

STANDARD SUPPLY AGREEMENT

1. Scope and Purchase Orders.

- 1.1. Scope. Hammill Manufacturing (the "Purchaser") is in the business of the manufacturing of various medical and other devices. In the pursuit of such business, Purchaser shall, from time to time, purchase from companies (a "Supplier") materials or services (the "Product"). These terms and conditions do not constitute an order from Purchaser for Product from Supplier (a "Purchase Order"); rather, these terms and conditions shall apply and shall be incorporated into all Purchase Orders of Purchaser accepted by Supplier. In the event that the provisions herein conflict with any Purchase Order issued, these terms and conditions shall govern. Only the terms and conditions set forth herein or in a Purchase Order shall control the purchase and sale of Product between Supplier and Purchaser. Any and all printed terms or conditions set forth in any Supplier order documentation, such as quotes, order acknowledgement, packing slips, or otherwise, shall have no effect Purchaser's Purchase Order, unless such terms are expressly agreed to in writing by Purchaser and Supplier.
- 1.2. Issuance of Purchase Orders. A Purchase Order is an offer from Purchaser to Supplier to enter into a purchase and supply agreement as specified therein. Purchase Orders shall be deemed accepted by Supplier upon the first to occur of the following: (i) the return of a signed copy of such Purchase Order or a Supplier order acknowledgement thereof; or (ii) the commencement of services or actual shipment of any Product listed in a Purchase order. No modification by a party of the terms of a Purchase Order shall be valid unless approved by the other party in writing.

2. Term or Cancellation for Breach.

In addition to any rights or remedies available to Purchaser, Purchaser may terminate its Purchase Order, effective immediately:

- 2.1. if the Supplier materially breaches these terms and conditions or the Purchase Order and such breach remains uncured for ten (10) days after written notice of such breach by Purchaser, or such other amount of time as agreed to by Purchaser in writing; or
- 2.2. if Supplier files, voluntarily or involuntarily, a petition in bankruptcy under any section of the Bankruptcy Act, becomes insolvent, makes any assignment for the benefit of creditors, or has a receiver appointed for it, and in the case of an involuntary proceeding only, such involuntary proceedings is not stayed or dismissed within 60 days; or
- 2.3. if a material adverse change occurs in Supplier's financial condition based on which Purchaser may reasonably conclude that Supplier may not be able to perform its obligations hereunder and Supplier does not provide within five (5) days of Purchaser's notice to Supplier, reasonable evidence of Supplier's continued ability to perform; or 2.4. if Supplier fails to maintain quality standards as set forth herein, or, as a result of Supplier's breach, Purchaser's customer specifies or requires that Purchaser obtain another supplier of Product.

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3. Delivery and Delays.

- 3.1. Shipment. Product shall be shipped FOB Purchaser facility, freight collect, unless otherwise specified, in writing, by Purchaser. Supplier agrees to comply with any and all shipping and freight instructions provided in Purchase Orders. No charges for unauthorized transportation shall be allowed. Any unauthorized shipment shall be charged to Supplier. If for any reason Supplier anticipates difficulty in complying with a required delivery date or meeting any other requirements in a Purchase Order, Supplier shall immediately notify Purchaser in writing. In the event Supplier misses a required delivery date and Purchaser requires, in writing, delivery by the fastest way to meet a revised delivery schedule, Supplier shall prepay any additional transportation charges incurred as a result thereof.
- 3.2. Packaging & Certificates. The Product shall be delivered to Purchaser assembled, completed, and/or ready for use on the scheduled delivery date. If so requested by Purchaser, Supplier shall package Products in accordance with instructions from Purchaser as provided in the applicable Purchase Order and/or on the applicable drawings. Otherwise, Supplier shall ship Products in a manner consistent with general industry practice for shipping of these kinds of products. All Products shall be shipped with Supplier's certificate of conformance, signed by Supplier, certifying that such delivered Product is in conformance to the Specifications (defined in Section 8.1). In addition, if any Product consists of any titanium material, Supplier shall provide with shipment a copy of an original certificate that establishes traceability of the material to the original melt source, by name and location.

4. Payment Terms.

Payment terms are net 45 days from the date of shipment from Supplier of Product, unless otherwise set forth in the Purchase Order. Payment shall not constitute acceptance of Products and shall be subject to adjustment for shortages, defects, nonconformance and other failures of Supplier to meet any terms or conditions of the Purchase Order.

5. Invoices.

All of Supplier's invoices and delivery documentation must contain the following information: Purchase Order number, Description/Supplier Item, quantity, unit price and any other information as reasonably requested by Purchaser. All invoices shall be accurate and complete in all material respects. Payment for the Products delivered shall not constitute acceptance of the Products and shall not relieve Supplier of its warranty or other obligations hereunder.

