OF PURCHASE ORDER** – The Purchase Order constitutes Buyer’s offer to Seller to buy Goods and shall become a binding agreement upon acceptance by Seller. Seller’s acceptance shall be indicated by (i) Seller’s written or electronic order acknowledgement and/or other acknowledgement of the order for the Goods; and/or (ii) commencement of delivery of Goods, either in whole or in part. Notwithstanding any Purchase Order ultimately being considered or deemed an offer, an acceptance or a confirmation, Buyer expressly conditions its purchase of the Goods on Seller’s assent to these terms, regardless of any different, additional, more restrictive and/or conflicting term(s) contained in any terms proposed by Seller, whether before or after acceptance of a Purchase Order; Buyer expressly objects to and rejects all different, additional, more restrictive and/or conflicting Seller term(s) unless expressly approved in writing by (i) an authorized management-level representative of Buyer’s supply chain department, or (ii) an authorized representative of Buyer’s legal department.
- 3. INSPECTION** – All Goods delivered hereunder are subject to final inspection and acceptance by Buyer and/or Buyer’s customer. Acceptance shall not alter or affect the warranties of Seller specified herein. Buyer may hold rejected Goods for Seller’s instructions and at Seller’s risk, or return them to Seller at Seller’s expense and require their correction or replacement. Seller shall promptly reimburse Buyer for losses sustained by Buyer or Buyer’s customer, including but not limited to freight costs, as a result of failure of Goods to conform to the provisions and specifications set forth in the Purchase Order.
- 4. SHIPMENTS** – Timely delivery is essential. Unless otherwise specified in writing by Buyer, terms of delivery of the Goods are F.O.B. destination, and freight must be prepaid using Buyer’s designated shipping account number. Deliveries shall be made to the destination, in the quantities and at the time specified on the face of the Purchase Order, and Seller shall not, without the prior written consent of Buyer, make shipments in advance. Seller will ship ordered Goods on behalf of Buyer using only Buyer’s shipping literature and labels. There shall be no *Seller-labeled* documents or literature in shipments including, but not limited to, promotional materials, invoices or packing slips. Buyer may postpone delivery of any Goods. Over-shipments may be returned by Buyer at Seller’s expense. All Goods shall be prepared for shipment and appropriately packaged in order to prevent any damage or deterioration. Lowest transportation rates for the corresponding delivery timeframe must be secured, and shipments must comply with Buyer’s packaging instructions and specifications, as well as all applicable laws and regulations, including but not limited to the Department of Transportation’s Hazardous Materials Regulations. In order to assist in potential returns, exchanges, warranty processing, and/or tracking requirements, Seller shall record the serial number or other unique identifying number prior to shipment and report this number to Buyer.
- 5. PRICE; PAYMENT; TAXES** - The price for the Goods shall not be higher than that appearing on the face of the Purchase Order, and (i) shall be equal to or less than contracted pricing, or (ii) if no contracted pricing exists, then pricing shall not exceed the lowest price last charged by Seller for a purchase of equal quantity, or current prices quoted or charged to any other customer of Seller purchasing the same volume or quantity of Goods as Buyer. Seller will promptly refund to Buyer any amounts in excess of such price. Buyer shall receive the benefit of any reduction in the price for any Goods in effect at the time of shipment or delivery, and in such case, the price appearing on the applicable Purchase Order shall be reduced accordingly. Unless quoted in advance, prior to placement of an order, Seller shall not add any additional fees or charges to invoices including, but not limited to, the following: medical device excise taxes, minimum order fees, handling or processing fees, credit card fees, priority fees, shipping cut-off fees, expediting fees, exchange fees, drop ship fees, or any other charges or fees; Buyer shall not be responsible for any such fees or charges added later as a line item to an invoice. Seller shall separately state on all invoices and confirmations the applicable sales taxes imposed by federal, state or local governments, unless an exemption is applicable. Unless otherwise agreed by the parties, payment for the Goods will be made within forty-five (45) days of the date of invoice (NET 45). Any applicable cash discount periods shall begin on the date of receipt of the Goods or on the date of receipt of the invoice, whichever is later. Buyer shall not be responsible for delayed payment resulting from invoices which were not timely sent by Seller.
- 6. WARRANTIES; COMPLIANCE WITH LAWS** – Seller warrants that all Goods sold are (i) free from defects in material and workmanship, (ii) manufactured and/or remanufactured in accordance with applicable descriptions, samples, drawings and specifications, (iii) manufactured and/or remanufactured in compliance with the original manufacturer’s designs and/or specifications, (iv) free from design defects, (v) merchantable, and (vi) fit, functional and safe for the purpose for which they were originally manufactured, (vii) in conformance with description(s) and condition(s) stated by Seller in conjunction with quotation and/or order placement, and (viii) designed, manufactured and/or remanufactured in compliance with FDA rules and regulations, as well as applicable federal, state and local laws and standards in effect on the date of shipment, including, without limitation, the Occupational Safety and Health Standards Act and the U.S. Food, Drug and Cosmetic Act, as amended. Seller also warrants that it has good title to the Goods sold, that they are free and clear from all liens and encumbrances of any kind, and that such Goods do not infringe on the intellectual property rights of any other entity or individual. All warranties described herein shall survive acceptance and payment by Buyer, and shall extend to Buyer, Buyer’s customer(s) and any end-user(s) of the Goods. Any applicable warranty period(s) shall commence from the date of (a) receipt of the Good by Buyer’s end-customer, or (b) from the date of receipt by Buyer (unless otherwise agreed upon between the Parties) for Goods stocked by Buyer in its own warehouse. Goods not in accordance with the warranties described herein may be returned to Seller at Seller’s expense. Buyer shall have the option of returning such Goods to Seller at any time after delivery for full credit or replacement at the price charged; payment for invoices shall be put on hold until such time as any such warranty claims, returns or related issues are resolved. Any disputes or other problems that Seller may have regarding any Goods returned under warranty must be reported to Buyer with sufficient documentation and detail within ten (10) business days of receipt by Seller of such Goods, or such Goods will be deemed accepted for warranty coverage by Seller. To report an issue within the timeframes described, please call 877-497-6412 and if you are a Diagnostic Imaging product supplier ask for the Manager of DI Supply Chain, or

