



PURCHASE ORDER: TERMS AND CONDITIONS

Cedars-Sinai Medical Center or Cedars-Sinai Health System (as applicable, “Buyer”) hereby requests that the vendor named on the Purchase Order (“Seller”) furnish the material, products, equipment and/or services listed on the Purchase Order, subject to the terms, conditions and limitations contained herein, all of which shall constitute the contract between Buyer and Seller. The material, products, equipment, labor and/or services to be provided pursuant to this Order are referred to hereinafter as the “Work.” All Purchase Orders for Cedars-Sinai Medical Center or Cedars-Sinai Health System shall be subject to the following terms and conditions (each Purchase Order and these Terms and Conditions are an “Order”) unless the parties have entered into a Consulting Services Agreement or other agreement that specifically covers the Work described in the Purchase Order:

1. The Order contains the entire understanding between Buyer and Seller with respect to the Work and expressly limits acceptance to the terms stated herein. Any additional or different terms proposed by Seller are rejected unless expressly assented to in writing by an authorized representative of Buyer, and Seller shall be deemed to have waived such additional or different terms by commencing Work with respect to the Order (including shipping any material or equipment hereunder). In case of conflict between any of Buyer’s terms and those of Seller, these terms will govern unless specific exception is agreed to in writing by an authorized representative of Buyer.

2. All shipments must be accompanied by packing slips referencing the specific purchase order number. Two copies of operational manuals and parts catalogs and warranties must be packed and shipped with equipment, as applicable. Digital versions of schematics and service manuals shall also be included in the shipment, if available.

3. Each shipment must be covered by a separate invoice sent directly to Buyer’s Accounts Payable Department. Work on the Order must not be billed with work on other purchase orders.

4. Seller shall pay all transportation expenses and the goods shall be delivered FOB Destination at Buyer’s receiving department unless otherwise specified in the Order. No charges for crating, boxing, drayage, packing unloading, assembling or installing any goods will be payable unless specified in the Order. The risk of loss or damage of goods in transit shall be upon Seller and title shall not transfer until the goods are received and accepted by Buyer.

5. Seller shall make all shipments and deliveries to the address shown on the Order in the “SHIP TO” box, Monday through Friday, 8:00 a.m. to 12:00 p.m. and 12:30 p.m. to 4:30 p.m. (closed on holidays). Deliveries made at any other time will not be accepted unless agreed to in writing by an authorized representative of Buyer.

6. Seller shall acknowledge the Order within twenty-four (24) hours of Seller’s receipt thereof. Such acknowledgement shall (a) confirm the Order price and delivery date; (b) identify any conflict with the terms and conditions of this Order; and (c) be sent via electronic mail, electronic data interchange (EDI) or electronic facsimile. Seller’s acknowledgment of, or shipment of items or rendering of services under the Order, shall constitute Seller’s acceptance of all of the terms hereof.

7. All specifications, drawings and data submitted to Seller with or attached to the Order are hereby incorporated herein and made a part hereof. Buyer shall retain title to any designs, sketches, blueprints, drawings, patterns, models, dies, molds, tools, special appliances and materials furnished or paid for by Buyer in connection with the Order. They shall be retained by Seller, subject to examination by Buyer, at Seller’s risk and shall be replaced by Seller, if lost, destroyed or damaged. Seller hereby assigns to Buyer, for no additional consideration, Seller’s rights, including copyrights, in all deliverables, materials, and other work product prepared by Seller for Buyer pursuant to this Order. Seller shall promptly sign and deliver to Buyer any documents and take any actions that Buyer reasonably requests to establish and perfect the rights assigned to Buyer or its designee under this provision.

8. Buyer reserves the right to cancel this Order, without cause at any time, upon thirty (30) days’ written notice to Seller.

9. Buyer reserves the right at any time to make changes in any one or more of the following: (a) specifications, drawings and data incorporated herein where the items to be furnished are to be specially manufactured for Buyer; (b) methods of shipment or packing; (c) place of delivery; and (d) time of delivery. If any such change causes an increase or decrease in the cost of or the time required for performance of the Order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, with notice to Buyer. Any claim by Seller for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from receipt by Seller of the change. Price increases or extensions of time for delivery shall not be binding on Buyer unless evidenced by a Purchase Order Change Notice issued and signed by Buyer.

