

**SANAVITA MEDICAL LLC  
STANDARD TERMS AND CONDITIONS OF PURCHASE**

**1. ORDERS.**

This order is an offer by SanaVita Medical LLC or any of its affiliates as designated on the face of this order ("SanaVita Medical") to the parties to whom the order is addressed ("Seller") to purchase the goods and/or services ("Products") designated on the face of this order or attached writing and shall be the complete and exclusive agreement between SanaVita Medical and Seller for such Products. The sole manner of acceptance shall be by performance. The Terms and Conditions of Purchase supersede all prior representations, quotations, proposals, orders, agreements or understandings with the exception of fully executed supply or pricing agreements. By accepting SanaVita Medical's purchase order, Seller has agreed to these Terms and Conditions of Purchase in their entirety (the "Contract"). Confirmation orders, invoices or similar documents submitted by Seller that modify, add to, or are inconsistent with these Terms and Conditions of Purchase shall not constitute a counter-offer and are deemed to be material alterations of SanaVita Medical's purchase order and are expressly rejected and of no force or effect. In no event will SanaVita Medical be deemed to have in any way changed, enlarged or modified its liabilities or obligations as fixed by these Terms and Conditions of Purchase except by a written amendment executed by an officer of SanaVita Medical. No purchase order is valid unless:

- (i) It is placed on SanaVita Medical's official purchase order form, and
- (ii) SanaVita Medical has not withdrawn the order.

Typographical and/or clerical errors made by SanaVita Medical are subject to correction.

**2. PRICES.**

All prices are in US dollars unless otherwise noted. Payment may be made within forty five (45) days after receipt by SanaVita Medical of the ordered and conforming Products. All prices are quoted FOB SanaVita Medical's requested delivery destination unless otherwise noted by SanaVita Medical. Prices quoted by Seller shall include sales, excise, municipal, state or any other government taxes. All taxes and other governmental charges upon the production, manufacture, distribution, sale or use of the Products, to the extent required or not forbidden by law to be paid by Seller, shall be paid by Seller.

**3. VOLUME PROJECTIONS AND QUANTITY.**

Seller acknowledges that any estimates, forecasts or projections of future anticipated volume or quantity requirements for Products provided by SanaVita Medical are provided for information purposes only and may change over time. If quantities and delivery schedules are not specified in the Contract, they will be as reasonably determined by SanaVita Medical and stated in SanaVita Medical's firm releases issued to Seller from time to time. If Seller is supplying SanaVita Medical under a vendor managed inventory system pursuant to this Contract, Seller shall maintain SanaVita Medical's supply at required levels as indicated through the vendor managed inventory system at all times during the terms of this Contract.

**4. SHIPPING.**

Seller shall use the carrier designated by SanaVita Medical. Any additional shipping expenses as a result of Seller's backorders or shipments of a lesser quantity than specified shall be paid by Seller unless SanaVita Medical authorizes such shipping expenses in writing. The Products shall be properly packed and secured in such a manner as to reach their destination in good condition under normal conditions of transport. Shipping documents, including Seller's invoice, must accompany each shipment and be transmitted to the freight forwarder in a timely manner. Seller shall bear all risk of loss until Products are delivered to SanaVita Medical.

**5. TIME.**

Seller shall deliver the Products at the time specified in the Contract. SanaVita Medical, without penalty or liability to Seller, shall have the right to reschedule or postpone any delivery of Products. Time shall be of the essence of the Contract. Seller understands and acknowledges that late or nonconforming delivery will obligate Seller to pay direct, incidental and consequential damages to SanaVita Medical.

**6. CANCELLATION.**

SanaVita Medical may cancel any purchase order upon written notice to Seller. In the event of such cancellation, SanaVita Medical is responsible to Seller only for the cost of any finished goods or work in process that corresponds to SanaVita Medical's purchase order.

**7. ON-SITE WORK.**

In the event that Seller or its representatives are performing installation or other on-site services related to the purchase of any goods by SanaVita Medical, then SanaVita Medical may issue additional specifications and conditions to such on-site services. Seller shall indemnify SanaVita Medical and hold it harmless against all claims or losses resulting from any personal injury or property damage claim resulting from any work performed by Seller's employees, agents or subcontractors at SanaVita Medical's premises.

**8. WARRANTIES.**

Seller expressly warrants to SanaVita Medical that all Products or goods sold shall:

- (i) Conform as to quantity, quality and description with the specifications contained in the Contract;
- (ii) Be free of all defects in design, materials and workmanship;
- (iii) Be equal in all respects to the samples, patterns, drawings or specification provided or given by either party;
- (iv) Be capable to any standard or performance specified in the Contract;
- (v) If the purpose for which they are required is indicated in the Contract or known by Seller, either expressly or by implication, be fit for that purpose.