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if you are a Biomedical product supplier ask for the Manager of Biomedical Supply Chain. Upon contacting such Manager, a dispute form and/or further documentation may be required, including test reports, photos and/or tracking, as appropriate, in order to support the Seller's claim. Buyer will review, report back to Seller the findings, and present a resolution within ten (10) days of receiving the claim. Nothing herein shall limit any rights or remedies which Buyer may have at law or in equity. Buyer shall not be required to perform its obligations hereunder if Seller has defaulted on its obligations arising under the Purchase Order, or any existing contract, between Buyer and Seller.

7. PURCHASES MADE UNDER EXCHANGE TERMS – If the Purchase Order indicates that the offer to purchase Goods is on an “exchange basis,” (i.e., a trade-in is required), then Buyer intends to return to Seller an item comparable (although deficient and/or defective) (the “Exchange”) to the Good being purchased, within twenty (20) business days of receipt by Buyer or its customer. There shall be no warranty as to the quality or repairability of such Exchange item sent by Buyer, and Seller shall bear the risk as to the repairability of Exchanges. If an Exchange is returned within the timeframe described herein, Buyer shall not be liable for any additional amounts. If an item returned as an Exchange is not at all comparable or is not returned, then the maximum liability that Buyer will be responsible for is the lesser of (a) the difference between the quoted non-exchange price (i.e., the “Outright Purchase Price”), and the exchange price for the Purchase Order; or (b) if no Outright Purchase Price was made available from Seller, then the difference between the lowest outright price available on the market for an item of comparable condition, and the exchange price for the Purchase Order. Any disputes or other problems that Seller may have regarding an Exchange being acceptable must be reported to Buyer with sufficient documentation and detail within ten (10) business days of receipt of the Exchange or the Exchange will be deemed accepted. To report an issue within the timeframes described, please call 877-497-6412 and if you are a Diagnostic Imaging product supplier ask for the Manager of DI Supply Chain, or if you are a Biomedical product supplier ask for the Manager of Biomedical Supply Chain. Upon contacting such Manager, a dispute form and/or further documentation may be required, including test reports, photos and/or tracking, as appropriate, in order to support the Seller's claim. Buyer will review, report back to Seller the findings, and present a resolution within ten (10) days of receiving the claim.