6. Inspection and Scrap.

- 6.1. Inspection of Products. Purchaser shall have the right, prior to acceptance, to inspect and test Products to determine conformance with the warranties set forth herein and in the Purchase Order(s); provided, however, pursuant to Section 7.1, such inspection (or lack of inspection) shall not relieve Supplier of its obligations, liabilities and warranties set forth herein. Inspection and testing shall be done within a reasonable time after delivery. Records of all inspection work by Supplier shall be kept complete and available to Purchaser during performance of a Purchase Order and for any and all periods required by law, regulation, rule, or otherwise.

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- 6.2. Nonconforming Products. If any Product in Purchaser's sole discretion is found to be nonconforming, Purchaser may, at its option, in addition to any rights it may have at law and/or equity or the terms and conditions hereof, require Supplier (i) to provide Purchaser with a complete refund or credit of the price of such nonconforming Product plus the cost of the material as delivered to Supplier by Purchaser, if any, or (ii) replace such nonconforming Product at no cost to Purchaser. In addition, Supplier shall assume title and risk of loss of all nonconforming Products and shall promptly reimburse Purchaser for all costs incurred by Purchaser as a result of such rejection of nonconforming Product.
- 6.3. Excess Scrap; Mating Instruments. For any materials that may be supplied by Purchaser to Supplier for Product ("Purchaser Provided Materials"), Supplier agrees, unless otherwise agreed to in writing, to promptly reimburse Purchaser for any unused scrap (including any of the purchaser provided materials that are lost or damaged by Supplier) that are over an amount that is equal to 1% of the Purchaser Provided Materials. In addition, any mating instruments or testing gauges provided by Purchaser for the use by Supplier in providing the Products ("Testing Products") shall be promptly returned to Purchaser upon the earlier of Purchaser's request or when Supplier has no further need for the Testing Products. Supplier shall promptly reimburse Purchaser for the cost of repairing any damaged Testing Products, other than for ordinary wear and tear, and shall also promptly reimburse Purchaser for the replacement cost of any lost or unreturned Testing Products.

7. Warranty and Audit.

- 7.1. Supplier's Warranty. Supplier represents and warrants that all Product supplied pursuant to a Purchase Order shall be:
- 7.1.1. conveyed of clear title and free of any claim of any nature by any third person, as it relates to the supply and manufacture of such Product;
 - 7.1.2. merchantable, free from all defects in manufacture, workmanship and materials, and in compliance with all applicable laws, rules and regulations, including but not limited to, all applicable industry standards.
 - 7.1.3. manufactured and provided in strict accordance with the Specifications (defined in Section 8).
 - 7.1.4. compliant with applicable FDA regulations, including, but not limited to, regulations relating to CAPA, document control, purchasing controls, 3rd party suppliers, and change control/contract review, as well as in compliance with ISO 9000 and/or 13485 standards, as applicable (all such FDA regulations and ISO standards, along with the Purchaser's quality assurance specification for suppliers, are the "Compliance Standards"), and should Supplier not continue such compliance, Supplier will provide Purchaser with written notice prior to delivery.
 - 7.1.5. produced in compliance with all applicable federal, state and local laws, orders, rules, regulations, guidelines, standards, limitations, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to such laws. Supplier further warrants that no article shipped pursuant to a Purchase Order is or shall be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act. In addition, Supplier represents and warrants to and with Purchaser that Supplier and all subcontractors of Supplier are in full compliance with the Anti-Kickback Act of 1986 and the federal health care law commonly known as the "Stark Law" (found generally at 42 U.S.C.S. §1395nn) (as both have been or may be amended, the "Healthcare Acts"). For purposes of this Section 7.1.5 only, "Supplier" shall include any family member(s) of Supplier's key personnel.

