

PURCHASE ORDER – GENERAL TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1 These general terms and conditions (the “**Terms and Conditions**”) apply to each agreement by Purchase Order for the supply of products, services, materials and/or equipment. However, in the event MHCare and the Supplier have entered into an agreement in writing in respect of the products detailed in the Purchase Order, the terms of that agreement shall govern.

2. ACCEPTANCE OF TERMS

- 2.1 THE SUPPLIER’S ACCEPTANCE OF A PURCHASE ORDER FROM MHCARE FOR THE SUPPLY OF PRODUCT(S) OR THE SHIPMENT OF ANY PRODUCTS, MATERIALS AND/OR EQUIPMENT OR COMMENCEMENT OF PERFORMANCE OF ANY SERVICES BY THE SUPPLIER SHALL CONSTITUTE THE SUPPLIER’S AGREEMENT TO A BINDING CONTRACT AND THE SUPPLIER’S UNCONDITIONAL ACCEPTANCE BY THE SUPPLIER OF ALL OF THE FOLLOWING TERMS AND CONDITIONS, EXCEPT AS MAY OTHERWISE BE SPECIFICALLY AGREED TO IN WRITING BETWEEN THE PARTIES.

3. DEFINITIONS

- 3.1 “**Acceptance**” means:

- (a) with respect to those Products, Materials or Equipment that require testing to ensure proper performance, written verification by MHCare of its inspection, testing and acceptance of the Products; and
- (b) with respect to those Products, Materials or Equipment that do not require testing to ensure proper performance, items are deemed to be accepted 24hours after receiving unless MHCare provides written notification to the Supplier that there are concerns with the items (i.e. damaged, incorrect product, etc.).

- 3.2 “**Agreement**”, “**hereto**”, “**hereof**”, “**herein**”, “**hereby**”, “**hereunder**” and similar expressions collectively refer to these Terms and Conditions, and the Purchase Order, and “**Article**”, “**Section**”, “**Subsection**”, “**Paragraph**”, “**Subparagraph**” and “**Schedule**” followed by a number or letter refer to the specified article, section, subsection, paragraph, subparagraph or schedule, as the case may be, of this Agreement.

- 3.3 “**MHCARE**” means MHCare Medical.

- 3.4 “**Business Day**” means any day other than a day which is a Saturday, Sunday or statutory holiday in the Province of Alberta.

- 3.5 “**Confidential Information**” means any non-public information that MHCARE designates as confidential or that, under the circumstances of its disclosure, should reasonably be considered to be confidential and includes:

- (a) any MHCARE related information, material, documents, data, media, trade secrets in whatever form and whether given directly or indirectly to the Supplier, in writing or orally or by inspection of processes and including but not limited to information, knowledge or data of an intellectual, technical, scientific, commercial or industrial nature, or of a financial, cost, pricing, security or marketing nature relating to the business, operations or property of MHCARE, including these terms and conditions.

- 3.6 “**Delivery Locations**” means those locations which MHCARE specifies from time to time as the locations to which Products are to be delivered by the Supplier, and “**Delivery Location**” means any one of them.

- 3.7 “**Drugs**” has the meaning given to it in the *Food and Drugs Act* (Canada).

- 3.8 “**Equipment**” means Products which are non-expendable upon use.

- 3.9 “**Force Majeure**” means circumstances and conditions beyond the control of the party affected which render it impossible for that party to fulfill its obligations under this Agreement or which will delay that fulfillment. Force Majeure shall include, but not be limited to, war, acts of God, a foreign enemy, civil war, earthquake, flood, fire or other natural physical disaster, strikes, change in government policy or legislation or other matters similar in nature or severity to the herein mentioned.

- 3.10 “**GST**” means goods and services tax within the meaning of the *Excise Tax Act* (Canada).

- 3.11 “**Hazardous Substances**” means any substance, waste, product, material or good identified, defined or designated as a hazardous substance or declared to be a contaminant, pollutant, dangerous substance, toxic substance, deleterious substance, waste, special waste, hazardous waste or dangerous good or similar term in or pursuant to any applicable laws or regulations relating to environment, natural resources, safety or health matters.

- 3.12 “**Inspection Period**” means a minimum of period of thirty (30) days, or such longer period as the parties may in writing agree, from the date of delivery and/or installation of the Product(s), materials, equipment, as applicable.