The warranties under this section will be effective for the longer of: (a) the period provided by applicable law where the Products are used; or (b) the warranty period provided by SanaVita Medical to its customers.

Seller shall repair any defects during the applicable warranty period at Seller's cost and expense (including, without limitation, for all parts, labor and transportation costs) immediately after being notified of any such defect by SanaVita Medical. The warranties and remedies contained herein supplement the warranties and remedies provided by the Uniform Commercial Code or other applicable law which shall not be disclaimed or limited. All warranties contained in this Contract shall run, and all remedies shall be available to SanaVita Medical, its affiliates and/or customers, and all such warranties shall survive any delivery, inspection, acceptance or payment by SanaVita Medical.

**9. INSPECTION AND TESTING.**

- (i) Before delivering the Products, Seller shall carefully inspect and test them for compliance with specifications.
- (ii) Seller shall also at the request of SanaVita Medical supply to SanaVita Medical a copy of Seller's test sheets and/or inspection reports certified by Seller to be a true copy. In such instances, Seller shall retain the original documents for a period of 7 years.
- (iii) SanaVita Medical shall be entitled to inspect and test the Products during manufacture, processing or storage. If this right is exercised, Seller shall provide or shall procure the provision of all such facilities as may reasonably be required for such inspections and tests. SanaVita Medical shall have 5 years from receipt of Products from Seller to bring any claim for defective or non-conforming goods.

**10. REJECTION.**

- (i) SanaVita Medical may reject the Products if Seller fails to comply with its obligations. The right to inspect and reject continues in SanaVita Medical regardless of any prior payment for the Products or the placement of the Products into use for all defects that were not actually discovered by SanaVita Medical prior to payment or use.
- (ii) SanaVita Medical at its sole option may return the rejected or non-conforming Products to Seller at Seller's risk and expense. In such case, Seller shall within a reasonable time replace such rejected Products with conforming Products. SanaVita Medical may alternatively require Seller to remove, repair and/or replace the defective Products or parts thereof on site without cost to SanaVita Medical.
- (iii) Seller shall return to SanaVita Medical any amounts paid to Seller for rejected or non-conforming Products that have been returned to Seller but not replaced.
- (iv) The above provisions are in addition to and not in substitution for any other remedies that SanaVita Medical may have under applicable law.

**11. NOTIFICATION OF CHANGE.**

Seller shall notify SanaVita Medical 180 days in advance of any changes to a product or process that may impact product quality or the quality management system. The request shall be submitted in writing utilizing a Supplier Change Request and shall be reviewed by SanaVita Medical personnel for approval or disapproval. Seller is not authorized to incorporate changes until written notification of approval is received from SanaVita Medical.

**12. CARE AND RETURN OF PATTERNS, DIES, ETC.**

- (i) All patterns, dies, molds, or any other tooling and any materials supplied by SanaVita Medical or prepared or obtained by Seller for and at the sole cost of SanaVita Medical, shall be and remains the property of SanaVita Medical.
- (ii) Seller shall maintain all such items in good order and condition and insure them against all risks while in the custody and on completion of the order or as otherwise directed by SanaVita Medical shall return them to SanaVita Medical in good order and condition.

**13. SAFETY AND STATUTORY REQUIREMENTS.**

Seller warrants that the design, construction and quality of the Products to be supplied to SanaVita Medical comply in all respects with all safety and other requirements by any statute, statutory rule or order, or other instrument having the force of law which may be in force at the time when the same are supplied. Seller shall comply with all environmental laws and regulations that apply to the Products



supplied by Seller to SanaVita Medical. Seller agrees to provide SanaVita Medical with Material Safety Data Sheets and Certificate of Analysis when applicable. Seller shall comply with Executive Order 11246, as amended, Sec. 402 of the Vietnam Era Veterans Readjustment Act of 1974, as amended, Sec. 503 of the Rehabilitation Act of 1973, as amended, and Sec. 61-250.5(a) and Public Law 95-507 as such laws contain required contract clauses relative to equal employment opportunity and are incorporated herein by specific reference at 41 CFR 60-1.4(a, d), 60-4.3, 60-250.5(a) and 60-741.5(a).

#### **14. INFRINGEMENT OF PATENT, TRADEMARK AND OTHER RIGHTS.**

Seller shall indemnify SanaVita Medical against all actions, claims and demands, costs, charges and expenses arising from and incurred by reason of any infringement or alleged infringement of any intellectual property rights including patent, design patents, trademarks or copyrights by the use or sale of any Products supplied by Seller.

