

ODERMATH

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TERMS AND CONDITIONS

(As of May 1998)

The products (including any parts, components and accessories) specified on the face of the Order are purchased subject to the terms and conditions set forth in the Order, including any addendum to it.

1. ACCEPTANCE:

This Order shall become a binding contract when the copy marked "Acknowledgement Copy" is signed by the Seller is returned to ODERMATH (USA) INC. ("Purchaser") or upon shipment of any part of the products described herein.

2. ENTIRE AGREEMENT:

(a) This Order sets forth the entire agreement and understanding between Purchaser and Seller relating to the products. Except as provided in paragraph 2(b) hereof, any modification or waiver any provision contained herein must be in writing and be executed by a duly authorized representative of the part to be bound thereby. The failure of Purchaser to enforce any provision hereunder shall not be construed as a waiver of its right subsequently to enforce such provision. If no notice is given to Purchaser within five (5) days after receipt of this order, it is understood that the terms and conditions shown on this Order are satisfactory. Any term or condition proposed by Seller inconsistent with or in addition to the terms and conditions contained herein are not expressly accepted in writing shall be deemed surplusage and extraneous hereto. No terms or conditions other than those contained herein shall be binding on purchaser unless expressly accepted in writing.

(b) Purchaser reserves the right under this Order to make changes at any time any of the following: (i) drawings, specifications or instructions relating to this Order; (ii) method of packing or shipment; and (iii) place of delivery. Purchaser shall give written notice of such changes, and in the event that such changes affect the cost of furnishing the products ordered, the price of such products shall be equitably adjusted by mutual agreement. Seller shall present claims for adjustments in writing within ten (10) days of receiving Purchaser's request for change, unless Purchaser agrees in writing to extend the time for Seller's claim.

3. ASSIGNMENT: Neither this Order nor any rights or duties arising under any contract resulting herefrom shall be assignable, in whole or in part, by Seller without the prior written consent of Purchaser.

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4. CANCELLATION: Except as provided in paragraph 6, neither the manufacture nor the shipment of products pursuant to this Order is subject to deferment or cancellation unless Purchaser is indemnified against any and all loss, liability, cost, damage and expense whatsoever (including reasonable attorneys' fees) resulting therefrom.

5. TERMS:

(a) All sales and shipments shall be f.o.b. Purchaser's offices in Naperville, Illinois or such other point as is specified on the face hereof, and title to, and risk of loss of the products, shall pass from Seller to Purchaser upon delivery of the products to Purchaser at such f.o.b. point.

(b) Unless otherwise specified herein, Seller agrees to pack, mark and prepare all products for shipment to meet the carrier's requirements at Seller's expense. No Charges shall be allowed for packing, cartage, unloading, assembling or installing the products unless specified on this Order.

(c) Shipment and delivery shall be made in accordance with the instructions set forth on the face of this Order. Memorandum of contents shall be enclosed in each box, crate or other package, and order numbers shall appear on all boxes, crates, packages, shipping documents, invoices and correspondence.

(d) Payment shall be made as stated on the face of this Order. The cash discount period, if any shall date from the receipt of the invoice or acceptable merchandise, whichever is later, and in the case of corrected invoices it will date from the receipt of the corrected invoice or acceptable merchandise. Seller agrees that payment shall not be due until final acceptance following physical delivery and final inspection.

6. SHIPPING DATES; FORCE MAJEURE:

(a) Time is of the essence under this Agreement. Without prejudice to any other rights it may have, Purchase reserves the right to cancel this Order in whole or in part, and to purchase elsewhere and charge the Seller for any increases, costs or expenses, if Seller fails to make complete delivery within time specified on the face of this Order or within ten (10) days of the date of this Order if no such date is specified. Seller agrees to notify Purchaser in writing within five (5) days from the beginning of any strike, flood, fire, act of God, act of government, or similar occurrences not due to Seller's fault or negligence which may cause delay or default in delivery. In the event of such an occurrence, Purchaser may terminate this contract and shall then be liable only for the contract price of any merchandise which has been delivered by the date specified in this contract and duly accepted.