- 3.13 “**Medical Devices**” has the meaning given to it in the Medical Devices Regulations under the *Food and Drugs Act* (Canada).

- 3.14 “**Product**” and “**Products**” means the product, materials, equipment and/or services, whether tangible or intangible, purchased by MHCARE pursuant to a Purchase Order including all intellectual property rights purchased, licensed, or otherwise acquired from the Supplier by MHCARE, and any installation, training, maintenance, construction, labour or other service provided to MHCARE in connection therewith.

- 3.15 “**Purchase Order**” means any individual purchase order or other form of requisition, in written or electronic form, issued by MHCARE to the Supplier in respect of the supply of Product(s) by the Supplier to MHCARE, as the same may be amended or supplemented from time to time.

- 3.16 “**Software**” means any software licensed or sold to MHCARE under the terms of a Purchase Order and includes any software which

is incidental to the supply of any equipment or services forming the Product.

3.17 **“Specifications”** means those specifications, standards and performance requirements for a Product:

- (a) provided to MHCARE in connection with the purchase of the Products or, if not provided, the Supplier’s or manufacturer’s published literature on the Purchase date;
- (b) set forth in the Supplier’s or manufacturer’s published literature on the Purchase date; and
- (c) required by applicable law.

3.18 **“Staff”** means the Supplier’s employees, officers, directors, shareholders, representatives and agents.

3.19 **“Supplier”** has the meaning given to that term in the applicable Purchase Order.

4. AGREEMENT

4.1 The Purchase Order shall constitute the entire contract with reference to the subject matter and shall not be altered, amended, varied, supplemented or cancelled without the prior written approval of both MHCARE and the Supplier.

5. SHIPPING

5.1 Unless otherwise agreed in writing, the Supplier shall be solely responsible for, and shall prepay, all freight costs, packing costs and insurance costs relating to the delivery of the Products to the Delivery Locations. The Supplier shall pack and protect all Products in accordance with best practices, having regard to methods of carriage and handling and to weather conditions likely applicable to the transportation and delivery to the Delivery Locations in order to maintain the product quality and in accordance with any shipping conditions (or storage conditions in the absence of established shipping conditions) noted on the product, material or equipment specification or label.

5.2 The Supplier shall comply with all applicable laws, and all corporate and industry standards respecting the safe and proper handling, transportation, cartage and delivery of the Products, materials or equipment and, in the event of any conflict amongst any of them, the most stringent provision shall apply.

5.3 The applicable Purchase Order number or product code number, description, lot number, expiry date and quantity of contents are to appear on all packages, shipping documents and invoices. An itemized packing slip must be included with all deliveries and shall be securely fastened to the outside of any shipping container. In the event an itemized packing slip is not contained with a delivery, MHCARE’ count will be accepted as final and conclusive. Goods imported to Canada and shipped directly to MHCARE shall include in the Canadian Customs form sent with the shipment the full description of the contents of the shipment, including, if applicable, the nature of any Product and its attachments and accessories. The Supplier shall provide an Exporter’s Certificate of Origin with the documents provided to the freight carrier.

5.4 The Supplier shall provide MHCARE with all relevant information concerning the safe and proper mode of employment, shipping, storage, handling, use and implementation of the Products and MHCARE shall have the full right to duplicate and use such information, including schematics, drawings, technical documentation, operating instructions, specifications, test reports, certificates of analysis, certificates of conformance, manuals and other information as MHCARE deems appropriate. The Supplier shall provide MHCARE with copies of the information in hard copy and, if available, in electronic format.

5.5 The Supplier shall inform MHCARE of any Product containing Hazardous Substances. Each shipment of Products containing any Hazardous Substances shall be labelled as such and shall identify each Hazardous Substance contained therein and shall contain instructions for shipping, safety, handling, exposure and disposal in a form sufficiently clear for use by MHCARE’ non-technical personnel and sufficiently specific to identify all action which the user must take concerning the Hazardous Substance.

5.6 MHCARE shall not be liable for payment of any goods delivered in excess of the quantities ordered, and the Supplier shall pick up such over-shipments within twenty-four (24) hours following MHCARE’ notification of such over-shipment. All goods held by MHCARE under this subsection 5.6 shall be held at the Supplier’s risk.

