



TERMS AND CONDITIONS

I. GENERAL TERMS AND CONDITIONS

1. Supplier will provide all insurance necessary to protect itself, its employees, directors and officers from liability in forms and limits acceptable to Buyer. This coverage will include, but not be limited to, worker's compensation in statutory limits and general liability with a minimum limit of One Million Dollars (\$1,000,000) per occurrence and in the annual aggregate. A certificate of insurance will be provided to Buyer upon request in acceptable limits and by a carrier with an AM Best rating of A-VII or higher. This clause will survive the termination or expiration of this Agreement.
2. This Agreement will be interpreted and construed by the laws of the State of Georgia. Supplier will abide by all applicable state, local and federal laws, regulations, and rules and by any applicable Joint Commission (the "Joint Commission") standards (including the requirement for proof of competency for any Supplier representative providing training on equipment used in patient care and its requirement for proof of immunization for any Supplier representative that will assist or have access to patient care area), and abide by all applicable licensing requirements. Notwithstanding the foregoing, Supplier will not act in opposition to Buyer's policies and procedures while on Buyer's premises.
3. Term of this Agreement is as noted on the front copy of the purchase order, if applicable. This Agreement may be modified by mutual consent, provided any and all modifications are in writing and signed by authorized representatives of both parties.
4. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, the legality, validity and enforceability of the remaining provisions shall not be affected thereby.
5. Under this Agreement the relationship of the parties will be that of independent contractor. Neither party shall exercise control over the method, manner or means, by which the other performs its duties.
6. This Agreement can be terminated by Buyer without cause by giving thirty (30) days prior written notice to Supplier.
7. Supplier agrees to indemnify and hold harmless Buyer, as well as its officers, directors, employees, agents, their successors or assignees from any claim, damage, loss, expense, liability, action or cause of action (including reasonable attorney's fees) which Buyer, as well as its officers, directors, employees, agents, their successors or assignees may or might sustain, pay or suffer by reason of any act, omission, or negligence of Supplier, agents or employees arising under this Agreement. This clause will survive the termination of this Agreement.
8. This Agreement cannot be assigned without written approval of both parties.
9. Notification on product recalls and/or alerts will only be deemed accepted if sent to the attention of Recall Officer, Risk Management, 1711 Tullie Circle, Atlanta, Georgia 30329 sent certified mail, return receipt requested. All other notifications will be sent to Chief Supply Chain Officer, 1644 Tullie Circle, Atlanta, Georgia 30329 with a copy to the Chief Financial Officer at 1600 Tullie Circle, Atlanta, Georgia 30329. Product recalls or alerts for factor replacement products, blood products or derivative products, or human bone or tissue should also be sent to Blood & Tissue Services, Operations Supervisor (Egleston, 1425 Clifton Road, Atlanta, Georgia 30322 Phone 404-785- 6421) (Scottish Rite 1001 Johnson Ferry Road, Atlanta, Georgia 30342 404-785-2045).
10. If Supplier has terms and conditions, and these terms are in conflict with Supplier's terms and conditions, Buyer's terms and conditions will prevail.
11. These terms and conditions are made a part of this purchase order between Supplier and Buyer by reference. The Supplier agrees to abide by these terms and conditions and agrees that this purchase order is a binding agreement.
12. Supplier agrees to immediately notify Buyer of (i) any unexpected access to patient health information or (ii) if it anticipates it will have access to patient health information and agrees to enter into a Business Associate Agreement.
13. Supplier agrees there is no requirement to refer patients to Buyer.
14. Buyer is prohibited by federal regulation from employing or contracting with individuals or entities that have been excluded, debarred or suspended from participation in state or federally funded health care programs. Supplier warrants that it is not on any of the four (4) government watch lists, which includes the HHS OIG List of Excluded Individuals and Entities (LEIE), the United States General Service Administration list of parties excluded from Federal Procurement & Non-procurement Programs (EPLS), the Office of Foreign Assets Control Specially Designated Nationals (SDN) list, and the U.S. Food and Drug Administration (FDA) debarment list, and is not on any individual state exclusion list. Supplier also warrants that on a monthly basis it queries its officers and directors, and its employees, agents and subcontractors providing goods or services under this Agreement, against the above lists to ensure that none appear on such list. Supplier will not at any time permit a person or entity that is excluded from such participation to perform any services under this Agreement and will notify Buyer immediately if it becomes aware that it, its officers or directors, or its employees, agents or subcontractors providing goods or services under this Agreement, have been added to one of the above lists.
15. This Agreement shall immediately terminate should Supplier, its employees, officers, directors, agents or subcontractors become debarred, suspended or excluded from participation in any federally funded healthcare program.
16. The Supplier agrees that if it is ultimately determined that this Agreement is a subcontract for services, the value of which is ten thousand dollars (\$10,000) or more during a twelve (12) month period within the meaning of Section 952 of the Omnibus Budget Reconciliation Act of 1980 (Public Law 96-499), and 42 C.F.R. Part 20, then the Supplier, until expiration of four (4) years after the furnishing of services pursuant to this Agreement, the Supplier shall make available, upon written request, to the Secretary of Health and Human Services or upon request to the Comptroller General or any of their duly authorized representatives, this Agreement and the books, documents and records that are necessary to evaluate the nature and extent of the costs of rendering the Services to Buyer under this Agreement. This Agreement shall not be construed as authorizing the release of any books, documents or records of the Supplier which do not relate to the furnishings of Services to Buyer under this Agreement. If the Supplier provides any services through a sub-contract with a related organization, the sub-contract shall contain an Access to Records clause similar to this one, if required by the laws referenced above.
17. The Supplier agrees to abide by all Buyers' confidentiality policies related to the use and sharing of Buyer's information. In addition, Supplier will execute all appropriate confidentiality agreements as requested by Buyer.
18. Supplier shall comply (when applicable) with the requirements of the Deficit Reduction Act of 2005 ("DRA") which requires implementation of a compliance policy designed to prevent and detect fraud and abuse. Supplier agrees to comply with Buyer's Fraud and Abuse policy implemented in compliance with the DRA. Supplier agrees to remain in compliance of Buyer's fraud and abuse policy.

