

ZIMMER, Inc and BIOMET, Inc. PURCHASE ORDER TERMS AND CONDITIONS

1. **GENERAL:** These terms and conditions ("Terms") shall be applicable to any accompanying purchase order received by you ("Supplier") from Zimmer, Inc., Biomet, Inc., or any of their divisions, affiliates, and subsidiaries ("Purchaser"). The term "Goods and Services" means anything provided hereunder to Purchaser by the Supplier. All specifications, drawings, and data submitted to Supplier relating to the purchase order and these purchase order Terms (collectively, the "Purchase Order") are hereby incorporated herein. Additional terms, conditions, specifications, drawings, data, or instructions specified by Purchaser in the body of the Purchase Order, or in an exhibit thereto, are incorporated herein by reference, and, in the event of a conflict, shall take precedence over these Terms.
2. **ACCEPTANCE:** Acceptance of any Purchase Order issued by Purchaser is expressly limited to these Terms and the applicable Purchase Order. Purchaser shall not be bound by any additional, different, or inconsistent terms contained in any proposal, quotation, acceptance, invoice, or any other document or communication from Supplier unless the parties specifically agree in writing to incorporate such terms in the Purchase Order or otherwise agreed to in writing by Purchaser. Supplier's shipment of Goods or commencement of work in response to Purchaser's Order shall constitute acceptance of these Terms, and any additional, different, or inconsistent terms contained in any document or communication submitted by Supplier shall not be binding on Purchaser, shall be considered waived, and shall not constitute any part of the contract of sale resulting from Supplier's acceptance.
3. **MODIFICATIONS OR AMENDMENTS:** (a) **Purchase Order:** No modification, variation, or amendment of a Purchase Order, the Terms of such Purchase Order, or the contract of sale resulting from the acceptance of a Purchase Order shall be valid or binding on Purchaser unless agreed to in writing by a duly authorized representative of Purchaser. Despite anything to the contrary contained in these Terms, if Supplier and Purchaser have executed an agreement which governs the purchase and sale of the applicable Goods or performance of a Service, the terms of such agreement shall be controlling and shall take precedence over these Terms and any additional or different terms contained in any document generated by Supplier; (b) **Scope of Purchase Order by Purchaser:** Purchaser shall have the right by written Purchase Order issued at any time prior to delivery of the Goods or performance of the service, to make changes in the work to be performed on the Goods or Service. If such changes cause an increase or decrease in the amount due under the Purchase Order or in the time required for its performance, an equitable adjustment shall be made and the Purchase Order shall be modified in writing accordingly. Any claim for adjustment must be asserted by Supplier in writing within ten (10) business days from the date the change is ordered. If such changes render any items not yet delivered to Purchaser nonconforming or obsolete, Purchaser shall have the right to prescribe the manner of disposition of such items. Nothing contained in this clause shall relieve Supplier from proceeding without delay in the performance of the Purchase Order as changed; (c) **Terms and Conditions contained in incorporated documents located on line or in websites:** terms and provisions contained in documents located on line or in websites which are referred to or incorporated in this Purchase Order may be changed and amended from time to time by the Purchaser and shall be those terms and conditions contained in such documents as of the date of this Purchase Order.
4. **PRICE:** Supplier shall invoice Purchaser at prices set out in the Purchase Order, which prices shall be complete and without any addition. If no price is stated on the Purchase Order, Goods must not be furnished at a price higher than last price paid by Purchaser to Supplier for comparable Goods without written acceptance by Purchaser of such increased price. Supplier represents that the price charged for the Goods is the lowest price charged by Supplier to other Purchasers of a class similar to Purchaser's under similar circumstances. Supplier agrees that any general price reduction in Goods or Service covered by the Purchase Order at any time prior to the shipment of the same will be applied to the Purchase Order. Supplier represents that the prices charged for items covered by the Purchase Order comply with applicable government regulations are not in excess of or less than prices permitted by any applicable federal, state or local law, rule or regulation. Supplier agrees to refund any amount paid by Purchaser in excess of lawful amounts.

Purchaser shall have the right to off-set any payment or other obligation owed by Purchaser to Supplier, in whole or in part, against any payment or other obligation owed by Supplier to Purchaser.