6. TITLE

6.1 Subject always to Section 7 of these Terms and Conditions, title, ownership and risk of loss of or damage to the Products will pass to MHCARE upon Acceptance. MHCARE shall have the right to inspect all Products supplied to determine whether the Products appear to be in accordance with the requirements of this Agreement.

7. REJECTION OF PRODUCTS

7.1 MHCARE shall have until the expiry of the Inspection Period to conduct testing of the Products as MHCARE deems appropriate. MHCARE may reject any and all defective Products or Products which fail to comply with the Specifications. On or before the expiry of the Inspection Period, MHCARE may notify the Supplier if any of the Products are defective or fail to conform to the Specifications or otherwise do not comply with the terms hereof.

MHCARE may request the Supplier to rectify any defects. If MHCARE requests the Supplier to rectify defects the Inspection Period shall be extended until twenty (20) days after the date upon which the Supplier has rectified the defects. If, upon expiry of the Inspection Period, including any extension thereof on account of rectification of defects, Acceptance has not occurred, MHCARE shall return the Products to the Supplier at the Supplier’s sole expense and risk.

7.2 Acceptance shall not prejudice any rights of MHCARE under the Purchase Order or in law in respect of defective Product, regardless of any verification of Acceptance or other document executed by MHCARE.

7.3 The Supplier shall refund to MHCARE any money paid for returned Products or, upon request from MHCARE, credit that amount to the account of MHCARE within thirty (30) days of the date upon which MHCARE notifies the Supplier of its refusal to accept the Products. The refund or credit for Products returned under this Section 7 shall not be subject to any re-stocking charge.

8. RETURN OF PRODUCTS

8.1 Products delivered in error, unauthorized late deliveries, unordered Products, defective Products and Products not in accordance with the Specifications will be returned to the Supplier at the Supplier's sole expense and risk. If the Supplier does not provide return instructions within a reasonable time after being requested to do so, MHCARE may dispose of those Products, as it deems appropriate, at the Supplier's sole expense and risk and MHCARE shall have no liability or responsibility to the Supplier whatsoever in that regard. Return of Products shall not prejudice any other right or remedy available to MHCARE with respect to those Products.

9. CUSTOM PACKAGING

9.1 In the event a Product has custom packaging as required by MHCARE, the Supplier shall not, unless specifically authorized by MHCARE in writing, maintain an inventory of that Product greater than the typical three (3) month order of that Product by MHCARE.

10. WARRANTY

10.1 Unless agreed to in writing between the Supplier and MHCARE, the Supplier, at its expense (including without limitation the expense of removal, packing, transportation and reinstallation) shall promptly either repair or replace any Products furnished to MHCARE which, within twelve (12) months after Acceptance, shall fail to conform to the Specifications or to the requirements of this Agreement. Products that are repaired or replaced by the Supplier pursuant to this warranty shall be warranted, according to the terms hereof, for an additional twelve (12) months from the date of the repair or replacement. The Supplier shall at all times be liable for and shall reimburse MHCARE for repairs made by MHCARE to correct a failure to meet the warranty herein where the Supplier has been given notice of the failure and thereafter has failed to take prompt and effective action to correct the failure in accordance with the foregoing. Should any component of a system supplied by the Supplier fail to function, causing a dysfunction in that system, the warranty period for that system shall be extended for a period equal to the time that the dysfunction existed. Any MHCARE repair work to the Products shall not void or diminish any Product warranty, provided that in the event MHCARE damages the Product in conducting such repairs, the Supplier shall not be responsible to repair such damage.

The above warranties are in addition to all other warranties as may be express or implied at law or in equity. In the event this Agreement provides for a warranty more favourable to MHCARE, the more favourable warranty shall apply.

11. THIRD PARTY WARRANTIES

11.1 The Supplier, if a distributor of the Products, hereby assigns to MHCARE such assignable rights as the Supplier may have under any and all manufacturers' and other warranties provided with respect to the Products.

12. PAYMENT

12.1 All Product invoices that are mailed to MHCARE shall be sent to the address detailed in the Purchase Order.

12.2 Invoices may only be submitted to MHCARE' accounts payable department after Acceptance. MHCARE shall pay all non-disputed invoiced amounts within thirty (30) days of receipt of invoice in proper form, or in such other time period as agreed to by the parties in writing.