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- 7.2. The warranties contained in this Section are in addition to and are not be construed as restricting or limiting any warranties or remedies of Purchaser, express or implied, which are provided herein or at law. Any attempt by Supplier to limit, disclaim or restrict any such warranties or remedies of Purchaser, in any manner whatsoever shall be null, void, and ineffective. Inspection, test, acceptance, or use of Product shall not affect Supplier's obligation under this warranty, and shall survive such inspection, test, acceptance, and use.
- 7.3. Audit Right and Records. The Purchaser (or its 3rd party agents) may, at reasonable intervals and with reasonable notice, request evidence, or, at Purchaser's option, conduct on-site audits at any of Supplier's locations to confirm that Supplier's quality program is in conformance with the Compliance Standards. Such audits shall be at no charge to Purchaser, provided that, Purchaser shall be responsible for any travel or lodging expenses of its auditor(s). During any audits, Supplier shall provide Purchaser, among other things, with (i) access to procedures, records, regulatory inspections, audit reports, and any other information related to the Product and (ii) access to Supplier's manufacturing floor to allow Purchaser to observe all manufacturing processes associated with the Product. If such audit reveals any violation of the Compliance Standards or the terms and conditions herein, Purchaser shall notify Supplier, and Supplier shall promptly correct such violation. Purchaser reserves the right, in Purchaser's sole discretion, to place a person for a reasonable amount of time in any of Supplier's plants, at Purchaser's expense, to provide guidance for certain critical operations or to ensure that any violations of the Compliance Standards are being promptly corrected. Supplier agrees to maintain written or electronic records of all work performed under any and all Purchase Orders issued to Supplier, and such records shall be kept as required by law, regulation, rule, or otherwise.

8. Specifications and Second Tier Suppliers.

- 8.1. Specifications. Supplier shall manufacture and deliver Product in strict conformance with the specifications, designs, drawings, samples, data sheets or other descriptions including the performance specifications (collectively, the "Specifications") approved or adopted by Purchaser and provided to Supplier by Purchaser or by a third party and referenced in Purchase Orders. Supplier shall maintain component specifications and reliability requirements on all components used in Purchaser's Product, regardless of manufacturing location, and any component substitution shall be approved in writing in advance by Purchaser.
- 8.2. Second Tier Suppliers. Supplier must maintain an Approved Supplier List, and cannot use any suppliers in manufacturing Product that are not on such Approved Supplier List. In addition, and notwithstanding anything to the contrary herein, Supplier shall not use any supplier or manufacturer who has been placed on any federal or state list of banned persons or entities that prohibits US companies from doing business with such banned persons or entities. Supplier shall not employ any persons or contract with any person or entity that is placed on the FDA or any federal or state healthcare debarment list. Supplier bears all liability with respect to any suppliers or manufacturers that Supplier uses in manufacturing the Products.
9. Ownership of Specifications. The Specifications shall be the property of Purchaser, or third party provider thereof, and shall include all modifications and enhancements developed by and on behalf of Purchaser by Supplier.

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10. Insurance.

At all times that Supplier is working pursuant to an issued Purchase Order from Purchaser, Supplier shall maintain a commercial general liability policy with a combined single limit of \$1,000,000 (U.S. Dollars) for bodily injury and property damage. Such policy shall also contain a waiver of subrogation against Purchaser. Upon request by Purchaser, Supplier shall provide a certificate of insurance evidencing Supplier's compliance with this provision and requiring the insurance carrier to notify Purchaser at least sixty (60) days prior to any expiration or termination of, or material change to, the applicable insurance policy.

11. Taxes.

The price for the Products shall be the price stated on the Purchase Order and shall include any sales tax, use tax or similar tax imposed by any taxing authority measured solely by the amount paid by Purchaser hereunder with respect to Products sold and required to be paid by Supplier as a result of such sale of Products. Supplier shall pay when due all taxes and fees imposed on Supplier by any taxing authority by reason of performance of a Purchase Order and all employment taxes and contributions imposed by law or trade unions or regulations, with respect to or measured by compensation (wages, salaries or other) paid to employees of Supplier. Supplier shall indemnify and hold Purchaser harmless against any liability and expense by reason of Supplier's failure to remit the same or other procedural requirements with respect to their payment.

12. Indemnifications.

- 12.1. Supplier Indemnification. Supplier shall indemnify, defend, and hold harmless Purchaser, and its officers, directors, employees, shareholders, Affiliates, agents and other representatives (collectively the "Indemnitees") from and against any and all damages, claims, losses, expenses, costs (including court costs and reasonable attorney fees), obligations, and liabilities, suffered either directly or indirectly by an Indemnitee by reason of, or arising out of (i) any breach of any representation or warranty made by Supplier pursuant to these terms and conditions, (ii) any failure by Supplier to perform or fulfill any of its covenants or agreements set forth in a Purchase Order, or (iii) any litigation, proceeding or claim by any third party relating in any way to the obligations of Supplier under a Purchase Order. Supplier shall not consummate any settlement without an Indemnitee's prior written consent. Supplier's covenants of indemnity herein will continue in full force and effect notwithstanding the termination or expiration of a Purchase Order. In any claim against an Indemnitee by an employee of Supplier or any subcontractor or anyone directly or indirectly employed by any of them or anyone whose acts they may be liable, the indemnification obligations set forth in this Section 12 shall not be limited in any way by or for Supplier or any subcontractor under any applicable worker's compensation act, disability or other employee benefit act. For purposes of these terms and conditions, an "Affiliate" of a person shall mean any other person who, directly or indirectly, controls, is controlled by or is under common control with such person (and control of a person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or decisions of such person, whether through the ownership of voting securities, by contract or otherwise).
- 12.2. Purchaser Indemnification. Purchaser shall indemnify, defend and hold harmless Supplier, Supplier Affiliates and Supplier Indemnitees from and against any and all damages, claims, losses, expenses, costs (including court costs and reasonable attorney fees), obligations, and liabilities, suffered either directly or indirectly by Supplier, Supplier Affiliates, or Supplier Indemnitee by reason of, or arising out of, (i) any breach of any representation or warranty made by Purchaser pursuant to the terms and conditions herein or (ii) the negligent acts or omissions or willful misconduct of Purchaser or its officers, employees, agents, or other representatives.

