

STANDARD TERMS AND CONDITIONS OF PURCHASE

These terms and conditions ("Agreement") shall govern Supplier's provision of products or services to **Laborie Medical Technologies Canada ULC**. ("Laborie") resulting from any purchase order issued by Laborie (a "Purchase Order"). IN THE EVENT THAT ANY ACCEPTANCE OR OTHER COMMUNICATIONS OF ANY KIND FROM SUPPLIER TO LABORIE CONTAIN ANY ADDITIONAL TERMS OR CONFLICT WITH ANY TERMS AND CONDITIONS OF THE AGREEMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN UNLESS SUPPLIER NOTIFIES LABORIE IN WRITING THAT IT IS REJECTING THE PURCHASE ORDER ("NOTICE OF REJECTION") AND AFTER SUCH NOTICE OF REJECTION AN AUTHORIZED SIGNATORY OF LABORIE AND THE SUPPLIER MUTUALLY AGREE UPON A WRITTEN AMENDMENT TO THIS AGREEMENT ("AMENDMENT"). In the absence of such Amendment even if Supplier issues a Notice Of Rejection, if Supplier delivers the products or services to Laborie, such products or services shall be deemed to be delivered pursuant to the terms of this Agreement.

1. **ORDERS.** A Purchase Order shall be deemed accepted by Supplier if no written notice is provided to Laborie of the denial of an order and the reason for the denial within five (5) business days of Supplier's receipt of Laborie's Purchase Order.
2. **PRICES; TERMS OF PAYMENT.** All payments by Laborie shall be made Net 45 days from the date Laborie receives Supplier's invoice unless otherwise negotiated. The prices and terms of payment stated herein apply to all products and services purchased hereunder. Laborie shall have no obligation to honor invoices for products or services at any increased price or additional charge unless such item is agreed to in writing by Laborie. All payments shall be conditional upon acceptance by Laborie of the products and services.
3. **TAXES & DUTIES.** Supplier shall bear the cost of all taxes and other governmental fees, charges, surcharges and assessments of whatever nature, except for any applicable provincial, state and federal taxes when the incidence of such taxes is by operation of law on Laborie, including, any applicable goods and services taxes (collectively, "Laborie's Taxes"). Laborie's Taxes shall be added to the prices as applicable and stated as separate items on the invoice applicable to each Purchase Order. The prices stated herein shall not include any tax for which an exemption is available, or for which Laborie has furnished Supplier evidence of a lawful exemption.

Supplier shall not declare value for insurance with carrier. Laborie will not accept charges for declared value.

4. **PACKING, MARKING AND SHIPMENT.** Where applicable, unless otherwise specified by Laborie in writing, Supplier shall pack and mark products so as to reasonably ensure that the products reach Laborie at its ultimate destination in a secure fashion. Purchase order number must appear on all invoices, packing slips and packages. Damage discovered after transfer of title that is determined to be a result of faulty packaging or handling by Supplier shall be Supplier's responsibility. All shipments shall be made DDP Laborie's facilities set out on the Purchase Order (Incoterms 2000) unless otherwise mutually agreed upon in writing.
5. **FORCE MAJEURE.** It shall not be a default and neither Laborie nor Supplier shall be liable for a failure to perform hereunder arising from causes or events beyond a party's control and without the fault or negligence of such party. To the extent that, and so long as the obligations of either party are affected by any such cause or event, such obligations shall be suspended.
6. **INSPECTION AND PRODUCT CHANGES.** Laborie reserves the right to inspect all products and services prior to acceptance of such products or services, and to reject such products or services if they do not meet Laborie's reasonable requirements. Supplier shall not substitute or modify any products or services (including components thereof) on a Purchase Order without the prior written consent of Laborie.
7. **WARRANTY.** Supplier warrants to Laborie as follows:
 - a) Supplier has the necessary knowledge, experience and skills to perform services hereunder and will perform all services in a competent and professional manner, in accordance with industry "best practices";
 - b) Supplier has the absolute right to make the assignments of the right, title and interest in and to any products or deliverables provided to Laborie;
 - c) Supplier shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies of any country having jurisdiction over the services, products or any part thereof;
 - d) In performing its obligations hereunder and while on-site at Laborie facilities, Supplier will comply with all Laborie internal policies and procedures, as may be revised from time to time and made available to Supplier;
 - e) Products and deliverables supplied hereunder shall have no material inherent defects and shall not contain any intentionally harmful characteristics (such as viruses or Trojan horses), and shall conform to and operate in accordance with their specifications;
 - f) Supplier shall take all necessary precautions to protect the integrity of Laborie's facilities and computer systems and, where applicable, Laborie's customer's facilities and computer systems;
 - g) In performing any services hereunder, Supplier will not use any confidential materials or documents of any third party, unless Supplier has received prior written authorization to do so from the owner of the confidential materials;
 - h) No intellectual property rights of any third party shall be infringed by the performance of any services hereunder or any products or deliverables provided to Laborie; and
 - i) Supplier has, prior to executing this Agreement, identified to Laborie, in writing, all licenses or sub-licenses of third party software and all additional materials and information that Laborie will require to effectively utilize the products and deliverables provided hereunder.
8. **COMPLIANCE WITH LAWS.** Supplier warrants that it is in compliance with all laws, rules, regulations, standards, ordinances of any and all jurisdictions in which Supplier is domiciled, has an office and/or does business.