5. **TAX:** Unless otherwise agreed in writing and in advance by Purchaser, Supplier shall be responsible for payment of any and all taxes, customs duties, or other charges imposed by any governmental entity that are, under applicable foreign, federal, state or local laws, imposed on the manufacture, provision or sale of the Goods or Services delivered or provided pursuant to this Purchase Order or related payment therefor. Purchase price is exclusive of VAT. VAT shall be added to the purchase price by supplier if and to the extent applicable mandatory laws so require.
6. **SELLER REPRESENTATIONS:** Seller shall (i) provide to Purchaser the Goods and Services ordered in accordance with the terms stipulated in the Purchase Order; (ii) keep Purchaser advised of the status of the Purchase Order; (iii) permit duly authorized representatives of Purchaser reasonable access to Seller's facilities from time to time upon reasonable notice to inspect the Goods and Services and review and observe the manufacture and processing of Goods and Services and/or examine all records related thereto; (iv) provide Purchaser with such reports as are appropriate to the nature of the Goods and Services ordered and as may be reasonably requested by Purchaser from time to time; (v) retain records and other documentation regarding the manufacture process; and (vi) keep, for orders requiring payment based on hours worked, cost of materials used and/or expenses incurred, records of hours worked, cost of materials used, and reasonable out-of-pocket expenses incurred in filling the Purchase Order, which records Purchaser's duly authorized representatives may examine from time to time upon reasonable notice. Further, if the Purchase Order includes Services, Supplier represents and warrants that (i) such Services will be performed or provided by qualified individuals skilled and trained in the performance of such Services; (ii) such services will be performed or provided in a workmanlike, professional manner in accordance with applicable industry standards; (iii) its providing of the Services will not violate or breach any obligation of Seller to a third party; and (iv) providing or performing the Services will not violate any third party patents, copyrights, trade secret, trademark or intellectual property rights. The above warranties are in addition to any other express, implied or statutory warranties of Seller and shall survive acceptance and use of, and payment for, the Goods or performance of the Services.
7. **CHANGES IN MATERIALS OR PROCESS BY SUPPLIER:** Supplier acknowledges that certain Goods purchased hereunder may be incorporated into medical devices regulated under the U.S. Federal Food, Drug and Cosmetic Act. Supplier agrees that it will make no changes or modifications in the manufacture or in any raw material, facilities, suppliers/subcontractors, inspection/test plans, process, or packaging methods and materials involving or affecting the Goods ("Changes") without the prior written approval of Purchaser. The foregoing Changes includes, without limitation, changes to equipment, fluids used in processing or manufacture, and any other fluids, adhesives, or lubricants which may intentionally or inadvertently come in contact with the Goods. Supplier's notification of Changes must be made in sufficient detail to allow Purchaser to determine the impact of such Change(s), if any, upon the completed medical device prior to Supplier effectuating such Change. In the event Supplier proposes a Change, Supplier shall cease performance on all outstanding Purchase Orders and those partially completed pending written acceptance of such Change(s) by Purchaser. Supplier shall not modify, alter or Change the performance or delivery of Services specified on this Purchase Order (or associated documentation) without the advance written consent of Purchaser.
8. **CANCELLATION:** (1) **Convenience:** Purchaser shall have the right upon written notice to Supplier to cancel the Purchase Order on any unfilled portion, and Purchaser's liability therefore shall be limited to Supplier's non-cancellable cost for materials and services and labor incurred for such undelivered Goods and Services up to the date of cancellation of the Purchase Order. (2) **For late delivery:** Purchaser shall have no liability for any cancellation of a Purchase Order for Goods and Services that have not been delivered within thirty (30) days after the delivery date. (3) **For default/bankruptcy:** Purchaser may cancel the Purchase Order in whole or in part at any time by written notice if Supplier defaults in performance of its obligations hereunder or fails to make progress in the work so as to endanger its performance, in the event of any proceedings, voluntary or involuntary, in bankruptcy or solvency, by or against Supplier, or in the event of the appointment with or without Supplier's consent of an assignee for the benefit of creditors or of a receiver. Upon any such cancellation, Purchaser shall have no liability under the Purchase Order and may hold Supplier accountable for any additional damages incurred by Purchaser as a result of its cancellation.