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If Purchaser chooses not to terminate despite the delay in delivery as a result of such force majeure, Seller agrees to make delivery as soon as commercially feasible, but shall not be liable to Purchaser for the delay caused solely by such occurrence.

(b) Purchaser may with or without cause, suspend and/or terminate this Order (to the extent delivery or performance has not occurred), in whole or in part effective upon Seller's receipt of written notice from Purchaser. Purchaser may suspend and/or terminate, in whole or in part, this Order without prior notice to Seller, effective upon (I) Purchaser's discovery of Seller's breach of warranty or agreement under this or any other order of Purchaser; (ii) the event of the filing of any voluntary petition or case in bankruptcy or for corporate reorganization or similar relief by Seller; (iii) the event of Seller's acquiescence in the appointment of a receiver, trustee or other custodian for its or its property; (iv) Seller's failure within thirty (30) days to obtain dismissal of any involuntary petition or case in bankruptcy or for corporate reorganization filed against it, or in the absence of the Seller's acquiescence therein, the failure within (30) days to obtain dismissal of the appointment of any receiver, trustee or other custodian appointed for Seller or Seller's property; (v) a general assignment for the benefit of Seller's creditor's; (vi) Seller's insolvency or inability to meet its debts as they become due; or (vii) Seller taking any action to authorize, or in furtherance of, any of the events described in clauses (ii), (iii), (v) or (vi) above.

7. TAXES: Purchaser shall not be liable for any federal, state or local taxes unless separately stated on the invoice. Seller agrees to reimburse Purchaser for any tax or contributions which Purchaser by law may be required to pay on behalf of Seller.

8. RIGHT TO INSPECT: All goods are subject to Purchaser's inspection and test at destination. Regardless of any earlier inspection, acceptance shall be final only after a final inspection within a reasonable time after the products are received. Payment prior to final inspection shall not constitute an acceptance. Rejected items will be held or returned a Seller's risk. Neither the test and inspection by Purchaser nor Purchaser's acceptance shall relieve Seller of any responsibility for latent defects or from the warranties set forth in this Order or in any other document containing warranties in favor of Purchaser. It is understood that this clause is not intended to relieve Seller of any liability it would otherwise lawfully bear even after Purchaser's final inspection and acceptance. Seller shall be responsible for asserting claims for losses or damage in transit against the carrier or carriers.

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9. COMPLIANCE WITH LAW: Seller agrees that it is solely responsible for compliance with all applicable federal, state or local laws, ordinances, regulations, rules and standards relating to the design, manufacture, labeling, sale and transportation of the products, and agrees to indemnify Purchaser against any loss, liability, cost, damage or expense whatsoever (including reasonable attorneys' fee) incurred by Purchaser because of Seller's violation thereof.

Without limiting the foregoing, Seller warrants that the products have been produced in compliance with the requirements of the Fair Labor Standards Act, as amended, and all applicable regulations and orders issued thereunder and with the equal opportunity clause of Section 202 of Executive Order 11246 as amended.

10. INDEMNIFICATION:

(a) Seller warrants that no item furnished under this Order infringes, in its manufacture, use or sale, whether separately, together or in combination with other material, articles or merchandise or any process or either or all of them, any United States or foreign patent, trademark, trade name or copyright. In the event of any infringement claims against such products or its purchase, sale or use, Seller agrees to indemnify and hold Purchaser harmless against and from any and all loss, liability, cost, damage or expense whatsoever (including reasonable attorneys' fees) incident to any claim action or proceeding against Seller, its officers, agents or employees arising out of such infringement claim. The foregoing indemnification shall not apply to items designed by Purchaser.

(b) Seller agrees to indemnify and hold Purchaser harmless against and from any and all loss, liability, cost, damage or expense whatsoever (including attorneys' fees), except those arising out of the gross negligence of Purchaser, incident to any claim, action or proceedings against Purchaser, its agents or employees arising out of the design (to the extent not designed by Purchaser), manufacture, transportation, delivery, purchase or use by Purchaser of the products purchased hereunder or of any part, component or accessory thereof.