8. RETURNS; RESTOCKING – For a period up to ten (10) business days after original receipt of the Goods by Buyer or its customer, Buyer shall be permitted to return Goods for full reimbursement, less a restocking fee that is standard and reasonable within the industry (Note: such restocking fee is not intended to apply, and thus is not applicable, for warranty returns and/or any other returns attributable to Seller fault, as described herein). Any disputes or problems that Seller may have regarding a return being acceptable must be reported to Buyer with sufficient documentation and detail within ten (10) business days of receipt of the returned Good, or the returned Good will be deemed accepted, at which time Seller shall issue credit to Buyer; if an invoice had not been issued, such invoice may be cancelled as an alternative to the issuance of a credit. To report an issue within the timeframes described, please call 877-497-6412 and if you are a Diagnostic Imaging product supplier ask for the Manager of DI Supply Chain, or if you are a Biomedical product supplier ask for the Manager of Biomedical Supply Chain. Upon contacting such Manager, a dispute form and/or further documentation may be required, including test reports, photos and/or tracking, as appropriate, in order to support the Seller's claim. Buyer will review, report back to Seller the findings, and present a resolution within ten (10) days of receiving the claim.

9. INDEMNIFICATION – Seller shall indemnify, defend and hold harmless Buyer, its customers, its subsidiaries, and their respective officers, directors, agents and employees, from and against any and all loss, cost, liability, penalties, judgments, damages and expenses (including, without limitation, reasonable attorneys' fees and other costs of litigation) suffered by Buyer and resulting from any of the following: (i) Goods provided by Seller, (ii) Seller's performance hereunder; (iii) Seller's negligent act or omission; and/or (iv) a breach by Seller of any representation or warranty contained herein. Such indemnification shall include, but not be limited to, any actual or alleged infringement of the intellectual property rights of any third parties.

10. CONFIDENTIAL INFORMATION AND PUBLICITY – Seller shall hold in strict confidence any proprietary and/or confidential information disclosed by Buyer and make no use of such information other than as authorized by Buyer. Seller shall not disclose proprietary and/or confidential information to any third-parties, in whole or in part, without the express written consent of Buyer. Seller shall protect Buyer's information with the same degree of care as it uses to protect its own proprietary and confidential information, but in no case less than a reasonable degree of care. Seller shall use due care to prevent its employees, agents, representatives and affiliated organizations from disclosing Buyer's information to any unauthorized person. Advertising and promotional material (including the use of Buyer's name) must be approved by Buyer in writing prior to release; such approval may be withheld by Buyer in its sole discretion. Seller shall not, directly or indirectly, disparage Buyer or Buyer's relationship with its customers, or, whether for the benefit of itself or for a third-party, induce or encourage any customer or client of Buyer to sever or reduce its business relationship with Buyer.

11. INSURANCE – Seller shall maintain an adequate amount of general liability and products liability insurance as will cover and include (i) the entire obligation assumed by Seller within Purchase Orders, (ii) claims and liability related to damages, including, but not limited to, personal injury and/or property damage, arising from the Goods and/or Seller's performance hereunder, as well as (iii) claims and liability under applicable Workers' Compensation laws. A valid Certificate of Insurance, as well as proof of Workers' Compensation coverage if Seller is required by law to carry such coverage, shall be submitted to Buyer upon request.

12. PERMISSION TO USE SELLER'S CONTENT– For purposes of this Section, “Content” is defined as all past, present and future images, text, information, intellectual property and/or other materials on Seller's website and/or which Seller provides to Buyer or permits Buyer to collect from Seller or Seller's website, including, but not limited to, photographs of parts, equipment and other items. Seller hereby grants to Buyer a non-exclusive, perpetual, retroactive, assignable, irrevocable, royalty-free, license to search and collect Content from Seller's website or other platforms, pages or materials which Seller provides or makes publicly available, and to display, copy, distribute and/or create derivative works of such Content, or portions thereof, for the purpose of selling products in the world-wide medical industry (the “License”). In conjunction with the License, Seller represents and warrants to Buyer that: (i) the Content is accurate and not confidential; (ii) Seller owns all right, title and interest in the Content including, without limitation, any intellectual property associated therewith; and (iii) Buyer's use of the Content in accordance with the License will not violate or infringe upon the rights of any third party including, without limitation, those pertaining to intellectual property.