9. **WORK ON PREMISES:** If Supplier's obligations under the Purchase Order involve operations by Supplier on Purchaser's premises, Supplier agrees to comply with, and require its employees and contractors performing such Services to comply with, all plant safety rules and regulations. Supplier shall also perform all work in a safe manner, keeping premises free of safety hazards at all times, and conform to federal and state laws and safety regulations while on Purchaser's premises. A certificate of insurance covering Supplier's employees and property damage liability is required prior to the start of any work. All such operations shall be conducted as an independent contractor and neither Supplier nor any of its employees shall be considered employees of Purchaser. Supplier agrees to remove and replace any of Supplier's employees and/or contractors to whom Purchaser has a reasonable objection.
10. **PACKAGING:** Supplier shall be responsible for safe packing, which must conform to the requirements of carrier's tariffs. Supplier shall separately number all cases, packages, etc. showing the corresponding numbers on the invoices. All itemized packing slips, bearing the Purchase Order Number, must be placed in each container. No extra charge shall be made for packaging materials unless authorized by Purchaser in the Purchase Order.
11. **MATERIAL SAFETY DATA SHEETS:** If required by law, an applicable Material Safety Data Sheet ("MSDS") and labeling will precede or accompany each shipment of Supplier. Supplier shall further provide Purchaser with updated MSDS's and labeling as required by law.
12. **RAW MATERIAL:** Parts produced from titanium implantable grade alloys for legacy Biomet companies must comply with CF0639 Group 1 Implantable Raw Material Approved Supplies List – Titanium. .
13. **DELIVERY/NOTICE OF LABOR DISPUTES:** Shipments or deliveries shall be strictly in accordance with the quantities and the schedule specified in the Purchase Order. Supplier shall promptly notify Purchaser in writing of the delay or potential delay of delivery, the estimated duration of the delay, and, if requested by Purchaser, ship via means which will avoid or minimize delay to the maximum extent possible, the added cost to be borne by Supplier. This notification shall not relieve Supplier of its obligations. Supplier shall notify Purchaser immediately of any actual or potential labor dispute which is delaying or threatens to delay the time and performance of this Purchase Order. No acts of Purchaser, including, without limitation, modification of the Purchase Order or acceptance of late deliveries shall constitute waiver of this provision. In addition to all other remedies available to Purchaser, Supplier shall be responsible for cover and for any incidental or consequential damages of Purchaser due to delayed or potential delayed delivery. Purchaser reserves the right to refuse or return at Supplier's risk and expense shipments made in excess of the Purchase Order quantity or in advance of required schedules, or to defer payment of advanced deliveries until scheduled delivery dates.
14. **SHIPPING:** Any Goods shipped to Purchaser facilities under the Purchase Order shall be addressed to Supplier c/o Purchaser. Unless otherwise directed in writing by Purchaser, FCA (Free Carrier), Supplier site, INCOTERMS 2010, shall apply to all shipments of Goods under the Purchase Order, except to the extent that specific terms of the Purchase Order contradict the relevant INCOTERMS 2010, then the Purchase Order controls. Supplier shall utilize the Purchaser-specified carrier. Purchaser shall notify Supplier of the contact details for the relevant carrier and Supplier shall coordinate delivery of the Goods with such carrier.

Title to materials to be delivered hereunder shall not pass until the materials reach the receiving point indicated and are accepted.

15. **IMPORT/CUSTOMS:** Supplier agrees to comply with all applicable export control laws and regulations in the U.S. and country in which they do business. This specifically includes, but is not limited to, the requirements of the Export Administration Act, 50 U.S. C. app. 2401-2420, the Export Administration Regulations, the Office of Foreign Assets Control (OFAC) Regulations for Exporters and Importers, and the requirement for obtaining any export license, if applicable. Supplier shall provide prompt notification to Purchaser in the event of any violation, or potential violation, of the laws and regulations listed above. Supplier agrees to notify Purchaser of the export classification (Harmonized Tariff Schedule (HTS), the Country of Origin (COO)) and the classification of the goods under the Wassenaar Arrangement, if applicable, of any deliverable under the Purchase Order, under applicable export control laws or regulations. Supplier (Non-U.S.) agrees to

fully pack for transit, mark with appropriate labels, names and numbers to identify the Goods and Services as belonging to Purchaser, and provide all necessary documents, papers and certificates required to for U.S. Customs clearance, and be exported without undue delay or expense. Supplier (Non-U.S.) agrees to provide appropriate documentation identifying Supplier's FDA registration number, the Product Code(s), and Device Listing Number(s) applicable to the products exported to the U.S. Supplier (Non-U.S.) agrees to participate in Purchaser's International Shipment Pre-Alert program by providing an advance copy of shipping documents (Commercial Invoice(s), Shipper's Declaration – to be obtained from Purchaser) to the following email address: Import-Export@biomet.com once the AWB/Tracking Number has been obtained. Supplier shall immediately notify Purchaser if the Supplier is, or becomes, listed on any Denied Parties List or if the Supplier's export privileges are otherwise denied, suspended or revoked in whole or in part, by any government or agency thereof.