10. Delivery shall not be deemed to be complete until goods have been actually received and accepted by Buyer, notwithstanding any agreement to pay freight, express or other transportation charges.

11. Time is of the essence in the Order, and if delivery of items or rendering of services is not completed by the time promised, Buyer reserves the right without liability, in addition to its other rights and remedies, to terminate the Order by notice effective when received by Seller, as to stated items not yet shipped or services not yet rendered, and to purchase substitute items or services elsewhere and charge Seller with any loss incurred. Any provisions herein for delivery of articles or the rendering of services by installments shall not be construed as making the obligations of Seller severable.

12. Seller agrees to indemnify, defend (with counsel of its own choosing and reasonably acceptable to Buyer) and hold harmless Buyer, its affiliates, and each of their respective directors, officers, members, employees, agents, successors and assigns, from and against all claims, liability, loss, damage or expense, including reasonable attorneys' fees, costs of investigation and of defense, arising from or in any way attributable to (a) the purchase or use of any product supplied or services performed hereunder including a defect in the workmanship, material or design of any product or a failure of any product to conform to documentation; (b) the Seller's failure to comply with or violation of any federal, state or local laws; (c) any actual or claimed trademark, patent or copyright infringements; (d) any damage to or loss of any Stored Items (as such term is defined below); and (e) the negligence or willful misconduct of Seller, its employees, representatives or agents. Seller shall pay for all costs, including reasonable attorneys' fees, incurred by Buyer in enforcing this indemnification provision.

13. For services performed on-site (e.g., construction, installation, etc.), Seller shall procure and maintain liability insurance, with contractual liability coverage, with the minimum amounts required by Buyer's Risk Management Department or such higher limits as Buyer reasonably requests. Seller shall also maintain Workers' Compensation coverage for all of its employees in such amount and form as required by the laws of the State of California. If Seller is providing software or will otherwise have access to Buyer's electronic systems, Seller will also maintain Security and Privacy insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence. Seller shall, on or before performance under the Order, provide Buyer with a Certificate of Insurance evidencing the foregoing coverages and limits. If Seller is notified of cancellation of any of the insurance coverages required by this Order, Seller must notify the Cedars-Sinai Purchasing Department Manager within thirty (30) days of receiving the notice of cancellation.

14. To the extent that Seller stores any equipment, materials, supplies, inventory or other items that are owned by Seller ("Stored Items") on Buyer's premises pursuant to an agreement or other arrangement with Buyer, Seller agrees that such Stored Items may only be used for the benefit of Buyer and not for the benefit of any third party. Seller acknowledges that Buyer has agreed to store the Stored Items without charge as a courtesy to Seller, and agrees that Buyer shall have no liability for any damage to or loss of any Stored Items incurred while such Stored Items are on Buyer's premises, regardless of whether such damage or loss is the result of Buyer's negligence. Seller agrees to procure and maintain liability insurance adequate to cover the repair and replacement of all Stored Items while such Stored Items are on Buyer's premises.

15. Seller expressly warrants that all the items and services to be furnished in the Order will be in full conformity with Buyer's orders, descriptions or specifications ("Specifications") and free from defects in material and/or workmanship, and fit for the use intended by Buyer. All Services performed hereunder by Seller shall be performed in accordance with all applicable Buyer policies and in accordance with applicable professional standards. Such warranty shall survive delivery, and shall not be deemed waived either by reason of Buyer's acceptance of said materials or articles or by payment for them. Said warranties shall be in addition to any warranties of additional scope given to Buyer by Seller. Seller shall ensure that any third party warranties applicable to items or services provided under the Order are assigned to Buyer. Any deviations from the Order or Specifications furnished hereunder, or any other exceptions or alterations, must be approved in writing by an authorized representative of Buyer.