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13. Notices.

Any notice, approval, consent or other communication under the terms and conditions herein, shall be in writing or capable of reproducibility in a written form if transmitted electronically and shall be deemed given when delivered personally, or shall be deemed given (i) one (1) day after such notice was sent by (A) facsimile with a confirming copy sent by overnight mail or courier service, return receipt requested, or (B) e-mail with a confirming copy sent by overnight mail or courier service, return receipt requested, or (ii) the next business day after sent by overnight mail or courier service, return receipt requested, to the President of the respective party at the address listed on the most recent Purchase Order then available between Purchaser and Supplier. Notice shall be deemed received if the sender has reasonable means of showing receipt thereof.

14. Confidentiality.

Any knowledge or information which Purchaser shall have disclosed or may hereafter disclose to Supplier or observed by Supplier which in any way relates to a Purchase Order or the terms and conditions herein, or the drawings, plans, designs, processes, operations or finances of Purchaser or other data furnished by Purchaser shall be deemed to be confidential or proprietary information of Purchaser and, unless otherwise consented to in writing by Purchaser, shall be used only for Supplier's performance of its obligations to Purchaser and shall not be divulged to any other party. Upon completion or termination of a Purchase Order, at the request of Purchaser, Supplier shall promptly return to Purchaser all materials incorporating any such information and any copies thereof, except for those which may be required to be maintained by Supplier by law, regulation, rule, general industry standard, or otherwise. Supplier acknowledges that the actual or threatened breach of this Section 14 shall cause Purchaser irreparable injury and damage. Consequently, Purchaser shall, in addition to all other remedies available to it, be entitled to injunctive and other equitable relief to prevent a breach of this Section 14, including, without limitation, a temporary restraining order which may be granted without notice to Supplier.

15. Change in Production Process, Materials, or Structure.

Supplier shall not, without Purchaser's prior written consent, make any change in Supplier's (i) production process utilized in manufacturing Product, including but not limited to change of materials or sub-suppliers, or (ii) regulatory compliance status. If any Product manufactured is job specific to a certain employee of Supplier, then Supplier shall provide prompt written notice if such employee is no longer available to manufacture such Product. Supplier also agrees to promptly notify Purchaser of any known defects that may arise in any of the materials used to manufacture Product. In addition, Supplier agrees to provide prior written notice if there is a change in ownership of Supplier, a major change in Supplier's organizational structure, or a relocation of any of Supplier's manufacturing plants utilized in manufacturing Product.

16. Use of Name; Advertising.

Supplier shall not use Purchaser's name, logo, trademark or any other proprietary information for any purpose whatsoever, including but not limited to any advertising, without the express prior written approval of Purchaser.

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17. Ethical Business Conduct.

Purchaser is committed to a policy of fair, honest and ethical business practices and conduct, and to full compliance with all applicable laws and government regulations, and Purchaser requires every employee in every area of business activity to meet extremely high standards of conduct. Adherence to the foregoing policy is an essential term and condition of every Purchase Order, contract or agreement to which Purchaser and any Purchaser entity is a party. By acceptance of a Purchase Order Supplier shall accept the foregoing policy as a governing principle for working with Purchaser.

18. Assignments.

Supplier shall assign no right or interest in a Purchase Order without the prior written permission of the Purchaser. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes and shall be grounds for immediate termination of the Purchase Order by Purchaser. Supplier shall remain primarily liable for performance of each Purchase Order notwithstanding Purchaser's approval of an assignment.