16. **INSPECTIONS:** All Goods delivered shall be subject to inspection, test, and audit by Purchaser or its agent(s) at reasonable times and places. Neither the inspection, testing, nor audit of the Goods, nor the failure to do so shall constitute acceptance of the Goods or relieve Supplier from its responsibility for furnishing Goods in strict compliance with its obligations hereunder. Acceptance of all or part of the Goods, use thereof and/or payment therefore or failure to notify Supplier promptly shall not waive or affect Purchaser's right to reject, cancel, or return all or part of the Goods, to recover damages or to recover upon Supplier's warranties or agreements of indemnity. Purchaser may reject any Goods that do not strictly comply with this Purchase Order, including any applicable specifications. Payment for or acceptance of any part of a shipment shall not bind Purchaser to accept future shipments of nonconforming Goods or negate Purchaser's right to return nonconforming Goods already accepted. All Goods rejected by Purchaser shall be returned at Supplier's expense for both delivery and return transportation. No replacement or substitution of the rejected Goods or any part thereof shall be made without Purchaser's prior written authorization. Supplier shall submit a certification of conformance with shipment to Purchaser.
17. **EXPORT ADMINISTRATION REGULATIONS:** Supplier confirms that all items (including products, materials, assets/equipment, hardware, software, and technology) provided to Purchaser under this Purchase Order are classified as EAR99 items under the Export Administration Regulations ("EAR"), are not on the lists of dual-use goods and technologies (Wassenaar Arrangement List, or subject to export licensing under any other applicable laws. To the extent that any items, are on the Wassenaar Arrangement List, or are subject to export licensing under any other applicable laws, Supplier will immediately provide in writing to Purchaser the export classification information of such item(s) and will note the proper classification on the commercial invoice and shipment notification. This information will include any Export Control Classification Number ("ECCN") if the item is controlled under the EAR or any other appropriate export classification if controlled under non-U.S. government export control laws. Supplier will promptly notify Purchaser in writing of any future changes to the export classification information of the item(s).
18. **INVOICES AND PAYMENT TERMS/DISCOUNTS:** **1) Invoices:** A separate invoice shall be issued for each shipment. Unless otherwise specified in the Purchase Order, no invoice shall be issued prior to the shipment of Goods or provision of Services and no payment will be due prior to receipt of Goods and/or Services and applicable invoice. Only undisputed amounts due will be payable by the due date. On disputed invoices no late charges or collection costs will be assessed. **2) Payment terms/Discounts:** Purchaser will pay for the Goods and Services within seventy-five (75) days of receipt of the invoice, unless discounts of 3% 15 days are offered for earlier payment. Applicable discounts will be taken on full amount of invoice. The payment date will be the date Purchaser's check is mailed or payment is otherwise transmitted to Supplier.
19. **Warranty:** Seller represents and warrants that the Goods furnished and the Services provided hereunder will (a) be of merchantable quality and fit for the purposes intended; (b) be free from defects in material, workmanship and fabrication; (c) fully conform with the Order, Purchaser's quality requirements and any standards, specifications, plans, designs, drawings, instructions or samples furnished or specified by Purchaser; (d) be of quality, quantity, size, description and dimension specified by Purchaser; (e) be delivered free and clear of any liens, claims or encumbrances of any kind and (f) be delivered and produced and/or performed in a safe, proper and workmanlike manner in compliance with all applicable laws, rules, regulations and codes by duly trained and qualified employees or contractors. These warranties shall survive acceptance and payment and shall run to Purchaser, its affiliates, successors and assigns, Purchaser's customers and all

users of the Goods or the Services or any products into which the Goods or Services are incorporated. Such warranties are in addition to any other express, implied or statutory warranties of Seller and shall survive acceptance and use of, and payment for, the Goods and/or Services.

