PURCHASE ORDER TERMS & CONDITIONS

1.	<u>Definitions</u> . <u>Confidential Information</u> any information or materials disclosed or made available by on behalf of DaVita to Supplier or Supplier Personnel that	y or

- resolution of the dispute. Payment by DaVita shall not imply acceptance by DaVita of the Product and/or Service or any component thereof.
- 5.4 If Supplier charges DaVita a price higher than that stated in the Purchase Order, Supplier shall promptly issue DaVita a refund or credit in the amount of such overcharge/overpayment following discovery by Supplier, or upon receipt of notice thereof from DaVita, but in no event later than thirty (30) days following any such notice. If Supplier charges DaVita a price lower than that stated in the Purchase Order, DaVita shall have no obligation to pay the amount of such undercharge to Supplier, nor shall Supplier have the right to set-off the undercharge against any amounts owed or due to DaVita unless Supplier submits a corrected invoice for such undercharged amounts within thirty (30) days after the month in which the Products were delivered or the Services were performed, as applicable.
- 5.5 Supplier shall be solely liable for any taxes of Supplier that Supplier is legally obligated to pay (including, without limitation, net income or gross receipts, franchise taxes, and property taxes) which are incurred or arise in connection with the Purchase Order or the Products and/or Services thereunder. DaVita shall pay to Supplier, and Supplier shall pay to the appropriate taxing jurisdiction, any sales, use or value added taxes that are owed by DaVita solely as a result of purchasing the Products and/or Services and which are legally required to be collected from DaVita by Supplier under applicable law. DaVita may provide to Supplier a valid exemption certificate in which case Supplier shall not collect any taxes covered by such certificate. Supplier shall promptly refund to DaVita, in cash, any over-charges of taxes collected by Supplier from DaVita. Supplier shall pay an failure to comply with this Section 5.5. If taxes are required to be withheld on any amounts otherwise to be paid by DaVita to Supplier, DaVita will deduct such taxes from the amount otherwise owed and pay them to the appropriate taxing authority. DaVita shall secure and deliver to Supplier an official receipt for any

6. Delivery.

permissible under applicable law.

6.1 Time is of the essence with respect to delivery of the Products and performance of the Services. Supplier will promptly notify DaVita upon discovering any anticipated delay in meeting the Service or Product delivery timeframes.

taxes withheld. DaVita and Supplier shall use reasonable efforts to minimize such taxes to the extent

6.2 Supplier assumes all responsibility for proper packaging of Products for safe shipment to DaVita in accordance with the packing and shipping regulations of the transportation supplier and, if applicable, the packaging, marking, labeling and shipping paper requirements of the United States Department of s. All Product shipments to DaVita shall be F.O.B. Destination. All shipping, transportation and related charges are the sole responsibility of, and shall be prepaid by, Supplier. Supplier shall bear the full risk of loss due to total or partial destruction of the Product

Order, in which case Supplier shall promptly replace such Product without charge to DaVita or accept a return of the Product for a full refund of the purchase price.

7.3 Acceptance of any Product or Service shall not affect the responsibility and obligation of Supplier to perform the Services or provide the Products according to these Terms.

8. Warranties.

8.1 Products. Supplier represents and warrants that each Product purchased by DaVita hereunder shall: (a) conform to the specifications and labeling for such Product; (b) be free of defects in design, materials, manufacture and workmanship; (c) be safe and merchantable with respect to products of that kind and shall not be adulterated or misbranded within the meaning of applicable law, including, without limitation, the United States Federal Food, Drug and Cosmetic Act of 1938, as amended, and all associated regulations; (d)

instructions for use; (e) not be an article that may not be introduced into interstate commerce under applicable law; (f) not be manufactured, sold or shipped in violation of any applicable law; (g) be provided free and clear of any third party liens, assignments, security interests or encumbrances of any kind. Supplier further represents, warrants and covenants that neither the Product of the Products will at any time infringe, misappropriate, or otherwise violate any i

Supplier shall be solely responsible and liable for P

these

Terms. Supplier shall be solely responsible for the safety of it and its Personnel and compliance with all applicable safety and health laws. Supplier shall immediately remedy any non-compliance. Further, Supplier shall be solely liable for compensating Personnel and paying any taxes, benefits, insurance premiums, or other amounts required by applicable law, and complying with all applicable laws in its employment of all Personnel. Personnel are not employees of DaVita and are not eligible for any Supplier shall not use

Personnel located outside of the United States in connection with any of obligations under these Terms. Supplier acknowledges and agrees it is the sole employer of the Personnel it employs in connection with these Terms and retains sole control over wages, benefits, scheduling, hours, and other terms and conditions of employment of Personnel.

8.5 Warranty of Non-Exclusion. Supplier represents and warrants that neither it nor any of its affiliates or P

any Supplier quotation, order forms, acknowledgement or acceptance of Purchase Order, specification, invoice, delivery document or similar document will form part of these Terms, and Supplier waives any right which it otherwise might have to rely on such terms and conditions.