

**U.S. Purchase Order Terms and Conditions for Suppliers Working with Baxalta**  
**PURCHASE ORDER TERMS AND CONDITIONS**

1. **AGREEMENT:** This order is Buyer's offer to Seller and becomes a binding contract, subject to the terms hereof, when accepted by acknowledgement or commencement of performance by Seller. Buyer objects to all additions, exceptions, or changes to these terms, whether contained in any printed form of Seller or elsewhere, unless approved by Buyer in writing. To the extent there are any inconsistencies between these terms and those written on the face of this order, the latter will control.
2. **PRICE:** Unless otherwise specified, the prices stated on the front of this order include all charges for packing, hauling, storage, transportation to point of delivery, and taxes. Sales and use taxes not subject to exemption shall be stated separately in Seller's invoice. Seller warrants that the prices quoted in this order are no greater than those currently charged any other buyer for similar quantities of goods or services. Any price reduction extended to others by Seller prior to delivery shall also be extended to Buyer.
3. **CHANGES:** Buyer may at any time make changes in the scope or quantity of the goods or services covered by this order in other terms hereof, in which event an equitable adjustment will be made to any price, time of performance, and other provisions of this order if appropriate. Claims for such an adjustment must be made within fifteen (15) days from the date of receipt by Seller of notice of the change. Substitutions or changes in quantities or specifications by Seller shall not be made without Buyer's prior written approval.
4. **WARRANTY:**
  - a) Seller expressly warrants that the goods or services ordered shall be merchantable; shall conform to this order, to specifications, drawings, and other descriptions referenced in this order, and to any accepted samples; shall be free from defects in materials and workmanship; shall be free from defects in design unless the design was supplied by Buyer; and shall be fit and safe for the intended purposes. Seller warrants that it has clear title to the goods and that the goods and services shall be delivered free of liens or encumbrances.
  - b) Seller warrants that the goods; (1) are not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act as amended (Act), or within the meaning of any applicable state or municipal law in which the definitions of "adulteration" and "misbranding" are substantially identical with those contained in the Act; (2) are not goods which may not under the provisions of Section 404, 505, 512, 515, or 516 of the Act be introduced into Interstate Commerce, or which may not under substantially similar provisions of any state or municipal law be introduced into Interstate Commerce; (3) are in full compliance with the Biological Products section of the Public Health Service Act, and (4) are shipped on pallets free of 2,4,6-tribromoanisole (TBA) and 2,4,6-tribromophenol (TBP).
  - c) All these warranties and other warranties as may be prescribed by law shall extend to Buyer, its successors, assigns, and customers and to users of the goods or services and shall run through any expiration date stated on the goods, or, if no expiration date is stated, then for a period of one (1) year after delivery. Claims under these warranties must be made within the applicable period prescribed by statute.
5. **INSPECTION; TESTING:** Goods purchased under this order are subject to Buyer's reasonable inspection, testing, and approval at Buyer's destination. Buyer reserves the right to reject and refuse acceptance of goods which are not in accordance with this order or Seller's representation or warranties, expressed or implied. Buyer will charge Seller for the cost of inspecting rejected goods. Rejected goods may be returned to Seller, or held by Buyer, at Seller's risk and expense. Payment for any goods under this order shall not be deemed acceptance of the goods.
6. **RECALL:** In the event that a recall of the goods is necessitated by a defect, a failure to conform to the specifications, applicable laws, or any other reason within the Seller's control, Seller shall bear all costs and expenses of such recall, including without limitation, costs of notifying customers, customer refunds, costs of returning goods, lost profits, and all other expenses incurred to meet obligations to third parties.
7. **SHIPMENT OR DELIVERY SCHEDULES:** Shipment or delivery of goods shall be in accordance with the schedule specified in this order. If Seller does not, or it appears that Seller will not, meet such schedule, Buyer may, in addition to any other rights or remedies provided by law or this order, require that Seller ship the goods via expedited routing to meet the schedule or to recover the time lost and Seller shall pay the difference in shipping costs.
8. **OVERSHIPMENT:** Overshipment of goods not approved by Buyer in writing will be returned, at Seller's expense, if such overshipment exceeds 10% of the total order price or \$500.00, whichever is smaller.