16. All items shall be received subject to Buyer's right of inspection and rejection. Defective items or items not in accordance with Buyer's Specifications will be held for Seller's instructions at Seller's risk and if Seller so directs, will be returned at Seller's expense. If inspection discloses that part of the goods received are not in accordance with Buyer's Specifications, Buyer shall have the right to cancel any unshipped portion of the Order. Payment for goods on the Order prior to inspection shall not constitute acceptance thereof and is without prejudice to any claims that Buyer may have against Seller. Buyer shall not be responsible for unauthorized items shipped or services performed against the Order.

17. The laws of the State of California (without giving effect to the conflicts of law principles thereof) shall govern all matters arising out of or relating to the Order. The parties agree that Los Angeles County, California shall be the venue of any legal proceeding arising out of or relating to the Order. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this Section by registered or certified mail, return receipt requested, postage prepaid, to its address for the giving of notices as set forth in the Order.

18. This Order may not be assigned by Seller without Buyer's prior written consent, which consent may be withheld in Buyer's sole and absolute discretion. Notwithstanding the foregoing, Buyer may assign this Order to an affiliate of Buyer.

19. All materials, equipment and installation furnished by Seller shall meet the requirements of the Occupational Safety and Health Act, latest revision ("OSHA"), and those of all applicable federal, state and local codes, ordinances, regulations, rules, etc., latest revision. Any equipment listed herein with an electrical component shall be Underwriters Laboratories, Inc. ("U.L.") Listed, or have the approval of the: (a) Electrical Testing Laboratories, Inc. ("E.T.L."); (b) MET Laboratories, Inc. ("MET"); (c) Pulver Laboratories; (d) L.A. City Electric Testing Laboratory; or (e) any other nationally recognized testing laboratory designated by OSHA for electrical testing. Any equipment requiring testing and approval of one of these laboratories will be tested at Seller's expense, including filing fees and alterations, if required.

20. The parties agree to comply with all applicable federal, state and local laws, regulations, ordinances and orders with respect to the performance of the Work. Seller acknowledges that Buyer maintains a Corporate Integrity Program ("Compliance Program"), which is available at <https://web.csmc.edu/administrative/corporate-integrity-program/documents/corporate-integrity-program-policy.pdf>. Seller agrees to comply, in all material respects, with the applicable portions of the Compliance Program and the Cedars-Sinai Standards of Conduct. The Compliance Program includes written policies and procedures regarding the federal False Claims Act (31 U.S.C. Section 3729 et seq.), the California False Claims Act (California Government Code Section 12650 et seq.) and the regulations and official guidance promulgated thereunder, as amended from time to time (collectively, the "False Claims Laws"). By executing the Order, Seller represents and warrants that neither Seller nor any of its personnel or agents providing services under this Order: (i) has engaged in any activities prohibited by the False Claims Laws; (ii) has, in the past ten (10) years, been debarred, excluded or otherwise made ineligible by any Federal governmental agency from participating in Federally reimbursed health care programs; (iii) has, in the past ten (10) years, been sanctioned or convicted by any Federal governmental agency; (iv) is listed in any Federal governmental agency's list of sanctioned, debarred, excluded or ineligible contractors; or (v) is listed on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Denied Persons List, Unverified List and Entity List. Seller hereby agrees that (A) it shall not engage in any activities prohibited by the False Claims Laws; (B) it shall notify Buyer within two (2) business days of any conviction, citation, judgment or settlement affecting the representations and warranties contained above; and (C) any debarment, exclusion, ineligibility, sanction or listing as described above is grounds for immediate termination of the Order by Buyer. The Compliance Program also prohibits members of Buyer's workforce from accepting any gifts, gratuities, offers of entertainment, free meals, donations, or any other form of compensation from Seller (the "Gift Policy"). Seller agrees to abide by the Gift Policy. Buyer shall have the right to cancel the Order in the event Seller proffers any gift or gratuity to an employee of Buyer contrary to the Gift Policy.

21. Seller hereby certifies that the personnel assigned to Buyer have not been convicted of any violent crime or crime involving moral turpitude, a breach of trust, or dishonesty. Without waiving Seller's obligations hereunder, it is understood and agreed that in accordance with Buyer's policy, Buyer may conduct criminal background checks throughout the term of the Order on all personnel assigned to perform any Work at Buyer's facilities.

