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# NORDSON MEDICAL

## Standard Terms and Conditions of Purchase

Revised March 11, 2015

### 1. ORDER APPLICABILITY AND ACCEPTANCE.

- (A) This purchase order is an offer by Micromedics (dba **Nordson MEDICAL**) for the purchase of the goods and/or services specified on the face of this purchase order (the "**Goods**") from the party to whom the purchase order is addressed (the "**Seller**") in accordance with and subject to these terms and conditions (the "**Terms**" and together with the terms and conditions set forth in the purchase order, the "**Order**").
- (B) This Order, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Order, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. The Order expressly limits Seller's acceptance to the terms of the Order. These Terms prevail over any terms or conditions contained in any other documentation and expressly exclude any of Seller's general terms and conditions of sale or any other document issued by Seller in connection with this Order.
- (C) This Order is not binding on Nordson MEDICAL until Seller accepts the Order in writing or starts to perform in accordance with the Order. If Seller does not accept the Order in writing or provide written notice that it has commenced performance within ten (10) days of Seller's receipt of the Order, this Order will lapse. Nordson MEDICAL may withdraw the Order at any time before it is accepted by Seller.

### 2. PRICE.

- (A) The price(s) set forth on the face of a Nordson MEDICAL purchase order are firm, or if no price appears thereon, then the price shall be no higher than the last price quoted or charged by Seller for the same or substantially similar goods or services. Unless otherwise provided herein, such prices include all costs for packing, insuring and transporting the Goods to Nordson MEDICAL's facility as set forth on the purchase order. Nordson MEDICAL shall not be liable for any taxes or governmental charges or fees with respect to this Order other than those which Seller is required by law to collect from Nordson MEDICAL. All such taxes and fees shall be stated separately on Seller's invoice.
- (B) Seller shall extend to Nordson MEDICAL any price reductions necessary to give Nordson MEDICAL the benefit of the lowest and most favorable prices and terms offered or given by Seller to other purchasers of the same or similar goods or services. If Seller fails to meet the lower price, Nordson MEDICAL may terminate this Order without liability pursuant to Section 10.

### **3. SHIPMENT, DELIVERY, TITLE AND RISK OF LOSS.**

- (A) Seller shall pack all Goods for shipment according to Nordson MEDICAL's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition.
- (B) Timely delivery of the Goods is of the essence. If delivery is not made on the date specified in this Order, Nordson MEDICAL may cancel the entire Order, or that part of the Order not timely delivered, immediately, and Seller shall indemnify Nordson MEDICAL against any losses, claims, damages, and reasonable costs and expenses attributable to Seller's failure to deliver the Goods on the date specified in this Order. Nordson MEDICAL may return Goods delivered prior to the delivery date set forth in the Order.
- (C) All Goods shall be delivered to the address specified in this Order during Nordson MEDICAL's normal business hours or as otherwise instructed by Nordson MEDICAL.
- (D) If Seller delivers more or less than the quantity of Goods ordered, Nordson MEDICAL may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's risk and expense. If Nordson MEDICAL does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the price for the Goods shall be adjusted on a pro-rata basis.
- (E) Seller shall assume all risk of loss and damage to the goods until delivery to Nordson MEDICAL at its facility specified in the purchase order. Title passes to Nordson MEDICAL upon delivery of the Goods to Nordson MEDICAL at its facility specified in the purchase order.

### **4. INSPECTION AND ACCEPTANCE.**

Nordson MEDICAL may inspect the Goods on or after the date of delivery. Nordson MEDICAL, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines that the Goods are nonconforming or defective. If Nordson MEDICAL rejects any portion of the Goods, Nordson MEDICAL may, at its option, (a) rescind the Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Nordson MEDICAL requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, then Nordson MEDICAL may replace such Goods with goods from a third party and charge Seller the cost thereof, and terminate this Order for cause pursuant to Section 10. Any inspection or other action by Nordson MEDICAL under this Section shall not reduce or otherwise affect Seller's obligations under the Order, and Nordson MEDICAL shall have the right to conduct further inspections after Seller has carried out its remedial actions.

## 5. WARRANTY.

- (A) Seller warrants, in addition to any other warranty provided by law or equity, that the Goods will: (i) have good title and be free and clear of all liens, security interests or other encumbrances; (ii) be in full conformance with the specifications, drawings, samples or other descriptions set forth or referred to in this Order; (iii) perform as represented by Seller (even if such representations do not appear in this Order, notwithstanding the provisions of paragraph 1(b) of these Terms); (iv) be new, merchantable and fit for the use intended by Nordson MEDICAL; (v) be free from defects in material, workmanship, manufacture and design (where design is Seller's responsibility); and (vi) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Nordson MEDICAL.
- (B) Seller's warranty shall be effective for a period of time as set forth on the face of the purchase order. If no such period is stated, the warranty shall be effective for a period of one (1) year from the date of acceptance by Nordson MEDICAL. This warranty will run to Nordson MEDICAL, its customers and other users of the Goods.
- (C) In the event that Goods do not meet the warranties specified herein, in addition to all other remedies available at law or in equity, Nordson MEDICAL may, at Nordson MEDICAL's option and at Seller's sole cost and expense, including, but not limited to, all shipping and packaging costs, return to Seller for full credit any such Goods, or require correction or replacement of such Goods.

