



PURCHASE ORDER TERMS AND CONDITIONS

- 1. ACCEPTANCE.** Reviva's Purchase Order and these Purchase Order Terms and Conditions ("Terms and Conditions") are the exclusive contract between Reviva ("Buyer") and the selling party ("Seller"), and there are no terms, understandings, or agreements other than those stated here. All orders and purchases are expressly limited to such terms and conditions, which may be updated from time to time. Seller's assent to these Terms and Conditions shall be conclusively presumed from the shipment or delivery of any goods or materials ordered by Buyer.
- 2. DELIVERY.** Time is of the essence in the performance of the Purchase Order and where delivery dates are specified, the failure to deliver in accordance with the specified delivery dates will constitute a material breach of these Terms and Conditions. Any F.O.B. term shall be a delivery term. When the term is F.O.B. the place of shipment, the Seller must at that place ship the goods and bear the expense and risk of putting them into the possession of the carrier. When the term is F.O.B. the place of destination, the Seller must at its own expense and risk, transport the goods to that place and there tender delivery. Seller will bear the expense and risk of transportation both ways on goods rejected for failure to meet specifications or for wrong or defective goods. Seller does hereby waive and release, and agree to indemnify, Buyer, its agents, and employees, against any and all loss, damage, and liability arising from any injury or damage occurring during the delivery of goods on said premises.
- 3. SHIPPING RELEASE.** Unless specific delivery dates are provided in the Purchase Order, Seller shall not fabricate any of the goods covered by the Purchase Order or procure any of the materials required in their fabrication or ship any of such goods to Buyer except to the extent authorized in written instructions furnished to Seller by Buyer. Buyer shall have no responsibility for goods for which delivery dates or such written instructions have not been provided. Shipments in excess of those authorized may be returned to Seller and Seller shall pay Buyer for all packing, handling, sorting, and transportation expense incurred in connection with such shipments. Buyer may from time to time, without penalty, change shipping schedules specified in the Purchase Order or contained in such written instructions, or direct temporary suspension of such scheduled shipments.
- 4. INSPECTION AND ACCEPTANCE OF GOODS.** Quality assurance and control shall be Seller's responsibility, and Seller acknowledges that Buyer relies on Seller to furnish goods which fully comply with the contract requirements. Buyer shall not be obliged to inspect goods prior to first use or application. All goods are subject to final inspection and acceptance at Buyer's discretion prior to payment without regard to the manner of shipment or any shipping or price terms. Goods received prior to inspection shall not be deemed accepted. Use of a portion of the goods for the purposes of testing shall not constitute acceptance. Buyer may inspect the goods at Seller's plant, but inspection by Buyer prior to shipment does not relieve Seller from responsibility of furnishing goods strictly in accordance with specifications. Buyer may reject and refuse acceptance of goods which are not conforming to specifications, drawings, samples, or descriptions. In addition to Buyer's other rights, Buyer may charge the Seller all expenses of unpacking, inspecting, repacking and reshipping such non-conforming goods. Payment to Seller prior to acceptance will not be deemed an acceptance or a waiver of any of Buyer's rights.

5. **WARRANTY.** Seller warrants that the goods covered by the Purchase Order will conform to specifications, drawings, samples, or other descriptions furnished or specified by Buyer and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defects and further agrees to indemnify and hold harmless Buyer from any and all liability, damages, expenses or loss of profit incurred by it in the event of the failure of Seller to comply with this warranty. All warranties are cumulative and survive acceptance of the goods. The Seller warrants and represents that it has absolute title to and full right to dispose of the goods, and the goods are now free and at the time of delivery shall be free from any security interest, lien, or incumbrance. Warranties implied at law are also part of the Purchase Order. In the event of Seller's breach, Buyer shall have all remedies provided at law, including the right to recover consequential damages, and the right to correct the non-conforming goods or other breach of warranty at Seller's expense, including verifying through testing that the corrected goods comply with the warranty.