12.3 All amounts invoiced to MHCARE by the Supplier shall accord with MHCARE' policies, as may be amended from time to time, and shall separately identify all duties, taxes and levies, where applicable, which are levied or imposed in connection with the supply of the Products. The Supplier shall not be entitled to receive, and shall not invoice MHCARE for, any fees, costs, charges or out-of-pocket expenses, including any transportation or handling charges, unless they have been pre-approved by MHCARE in writing. Unless otherwise directed by MHCARE, each of the Supplier's invoices shall comply with the following:

- (a) each invoice shall include:
 - (i) the MHCARE Purchase Order number; and
 - (ii) the prices for Products covered by the invoice;
- (b) invoices related to a period of time or a point in time shall be rendered within fourteen (14) days of the end of the period of time or the occurrence of the point in time, as the case may be;
- (c) all charges and credits are to be shown on the invoice;
- (d) invoices shall not be rendered prior to the date that the applicable Products have been delivered to the Delivery Locations.

Delays in receiving invoices, errors or omissions shall be considered just cause for withholding payment without loss of cash discount privileges.

13. RECALL OF PRODUCT

13.1 In the event of a medical alert, consumer alert or other form of Product recall issued by the Supplier, the manufacturer of the Product or by any qualified authority, including without limitation, Health Canada, the Supplier:

- (a) will immediately advise the Quality Assurance Manager of MHCARE in writing (at the address specified in Section 24 of these Terms and Conditions) and take all reasonable steps to minimize MHCARE' risk and to remedy the situation, all at the Supplier's sole cost and expense;
- (b) upon MHCARE' request, will provide MHCARE with all technical data in the Supplier's possession or control relating to the reason for the Product recall and any proposed solution of the Supplier to the issue identified in the Product recall;
- (c) upon MHCARE' request, will accept return by MHCARE of all recalled Products for full refund;
- (d) will be responsible for and will pay all expenses incurred with respect to any of the foregoing, including labour, return

freight, insurance and packaging.

This Section 13 shall survive the expiry or early termination of the Purchase Order.

14. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE SUPPLIER

14.1 The Supplier hereby represents and warrants to and covenants with MHCARE as follows:

- (a) the Supplier has all necessary power and authority to enter into the Purchase Order;
- (b) the Purchase Order is enforceable against the Supplier in accordance with its terms;
- (c) the execution, delivery and performance of the Purchase Order will not violate, nor be in conflict with, nor constitute a default under, any contract, agreement or undertaking (whether verbal or written) to which the Supplier is a party, or by which it is bound or under any judgment, decree, order or law applicable to the Supplier;
- (d) the Supplier has all right and title to the Products, free and clear of any charges, liens, encumbrances, security interests and other interests and, upon Acceptance, MHCARE shall have title to the Products free and clear of any charges, liens, security interests, encumbrances or other interests;
- (e) to the extent that the MHCARE will require use of the intellectual property rights of any third party in connection with the Products, the Supplier, at its sole expense, has obtained from the third party all necessary licenses, consents or assignments of those intellectual property rights for the benefit of MHCARE;
- (f) the Products comply with, and the Supplier in the performance of this Agreement shall comply with, all applicable laws, ordinances, rules and regulations, including without limitation, all laws governing occupational health and safety and protection of the environment;
- (g) the Supplier possesses all permits, licences, authorizations and regulatory approvals necessary in connection with the sale of the Products to MHCARE;
- (h) the Product is licensed for use and sale in Canada;
- (i) the Products will be new and will conform with the Specifications and with all written specifications, drawings, and other descriptions of the manufacturer thereof and will be of merchantable quality, fit and sufficient for the purposes for which they are intended, of good materials, design and workmanship, free from defects, and will fulfill satisfactorily any operating conditions specified in the Purchase Order;
- (j) the Products have received all applicable approvals or authorizations from the Canadian Standards Association, Underwriters' Laboratories of Canada, Health Canada, and any other organization that licenses or certifies the Products;
- (k) the Products are free of Hazardous Substances, except for those Products which the Supplier has informed MHCARE contain Hazardous Substances in accordance with Section 5.5;
- (l) to the extent the Products include services, the services will be formed by employees, contractors or agents who are qualified and competent and have the appropriate skills and experience to perform the duties assigned to them.
- (m) in respect of Drugs and Medical Devices only:
 - (i) the Drugs and Medical Devices are authorized for sale in Canada under the *Food and Drugs Act* (Canada);
 - (ii) the import, sale, advertising, labelling, manufacturing and distribution of the Drugs and Medical Devices, and any other activities related to the Drugs and Medical Devices, comply in all respects with the *Food and Drugs Act* (Canada) and related regulations and any other applicable laws,