## 6. CHANGES.

Nordson MEDICAL may direct in writing changes to this Order. Equitable adjustments may be made in price or schedule where required to reflect the requested changes. Seller shall make any claims for adjustment in writing no later than thirty (30) days from the date of Seller's receipt of any such direction from Nordson MEDICAL. Seller shall not be excused from proceeding with a change prior to negotiation of any adjustment.

## 7. INTELLECTUAL PROPERTY INDEMNITY.

Seller shall defend, indemnify and hold harmless Nordson MEDICAL, its employees, agents, distributors, dealers, affiliates, customers and users (collectively, "**Indemnitees**") from all liabilities, obligations, costs and expenses (including reasonable attorneys' fees and costs), claims or demands arising out of or in connections with any claim that Nordson MEDICAL or Indemnitee's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party, except to the extent that such claim arises by reason of design for Goods furnished to Seller by Nordson MEDICAL.

## 8. INDEMNIFICATION.

Seller agrees to defend, indemnify and hold harmless Nordson MEDICAL and Indemnitees from all liabilities, obligations, costs and expenses (including reasonable attorneys' fees and costs) incurred by Nordson MEDICAL as a result of all claims, demands, actions or judgments, personal injury, death, and damages to property arising out of or in connection with the Goods, Seller's

performance of this Order, or Seller's negligence, willful misconduct or breach of the Terms. Seller shall carry and maintain insurance coverage satisfactory to Nordson MEDICAL to cover the above, and upon Nordson MEDICAL's request, shall furnish Nordson MEDICAL with evidence of such insurance in a form satisfactory to Nordson MEDICAL.

#### **9. TERMINATION FOR CONVENIENCE.**

- (A) Nordson MEDICAL may terminate this Order, in whole or in part, at any time without cause, upon written notice to Seller. Upon receipt of such notice, Seller shall stop work immediately and terminate all orders and sub-contracts to the extent that they relate to the terminated work.
- (B) There shall be no charges for terminating the Order with respect to standard goods. Seller shall submit any claim for termination charges for non-standard goods to Nordson MEDICAL in writing within ten (10) days after receipt of the termination notice.
- (C) In the event of such termination without cause, Nordson MEDICAL shall pay the Order price for any Goods that have been delivered at the time of termination, and shall reimburse Seller for the actual costs of materials and direct labor expended by Seller as of the termination date in reasonable anticipation of fulfillment of this Order, provided that no allowance shall be made to Seller for any overhead or anticipated profits for undelivered Goods. Nordson MEDICAL shall not be responsible for any commitments made by Seller in advance of those necessary to comply with the schedules set forth in this Order. Upon payment of Seller's claim, Nordson MEDICAL shall be entitled to all Goods, materials and work in process paid for.

#### **10. TERMINATION FOR CAUSE**

- (A) Nordson MEDICAL may immediately terminate this Order, in whole or in part, in the event Seller: (i) fails to make timely delivery, (ii) breaches any other term or condition of this Order, or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors. Seller shall continue to perform under any portion of this Order not terminated.
- (B) In the event of such termination, at Nordson MEDICAL's request, Seller shall transfer title to, and deliver to Nordson MEDICAL: (i) any completed Goods; (ii) any partially completed items; and (iii) all unique materials and tooling. Prices for partially completed Goods and unique materials and tooling accepted shall be negotiated; however, in no event shall such prices exceed the Order price for said Goods.
- (C) Upon the happening of any event or condition which may, in Nordson MEDICAL's good faith judgment, impair Seller's ability to perform hereunder, Nordson MEDICAL may demand, in writing, adequate assurance of Seller's ability to continue performance of the Order. If Seller does not provide written adequate assurance within fifteen (15) days of receipt of Nordson MEDICAL's demand, then Seller shall be deemed to have rejected

continued performance hereunder and to have materially breached this Order, and the terms set forth in this Section 10 shall apply.