#### **15. USE OF INFORMATION.**

All designs, drawings, specifications and information supplied by SanaVita Medical in connection with any order are confidential. All such designs, drawings, specifications and information and any copies thereof must be returned to SanaVita Medical on completion of the order.

#### **16. CONFIDENTIALITY.**

If the parties have entered into a Confidentiality or Non-Disclosure Agreement ("NDA"), the terms and conditions of the NDA shall apply and control for confidentiality obligations between the parties. In the absence of a NDA, Seller may have access to SanaVita Medical's confidential information including, without limitation, inventions, developments, know how, specifications, business plans, results of testing, systems, financial information, product information, method of operation, customer information, supplier information and compilations of data ("Confidential Information"). Seller shall use SanaVita Medical's Confidential Information only for the purpose contemplated under this Contract and shall not disclose it to third parties or otherwise use it to its own advantage or SanaVita Medical's detriment. Confidential Information shall not include information which: (a) is or becomes publicly available without breach of this Contract by Seller; (b) was known to Seller prior to its receipt from SanaVita Medical as evidenced in writing; or (c) is developed by Seller independently of its access to Confidential Information. Seller is permitted to disclose SanaVita Medical's Confidential Information to its employees and authorized subcontractors on a need to know basis only, provided that such employees or authorized subcontractors have written confidentiality obligations to Seller no less stringent than the confidentiality obligations under this section. Seller shall return SanaVita Medical's Confidential Information and shall not use SanaVita Medical's Confidential Information for its own or any third party's benefit. Seller's confidentiality obligations shall survive termination of the Contract for so long as SanaVita Medical's Confidential Information remains confidential. SanaVita Medical shall be entitled to injunctive relief including, but not limited to, preliminary, temporary or permanent injunctions, from any court of competent jurisdiction as may be necessary to enjoin any violation of this section without the necessity of proving immediate irreparable harm or any inadequate remedy at law.

#### **17. ASSIGNMENT, WAIVER, ENTIRE AGREEMENT, SEVERABILITY.**

Seller shall not assign or delegate any of its rights or obligations under this Contract without the prior written consent of SanaVita Medical. If SanaVita Medical consents to Seller's subcontracting of any of Seller's duties under this Contract, Seller will insure that the subcontractor agrees to be bound by all the terms and conditions of the Contract. SanaVita Medical may terminate this Contract upon written notice to Seller without any further liability to Seller if there is a change of control or Seller. The Contract constitutes the entire agreement between the parties with respect to the subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Contract. Except as authorized in Section I, neither the Contract nor any of its provisions may be modified, amended or waived, whether orally, through the parties' course of performance, course of dealing or course of conduct, or manifested in any other way, unless in writing and signed by authorized representatives of both parties. It is the express intention of the parties that such requirement for written modifications, amendments or waivers be strictly enforced notwithstanding judicial precedent or statutory provisions to the contrary. Any provision found invalid or unenforceable will not affect the validity or enforceability of any other provision and the invalid provision may be judicially modified to the extent enforceable. The failure of SanaVita Medical to insist in any one or more instances, upon the performance of the Contract or the failure of SanaVita Medical to exercise any of its rights hereunder shall not be construed as a waiver or relinquishment of any such terms, conditions or rights thereunder and shall not effect SanaVita Medical's right to insist on strict performance and compliance with regard to any future performance of the Contract.

#### **18. INDEPENDENT CONTRACTOR STATUS.**

SanaVita Medical and Seller are independent contractors. Nothing in this contract makes either party the agent or legal representative of the other party for any purpose. Neither party has authority to assume or to create any obligation on behalf of the other party.

#### **19. DEFAULT, BANKRUPTCY OR LIQUIDATION.**

If Seller commits any breach of the terms and conditions of the order, becomes insolvent, is subject to the Bankruptcy courts, enters into an arrangement with its creditors, is put into liquidation or has a receiver appointed, SanaVita Medical may, without prejudice to any other rights which may have accrued or which shall accrue to it:

- (i) terminate the order simply by notice in writing to Seller; or
- (ii) give any such receiver or liquidator or other person the option of carrying out the order on such terms as SanaVita Medical may specify.