6. **TERMINATION AT OPTION OF BUYER.** Performance of work under the Purchase Order may be terminated by Buyer at its option in whole or in part, at any time prior to Buyer's acceptance of goods by delivering or mailing to Seller a written notice of termination. Upon termination by Buyer under this paragraph, Buyer agrees to pay Seller the actual cost of work in process for all goods or services which have been provided but not yet paid for, in accordance with the terms of the Purchase Order, but in no event more than the purchase price under the Purchase Order. Seller shall provide Buyer a detailed list of any expenses for which it seeks to be paid upon termination of work by Buyer under this paragraph within thirty (30) calendar days after the date Buyer delivers a notice of intent to terminate or Seller shall be deemed to have waived any right for reimbursement therefor. Any partial termination under the Purchase Order shall not alter or affect the Terms and Conditions of the Purchase Order to the extent not terminated.

7. **COMPLIANCE WITH LAWS AND REGULATIONS.** Seller, by contracting with Buyer, certifies that it has or will comply with all applicable laws and regulations, including without limitation, the Fair Labor Standards Act, Equal Employment Opportunity Act, and Executive Orders issued relating thereto, and such other laws, rules, orders, or regulations that may be or become applicable to Seller in the performance of its obligations hereunder.

8. **MODIFICATIONS AND NONASSIGNMENT.** No agreement or other understanding in any way purporting to modify these Terms and Conditions or the Purchase Order shall be binding upon Buyer unless made in writing and signed by Buyer's authorized representative. Subsequent to acceptance by Seller, Buyer may at any time modify the goods ordered, the method of shipment or packaging, the place of delivery, or the date of delivery; provided, however, if such modification causes an item to be more costly, more time consuming, or otherwise materially different for Seller to supply, Seller may increase the purchase price as mutually agreed upon by Buyer and Seller. Modifications shall become part of the Purchase Order whenever confirmed in writing by Buyer. Seller shall not assign the Purchase Order or any interest therein without prior written consent of Buyer.

9. **REPORTING INCENTIVES.** Seller represents that is has not paid to any Buyer employee any commission, fee, or rebate, or provided any gifts or entertainment of value greater than \$100.00, unless such payment or gift has been reported in writing to Buyer's Chief Financial Officer.

10. **TAXES.** Absent a written acknowledgement by Buyer to the contrary, all taxes, including but not limited to federal, state and local income taxes, value added taxes, gross receipts taxes, property taxes, broker fees and customs duties taxes ("Taxes"), are deemed to be included in the quoted price. In the event that any taxing authority has claimed or does claim payment for Taxes, Seller shall promptly pay such taxes and hold Buyer harmless from and against all such claims, including all expenses of defense.

11. **TERMS OF PAYMENT.** Unless expressly agreed upon otherwise by the parties, payment hereunder shall be due from Buyer within thirty (45) days of Buyer's acceptance of the applicable goods.

12. **NON-WAIVER.** Buyer's failure at any time to enforce any provision or right in connection with the Purchase Order shall not constitute a waiver of such provision or prejudice Buyer's right to enforce such provision at any subsequent time.

13. **SEVERABILITY.** If any provision of the Purchase Order or these Terms and Conditions is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, and the remainder of that provision and all remaining provisions hereof shall continue in full force and effect.

14. **ASSIGNMENT.** The Purchase Order and Terms and Conditions shall inure to the benefit of and be binding on each of the parties hereto and their respective successors and assigns; provided however, that no assignment of any rights or delegation of any duties under the Purchase Order and Terms and Conditions is binding on either party unless each party's written consent has first been obtained. Notwithstanding the above, Buyer may unilaterally assign any rights or title to goods under the Purchase Order and Terms and Conditions to any wholly-owned subsidiary of or successor-in-interest to Buyer. All warranties, including special warranties specified elsewhere in regard to the Purchase Order and Terms and Conditions, shall inure to Buyer, its successors and assigns.