**11. CONFIDENTIAL INFORMATION.**

All information furnished or disclosed to Seller by Nordson MEDICAL in connection with this Order is received in confidence, shall remain the property of Nordson MEDICAL and shall not be disclosed to any third party without Nordson MEDICAL's prior written consent. Seller shall not use any such information for any purpose other than to perform the Order. If requested, Seller shall execute Nordson MEDICAL's Non-Disclosure Agreement before receipt of any such confidential information. Upon Nordson MEDICAL's request, Seller shall promptly return all such confidential information to Nordson MEDICAL. The obligations of this paragraph shall survive expiration or termination of this Order.

**12. INVENTIONS AND PROPRIETARY RIGHTS.**

Seller agrees to promptly disclose to Nordson MEDICAL all ideas, inventions, discoveries and improvements that are made, conceived, compiled or reduced to practice by Seller, solely or jointly with others, that are related to the performance of, or arising out of, or are paid for by Nordson MEDICAL in connection with this Order ("New Developments"). Seller further agrees to assign to Nordson MEDICAL all right, title and interest to all such New Developments. Seller understands and agrees that all New Developments which are subject to copyright protection under the United States Copyright Act of 1976, as amended, shall be considered "works made for hire" within the meaning of Section 101 of the Copyright Act and that such works constitute and contain valuable proprietary assets and trade secrets of Nordson MEDICAL. Notwithstanding the foregoing, in the event that title to and ownership of any New Development initially vests in Seller, Seller agrees to execute, at Nordson MEDICAL's request, all documents as may be necessary to grant, transfer and assign all such title and ownership thereof to Nordson MEDICAL. Seller agrees to obtain written assurances from its employees and contract personnel of their agreement to the terms hereof.

**13. ASSIGNMENT AND SUBCONTRACTING.**

Seller shall not delegate or subcontract any duties or assign any rights under this Order to any third party without the prior written consent of Nordson MEDICAL.

**14. COMPLIANCE WITH LAW.**

Seller is in compliance with and shall comply with all applicable laws, regulations and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Order. Seller shall comply with all export and import laws of all countries involved in the sale of Goods under this Order. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. Nordson MEDICAL may terminate this Order if any government authority imposes antidumping duties, countervailing duties or any retaliatory duties on the Goods.

**15. GOVERNING LAW.**

This Order shall be interpreted in accordance with and governed by the laws of the State of Minnesota without giving effect to any choice or conflict of law provision or rule. Any litigation

arising out of this Order shall be brought in the state or federal courts located in Dakota County, Minnesota and the parties consent to the jurisdiction of such courts in any such action or proceeding.

**16. RIGHTS AND REMEDIES.**

All rights and remedies of Nordson MEDICAL expressly set forth in this Order shall be in addition to any other rights and remedies available to Nordson MEDICAL at law or in equity. Failure of Nordson MEDICAL to insist upon strict performance of any term or condition of this Order shall not be deemed to be a waiver of Nordson MEDICAL's rights and remedies.

**17. SETOFFS.**

Without prejudice to any other right or remedy it may have, Nordson MEDICAL reserves the right to set off, at any time, any amount owing to it by Seller against any amount payable by Nordson MEDICAL to Seller.

**18. NORDSON MEDICAL'S PROPERTY.**

All property and material furnished to Seller by Nordson MEDICAL or specifically paid for by Nordson MEDICAL shall be used only in the performance of this Order and shall remain the property of Nordson MEDICAL. Seller shall hold such property at Seller's sole risk and shall insure such property, at Seller's expense, in an amount equal to the replacement cost with loss payable to Nordson MEDICAL. Seller shall ship such property or material in good condition, normal wear and tear excepted, to Nordson MEDICAL, FOB Nordson MEDICAL's plant, immediately upon request by Nordson MEDICAL.

**19. HAZARD INFORMATION.**

Seller shall provide Nordson MEDICAL with three (3) copies of appropriate Material Safety Data Sheets (MSDS) with Seller's initial shipment to Nordson MEDICAL, and with Seller's first shipment after an MSDS has been updated for any reason, including a change in processes or material of the article. Seller certifies that any chemical substances furnished pursuant to this Order have been properly labeled and that proper information on the substances has been provided to Nordson MEDICAL pursuant to all federal, state or local laws and regulations.

**20. RELATIONSHIP OF THE PARTIES.**

The relationship between the parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Order.

**21. WAIVER.**

No waiver by any party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in the Order, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of

any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**22. SEVERABILITY.**

If any term or provision of this Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Order or invalidate or render unenforceable such term or provision in any other jurisdiction.

**23. FORCE MAJEURE.**

Neither party shall be liable to the other for any delay or failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("**Force Majeure Event**"). Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Order. If a Force Majeure Event prevents Seller from carrying out its obligations under the Order for a continuous period of more than thirty (30) business days, Nordson MEDICAL may terminate this Order immediately by giving written notice to Seller.