9. **SUBSTITUTION, MODIFICATION:** No substitution or modification of any goods, component parts, tooling, sources of raw materials, processes, or manufacturing sites may be made without Buyer's prior written consent.
10. **SPECIAL LAWS:** In filling this order, Seller will comply with all applicable federal, state, and municipal laws, including the following:
  - a) Executive Order 11246 as amended, which provides in part that the Seller will take affirmative action with regard to recruiting and retaining minorities in all levels of its workplace, including all requirements set forth in Section 202 of the Executive Order which are incorporated herein by reference;
  - b) laws prohibiting discrimination on the basis of an applicant's or employee's protected status; and,
  - c) the affirmative action and nondiscrimination requirements provided by 41 CFR 60-250.4(m) and 41 CFR 60-741.4(f) protecting the interests of handicapped workers and disabled and Vietnam-era veterans.Seller also represents that:
  - d) to the extent applicable, the goods are compliant with EU RoHS (RoHS-1 and RoHS -2) Directives or country/regional equivalent and agrees to furnish evidence of compliance upon request by Buyer.
  - e) the goods do not contain any substances regulated as a substance of very high concern (SVHC) in Annex XIV of the EU Registration, Evaluation, Authorization of Chemicals (REACH) directive, unless explicit notification is provided to Buyer in advance and subsequently as new substances are added to the REACH and Annex XIV and Candidate List periodically.
  - f) the goods are manufactured and provided to Buyer in a manner that complies with all applicable human rights laws, including local laws and international frameworks such as but not limited to California Transparency in Supply Chain Act and provisions of the Dodd-Frank Act (that the goods are conflict mineral-free, meaning any gold, tin, tantalum, or tungsten contained in the goods are sourced only from conflict – free zones, sources, and smelters). Seller agrees to cooperate and fulfill related due diligence activities with its suppliers or represents that it has already done so.
  - g) the goods are consistent with, and can be used in compliance with, the Occupational Safety and Health Act of 1970 (OSHA), that services to be performed on Buyer's premises will be consistent with OSHA provisions, and that Seller will provide Buyer the latest material safety data sheets (MSDS) for any chemical substance determined to be hazardous;
  - h) for any order over \$10,000, Seller shall have an approved plan for small business concerns and small disadvantaged business concerns as specified under Public Law 95-507 unless Seller itself is one of these concerns.

11. **INDEMNIFICATION:** Seller shall defend, indemnify and hold Buyer, its successors, assigns, employees, customers, and users of the goods or services harmless with respect to all claims, liability, damage, loss, and expenses, including without limitation, reasonable attorney's fees, incurred arising out of, in connection with or caused by:
- actual or alleged patent, copyright, or trademark infringement or violation of any other proprietary right, arising out of the purchase, sale, or use of the goods or services covered by this order;
  - actual or alleged defect in the services or in the design, manufacture, or material of the goods;
  - actual or alleged breach of warranty;
  - failure of Seller to deliver the goods or services on a timely basis; or
  - failure of the goods or services to meet the requirements of the law, including without limitation the following statutes: Federal Food, Drug and Cosmetic Act; Biological Products section of the Public Health Service Act; EU Restrictions of Hazardous Substances Directive (RoHS – 1 and RoHS – 2); EU REACH Directive; the Waste Electrical and Electronic Equipment Directive 2012/19/EU of the European Parliament and of the European Council of 24th July 2012 and The Batteries Directive 2006/66/EC of the European Parliament and of the European Council of 6th September 2006 and its amendments and any other environmental product stewardship directives, Federal Insecticide, Fungicide, and Rodenticide Act; Federal Hazardous Substances Act; Federal Caustic Poison Act, Toxic Substances Control Act; Flammable Fabrics Act; Fair Packaging and Labeling Act; Wool Products Labeling Act; Magnuson-Moss Warranty Federal Trade Commission Improvement Act; and Occupational Safety and Health Act of 1970.
- Seller agrees to assume all liability for itself and/or any other party retained by Seller to perform work described in this order and to waive all rights of subrogation against Buyer. In the event of a claim under this paragraph, and in addition to any and all other rights and remedies available to it, Buyer may at its option terminate this order or defer acceptance of the balance of the goods or services ordered until the claim is resolved. If Buyer is enjoined from use of the goods, Seller shall at Buyer's option, either procure for Buyer the right to continue using the goods, replace the goods with substantially equivalent goods, modify the goods so as to be usable by Buyer, or repurchase the goods at the price set forth in this order. This Paragraph shall not be construed to indemnify Buyer for any loss to the extent it is attributable to Buyer's design, specification, or negligence.