20. **QUALITY MATTERS:** 1) **Audits:** Purchaser may, at reasonable intervals, audit Supplier's quality program for conformance to the applicable requirements of the Quality System Regulation contained at 21 C.F.R. Part 820 (QSR) and to the intent of ISO 9000 Quality Management System Standards (ANSI/ASQ Q9000) or the Purchaser's quality assurance specifications for suppliers. Supplier shall fully cooperate with Purchaser in handling third party complaints arising from the Goods and Services. Supplier shall permit representatives of Purchaser to access Supplier's facilities from time to time upon reasonable notice to inspect the Goods and Services and review and observe the manufacture and processing of Goods and Services and/or examine all records related thereto. 2) **FDA Inspections:** Supplier acknowledges that Goods and Services purchased hereunder may be incorporated into products which will be purchased by an agency or branch of the federal government. In the event the federal government requests an inspection by the FDA of the manufacturing facilities and records relative to the Good purchased hereunder, Supplier hereby agrees that said inspection shall be permitted. Supplier shall immediately notify Purchaser when it learns such an inspection is scheduled or is occurring, shall notify Purchaser of the results of any such inspection and, if any deficiency is noted, shall provide Purchaser with its corrective action plan. 3) **Complaints:** Supplier shall provide, in a timely manner, such assistance and information as Purchaser reasonably requests to fulfill its reporting obligations for the Goods and Services and each product into which the Goods and Services may be incorporated. Supplier's quality management procedures, device history records and all batch and validation records related to the Goods and Services shall be maintained by Supplier in accordance with the requirements of applicable laws and shall be made available for inspection by Purchaser, its representatives and/or any relevant regulatory authorities. 4) **Recall of Goods and Services:** If at any time after acceptance of the Purchase Order by Supplier or delivery and/or acceptance of the Goods and Services by Purchaser, all or any part of the Goods and Services become subject to a voluntary or involuntary recall by any government agency or corrective action by Supplier, Supplier shall assume responsibility and costs for implementing and complying with such recall according to applicable laws, regulations, and government orders, including costs arising from the return and/or replacement of such Goods and Services, to the extent that the Goods and Services do not conform to Purchaser specifications or contain latent defects that resulted in the recall. Supplier shall be responsible for all communications necessary to such recall. Any communications to Purchaser's customers regarding the recall or corrective action shall have the prior approval of Purchaser. Supplier shall credit or reimburse Purchaser for the costs of recalled Goods and Services and any costs or losses incurred by Purchaser as a result of the recall. Supplier shall further promptly inform Purchaser regarding recalls and other safety concerns regarding products similar to the items supplied by Supplier to customers other than Purchaser,
21. **REGULATORY SUPPORT:** Supplier shall, at Purchaser's written request, provide to Purchaser any necessary regulatory support in all countries in which Purchaser sells any product that includes the Goods and Services under the Purchase Order, including but not limited to, the following: (1) any available biocompatibility and mechanical testing data in raw and summary form, and updates on such data, in relation to the Goods and Services; (ii) other information related to the general performance and/or other general physical characteristics of the Goods and Services;(iii) additional information necessary for regulatory approval by any country's regulatory authority where Purchaser sells its products which include the Goods and Services; and (iv) if the Goods and Services are licensed or registered or approved for use in any country in which Purchaser sells its products, Supplier will provide Purchaser notice of such registration, license or approval.
22. **PROPERTY AND DESIGNS FURNISHED SUPPLIER:** Unless otherwise agreed in writing, title to all designs, sketches, drawings, specifications, programs, blueprints, patterns, dies, models, molds, tools, gauges, plates, cuts, special appliances, materials and all improvements thereto, furnished to Supplier by Purchaser and/or created or developed by Supplier for Purchaser in connection with or as a result of this Purchase Order, are and remain the property of Purchaser. Such property shall be recorded and identified as property of Purchaser and retained by Supplier on consignment. All Purchaser property, while in Supplier's custody or control, will be held at Supplier's risk, free of all liens, encumbrances or security interests of Supplier or third parties, and will be kept insured by Supplier at Supplier's expense in an amount equal to replacement cost with loss payable to Purchaser. Such Property shall not be disclosed to or used by or on for the benefit of any third party and will be

used solely for Purchaser. While in Supplier's custody or control, Supplier shall maintain and repair such Property at Supplier's expense. Supplier shall be responsible for calibration of all such Property requiring calibration and shall maintain all records related to such calibration. Supplier shall provide Purchaser with original documentation and/or copies thereof when requested by Purchaser. Supplier will indemnify, protect, defend and hold harmless Purchaser, its successors and assigns from and against all loss or damage to such property occurring while in Supplier's custody or control. Such property shall be appropriately segregated from Supplier's property and shall be prominently identified as belonging to Purchaser. All property of Purchaser is subject to removal by Purchaser at any time, and to return upon Purchaser's request.