22. Seller represents that the prices charged for the items or services covered by the Order comply with

applicable government regulations in effect at the time of quotation, sale or delivery and at all subsequent times.

23. The remedies herein reserved shall be cumulative, and additional to any other or further remedies provided in law or in equity. No waiver of a breach of any provision of this Order shall constitute a waiver of any other breach, or of such provision. No provisions of this Order shall be waived by Buyer, except expressly in writing signed by Buyer.

24. Seller agrees that it will maintain a strict policy prohibiting unlawful discrimination, harassment or other inappropriate conduct of any kind against any employee, applicant or any other individual, including on the basis of race (includes hair texture, protective hairstyles such as braids, locks, twists), religious creed (includes religious dress and grooming practices), color, national origin (includes language use and possession of driver's license issued to persons unable to prove their presence in the United States as authorized under federal law), citizenship, ancestry, physical or mental disability (includes HIV and AIDS), legally protected medical condition (includes cancer-related or genetic characteristics or any genetic information), family care and medical leave status, marital status, sex, sexual orientation, gender, gender identity, gender expression, pregnancy (includes childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), age (40 or older), military status, veteran status, criminal background or any other basis protected by federal, state and/or local law. All personnel decisions are to be administered in accordance with this provision and in compliance with applicable federal, state and local law. To the extent that the Buyer is deemed to be a covered Federal Contractor, during the term of this Order, Seller agrees as follows, as applicable:

(a) Seller will not discriminate against any employee or applicant for employment because of because of race, color, religion, sex, sexual orientation, gender identity, national origin or any other legally exempted category. Seller agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

(b) Seller will, in all solicitations or advertisements for employees placed by or on behalf of Seller, state that all qualified applicants will receive consideration for employment without regard to race, color, age, marital status, religion, sex, gender, gender identity, gender expression, sexual orientation, national origin, ancestry, medical condition, physical or mental disability, genetic information or military and veteran status.

(c) Seller will send to each labor union or representative of workers with which Seller has a collective bargaining agreement or other contract or understanding, a notice, advising the labor union or workers' representative of the Seller's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965 (the "Executive Order"), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) Sellers will comply with all provisions of the Executive Order, and of the rules, regulations, and relevant orders of the United States Secretary of Labor ("Labor Secretary").

(e) Seller will furnish all information and reports required by the Executive Order, and by the rules, regulations, and orders of the Labor Secretary, or pursuant thereto, and will permit access to Seller's books, records, and documents by Buyer and by the Labor Secretary or their authorized agents for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of Seller's noncompliance with the nondiscrimination clause of this Order or with any of such rules, regulations or orders, this Order may be canceled, terminated or suspended in whole or in part and Seller may be declared ineligible for further Government contracts in accordance with procedures authorized in the Executive Order, and such other sanctions may be imposed and remedies invoked as provided in the Executive Order, or by rule, regulation, or order of the Labor Secretary, or as otherwise provided by law.

(g) Seller will include the provisions of Section 24(a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Labor Secretary issued pursuant to Section 204 of the Executive Order, so that such provisions will be binding upon each subcontractor or vendor. Seller will take such action with respect to any subcontract or purchase order as the Labor Secretary may direct as a means of enforcing such provisions,

including sanctions for noncompliance; provided, however, that in the event that Seller becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Seller may request the United States to enter into such litigation to protect the interests of the United States.

25. Seller shall comply with the following requirements, which are set forth in Section 1861(v)(1)(I) of the Social Security Act and 42 C.F.R. Section 420.300 etseq., as applicable:

(a) Until the expiration of four (4) years after the furnishing of all Work pursuant to the Order, Seller shall make available, upon written request by the Secretary of the United States Department of Health and Human Services ("Secretary"), or upon request by the Comptroller General of the United States ("Comptroller General"), or any of their duly authorized representatives, the Order, and books, documents and records of Seller that are necessary to certify the nature and extent of such costs.