12. **INSURANCE:** Seller at its sole cost and expense, shall obtain and keep in force for three (3) years after the last delivery under this order, commercial general liability insurance covering each occurrence of bodily injury and property damage in the amount of not less than \$5 Million Dollars (or any other amount Buyer may indicate in this order) combined single limit with special endorsements providing coverage for:
- Products and Completed Operations Liability;
  - Broad Form Property Damage Liability;
  - Severability of interest and,
  - Blanket Contractual Liability.
- If services are performed under this order on Buyer's premises, Seller shall also obtain Premises-Operations, Personal Injury, and Independent Contractors Protective Liability endorsements, and shall further obtain Workers' Compensation (in accordance with applicable statutory requirements), and Employer's Liability and Automobile Liability Insurance coverage in an amount of not less than \$5 Million Dollars. If requested, Seller shall furnish Buyer with a certificate evidencing the required insurance coverages stated above. All coverage shall be procured with carriers having an A.M. best rating of A- VII or better. Certificates shall also evidence Buyer, its subsidiaries and affiliates, as additional insured and shall require at least thirty (30) days written notice to Buyer prior to any cancellation, non-renewal or material reduction in coverage.
13. **RISK OF LOSS:** Seller shall bear the risk of loss or damage to the goods covered by this order until they are delivered to and accepted by Buyer.
14. **BUYER-FURNISHED MATERIAL:** Seller shall not use, reproduce, or appropriate for or disclose to anyone other than Buyer, any material, tooling, dies, drawings, designs, or other property or information furnished by Buyer ("Material") without Buyer's prior written approval. Title to all Material shall remain in Buyer at all times, and where practicable the Material shall be clearly marked or tagged to indicate this ownership. Seller shall bear the risk of loss or damage to the Material until it is returned to Buyer. All Material, whether or not spoiled or used, shall be returned to Buyer at termination or completion of this order unless Buyer shall otherwise direct.
15. **REFERENCES TO BUYER:** Except to the extent required by law, Seller shall make no reference, advertisement, or promotion regarding Buyer or Buyer's purchase or use of the goods or services covered by this order without the prior written consent of Buyer.
16. **USE OF SELLER'S INFORMATION:** All information disclosed to Buyer in connection with this order is furnished as part of the consideration for Buyer's placement of this order. This information is not to be treated as confidential or proprietary, and no claim will be asserted against Buyer, its assigns, or customers, for its disclosure or use.
17. **TERMINATION:**
- Buyer may terminate this order, in whole or in part, without liability: if Buyer anticipated Seller's breach of this order and Seller does not provide adequate assurance of its performance within ten (10) days of Buyer's request; if deliveries are not made at the time or in the quantities specified; or in the event of a breach or failure by Seller to meet other terms of this order. This right shall be in addition to any other remedies available to Buyer by law or equity.
  - Buyer may terminate this order, in whole or in part, at any time for its convenience by notice to Seller in writing. Seller's sole compensation for such termination shall be payment by Buyer of the percentage of the total order price corresponding to the proportion of work completed in filling the order prior to receipt of such notice, plus any actual, reasonable expenses incurred by Seller in terminating orders and work in progress. Such termination claim must be submitted to Buyer within sixty (60) days of the date of termination and shall be subject to audit by Buyer.
  - Upon any termination under this paragraph, title to all equipment materials, work-in-progress, finished products, plans, drawings, specifications, information, special tooling, and any other items for which Seller may submit a claim shall immediately vest in Buyer, and Seller shall promptly deliver these items to Buyer and take all necessary action to protect such property prior to such delivery.
18. **SETOFF:** Any counterclaim against Seller or any of its related entities by Buyer or any of its related entities which arise out of this or any other transaction may be set off against any money due Seller under this order.
19. **ASSIGNMENT; SUBCONTRACTING:** Seller shall not assign this order or subcontract any material portion of the performance of this order without Buyer's prior written consent.