The above representations and warranties are in addition to all other warranties as may be express or implied at law or equity. The representations shall be true and correct during the entire term of the Purchase Order and shall survive the expiry or early termination of the Purchase Order until all of the obligations of the Supplier hereunder have been fulfilled.

15. INDEMNITY

15.1 Notwithstanding any other provision of the Agreement to the contrary, the Supplier shall:

- (a) be liable to MHCARE and its affiliates, officers, directors, members, agents, employees, licensees and invitees (in this Section "Others") for; and
- (b) indemnify and hold harmless MHCARE and all Others from and against, any and all liabilities, obligations, losses, claims, proceedings, demands, suits or actions, fines, penalties, costs, damages and expenses whatsoever (including legal fees on a solicitor-client full indemnity basis) which may be brought or made against MHCARE or Others, or which MHCARE or Others may sustain, pay or incur as a result of or in connection with:
- (c) any breach or non-observance by the Supplier of any covenant, representation, warranty, agreement, term or condition applicable to the Supplier under the Purchase Order including, without limitation, any breach or non-observance of any applicable law;
- (d) injury to or death of any persons (including without limitation employees of MHCARE, the Supplier and the Supplier's suppliers) or from damage to or loss of any property (including without limitation the property of MHCARE) to the extent

arising, directly or indirectly, out of the performance or failure to perform by the Supplier of its obligations under the Purchase Order or out of any act or omission of the Supplier or its suppliers whatsoever;

- (e) contamination, pollution, or public or private nuisance arising, directly or indirectly, out of the performance or failure to perform by the Supplier of its obligations under the Purchase Order or out of any act or omission of the Supplier or its suppliers whatsoever; and
- (f) any proceeding, suit, action, claim or demand alleging the violation or infringement of rights in any patent, copyright, proprietary information, trade secret or other property right caused or alleged to be caused by the use, sale or licensing of Software, goods, materials, equipment, methods, processes, designs or information furnished by the Supplier or its suppliers,

except to the extent arising out of the gross negligence or willful misconduct of the party claiming indemnity.

15.2 In the event that any indemnity provisions in this Agreement are contrary to applicable law, the indemnity obligations hereunder shall be construed to apply to the fullest extent allowed by applicable law.

15.3 This Section 15 shall survive the expiry or early termination of the Purchase Order.

16. CONSEQUENTIAL LOSS

16.1 In no event shall either party be liable to the other party for any special, indirect, incidental, remote or consequential loss or damage, loss of profit, punitive damages or exemplary damages, regardless of cause, whether in contract, warranty or tort, including negligence.

17. INSURANCE

17.1 The Supplier, at its sole cost, shall obtain and maintain in force until two (2) years after the completion of its obligations under the Purchase Order (including any warranty period) insurance of the following types, with limits not less than those set forth below:

- (a) Workers' Compensation Insurance, including occupational illness or disease coverage, in accordance with the laws of the nation, state, territory or province having jurisdiction over the Supplier's employees, and Employer's Liability Insurance with a minimum limit of \$1,000,000 per accident and, for bodily injury by disease, \$1,000,000 per employee. The Supplier shall not utilize occupation accident or health insurance policies, or the equivalent, in lieu of mandatory Workers Compensation Insurance, or otherwise attempt to opt out of the statutory Worker's Compensation system;
- (b) Commercial General Liability Insurance with a minimum combined single limit of liability of \$5,000,000 for each occurrence covering death, bodily injury, property damage, personal injury, advertising injury, products and completed operations liability including Broad Form Products liability and completed operations with a Products Recall extension. Such policy shall have a general aggregate limit of not less than \$10,000,000;

17.2 The Supplier hereby releases MHCARE, its affiliates and their respective officers, directors, agents, employees, licensees and invitees, and shall cause the Supplier's insurers to waive any rights of subrogation against the released parties, for losses or claims for death, bodily injury, property damage or other insurance claims arising out of the Supplier's performance of this Agreement. The foregoing insurance shall provide a severability clause to the effect that a breach by one insured will not adversely affect the coverage of the other insureds.