23. **PATENTS AND INTELLECTUAL PROPERTY:** Supplier represents and warrants that the Goods sold hereunder, and the use of such Goods where a representation of suitability for such use, express or implied, has been made, do not and will not infringe any United States or foreign patents, trademarks, trade dress, copyrights, trade secrets or any other form of intellectual property. Supplier acknowledges that any patents, trademarks, trade dress, copyrights, trade secrets or any other form of intellectual property (collectively, "Intellectual Property") that Purchaser provides to Supplier are Purchaser's exclusive property and Supplier disclaims all rights in same. All drawings, art work, special products, materials, information or data furnished by Purchaser and all Intellectual Property resulting from the Purchase Order (as referenced in the foregoing sentences) are Purchaser's exclusive property, shall be used by Supplier only for Purchaser's work, shall be kept confidential by Supplier and shall be returned to Purchaser at Purchaser's request. Purchaser may market, distribute and/or sell the Goods under its own trademark and trade name. Purchaser has the right to use any of Supplier's marks, names, other trade identities, copyrighted works or other intellectual property, to the extent that Supplier has incorporated such property in or used such property in the manufacture of the Goods that are supplied by Supplier to Purchaser. Where the Goods and Services include experimental, developmental, or research work to be performed in accordance with special requirements of Purchaser, any such work will be considered "work for hire" and Supplier agrees to disclose and on request to assign to Purchaser each invention, copyright, confidential process or know-how, and trade secret or other form of Intellectual Property resulting therefrom and Supplier shall disclaim all rights in same. Supplier agrees to execute any and all documents necessary to transfer ownership of Intellectual Property to Purchaser or to evidence ownership in Purchaser. Supplier also agrees to cooperate with Purchaser in the filing of any patent applications and to execute all documents as requested by Purchaser regarding any such patent application at Purchaser's expense. Supplier, without charge to Purchaser, other than reasonable payment for time involved, but at Purchaser's expense shall duly execute, acknowledge, and deliver to Purchaser all such further papers, including assignments and applications for copyright registration or renewal, as may be necessary to enable Purchaser to publish or protect said works by patent, copyright or otherwise in any and all countries and to vest title to said works in Purchaser or its nominees, their successors or assigns, and shall render all such assistance as Purchaser may require in any proceeding or litigation involving the rights in said works.
24. **INDEMINIFICATION:** Supplier agrees to defend, indemnify and hold harmless Purchaser, its affiliates and subsidiaries, and their respective directors, officers, employees, agents, distributors, sales representatives, customers and end users of the Goods and Services, from and against any and all claims, suits, actions, demands, judgments, settlements, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and litigation expenses) directly or indirectly arising from or related to: (a) Supplier's breach of any provision of these Terms or the Purchase Order; (b) the negligent or more culpable act or omission of Supplier or its employees, consultants or subcontractors; (c) the production, manufacture or delivery of, or any defect in, the Goods and Services; (d) Supplier's failure to comply with applicable laws in the performance of its obligations under the Purchase Order; (e) actual or alleged infringement of any patent, copyright, trademark, trade dress, trade secret or other intellectual property right of any third party arising from Purchaser's purchase, use or sale of Goods and Services; (f) the assessment by any third party of liquidated damages or proven actual damages assessed related to the failure of Supplier to timely deliver the Goods and/or provide the Services; and (g) actions and proceedings brought by any foreign, federal, state or local government or any agency or instrumentality thereof related to the Goods. All such obligations of Supplier will survive acceptance and use of, and payment for, the Goods and Services, and completion, termination or cancellation of the Purchase Order.
25. **LIMITATION OF LIABILITY:** In the event of breach by Purchaser, Purchaser will be liable to Supplier only for actual direct monetary damages. IN NO EVENT SHALL (A) THE LIABILITY OF PURCHASER ON ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING OUT OF THE PERFORMANCE, NON-PERFORMANCE OR BREACH OF THE PURCHASE ORDER EXCEED THE GREATER OF (A) THE TOTAL COMPENSATION PAID BY PURCHASER TO SUPPLIER UNDER THE PURCHASE ORDER OR (B) THE PRICE ALLOCABLE TO THE AFFECTED GOODS AND SERVICES. IN NO EVENT SHALL PURCHASER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES. Any action by Supplier arising out of the Purchase Order

must be commenced within one (1) year after the cause of action accrues or Supplier will be deemed to have waived any right to bring such action.