(b) If Seller carries out any of the duties of the Order through a subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with an organization related to the subcontractor (as that term is defined in 42 C.F.R. Section 420.301), such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request by the Secretary or upon request by the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

(c) If Seller is required to disclose books, documents or records pursuant to Section 1861(v)(1)(I) and 42 C.F.R. Section 420.300 et seq., Seller shall promptly notify Buyer of the nature and scope of such request and Seller's response thereto, and shall make copies of all such books, documents or records disclosed available to Buyer.

26. Seller agrees not to make any written use of or reference to any of Buyer's names, trade names, fictitious business names, trademarks, service marks, or logos for any purpose without the prior written consent of Buyer, which consent may be withheld or granted in Buyer's sole and absolute discretion. Without limiting the foregoing, Seller may not identify Buyer as a client or customer without Buyer's prior written consent.

27. In the event that Seller will be providing Work under the Order which may give rise to mechanic's lien rights to Seller and/or its subcontractors, subsubcontractors or material suppliers under California law, payment for Work supplied under the Order shall be made pursuant to Buyer's internal accounts payable procedures which require adequate documentation to assure that Buyer's property remains free and clear of mechanic's liens before payments will be made. At the time of submission of each application for payment, the Seller shall deliver to Buyer the following documents in form and content satisfactory to Buyer and in compliance with California law:

(a) Either a conditional waiver and release upon progress payment or a conditional waiver and release upon final payment, as appropriate (conditional only upon receipt of payment), in substantially the form set forth in California Civil Code Section 3262(d), executed by Seller and each subcontractor, subsubcontractor and material supplier entitled to be paid out of the particular payment and covering all Work performed or supplied by the Seller and the particular subcontractor, subsubcontractor or material supplier since the last previous payment. Such conditional waiver and release shall be accompanied by evidence of payment, which may include Seller's endorsement on a single or joint payee check paid by the bank upon which it was drawn or Seller's written acknowledgement of payment.

(b) Either an unconditional waiver and release upon progress payment or an unconditional waiver and release upon final payment, as appropriate, in substantially the form set forth in California Civil Code Section 3262(d), executed by Seller and each subcontractor, subsubcontractor and material supplier entitled to be paid out of the last previous payment covering all Work performed or supplied by the Seller and the particular subcontractor, subsubcontractor or material supplier prior to the last previous payment.

Except as expressly set forth herein or otherwise in writing as executed by both Seller's and Buyer's authorized representatives, Buyer shall make no payments pursuant to the Order. All preliminary twenty (20)-day notices pertaining to liens arising under the Order shall be submitted to the attention of Buyer's Vice President for Facilities Planning, Design and Construction.

28. Seller acknowledges and agrees that the Order shall be treated confidentially in all respects and Seller shall refrain from any publicity or advertising concerning the Order.

29. Seller agrees to comply with all applicable Joint Commission accreditation standards with respect to the Work rendered hereunder.

30. The following provisions shall apply:

(a) Buyer may terminate the Order and will receive a refund of any fees paid if (i) the Seller provides goods and/or services that, in the sole and absolute discretion of Buyer, are not of the quality expected by Buyer or are determined to pose a risk to patient health or safety; or (ii) has otherwise breached any provision of the Order.

(b) When Buyer terminates the Order for one of the reasons stated in Section 30(a), Seller shall not be entitled to receive further payment until the Work is finished.

(c) If the unpaid balance of amounts due under the Order exceeds the costs of finishing the Work, such excess shall be paid to Seller. If such costs exceed the unpaid balance, Seller shall pay the difference to Buyer. This obligation for payment shall survive termination of the Order.

31. Seller agrees to respect and maintain (and shall cause all its employees and agents to respect and maintain) the confidentiality of all personal health and other personal information concerning all patients, employees, and other individuals. The parties intend to comply with applicable provisions of the Health Insurance Portability and Accountability Act of 1996, as amended from time to time, including the amendments (“HIPAA”) and related laws of the Health Information Technology for Economic and Clinical Health Act, and regulations promulgated thereunder, California laws relating to the privacy of patient and individual information and other applicable laws. To the extent that Seller shall have access to Protected Health Information (as defined under HIPAA) concerning patients of Buyer or an affiliate of Buyer, Seller and Buyer shall enter into Buyer’s form Business Associate Agreement, the terms of which are hereby incorporated by reference herein.