15. **CONFIDENTIALITY.** Seller agrees to maintain in strict confidence any and all information which Seller receives from Buyer (including, without limitation, product specifications) and which is not already in the public domain (the "Confidential Information"). Seller further agrees not to disclose, publish or reveal in any way the Confidential Information to any person or entity (including, without limitation, governmental entities) who do not have a need to have such disclosure in order to enable Seller to fulfill its obligations hereunder, without Buyer's prior written consent, which Buyer may withhold in its sole and absolute discretion. Seller's obligation under this paragraph shall survive termination of the contract between Seller and Buyer.

16. **CHOICE OF LAW.** The Purchase Order and Terms and Conditions shall be construed and interpreted according to the laws of the State of Minnesota and the Uniform Commercial Code as adopted by the State of Minnesota, without regard to conflict of law principles. Seller hereby submits to personal jurisdiction and venue in the United States District Court for the District of Minnesota, and the District Court of Anoka County, Tenth Judicial District, for the State of Minnesota. It is expressly agreed that in the construction and interpretation of the terms of the Purchase Order and these Terms and Conditions, if any, the rule of construction that a document is to be construed most strict against the party who prepared the same shall not apply.

17. **PATENTS.** Seller warrants that the goods sold to Buyer shall not infringe on any United States or foreign patent or any third party intellectual property right and Seller will hold harmless and indemnify Buyer against all claims, suits, actions, or proceedings by reason of alleged infringement of patents, or for patent royalties, or for alleged unfair competition resulting from similarity in design, trademark or appearance of goods, involved in consequence of the purchase or use of the goods covered hereby. Buyer shall give prompt notice to Seller of any such suits brought or proceedings begun against it, and shall permit Seller with its counsel to defend such suits, and shall give such reasonable information as Buyer may possess to enable Seller to defend such suits.

18. **MINIMUM FEDERAL SAFETY STANDARDS.** By the acceptance of this order, Seller certifies that all materials furnished will be manufactured, marked, and furnished in accordance with any applicable provisions of the Occupational Safety and Health Act of 1970 and of any applicable rule, regulations, standard, or order issued thereunder by any Federal or state agency or department.

19. **INDEMNITY.** Seller agrees to indemnify, defend, and hold harmless Buyer, its officers, employees, agents and customers and the users of any goods sold to Buyer from any and all liability, loss, damage, fees, and costs, of any type whatsoever, including attorneys' fees, which may be incurred by them or any of them arising out of or in connection with or related to (a) any defect, claim of defect or alleged defect in the design, materials, manufacture or sale of such goods; (b) any intentional or negligent act or omission of Seller, whether alleged or actual, performed pursuant to the Purchase Order, including without limitation, any claims or damages to property or injuries or death to persons arising out of such acts or omissions of Seller's employees and agents; (c) any release or threat of release of any hazardous material into the environment and/or any public or private nuisance; and/or (d) any failure to comply with all applicable federal, state, and local laws, ordinances, rules, orders, and regulations and those of any regulatory body or governmental authority having jurisdiction over all or part of the goods supplied by Seller. These rights of indemnification shall inure to Buyer whether Seller, its affiliates, employees or agents are negligent or not.

20. **ATTORNEYS FEES.** Seller hereby agrees to pay to Buyer, in addition to any damages provided for by law or by the Purchase Order and Terms and Conditions, reasonable attorneys' fees and all other costs incurred by Buyer as a result of any breach by Seller of any terms of the Purchase Order and Terms and Conditions, including, without limitation, any breach by Seller of any warranty herein referenced. No remedy provided to Buyer hereunder shall be exclusive of any other remedy provided by law.

21. **LIMITATION OF LIABILITY.** To the extent permitted by applicable law, Buyer shall not be liable to Seller in contract, tort or otherwise (including negligence, warranty or strict liability) for any incidental, indirect or consequential damages arising out of or in connection with or resulting from the Purchase Order or the goods provided.