17.3 The foregoing insurance coverage shall be primary and non-contributing with respect to any other insurance or self insurance which may be maintained by MHCARE. The fact that the Supplier has obtained the insurance required in this Section 17 shall in no manner limit or qualify the Supplier's other obligations or liabilities set forth in this Agreement.

18. CONFIDENTIALITY

18.1 Except with MHCARE' consent, which consent may be arbitrarily withheld, the Supplier shall:

- (a) hold, and shall cause its Staff to hold, all Confidential Information in strict confidence;
- (b) not use the Confidential Information other than for the performance of its obligations under the Purchase Order;
- (c) not disclose the Confidential Information to anyone other than any of its Staff and then only to the extent that the Confidential Information is directly required to be disclosed in order for the Supplier to properly perform its obligations pursuant to this Agreement;
- (d) except as otherwise permitted under this Section 18, not disclose the Confidential Information to any third party;
- (e) implement reasonable physical, technical and administrative measures to protect the privacy and security, availability and integrity of the Confidential Information;
- (f) ensure that its Staff are aware of their obligations with respect to Confidential Information;
- (g) only collect, access, use, and disclose the minimum Confidential Information necessary to perform the Supplier's obligations contemplated by this Agreement; and
- (h) not send, transmit or access any Confidential Information outside of Canada.

18.2 The Supplier shall not publicize the existence or scope of the Purchase Order without MHCARE' written consents.

18.3 The Supplier shall not disclose Confidential Information pursuant to any non-Canadian law, rule, order, or document and shall promptly notify MHCARE if it receives any such request or orders. The Supplier shall cooperate with MHCARE as reasonably

necessary to help MHCARE obtain a protective order or other appropriate remedy.

- 18.4 The Supplier shall immediately notify MHCARE of: i) any release or disclosure of Confidential Information that is contrary to the provisions of this Agreement, ii) any request to access any of the Confidential Information, or iii) any notice of an investigation from any private or public body. The Supplier shall cooperate with MHCARE' investigation or response to such situations.
- 18.5 The Supplier acknowledges that its failure to comply with the provisions of this Section 18 may cause irreparable harm to MHCARE entitling MHCARE to seek immediate injunctive relief, in addition to any other remedies to which it may be entitled.

19. INTELLECTUAL PROPERTY

19.1 If, as a result of any proceeding, suit or action, the sale or use of any Product is enjoined by court order, or, should any Products be the subject of a claim of infringement of a patent, copyright, proprietary information, trade secret or other property right, the Supplier shall at its expense, at MHCARE' option either:

- (a) procure for MHCARE the right to continue using the Product;
- (b) replace or modify the Product with functionally-equivalent goods (subject to MHCARE' approval and satisfaction in its sole and arbitrary discretion), provided that any such modification or replacement is of equal quality and provides equal performance to the infringing Product; or
- (c) return to MHCARE the purchase price for any Product that MHCARE is unable to make use of due to the infringement claim and reimburse MHCARE for any associated costs and expenses.

20. TERMINATION

20.1 In the event that:

- (a) either party defaults or fails to perform in accordance with the terms and conditions of the Purchase Order, and if such default or failure to perform continues for fourteen (14) days after written notice from the non-defaulting party to the defaulting party to remedy the default or perform as required, the non- defaulting party, without prejudice to any other right or remedy, may terminate the Purchase Order on notice to the defaulting party;
- (b) the Supplier or any of its affiliates become insolvent or bankrupt or any proceeding in bankruptcy, receivership or liquidation is initiated against the Supplier or any of its affiliates and is not dismissed within thirty (30) days or if the Supplier or any of its affiliates makes an assignment for the benefit of its creditors or files a petition or other proceedings in bankruptcy or for protection from its creditors or if a receiver or trustee in bankruptcy is appointed over all or any of its assets or business, MHCARE may in its sole and unfettered discretion, by written notice to the Supplier, terminate the Purchase Order without prejudice to any other rights or remedies to which MHCARE may be entitled;
- (c) Upon termination of this Agreement pursuant to this Section 20 MHCARE shall pay the Supplier the portion of the price for all Products that have been accepted by MHCARE prior to the effective date of termination, as determined by MHCARE acting reasonably, subject to any right of setoff available to MHCARE;

21. SURVIVAL

21.1 Termination of this Agreement shall not affect the validity of any provisions which are, expressly or by implication, to survive or to take effect on or after such termination.

