

# TERMS AND CONDITIONS OF SALE

1. **Prices.** The prices of the products of MED-Fibers, Inc. and MED-Fibers, Inc. ( hereinafter referred to jointly or individually as MED-Fibers) to be sold hereunder are limited as on the front of this form or as otherwise agreed in writing between MED-Fibers and Purchaser.
2. **Adjustments in Prices and Ordering Policies.** Unless a price for a longer period of time has been established by written agreement between MED-Fibers and the Purchaser, MED-Fibers, Inc reserves the right to change the price of any product effective on the first day of any calendar quarter by written notice to Purchaser, sent at least fifteen (15) days prior to the first day of that quarter. If Purchaser does not object in writing prior to the first day of the quarter the proposed price shall apply to all shipment made in that quarter. If purchaser objects in writing to the price increase, MED-Fibers shall have the option either to continue to supply products at the prices in effect at the time of the notice of increase, or at other prices agrees upon by both parties, or to terminate Purchaser's order without penalty. Purchaser may order normal quantities of products for shipment at old prices during the notice period. Purchaser shall give MED-Fibers reasonable advance notice of quantities desired, and MED-Fibers shall not be required to make shipments more rapidly during the notice period than other times.
3. **Payment Terms.** All payments shall be made in U.S. dollars. Normal payment terms are that payment in full is due thirty (30) days after the date of the invoice. Interest at the rate of one and on-half percent (1-1/2%) per month will be charged on all overdue accounts unless a lower rate is required by law. For laser sales, payment is due on delivery, or beforehand.

MED-Fibers normal payment terms set forth above are subject to verification of Purchaser's credit by MED-Fibers and MED-Fibers may, if in MED-Fibers's sole judgment Purchaser's financial condition does not justify continuance of such normal payment terms, at any time require either full or partial payment in advance or that payment be made by MED-Fibers's sight drafts against an irrevocable letter of credit of a bank satisfactory to MED-Fibers. In case of default of any payment by Purchaser, Purchaser shall be responsible for all costs of collection including without limitation attorney's fees and other litigation or settlement cost.

4. **Shipment.** All products are sold and all prices are F.O.B. MED-Fibers's factory at Chandler, Arizona. Purchaser may, at its option, (a) physically pick up product at MED-Fibers's factory loading dock upon reasonable notice to MED-Fibers, (b) arrange for pick up via common carrier at MED-Fibers's factory loading dock upon reasonable notice or (c) request that MED-Fibers act as Purchaser's agent to arrange delivery of product.  
If MED-Fibers agrees to act as Purchaser's agent to arrange delivery of products, (a) Purchaser will provide full address to which products are to be delivered, (b) method and route shipment are at MED-Fibers's discretion, (c) all expenses of shipment are the Purchaser's, (d) all shipments will be insured at the Purchaser's expense and made at the Purchaser's risk and (e) Purchaser will indemnify, defend and hold harmless MED-Fibers from and against all claims, losses, liabilities and expenses including attorney's fees and other litigation or settlement costs arising out of any acts of MED-Fibers while acting as Purchaser's agents.
5. **Limited Warranty.** MED-Fibers warrants that products delivered under this order will be free from defects in material and workmanship when delivered. This warranty does not extend to any products which have been subject to misuse, accident of improper installation, maintenance or application, nor does it extend to products which have been cabled, installed, repaired or altered outside MED-Fibers's plant unless authorized in writing by

MED-Fibers or unless cabling, installation, repair or alteration is performed or contracted by MED-Fibers, nor does this warranty extend to any labor charges for removal and/or replacement of the nonconforming or defective parts thereof. THIS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED ARISING BY OPERATION OF LAW OF OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AGAINST INFRINGEMENT OR PATENTS OR OTHER INTELLECTUAL PROPERTY RIGHTS. MED-Fibers shall have no liability for special, indirect, liquidated or consequential damages (including but not limited to damages for lost profits or injury to person or property). MED-Fibers's liability under this warranty shall be limited, at MED-Fibers's option, to repairing at MED-Fibers's plant or replacing, with transportation charges prepaid by Purchaser, the product or component part thereof that is proved to be other than as herein warranted. Specific, written, authorized laser warranty terms may complement this Limited Warranty and shall be provided with the laser quote.

6. **Returned Material.** Products may be returned only with MED-Fibers's written permission or accompanied by a return authorization number issued by MED-Fibers to Purchaser. Only unused products that have been invoiced to the Purchaser within the previous fifteen (15) days, will be considered for return. Products accepted for credit are subject to a restocking and service charge of Fifty percent (50%) plus transportation charges. Products returned for credit must be returned in good salable condition with MED-Fibers's original label intact and legible, transportation charges prepaid by Purchaser.
7. **Claims Indemnification.** The liability of MED-Fibers with respect to a claim of any kind, whether as to quality or amount to of products delivered or for non-delivery of products, shall not exceed the invoice price of the quantities of products as to which the claim is made. Purchaser shall be responsible for inspecting and testing all products delivered to it hereunder upon receipt and before use by Purchaser. Any claim with respect to products must be made not later than the earlier of fifteen (15) days after the date of shipment thereof or prior to first use thereof, and failure by Purchaser to give MED-Fibers written notice of claim or to obtain from MED-Fibers an authorization number for return with respect to any products within such time shall constitute a waiver by Purchaser of all claims with respect to such products. Products which conform to samples supplied to Purchaser and pre-qualified or previously accepted and any products used by Purchaser, shall be deemed satisfactory and Purchaser shall have no right to make claims with respect to such products. Purchaser assumes all responsibility and liability for injury or damages resulting from its handling, possession, use or sale of products supplied hereunder including, but not limited to any injury or damage resulting from the use of products in Purchaser's manufacturing operations or in combination with other substances or products, and agrees to defend and indemnify MED-Fibers from and against all claims, losses, liabilities and expenses (including attorney's fees and other litigation or settlement costs) arising out of such handling, possession, use or sale.
8. **Patents, Trade Marks, etc.** Unless otherwise agreed in writing by both MED-Fibers and Purchaser before placement of Purchaser's first order with MED-Fibers, MED-Fibers shall not be liable for the indemnification of Purchaser for damages resulting from the infringement of any United States or foreign country patent rights arising out of or in connection with any product. In the event that any product supplied hereunder gives rise to any such patent infringement, or allegation thereof, MED-Fibers expressly retains the right to refer complaining parties to Purchaser for settlement and to include Purchaser as a party-defendant in any suit based on such infringement or alleged infringement. Purchaser shall indemnify and hold MED-Fibers harmless from any and all claims, loss, damage, liability and expense (including without limitation, reasonable attorney's fees and disbursements and

