

TERMS AND CONDITIONS FOR SALE OF GOODS TO NAPROTEC LLC

1. DEFINITIONS. As to this Purchase Order Contract, (a) "Contract" includes the purchase order, these Terms and Conditions, and all other documents attached by Buyer or referenced in the attached Purchase Order; (b) "Seller" means the seller entering into this agreement with Naprotec LLC and its directors, officers, employees, agents, and representatives; (c) "Buyer" means Naprotec LLC, its parent and any affiliate as designated by Buyer, and their directors, officers, employees, agents, and representatives.

2. ACCEPTANCE. Acceptance occurs upon (a) Seller's written acknowledgement and acceptance of the Purchase Order, or (b) delivery by Seller of the goods covered by this Contract in accord with the terms set forth herein. No proposal by Seller to add, modify or vary these terms and conditions or any other term of this Contract shall be deemed accepted by Seller, and such are hereby objected to and rejected. THE PURCHASE ORDER IS MERELY AN OFFER TO PURCHASE UNTIL ACCEPTED. NO REFERENCE HEREIN TO SELLER'S QUOTATION, BID PROPOSAL OR ANY OTHER DOCUMENT PREPARED BY SELLER SHALL CONSTITUTE BUYER'S ACCEPTANCE OF ANY TERM OR CONDITION CONTAINED IN SUCH DOCUMENT UNLESS EXPRESSLY SET FORTH IN THE PURCHASE ORDER. ACCEPTANCE OF THIS OFFER BY SELLER IS EXPRESSLY CONDITIONED UPON SELLER'S ASSENT TO THE TERMS AND CONDITIONS SET FORTH HEREIN.

3. CHANGES. Seller shall furnish the goods ordered hereunder in strict compliance with this Contract unless a change is agreed upon in writing, signed by an authorized representative of Buyer. No course of prior dealings or usage of trade shall apply unless expressly referred to in this Contract.

4. FORCE MAJEURE. Neither party shall be liable for failure or delay in performance under this Contract due in whole or in part to an act of God, labor dispute, civil commotion, sabotage, fire, flood, explosion, acts of any government, unforeseen shortages or unavailability of fuel, power, transportation, raw materials or supplies, inability to obtain or delay in obtaining governmental approvals, permits, licenses or allocations, or any other cause not within the party's reasonable control, whether or not specifically enumerated above. During any period of Seller's inability to perform, without incurring liability to Seller Buyer may acquire from others such goods as Buyer deems necessary, and, at Buyer's option, the quantity of such goods ordered from Seller may be proportionately reduced.

5. WARRANTIES. Seller warrants it knows Buyer's intended use for the goods covered by this Contract and that all such goods are (i) merchantable, (ii) fit for their intended purpose, (iii) free of defects in design, workmanship and material, and (iv) in strict conformance with the specifications, samples, drawings, designs or other descriptions upon which this Contract is based. If any goods are not as warranted, then, at the election of Buyer, Seller shall (i) repair or replace the goods at no additional cost to Buyer,

or (ii) refund to Buyer the purchase price and applicable transportation costs. Any goods so repaired or replaced shall be covered by the foregoing warranties from the date of such repair or replacement. Seller's obligations under this Contract shall survive inspection, test, acceptance, use or payment.

6. INDEMNITY. Seller shall protect, defend and indemnify Buyer, Buyer's affiliates and the directors, officers, employees, agents and representatives each of them from and against any and all claims, losses, damages, costs, judgments, expenses and liabilities of every kind whatsoever (including, but not limited to, attorneys' fees and costs and expenses of defense) which, either directly or indirectly, are connected with, arise out of, or result from any alleged defect in Seller's goods, Seller's performance of this Contract, or Seller's actual or alleged breach of its obligations or warranties under this Contract.

7. LIMITATION OF BUYER'S LIABILITY. Buyer's liability to Seller for any loss or damage connected with, arising out of, or resulting from this Contract is limited to the price allocable to the particular goods upon which such liability is based, regardless of whether such liability arises in contract, tort, strict liability, or otherwise. **IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR LOSS OF PROFITS OR REVENUE, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.**

8. PRICE WARRANTY. Seller warrants that the prices for the goods covered by this Contract are not less favorable than those extended to others for like or smaller quantities of the same or similar goods. If Seller charges lower prices to others for such goods before it has delivered all of the goods covered by this Contract, Seller shall offer to reduce the prices under this Contract to conform with those lower prices. Seller warrants that the prices reflected in this Contract are complete and that no additional charges of any type shall be added without Buyer's prior written consent.

9. DEFAULT. If Seller breaches any of its obligations or warranties under this Contract, Buyer may terminate this Contract in whole or in part, upon notice to Seller, without incurring liability to Seller.