26. **COMPLIANCE WITH LAWS:** In providing Goods and Services under the Purchase Order, Supplier agrees that it shall comply and has complied with all applicable foreign, federal, state, and local laws, rules and regulations, including, without limitation, the U.S. Federal Food, Drug and Cosmetic Act, the Fair Labor Standards Act of 1938, as amended, the Occupational Safety and Health Act of 1970, all anti-corruption/anti-bribery laws, including, without limitation, the U.S. Foreign Corrupt Practices Act, all anti-slavery and anti-human trafficking laws, and, as applicable, US 21CFR parts 11, 801, 803, 806, 820, Medical Device Directive 2007/47/EC and ISO 13485:2003. Goods and Services ordered herein may be used by Purchaser in fulfilling a U.S. Government prime or subcontract and may be subject to applicable Government Procurement Regulations, and Supplier agrees to be bound thereby and comply therewith. Supplier shall inform Purchaser promptly of any adverse events and/or any allegations or findings of violations of applicable laws or regulations that have the potential of affecting the quality of the goods and/or services to be delivered. Supplier will hold Purchaser harmless from all liability resulting from any failure by it to comply with this provision.
27. **BUSINESS CONTINUITY PLANNING:** Seller shall maintain and regularly update a disaster recovery and/or business continuity plan ("Plan") that details how Seller will recover from a disaster and/or unexpected event and resume or continue operations and continue to provide the Services and perform its obligations under this Agreement. Seller shall provide its Plan to Purchaser upon request.
28. **FORCE MAJURE:** Strikes, riots, wars, insurrection, embargoes, acts of terrorism, fires, floods or other casualties, government actions, acts of God, or other events beyond Purchaser's reasonable control which shall effect Purchaser's ability to receive and/or use the Goods and Services ordered hereunder shall constitute valid grounds for suspension by Purchaser of shipment of Goods and performance of Services covered hereby without penalty or liability, upon written notification to Seller, except that, upon cancellation for such causes, Purchaser may pay Seller its direct expenditures incurred for labor and materials prior to Seller's receipt of such notice of cancellation made upon the authority of the Purchase Order.
29. **EQUAL OPPORTUNITY:** (This clause is applicable except to the extent that the Purchase Order is exempt from any of the requirements set out below pursuant to the rules and regulations published at 41 C.F.R. Sec.60-1.5, 41 C.F.R. Sec. 60-250.3, and Sec. 60-741-4)- In as much as Purchaser is a federal contractor, federal law requires that Purchaser notify Supplier of its equal employment opportunity and affirmative action obligations. This Purchase Order is subject to and incorporates by reference the applicable provisions and requirements of Executive Order 11246, 41 C.F.R. § 60-1.4, 41 C.F.R. § 60-250, and 41 C.F.R. § 60-741, all as amended.

When applicable, Supplier shall comply with the requirements of 41 C.F.R. 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

When applicable, Supplier shall comply with the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

30. **UTILIZATION OF SMALL BUSINESS:** Pursuant to Public Law 95-507, the provisions at 48 Code of Federal Regulations 52.219-8 ("Utilization of Small Business Concerns") and 52.219-9 ("Small Business Subcontracting Plan") are incorporated into any agreement in excess of \$650,000, where applicable. This clause is aimed at maximizing opportunities for veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns where appropriate and is intended for suppliers who offer further subcontracting opportunities. When Supplier subcontracts any of its obligations hereunder, Supplier agrees to use its best efforts to carry out this policy to the fullest extent consistent with its efficient performance of this Agreement.