other litigation and settlement costs, regardless of outcome) arising out of any claim that any product supplied hereunder infringes any third-party patent rights.

9. **Proprietary Information.** While MED-Fibers does not contemplate furnishing proprietary information of any kind under this order to Purchaser or to any government entity, any proprietary information pertaining to the work to be performed hereunder which may be furnished by MED-Fibers to Purchaser or to such governmental entity will remain MED-Fibers property, will be held in confidence by Purchaser, will be returned to MED-Fibers upon request, and may not be used with MED-Fibers written permission for any purpose other than its intended use hereunder.
10. **Force Majeure.** Failure of MED-Fibers to make, or of Purchaser to request or accept, any one or more deliveries (or portions thereof) hereunder when due shall not subject the party so failing to any liability to the other if such failure shall be caused or occasioned by act of God or the public enemy, governmental action, fire, explosion, flood, drought, war, riot sabotage, embargo, strikes, or other labor trouble, failure in whole or in part, of MED-Fibers suppliers or any subcontractor to deliver on schedule materials, equipment, or machinery to MED-Fibers, interruption of or delay in transportation, shortage of fuel, energy or utilities, or by any other event or circumstance of a similar or different nature beyond the reasonable control of the party so failing: and, at the option of the party so failing, the total quantity to be delivered hereunder shall be reduced by the quantity of the delivery or deliveries (or portions thereof) not made on account of any of the above causes. In no event shall MED-Fibers be obligated to purchase products from others in order to enable it to deliver products to Purchaser hereunder.

In the event MED-Fiber supply of any products is reduced under circumstances set forth in the preceding paragraph of this section 10, MED-Fibers may allocate its entire available supply to its customers and its own requirements on such basis as it shall determine, in its discretion, to be fair and reasonable.

11. **Product Discontinuance.** Should MED-Fibers elect to discontinue, curtail or limit the production or sale of any product as a result of the application of any governmental statute, regulation or order, including but not limited to any statute, regulation or order applicable to prices, transportation, energy, pollution or product safety, which, in MED-Fibers judgment, will render the production or marketing of such product economically, technologically or commercially infeasible, MED-Fibers may, without penalty or other charge, terminate this agreement with respect to such product upon thirty (30) days' prior written notice to Purchaser.
12. **Termination by Purchaser; failure to purchase.** In the event that Purchaser terminates this agreement for any reason prior to purchasing and paying for the full quantity of products required by the purchased hereunder, or in the event Purchaser fails for any reason (other than MED-Fibers failure to deliver) to purchase and pay for said quantity prior to the expiration of the term hereof, upon such termination of expiration of this agreement (a) if the products not so purchased and paid for have been produced by MED-Fibers prior to such termination of expiration and are not salable to other customers within a reasonable time (as determined by MED-Fibers). Purchaser will pay MED-Fibers an amount equal to the entire contract price thereof, and (b) in all other cases, Purchaser will pay MED-Fibers, as liquidated damages, an amount equal to fifty percent (50%) of the contract price for the quantity of good which Purchaser was required to, but did not, purchase.
13. **Quantity.** If this order is for products which are to be delivered over a period that extends beyond one calendar quarter, unless otherwise agreed, Purchaser's orders placed from time to time hereunder shall be for such quantities and/or shipping dates as will permit the shipment of approximately equal aggregate quantities of product in each calendar

quarter. Purchaser shall give MED-Fibers reasonable advance notice for each shipment and Purchaser and MED-Fibers shall agree on a reasonable shipment schedule.

14. **General.** These terms and conditions, together with the order and other material set forth on the other side of this form, set forth the entire understanding of the parties with respect to the subject matter hereof, and supersede and replace all prior discussions, writings or understanding between the parties on such subject matter. However, these terms and conditions and such order and other material may be changed or terminated only by a writing signed by both parties. No written purchase order shall affect or vary these terms and conditions. These terms and conditions are accepted by Purchaser if Purchaser either does not object within five business days or accepts delivery of products from MED-Fibers, whichever is earlier. Failure of either party to insist on strict compliance with any provision hereof, or to exercise any right hereunder, shall not constitute a waiver of such provision or right in any other instances. Section headings are for convenience of reference and only shall not have any effect upon the interpretation of these terms and conditions. Neither Purchaser nor MED-Fibers may assign any rights or obligations under these terms and conditions or such order or other material except with the others prior written consent, in any such attempted assignment shall be void. These terms and conditions, such order and such material shall be governed by and construed in accordance with the law of the state of Arizona applicable to contracts executed and performed entirely within that state.