(c) Purchaser may defend, at Seller's expense, any action or suit for infringements, defects, negligence or otherwise as aforesaid. Seller agrees, upon Purchaser's request, to defend at Seller's expense on behalf of Purchaser, any such action or suit.

11. WARRANTIES AND AGREEMENTS: Seller warrants and agrees that:

(a) Immediately prior to sale it had good title to the products, free from any lien or encumbrance unless otherwise specified.

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(b) The products conform to the requirements of this Order, including any drawing or specifications herein incorporated and any samples furnished by Purchaser or Seller.

(c) The products are of good and merchantable quality, free from defects (including latent defects), in design, material and workmanship and fit and suitable for the purpose which they are intended, provided such purposes are known to Seller.

(d) All goods and services covered by this Order shall comply with all federal, state and other laws and regulation relative thereto.

(e) In supplying any labor or performing any services hereunder, Seller is and undertakes such performance as an independent contractor with sole responsibility for all persons employed in connection therewith, including without limitation exclusive liability for payment of all federal, state and local employment and disability insurance, social security, and other taxes and contributions.

(f) In addition to any other remedy provided by law, Seller agrees promptly and at its own expense either to remedy any part of the goods or services furnished hereunder which during the first year of actual use and service proves defective or is unsuitable for the purposes contemplated by or does not comply with this Order or to replace such part by supplying the Purchaser a new part under the same terms as apply hereunder to the shipment of the original part all with out any cost to Purchaser.

(g) By acceptance of this Purchaser Order, the Seller represents that its goods or services to be furnished hereunder are in conformance with the Rules and Regulations of the Federal Department of Labor Occupational Safety and Health Act of 1970, to include National Consensus Standards and Established Federal Standards, and any applicable state standards. The foregoing warranties and agreements are in addition to all other warranties, express or implied, and survive an delivery, inspection, acceptance or payment. All warranties shall run to and be enforceable by Purchaser, its successors, assigns, customers and third parties injured in person or property by any breach thereof.

12. OWNERSHIP OF DESIGNS, ETC.: Seller shall not sell or furnish to any other person, firm or corporation, or, except as specified herein or in a separate agreement between Seller and Purchaser, otherwise use or disclose, any design, specification or technical information furnished by Purchaser.

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All designs, specifications, patterns and blueprints paid for by or charged to Purchaser shall, unless otherwise expressly stated to the contrary herein, or in a separate agreement between Seller and Purchaser, become the property of purchaser immediately upon receipt thereof by Seller, shall be so marked and identified and shall be delivered to Purchase upon demand; and Seller agrees to maintain the same in first-class order while in Seller's possession or use. Any designs, specifications, patterns, blueprints, or other property furnished to Seller by Purchaser shall be returned to Purchaser upon demand in the same manner as received by Seller, ordinary wear and tear excepted.

13. REMEDIES: If any products fail to confirm to any warranties or agreements specified herein or otherwise applicable, Purchaser may, even if acceptance has been made and not revoked, return the products (or so much thereof as Purchaser elects) to Seller for credit or refund of any payment already made or may at Purchaser's option require Seller to repair or replace such products as Seller's expense. Purchaser shall have the right to accept that part of or number of products which are in compliance with this Order and reject that number which is not and such acceptance shall not be deemed a waiver of any of the Purchaser's other rights or claims hereunder. Seller shall pay all costs of transporting and handling returned products and shall bear all risk of loss thereon. Returned products shall not be replaced unless Purchaser so specifies in writing. In addition, Purchaser shall be entitled upon Seller's breach of any term or condition herein set forth to cancel this contract in whole or in part. Regardless of whether or not the contract is cancelled, Seller shall be liable to Purchaser for all direct and consequential damages resulting from Seller's breach. The foregoing remedies are not intended to be exclusive and are in addition to all other remedies available under law.

14. LAW-TO-GOVERN: The validity, construction and enforceability of this Agreement are governed by the internal laws of the State of Illinois.
Terms and Conditions May 1998 (Rev. 2.1)