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13. CANCELLATION OF PURCHASE ORDER – Buyer shall have the right to modify or cancel the Purchase Order or any part thereof, to refuse delivery of any Goods, and to return to, or hold for the account of, Seller any Goods received by Buyer: (i) upon Seller’s failure to make any delivery in accordance with the terms of the Purchase Order or to comply with shipping and other instructions of Buyer; (ii) in the event that any Goods supplied by Seller (a) do not meet specifications, (b) are deficient, or (c) are not satisfactory to Buyer; or (iii) on account of any unforeseeable cause beyond the control of Buyer, including any act or demand of the United States or any state or local government body, act of God or of the public enemy, terrorists, fire, flood, strike, embargo, failure of usual means of transportation and any other case which in the judgment of Buyer may adversely affect the sale of any Goods by Buyer. Buyer, in its discretion and without cause, reserves the right to cancel any Purchase Order or any part thereof, prior to full acceptance as described herein, and Buyer’s maximum liability on account thereof to Seller shall be to pay the agreed price for such Goods as have been delivered and accepted (if any) as of the time such cancellation is effective; no allowance shall be made to Seller for any overhead or anticipated profit for undelivered Goods. Seller shall deliver to Buyer any Goods paid for by Buyer pursuant to the preceding. (Note: Restocking fees shall not apply for the return of any goods for which this Section 13 applies).

14. GENERAL

(a) **Waiver** – A waiver of strict compliance with any provision of the Purchase Order shall not be deemed a waiver of any subsequent breach or failure, nor of Buyer’s right to insist on strict compliance thereafter.

(b) **Severability** – In the event that any provision of the Purchase Order is for any reason held to be invalid, unenforceable or contrary to public policy, such provision shall be treated as severed from the Purchase Order, and all other provisions shall remain in full force and effect.

(c) **Assignment** – Seller shall not assign the Purchase Order, or any part thereof, without written consent of Buyer. Assignment shall not release Seller from its obligations under the Purchase Order.

(d) **Enforcement** – If Buyer prevails in a legal action to enforce its rights hereunder, Seller shall reimburse Buyer for its reasonable costs and applicable expenses incurred, including, without limitation, reasonable attorneys’ fees.

(e) **Prompt Refund; Set-Off** – Seller shall refund or otherwise issue amounts owed to Buyer within three (3) business days of receipt or within three (3) business days of the inspection periods described herein, as related to warranty and/or return transactions. Buyer shall be entitled at all times to set off any amount owed at any time by Seller to Buyer against any amount payable by Buyer to Seller.

(f) **Record Retention** – Upon the written request of the Secretary of Health and Human Services or the Comptroller General, any of their duly authorized representatives, or any other governmental authority, Seller will make available those books, records and accounts of the transactions made with Buyer to verify the nature and extent of costs of providing Goods under this Agreement. Such inspection shall be available for four (4) years after the rendering of such services.

(g) **Equal Opportunity** - As applicable, the provisions of the Equal Opportunity Clauses pursuant to Section 202 of Executive Order 11246, as amended, and 41 CFR Section 60-1.40; as well as 29 C.F.R. Part 471, Appendix A to Subpart A, are herein incorporated by reference. Further, sellers who (1) are not otherwise exempt as provided by 41 CFR 60-1.5, (2) have 50 or more employees and, (3) have a contract, subcontract or purchase order amounting to \$50,000 that is necessary to the completion of a covered federal contract or subcontract are hereby notified of their obligations to file EEO Standard Form 100 and to prepare an affirmative action plan(s) as required under the regulations set forth above.

This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

(h) **Governing Law** – The Purchase Order shall be construed in accordance with and governed by the laws of the State of Ohio, without regard to its conflict of law principles. Unless agreed upon otherwise in a writing signed by both parties, this Agreement and the rights and obligations of the parties hereto, shall not be governed by the provisions of the United Nations Convention for the International Sale of Goods (CISG). Seller and Buyer consent to the exclusive personal jurisdiction of the state and federal courts in the State of Ohio in connection with the disposition of any controversy or action relating to, or in any manner arising out of, this Purchase Order. Seller and Buyer waive any argument that personal jurisdiction and venue in such forums is not proper or convenient for any reason, and agree that any litigation initiated either by Seller or Buyer shall be brought in Portage County or Cuyahoga County, Ohio, USA.