31. **NO WAIVER:** No waiver of any provision contained in the Order shall be valid unless made in writing and executed by the waiving party. The failure of either party to take action to enforce any of the provisions of the Order shall constitute neither a waiver of a particular breach or any subsequent breach nor a waiver of either party's right to enforce any or all provisions of the Order through any remedy granted by law or the Order. Failure of Purchaser to insist upon strict performance shall not constitute a waiver of any of the provisions of the Order or waiver of any other default.
32. **INSURANCE:** Seller shall, at its own expense, maintain appropriate insurance for a period of at least 2 years after the fulfillment of the Purchase Order which includes, but is not limited to, (i) worker's compensation statutory coverage as required by the laws of the applicable jurisdiction, and (ii) commercial general liability insurance including coverage for product liability in the minimum amount of \$5 million each occurrence in respect of claims for any losses, costs and expenses arising out of or relating to Seller furnishing the Goods and Services under the Purchase Order. A certificate of insurance will be provided to Purchaser upon request. All insurance policies of Seller shall be primary as respects to any other policies held by Purchaser or any other policies providing any coverage in favor of any member of Purchaser. All insurance required of Seller in this Contract shall be placed with insurers acceptable to Company. These insurers shall maintain a minimum rating of A- VII by the A.M. Best Company or A by Standard & Poor's. Seller shall on or before delivery of the Goods purchased hereunder or the performance of Services under this Purchase Order furnish to Purchaser a Certificate of insurance evidencing the foregoing coverage's and limits and naming Purchaser as an additional insured. Seller shall maintain such coverage, and shall provide to Purchaser such Certificate naming Purchaser as an additional insured, for at least two (2) years after sale of the Goods or performance of the Services.
33. **CONFIDENTIALITY/PUBLICITY/DATA PRIVACY:** Seller agrees to treat as strictly secret and confidential all specifications, programs, drawings, blueprints, nomenclature, samples, models data, designs and other belonging to or supplied by Purchaser ("Purchaser's Information") in connection with the Purchase Order as confidential. Seller shall not use or disclose same to any third party except to the extent necessary to perform the terms of the Purchase Order or other Purchase Orders for Purchaser. Seller shall return all Purchaser's Information and any copies thereof to Purchaser on Purchaser's request. Seller shall not, without Purchaser's prior written consent, issue or release any public announcement, press release or other statement in any form of media, including the Internet, regarding the Purchase Order, the provisions hereof, or any of the transactions contemplated hereunder, including denial or confirmation of the fact that Seller has contracted to furnish to Purchaser the materials herein ordered. Seller shall not use Purchaser's name, or the names of any of Purchaser's affiliates, Purchaser's trademarks or other information regarding Purchaser in any advertisement or for any promotional purpose without Purchaser's prior written consent. To the extent Seller receives any protected health information (including, but not limited to, any patient medical records) pertaining or relating to any patient or customer ("PHI"), Seller represents and warrants that it will comply with any and all applicable laws, rules and regulations and upon request of Purchaser, immediately enter into Purchaser's then-current form of Business Associate Agreement or other agreement as may be required by applicable law. Seller further represents and warrants that it will keep the PHI confidential and not disclose such information to any third party without the express written consent of Purchaser. In the event Seller discloses such information without the express written consent of Purchaser, it agrees to immediately notify Purchaser of such disclosure.
34. **ENVIRONMENTAL MATTERS:** Supplier represents and warrants that it is in compliance and will remain in compliance with all applicable federal, state and local environmental laws and regulations with respect to the environment.
35. **HUMAN TRAFFICKING/ SLAVERY:** Supplier represents and warrants that the Goods and Services sold to Purchaser comply with the laws regarding slavery and human trafficking of the country or countries in which Supplier is doing business.
36. **GOVERNING LAW/JURISDICTION:** The laws of the State of Indiana shall govern the validity, performance, enforcement and any other aspect of the Purchase Order, including, without limitation acceptance, notwithstanding any jurisdiction's choice of rules to the contrary.
37. **DISPUTE RESOLUTION:** If any matter involving claims and/or disputes or other questions arising out of, or relating to this Purchase Order or to a breach hereto or default hereunder cannot be settled by mutual agreement within thirty (30) days

following notice by one party to the other that such party deems a claim, dispute, question, breach or default to have arisen hereunder, such matter shall be settled by arbitration in accordance with the then current CPR Non-Administered Arbitration Rules, by a sole arbitrator. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. §§1-16, and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The place of arbitration shall be South Bend, Indiana. The arbitrator is not empowered to award punitive damages or damages in excess of compensatory damages and each party hereby irrevocably waives any right to recover such damages with respect to any dispute resolved by arbitration. Purchaser has the right before or, if the arbitrator cannot hear the matter within an acceptable period, during the arbitration to seek and obtain, from an appropriate court, provisional remedies such as attachment, preliminary injunction, replevin, etc., to avoid irreparable harm, maintain the status quo or preserve the subject matter of the arbitration. Each party shall bear its own costs and expenses in connection with such arbitration and shall share equally in any fees or charges connected with such arbitration.

38. **ASSIGNMENT:** Supplier's rights, duties and obligations under this Purchase Order shall not be assignable, transferable or delegable by Supplier without the prior written consent of Purchaser, which consent may be withheld in its sole discretion. Purchaser may assign its rights and obligations hereunder.
39. **NOTICES:** All communications and notices between the parties relating to this Purchase Order and these terms and conditions shall be in writing and addressed to the receiving party at the address provided on this Purchase Order or as otherwise provided by the party. All such notices and communications shall include the Purchase Order Number.
40. **CODE OF SUPPLIER CONDUCT:** Supplier represents and warrants that Supplier has read and will abide by the Purchaser's Code of Supplier Conduct located at to www.zimmerbiomet.com/sourcing as amended from time to time by Purchaser for as long as Supplier provides Goods or Services to the Purchaser.