10. RIGHTS, REMEDIES, AND WARRANTIES. Each of Buyer's rights and remedies under this Contract and each warranty made by Seller to Buyer shall be cumulative and in addition to any other rights, remedies or warranties under this Contract or provided by law or in equity.

11. UNIFORM COMMERCIAL CODE. Article 2 of the Uniform Commercial Code, including, but not limited to, all rights, obligations, remedies and warranties set forth therein, shall apply to all aspects of this Contract.

12. INVOICES AND CASH DISCOUNTS. Unless otherwise provided herein, Seller shall mail a separate invoice for each shipment of goods within 24 hours of Buyer's receipt of the goods, and such invoice shall be dated no earlier than the date of delivery. Any invoice dated later

TERMS AND CONDITIONS FOR SALE OF GOODS TO NAPROTEC LLC

than six months from date of delivery shall be deemed untimely. If Buyer fails to receive any invoice promptly or the invoice is untimely, Buyer may extend the payment date without penalty or loss of discount. Buyer reserves the right (i) to compute the cash discount date of each invoice from the date on which Seller correctly completes Seller's portion of the transaction involved, including, but not limited to, issuance and forwarding of a correct invoice and (ii) to add to the discount period any additional time required by Buyer as a result of Seller's failure to perform this Order properly.

13. PREPAID TRANSPORTATION CHARGES. If transportation charges are prepaid by Seller and charged to Buyer, those charges shall be separately stated on the invoice for the goods, or invoiced separately. In either event, all charges shall be supported by copies of paid freight bills upon the request of Buyer.

14. SETOFF. Buyer shall be entitled to set off any amount owed by Buyer in connection with this Contract against any amount owed to Buyer or any of Buyer's parent or affiliates by Seller or any of Seller's affiliates.

15. ASSIGNMENTS AND SUBCONTRACTS. Absent Buyer's prior written consent, Seller shall not assign this Contract or any payments due to Seller hereunder. Seller shall not use any subcontractors to fulfill any portion of the Contract. This Contract shall be binding upon, and shall inure to the benefit of, the successors and permitted assigns of Seller and Buyer.

16. DELIVERY. Time is of the essence in Seller's performance of this Order. If the delivery of goods is not completed within the specified time, Buyer shall have the right, without incurring liability to Seller, (i) to terminate this Order immediately upon written notice to Seller as to goods not delivered and accepted, and (ii) to purchase substitute goods and charge Seller for any loss or additional cost thereby incurred as a result thereof.

17. AUDITS, INSPECTIONS AND EXPEDITING ACTIVITIES. Upon reasonable notice, Seller shall permit Buyer and Buyers' designated representatives to visit Seller's office and manufacturing facilities for the purpose of conducting audits, inspections or expediting activities. Seller shall retain its books and records for a period of four years after the completion, cancellation or termination of this Order, and shall make such books and records available Buyer on request for examination by Buyer.

18. TERMINATION. Buyer may terminate this Contract in whole or in part at any time without cause upon notice to Seller. Buyer's only obligation to Seller shall be to pay for goods prior to termination.

19. INTELLECTUAL PROPERTY RIGHTS. Seller warrants that the purchase, use or sale of the goods covered by this Contract do

not and will not infringe any patent, trademark, copyright, trade secret or other intellectual property right. Buyer shall own all intellectual property rights resulting from any design or development work by Seller undertaken in conjunction with Buyer's input or at Buyer's direction or specifications.

20. CONFIDENTIALITY. Seller shall hold in confidence and use only for Buyer's benefit any information furnished by Buyer or originated or developed by Seller in connection with this Contract.

21. WAIVER. Any failure by Buyer to exercise, delay, or partial exercise of any right, power, privilege or remedy of Buyer shall not operate as a waiver thereof, and no waiver shall occur unless expressly set forth in writing and signed by Buyer.

22. GOVERNING LAW. This Agreement is made and performable in Hamilton County, Tennessee. Tennessee law shall govern construction and effect of this Contract, and any dispute between the parties arising therefrom. In the event of any dispute, venue shall be proper in Hamilton County, Tennessee.

23. GENERAL. This Contract constitutes the entire agreement of the parties with respect to the goods covered by it, and this Contract supersedes all prior Contracts, proposals, discussions, agreements, and communications, whether written or oral, except to the extent they are expressly incorporated herein. This Contract may not be amended without Buyer's written consent.

24. SEVERABILITY CLAUSE. If any provision of this Contract is held to be invalid or unenforceable, such provision shall be deemed to be severed, and the remaining provisions of this Contract shall remain in full force and effect.

25. CONSTRUCTION. The headings in this Contract are for convenience of reference only, and shall not affect its interpretation or construction.

Reference Attachments:

SELLER'S ACKNOWLEDGEMENT:

Company

Signature

Print Name