22. FORCE MAJEURE

22.1 Neither party shall be liable for failure to perform any of its obligations under the Purchase Order, if and to the extent its performance is prevented, hindered or delayed by a Force Majeure event. The occurrence of a Force Majeure event shall not release the affected party from its obligations under the Purchase Order, but shall merely suspend the performance of any obligation so prevented, hindered or delayed during the period of continuance of the Force Majeure event.

22.2 In every case the party alleging a circumstance of Force Majeure event shall take reasonable action and undertake reasonably necessary measures to mitigate the effects of the Force Majeure and to resume, as soon as reasonably possible, the performance of those of its obligations under the Purchase Order affected by the Force Majeure event.

22.3 If an event of Force Majeure results in the Supplier being unable to perform its obligations under the Purchase Order for more than thirty (30) days, MHCARE shall have the right to terminate the Purchase Order.

23. RIGHT TO SETOFF

MHCARE, without waiver or limitation of any of its rights or remedies, and without liability for interest, shall be entitled from time to time to deduct from any amounts due or owing by MHCARE to the Supplier in connection with the Purchase Agreement, any and all amounts owed by the Supplier to MHCARE:

- (a) for any matter which may be in dispute between the parties until the dispute is settled;
- (b) for any claims or liabilities which may be the basis of a claim made by a third party against MHCARE; or
- (c) for any default or deemed default by the Supplier of any of its obligations under the Purchase Agreement.

24. NOTICES

24.1 When any notice is required or permitted to be given under any provision of this Agreement, such notice shall be made in writing and signed by or on behalf of the party giving such notice to the following addresses:

MHCare MedicalInvoice/payment matters – accounts@mhcaremedical.comProduct quality/recall matters – quality@mhcaremedical.comAll other matters – notices@mhcaremedical.comSupplier

At the address detailed in its invoice or failing which, at their corporate head office.

Any notice delivered before 4:00 p.m. local time on a Business Day shall be deemed to have been received on the date of delivery and any notice delivered after 4:00 p.m. local time on a Business Day, or delivered on a day other than a Business Day, shall be deemed to have been received on the next Business Day.

25. GENERAL

- 25.1 Unless otherwise indicated, all dollar amounts referred to in the Purchase Order are in Canadian funds.
- 25.2 Time shall be of the essence of the Purchase Order.
- 25.3 The Purchase Order shall be governed by and construed in accordance with the laws of the province of Alberta and the applicable laws of Canada. The courts having jurisdiction in the province of Alberta shall have exclusive jurisdiction in relation to any legal proceedings arising in connection with the Purchase Order.
- 25.4 No remedy conferred upon a party is intended to be exclusive of any other remedy available to that party but each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing by law or in equity or by statute.
- 25.5 In the event any provision, or any part or portion of any provision of the Purchase Order, including these Terms and Conditions, shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof.
- 25.6 The making or failure to make any inspection of, or payment for, the Products covered by the Purchase Order shall in no way impair MHCARE' right to reject nonconforming or defective Products, nor be deemed to constitute Acceptance by MHCARE of the Products, nor affect in any way the Supplier's obligations under the Purchase Order nor the Supplier's liability for Products that are defective or fail to meet the Specifications or from any consequences resulting therefrom, notwithstanding MHCARE' opportunity to inspect the goods or services, MHCARE' knowledge of the non-conformity or defect, its substantiality or the ease of its discovery, nor MHCARE' earlier failure to reject any Product.
- 25.7 No waiver by MHCARE of any provision of the Purchase Order shall be deemed to constitute a waiver of any other provision of the Purchase Order, nor shall such waiver be binding unless executed in writing by MHCARE. No failure on the part of MHCARE to exercise, and no delay by MHCARE in exercising any right under the Purchase Order, including these Terms and Conditions, shall operate as a waiver of such right, nor shall any single or partial exercise by MHCARE of any such right preclude any other or further exercise of such right or the exercise of any other right.
- 25.8 The Purchase Order shall endure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.