32. All of Seller’s personnel who will have any presence at Buyer’s facilities shall have a current (within three (3) months) certificate of health clearance, including a skin test showing no active tuberculosis and such other health issues identified by Buyer consistent with its policies. In accordance with Buyer’s policy, any of Seller’s personnel who will have direct contact with Buyer’s (or an affiliate of Buyer’s) patients, shall also obtain verification of a titre test proving immunity to rubella, measles, mumps, varicella-zoster virus infection (chicken pox), and proof of immunization against hepatitis B and such other health issues subsequently identified by Buyer. In addition to the foregoing, any personnel of Seller providing services Buyer’s facilities during annual influenza season (typically Nov 1 – April 30, subject to change as determined by the Director of Hospital Epidemiology), must demonstrate that they have received influenza vaccination for the current season, except for those with a valid medical or religious exemption, in which case, such individuals must wear a mask in all patient care areas during the flu season. Consultant shall be solely responsible for all costs and expenses related to compliance with this Section and shall maintain records demonstrating compliance with this Section.

33. Any of Seller’s personnel assigned to provide services at a facility of Buyer must provide proof of their COVID-19 vaccination prior to coming to the facility. Seller shall maintain records of COVID-19 vaccination, exemption status and applicable testing results for all Seller personnel providing Services hereunder. Such records shall contain, at a minimum, the person’s full name, date of birth, vaccine manufacturer, and date(s) of vaccine administration. Seller shall provide these records, upon request, by Buyer or by any local, state or federal government entity with authority to make such request, including not limited to, CDPH, the local or state Public Health Officer, Cal/OSHA or any of their designees (each, an “Official”), immediately upon request but by no later than the next business day after receiving the request from an Official or from Buyer.

34. To the extent that Seller or any of Seller’s personnel assigned to Buyer require certification, licensure or training to perform the Work, Seller shall ensure that all such personnel have current certifications and training in the relevant fields and current California licenses to practice their professions. Upon Buyer’s request, Seller shall provide copies of all applicable active certifications, professional licenses or any other documents related to the ability of Seller’s personnel’s ability to perform the Services.

35. Seller shall comply with all applicable United States immigration laws and regulations and shall, at Buyer’s request, provide the following information to Buyer with respect to each employee assigned to Buyer: (i) copies of documentation of such employee’s United States citizenship; or (ii) current and valid documentation that authorizes such employee to work in the United States.

36. Seller shall, at Seller's expense, obtain and maintain all permits, licenses, registrations and governmental approvals needed to legally operate its business and to perform the Work hereunder.

37. During the term of the Order and continuing for a period of twelve (12) months following the termination or expiration of the Order, Seller shall not, without Buyer's prior written consent, recruit, solicit or hire any employee of Buyer who has worked with Seller in connection with the provision of such goods or services; provided, however, that the foregoing shall not prohibit solicitations of employment through advertising placed in the ordinary course. Seller agrees Buyer's employees who interact with Seller as part of the business relationship are in possession of Buyer's trade secret, confidential and/or proprietary information, including Buyer's methods of soliciting business, purchase techniques, financial data, plans, strategies, buying habits and other private information customarily used by Buyer for Buyer's economic benefit. Buyer and Seller further acknowledge and agree that this information constitutes Buyer's trade secrets. Therefore, Buyer and Seller agree that this Section is necessary to protect this proprietary and trade secret information.

38. Seller's pricing for any products sold pursuant to this Order is firm for the duration of the Order. Seller agrees that all affiliates of Buyer are entitled to receive the same pricing as Buyer for the same products or services during the term of the Order.

39. In the event Seller discontinues the manufacture of any of the Work provided under this Order, Seller shall notify Buyer and provide a revised price for the order within thirty (30) days of such discontinuance.