9. **INDEMNIFICATION.** Supplier agrees to defend, indemnify and save harmless Laborie, its successors, assigns, affiliates, and customers (collectively the "Indemnitees"), from and against all losses, liabilities, damages, judgments, settlements, expenses (including, without limitation, attorney's fees), or claims based on injuries or damages to any person or property arising out of or in any way related to: (a) this Agreement, (b) the breach of any obligation or warranty hereunder, or (c) the delivery, condition, manufacture, purchase, sale, use or operation of the products purchased or services used hereunder except to the extent solely caused by the gross negligence of Laborie. Supplier further agrees to defend, indemnify and save harmless the Indemnitees against any claim that the products or services infringe any third party intellectual property right, and to procure for Laborie the right to continue using such products or services, modify such products or services so that they become non-infringing or to remove such products or services and refund to Laborie the total purchase price thereof.

10. **ASSIGNMENTS.** No right or obligation under this Agreement shall be assigned by Supplier without the prior written consent of Laborie, and any purported assignment without such consent shall be void. Supplier shall not subcontract or in any other manner delegate to any other party the performance of any work or the supplying of any services under this Agreement without the prior written consent of Laborie.

11. **CONFIDENTIALITY, PROPRIETARY INFORMATION, AND OWNERSHIP THEREOF.** Supplier shall keep confidential all confidential information furnished by Laborie in connection with this Agreement, including any specifications, data, software, source code, business plans, or other property ("Confidential Information"). Supplier shall not alter or use Confidential Information for any purpose other than that specified by Laborie, or for any other person or organization, without the prior written consent of Laborie and except as may be necessary for the performance of this Agreement. Such Confidential Information shall not be used or reproduced by Supplier or disclosed or transmitted by Supplier to any person or organization without the prior written consent of Laborie. Upon completion of all work under this Agreement or termination of this Agreement, Supplier shall, upon the demand of Laborie, promptly return to Laborie all Confidential Information together with all copies or reproductions then in Supplier's possession or control. Title to any property furnished or paid for by Laborie shall remain with Laborie.

12. **DEFAULT AND TERMINATION.** In the event Supplier is or becomes insolvent or otherwise becomes the subject of any insolvency or bankruptcy proceedings, or if Supplier fails, or appears to be unable, to perform any of its obligations in accordance with the terms and conditions of this Agreement, Laborie may cancel this Agreement in whole or in part and may pursue any further remedies available at law or in equity. No waiver by Laborie of a breach by Supplier of any provision of this Agreement shall constitute a waiver of any other breach or provision. All of Laborie's rights and remedies hereunder shall be cumulative and not exclusive.

13. **LIMITATION OF LABORIE'S LIABILITY; STATUTE OF LIMITATIONS.** IN NO EVENT SHALL LABORIE BE LIABLE TO SUPPLIER FOR, AND SUPPLIER HEREBY WAIVES ANY INDIRECT, ECONOMIC, SPECIAL, COMMERCIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOSS OF BUSINESS REVENUE OR EARNINGS, LOST DATA, DAMAGES CAUSED BY DELAYS, OR A FAILURE TO REALIZE EXPECTED SAVINGS) DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR LIKELIHOOD HAS DISCLOSED TO LABORIE.

Laborie's liability on any claim of any kind for any loss or damage arising out of, connected with or resulting from this Agreement, or from the performance or breach thereof, shall in no case exceed the price allocable to the products or services that give rise to the claim. Laborie shall not be liable for penalties of any description. Any action resulting from any breach on the part of Laborie as to the products or services delivered hereunder must be commenced within one (1) year after the cause of action has accrued.

The limitations, exclusions and disclaimers set out in this Agreement shall apply: (a) whether an action, claim or demand arises from a breach of warranty or condition, breach of contract, tort (including negligence), strict liability or any other kind of civil or statutory liability connected with or arising out of this Agreement; (b) to Laborie and its affiliated companies as well as Laborie's and such affiliated companies' director, officers, employees, and independent contractors.

Some jurisdictions do not allow limitation or exclusions of certain types of damages and/or of implied conditions or warranties. The limitations, exclusions, and disclaimers set forth in this Agreement shall not apply only if and to the extent that the laws of a competent jurisdiction requires liabilities beyond and despite these limitations, exclusions, and disclaimers.

14. **CANCELLATION.** In addition to any other provision contained herein for the cancellation or termination of this Agreement, Laborie may cancel this Agreement or any Purchase Order or part thereof, solely at its convenience, in whole or in part, by written notice to Supplier. In the event of such cancellation, Laborie agrees to pay to Supplier the actual proven net cost to Supplier incurred in good faith for products or services ordered under a Purchase Order prior to Supplier's receipt of the cancellation notice, provided, however, that in no event shall Laborie be liable for Supplier's commitments or production arrangements in excess of the amount, or in advance of the time, necessary to meet Laborie's delivery schedule specified in the Purchase Order.

15. **CHOICE OF LAW.** **This Agreement shall be governed by the laws of the Province of Ontario without reference to its choice of law principles. Supplier irrevocably consents to the jurisdiction of the courts of the Province of Ontario.** The parties specifically agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

16. **TIME.** Time is of the essence in this Agreement.

17. **PUBLICITY.** Supplier will not make any announcement, news release, public statement, publication or presentation relating to the terms or existence of this Agreement or about Laborie, nor use the name, trade name, trade mark, or symbol of Laborie in any way, without Laborie's express prior written approval. Without limiting the foregoing, Supplier shall not represent directly or indirectly that any product or service provided by Supplier to Laborie has been approved or endorsed by Laborie, or include the name, trade name, trade mark, or symbol of Laborie or any Laborie affiliate on a list of Supplier's customers without Laborie's express written consent.

18. **REGULATORY.** All computer and electronic parts must be RoHS Compliant otherwise Laborie reserves the right to refuse shipment. Any products requiring sterilization must have a certificate of sterilization prior to delivery of the Laborie products.