#### **20. INDEMNITY AND INSURANCE.**

Seller shall indemnify SanaVita Medical against all damage or injury to any person or to any property (including the goods themselves) and against all actions, suits, claims, demands, costs, charges or expenses arising out of the Products supplied by Seller. Seller shall maintain the following kinds of insurance with the minimum limits described below:

- a. Commercial General Liability Insurance with a minimum Limit of Liability of \$1,000,000 each occurrence, \$1,000,000 Products/Completed Operations Aggregate Limit and \$2,000,000 General Aggregate Limit.
- b. Commercial Automobile Liability Insurance including Owned, Hired and Non-Owned Vehicles with a minimum limit of \$1,000,000 each accident.
- c. Workers' Compensation Insurance, which provides Statutory Benefits and Employers Liability Insurance with limits of \$500,000 (each accident and each employee by disease).
- d. Any other insurance as may be required by law.

Before beginning performance of this Contract, Seller shall furnish insurance certificates as directed by SanaVita Medical, satisfactory in form and substance to SanaVita Medical, showing the above coverages, and identifying SanaVita Medical as a certificate holder.

#### **21. FORCE MAJEURE.**

Neither party shall be liable to the other party for delay in scheduled delivery or failure in performance caused by acts beyond such party's reasonable control without fault or negligence of such party, such as, without limitation, flood, war, embargo, acts of terrorism, riot or the intervention of any governmental authority ("Event of Force Majeure"), provided such party presents a claim and notice in writing to the other party within twenty-four (24) hours of such party becoming aware that an Event of Force Majeure may delay or interrupt performance hereunder. If Seller is unable to perform for any reason, SanaVita Medical may purchase Products from other sources and reduce its purchases from Seller accordingly without liability to Seller.

#### **22. CHOICE OF LAW.**

All transactions shall be governed by the laws of the Commonwealth of Pennsylvania, United States of America, excluding conflict of law rules. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

#### **23. EQUAL OPPORTUNITY.**

Executive Order 11246, as amended, Sec. 402 of the Vietnam Era Veterans Readjustment Act of 1974, as amended, Sec. 503 of the Rehabilitation Act of 1973, as amended, and Sec.61-2505-(a) and Public Law 95-507 contain required contract clauses relative to equal employment opportunity and are incorporated herein by specific reference at 41 CFR 60-1.4(a,d), 60-4.3, 60-250.5(a) and 60-741.5(a).

#### **24. DISPUTE RESOLUTION AND FORUM SELECTION.**

Any dispute, controversy or claim arising out of or related to this transaction where the matter in controversy does not exceed the sum of \$50,000, exclusive of interest and costs, shall be resolved by binding arbitration. A demand for arbitration shall be served on the other by certified mail. Within forty-five (45) days after a party demands arbitration, the parties shall select a single arbitrator. The selected arbitrator shall conduct the arbitration in a manner substantially similar to the procedures set forth in the Commercial Arbitration Rule of the American Arbitration Association ("AAA"). If the parties are unable to agree on an arbitrator, the party demanding arbitration shall file a demand for arbitration with the AAA and the arbitration shall then proceed in accordance with the Commercial Arbitration Rules of the AAA. In all circumstances, the arbitration shall take place in Bucks County, Pennsylvania.

Any dispute, controversy or claim arising out of or related to this transaction where the matter in controversy exceeds the sum of \$50,000, exclusive of interest and costs, shall be adjudicated exclusively by a court of competent jurisdiction in Bucks County, Pennsylvania. Seller consents to personal jurisdiction and venue in Bucks County, Pennsylvania and agrees not to take any action to challenge such jurisdiction or venue.

In the event of any action of proceeding related to this transaction, and SanaVita Medical is determined to be the prevailing party with regard to some of all claims, Seller agrees to pay all of SanaVita Medical's attorney's fees and litigation costs up through and including any appeal.

**25. EXPORT COMPLIANCE.** Client shall comply with all applicable laws and regulations with regard to the supply, sale, transfer, export, re-transfer, or re-export of SanaVita Medical Products, including: economic sanctions; export controls; and trade embargoes ("Sanctions") and Client shall not cause SanaVita Medical to, either directly or indirectly, risk any potential violation of any applicable Sanctions.

For the avoidance of doubt, all applicable laws and regulations shall include at least those originating out of or related to United Nation's resolutions, or trade or economic sanctions, laws or regulations of the European Union, of the OSCE, or of the United States of America, including extra territorial Sanctions.

In addition, Client shall also respect the SanaVita Medical Positions, which may go beyond Sanctions as defined above. The list of countries to which SanaVita Medical refuses any direct or indirect sales (including transit across these countries) is as follows: Iran. This list is subject to evolutions and SanaVita Medical reserves the right to regularly notify such changes to the Client.