40. Seller warrants to Buyer that all components of the Work, as applicable,:

(a) are new and not used, remanufactured, or reconditioned (unless explicitly agreed to by the Parties in writing in advance);

(b) conform to all applicable federal, state, and local laws, regulations, and ordinances, including but not limited to Federal Drug Administration rules, regulations, guidelines and required approvals;

(c) do not contain any defects in design, material or workmanship and conform with statements in Seller's advertising literature, user documentation, and Specifications;

(d) that Seller has good title to the products, materials and equipment supplied and that all products, materials and equipment are free and clear from all liens and encumbrances; and

(e) that are services being provided (including, without limitation, inventory, installation, maintenance, and reprocessing services) will be provided in a professional and workmanlike manner, in accordance with applicable professional standards.

41. In performing the obligations under this Order, Seller and Buyer may have access to or provide each other with Confidential Information. During the term of this Order and at all times thereafter, Seller and Buyer agree that they will not disclose to any third party any Confidential Information of the other party without the other party's prior written consent. For purposes of this Section, "Confidential Information" shall mean terms contained in this Order, any and all proprietary information, customer lists, financial or business information, customer requirements, prices, trade secrets, know-how, processes, nonpublic documentation and all other information without limitation which is not generally known to, or readily ascertainable by proper means, by the public or which might reasonably be considered confidential, secret, sensitive, proprietary or private to either Seller and Buyer. Notwithstanding the foregoing, either party may disclose Confidential Information if required to be disclosed by law or legal process, provided the disclosing party gives the other party prior notice of any such request for disclosure, the other party is provided an opportunity to object to the request and to secure disclosure of only the minimum amount of Confidential Information necessary to properly respond to the request.

42. The parties agree that Seller and Seller's personnel at all times are independent contractors and shall not be deemed employees of Buyer, and that this Order shall not be construed as creating a partnership or joint venture between Seller and Buyer. Seller shall bear full responsibility for performing all duties and making all payments to and for the benefit of its personnel, including, without limitation, withholding taxes and the provision of Workers' Compensation insurance. Without limiting the foregoing, Seller shall be solely obligated to pay all wages, taxes, insurance and related employment costs and benefits for Seller's personnel who render Services pursuant to this Order.

43. If there is a change in any federal or state law, regulation or rule which affects this Order or the activities of either party under this Order, or any change in the judicial or administrative interpretation of any such law, regulation, or rule and either party reasonably believes in good faith that the change will have a substantial adverse effect on that party's business operations or its rights or obligations under this Order, then the party may, upon written notice, require the other party to enter into good faith negotiations to renegotiate the terms of this Order. If the parties are unable to reach an agreement concerning the modification of this Order within the earlier of forty-five (45) days after the date of the notice seeking renegotiation or the effective date of the change, or if the change is effective immediately, then either party may immediately terminate this Order by written notice to the other party.

44. Seller acknowledges and agrees that nothing in this Order shall obligate Buyer to use Seller's services or purchase Seller's products on an exclusive basis.

45. The individual(s) executing this Order on behalf of, or as a representative for a corporation or other person, firm, partnership or entity, represents and warrants that he or she is duly authorized to execute and deliver this Order on behalf of the corporation, person, firm, partnership or other entity and that this Order is binding upon the entity in accordance with its terms.

46. This Order may not be amended in any way and no provision may be waived, except by the mutual written agreement of Seller and Buyer. The failure or delay of either party to enforce any of its rights hereunder shall not be deemed to be a waiver of its rights to claim a breach for that or any future action of the other party.

47. Neither party shall be liable for any delay in performance or any failure in performance hereunder caused in whole or in part by reason of force majeure, which shall be deemed to include the occurrence of any event beyond the control of the parties, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot and other acts of civil disobedience, action of a public enemy, laws, regulations or acts of any national, state or local government (or any agency, subdivision or instrumentality thereof), pandemic, accident, fire, explosion, flood, storm or other act of God.

48. In the event Seller has an active agreement with a Group Purchasing Organization in which Buyer is an active member and there is a conflict between these Terms and Conditions and such GPO Agreement, the Terms and Conditions of this Order Terms will prevail. Seller agrees to report any applicable spend under this Order to Buyer's designated GPO, as Buyer may instruct.