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II. OPERATIONAL TERMS AND CONDITIONS

1. If this order is for medical equipment, the Supplier must comply with the following medical equipment conditions and specifications. These conditions are intended to insure that the Buyer and Supplier both understand the Supplier's responsibility to provide necessary information and permit the user to deliver quality health care in a safe, efficient and cost effective manner. These conditions of sale are part of the request for quotation, purchase order or release.
 - A. The equipment shall pass an electrical leakage test. American National Standard for safe current limit for clinical equipment, ANSI AAMI SCL 12-788.
 - B. The equipment shall be supplied with a standard N.E.M.A. or UL approved 3-wire power line cord with a Hospital grade plug.
 - C. The equipment shall pass all specification tests as advertised by the manufacturer of the equipment. All tests will be performed in the biomedical electronics laboratory of the Buyer by the Buyer's bio-medical electronics laboratory staff and must meet all OSHA, NFPA 76B, National and State code requirements.
 - D. Buyer shall have a sixty (60) day trial period in which to determine whether the equipment is entirely satisfactory, the trial period to run from the date of receipt of equipment by Buyer. The equipment must prove entirely satisfactory to the Buyer or the Buyer shall repack the equipment in the same condition as received, ordinary wear and tear accepted, and return to Supplier at Supplier's expense.
 - E. Supplier must furnish copies of operational manuals, copies of schematic drawings, maintenance service manuals, and parts lists. This material to precede or to be delivered with equipment. Supplier shall provide the necessary servicing and training on the equipment.
 - F. If applicable, the vendor complies with FDA 510(k) and Good Manufacturing Practice (GMP)/Quality System requirements.
2. Supplier will not ship prior to any specified date, unless otherwise notified. If prices are higher than specified, Supplier will not ship but shall advise Buyer first.
3. It is agreed that goods ordered shall comply with all laws relative thereto and applicable Joint Commission standards and that Supplier will defend and save harmless the Buyer from loss cost of damage by reason of actual or alleged infringements of letters patents concerning same.
4. Goods rejected on account of inferior quality of workmanship will be returned to Supplier with charge for transportation both ways being the responsibility of the Supplier. Goods will not to be replaced except upon receipt of replacement purchase order issued by Buyer.
5. Goods are not accepted until inspection has been made by the Buyer notwithstanding prior payment to obtain cash discount or to confirm price. Goods may be rejected and returned if inspection shows they are not strictly in accordance with specifications accompanying this order. If impractical to make inspection at time of receipt of goods, this clause will apply whenever goods are unpacked. If inspection discloses defective goods, it is agreed that Buyer may cancel any un-shipped portion of order.
6. Buyer assumes NO RESPONSIBILITY for damage in shipment concealed or otherwise on goods covered by this order. The risk of loss shall remain with the Supplier until the goods are accepted by the Buyer.
7. Orders not shipped on dates specified may be cancelled by Buyer. In case order calls for partial shipment, balance may be cancelled or suspended upon notice, suspended shipment may be later taken out if on or before last shipment date specified.
8. Buyer will not accept over-shipments except when Buyer has been notified as to the quantity before shipping and Buyer's permission has been received. If these conditions are not acceptable, please advise Buyer upon receipt of this order, and before shipment is made.
9. An itemized invoice is required for payment; invoice must agree with price and terms of this order. Discount is to be computed for receipt of each shipment or the correct invoice whichever is later, unless otherwise stated in order.
10. No charges allowed for boxing, crating or packaging. Freight charges will be deducted unless otherwise agreed to in writing.
11. Supplier agrees not to charge sales or property tax.
12. It is the responsibility of Supplier to immediately remove any and all litter or trash associated with the installation of product (s).
13. It is understood that Seller shall include the correct PO number on all invoices. Failure to put the correct PO number on the invoice may result in delayed payment. Such delayed payment will not cause any monetary or credit worthy harm to Buyer. In addition, failure of Supplier to provide an invoice to the correct address and with the correct PO within one (1) year of receipt of an item or service will result in the requirement for payment to be null and void.
14. The Supplier agrees that its product or products will be made and perform in a manner that meets the quality standards of Buyer. If it is determined that a product must be changed due to quality concerns of Buyer, the Supplier will not hold Buyer in breach of any agreement except that Buyer agrees to pay for any product utilized prior to the determination of quality issues. Supplier warrants that Supplier's product or products do not infringe on any other party's rights.
15. The Supplier will be paid within thirty (30) days of receipt of an undisputed invoice.