19. Remedies Cumulative.

Purchaser's remedies are cumulative and remedies herein specified do not exclude any remedies allowed by law or in equity. 20. Force Majeure. Delay in performance or non-performance of any obligation contained herein shall be excused to the extent such failure or non-performance is caused by Force Majeure (hereafter defined). For purposes of each Purchase Order, "Force Majeure" shall mean any cause or agency preventing performance of an obligation therein which is beyond the reasonable control of either party hereto, and which by the exercise of due diligence, could not have been avoided or overcome, including without limitation, fire, flood, sabotage, terrorism, shipwreck, embargo, explosion, labor trouble, accident, riot, acts of governmental authority (including, without limitation, acts based on laws or regulations now in existence as well as those enacted in the future), acts of God, and delays or failure in obtaining raw materials or transportation. A party affected by Force Majeure shall promptly provide notice to the other, explaining in detail the full particulars and expected duration thereof, and shall use best efforts to remedy the interruption or delay if it is reasonably capable of being remedied. In the event a Force Majeure event extends for more than sixty (60) days, any Purchase Order may be terminated by either party upon written notice thereof to the other.

21. Governing Law.

Each Purchase Order and the terms and conditions herein and all related business transactions shall be governed by the substantive laws of the State of Ohio in the United States, without regard to the conflict of law provisions thereof, both parties hereto submitting to the jurisdiction of the federal and state courts located within the Northern District of Ohio. Venue for any action brought hereunder shall be solely in the Northern District of Ohio or Lucas County, Ohio, as applicable. Any and all Purchase Orders shall be deemed to have been executed by the parties hereto in the State of Ohio, U.S.A. The United Nations Convention on Contracts for the International Sale of Goods (1980), as amended, is specifically excluded from application hereto.

22. Miscellaneous Provisions.

22.1. Relationship of the Parties. It is understood and agreed that Supplier's relationship to Purchaser shall be strictly that of an independent contractor. Supplier shall have no power nor shall it represent that it has any power, to bind Purchaser or to assume or create any obligation, expressed or implied, on Purchaser's behalf.

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- 22.2. Authority. Each of the parties represents and warrants that the execution and performance of each Purchase Order shall not conflict with, or result in a breach of, any contract or other obligation applicable to such party. Each of the parties further represents and warrants that (i) it is duly formed and in good standing under the laws of its jurisdiction of incorporation, (ii) it has all necessary power and authority to enter into these obligations and to perform its obligations hereunder, and (iii) the execution and performance of its obligations hereto have been approved by all necessary action on its part and its acceptance of each Purchase Order constitutes the legal, valid and binding obligation of such party, enforceable against it in accordance with its terms.
- 22.3. Headings. The headings of the provisions of these terms and conditions are included for convenience and reference only, and are not intended to be full or accurate descriptions of the content thereof, and are not to be utilized and construed in the meaning of any provision herein and shall not be considered to be part of these terms and conditions.
- 22.4. Savings Clause. If any provisions in a Purchase Order and herein shall be deemed by any court having jurisdiction thereon to be invalid or unenforceable, the balance of the terms and conditions shall remain in effect as though such provision had never been included herein; if any provision hereof shall be deemed by any such court to be unenforceable because such provision is too broad in scope, such provision shall be construed to be limited in scope to the extent such court shall deem necessary to make it enforceable; and if any provision is deemed inapplicable by any such court to any person or circumstances, it shall nevertheless be construed to apply to all other persons and circumstances.
- 22.5. Waiver. Any waiver by either party of any breach of any term or condition shall not be construed as or be deemed to be a waiver of any future breach of such term or condition.
- 22.6. Survival. Sections 7, 9, 12, 14, and 22 hereof, in addition to such other provisions hereof, which by their nature are intended to survive the termination, cancellation, completion or expiration of a Purchase Order shall continue as valid and enforceable obligations of the parties, notwithstanding any such termination, cancellation, completion or expiration.
- 22.7. Set-off. Supplier hereby authorizes Purchaser to deduct from any amount due to Supplier, all amounts which may be payable by Supplier to Purchaser or the Purchaser Entities and also all amounts for which Supplier may become liable (as determined by a court or other adjudicative body with competent jurisdiction) to third parties by reason of Supplier's act or performance of or failure to perform Supplier's obligations. In the event that any claim is made by any third party the amount or validity of which is disputed by Supplier, or any other indebtedness shall exist which shall reasonable appear to be the basis for a claim of lien, Purchaser may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of Purchaser to exercise such right to deduct or to withhold shall not, however, affect the obligations of Supplier to perform its obligations hereunder and to protect Purchaser as elsewhere provided herein.
- 22.8. Amendments. Purchaser may amend these terms and conditions from time to time without notice to Supplier, provided however, such amendments shall not affect any Purchase Orders then outstanding with Supplier, but shall only apply to Purchase Orders issued after the effective date of such amendments.