

## ANGIODYNAMICS, INC. PURCHASE ORDER TERMS AND CONDITIONS

1. Acceptance. Unless there is an effective, duly authorized agreement in place between the parties, these Purchase Order Terms and Conditions (this "Order") are AngioDynamics, Inc.'s, or its subsidiaries or affiliates ("Buyer") offer to you ("Seller"). The shipment of any goods or the furnishing of any services, including, without limitation, by substantial commencement of performance (or delivery of any deliverable arising therefrom) or acceptance by Seller of this Order, either by signing and returning an acknowledgment copy or other form of acknowledgement, shall constitute acceptance by Seller of this Order and each and all of the terms and conditions stated herein, and this Order shall become a binding agreement.
2. Complete Agreement. This Order is a complete and exclusive statement of the terms of the agreement between Seller and Buyer. This order is the sole offer with respect to Buyer's purchase of the products and/or services from Seller and shall form the entire agreement between the parties for such products and/or services. Any counteroffer by Seller, via an invoice, sales acknowledgement or other form, offering terms inconsistent, additional to and/or conflicting with the terms in this offer, is expressly rejected. The terms herein shall supersede any previous agreement, arrangement and/or understanding with respect to the subject matter of this Order, whether in written and/or oral form. The terms herein may not be modified or superseded unless by a writing specifically identified as an amendment to this Order signed by both parties.
3. Modification. No modification of this Order (including any additional or different terms in Seller's acceptance) shall be binding on Buyer unless agreed to in writing by Buyer. Buyer may, at any time by written order, make changes within the general scope of this Order. If any change causes an increase or decrease in the cost or time required in the performance of this Order, an equitable adjustment shall be made in the price or delivery schedule, or both. Any Seller claim for adjustment under this paragraph will be deemed waived unless asserted within thirty (30) days from Seller's receipt of the change or suspension notification, and may only include reasonable, direct costs that will necessarily be incurred as a direct result of the change. Buyer shall have the right to examine any of the Seller's pertinent books and records for the purpose of verifying Seller's claim. Nothing in this paragraph shall excuse Seller from proceeding with this Order as changed, including failure of the parties to agree upon any adjustment to be made.
4. Delivery. Time is of the essence under this Order. The delivery of goods, services, and deliverables shall strictly comply with the delivery date or delivery schedule, if any, specified by Buyer. If Seller fails to deliver the goods or complete the services as scheduled, Buyer may assess such amounts as may be set forth on the face of an Order as liquidated damages for the agreed delay period. The parties agree that such amounts, if assessed, are an exclusive remedy for the agreed delay period; are a reasonable pre-estimate of the damages Buyer will suffer as a result of delay based on circumstances existing at the time the Order was issued; and are to be assessed as liquidated damages and not as a penalty. In the absence of agreed to liquidated damages, Buyer shall be entitled to recover damages that it incurs as a result of Seller's failure to perform as scheduled. Unless expressly stated to the contrary, Buyer's remedies are cumulative and Buyer shall be entitled to pursue any and all remedies available at law or equity. In addition, if at any time it appears Seller will not meet such delivery date or schedule, Seller shall promptly notify Buyer in writing of reasons for, and the estimated duration of, the delay. If requested by Buyer, Seller will ship delayed goods by means to avoid or minimize delay to the maximum extent possible, and the added cost shall be borne by Seller.
5. Shipping/Packing/Marking. Unless otherwise specified by Buyer, delivery of goods is to be EXW Seller's plant (Incoterms 2010) with title passing at Seller's dock. Seller shall provide a packing list to Buyer for all shipments referencing the appropriate order number. Bills of lading, if any, shall also reference the appropriate order number. All goods shall be prepared for shipment and packaged to prevent damage or deterioration, secure lowest transportation rates and comply with Buyer's packaging specifications and all applicable laws and regulations including the Department of Transportation Hazardous Materials Regulations. Seller agrees that in any case where freight regulations covering goods transported by common carrier establish a maximum limit on the carrier's liability for loss or damage suffered in transit, Seller will be liable to Buyer for any loss or damage in excess of such maximum limit up to the full price of the goods. Seller agrees to provide a "Certificate of Compliance" with each purchase order delivery, and include, at a minimum, material identification and lot number.
6. Inspection/Rejection. All services, goods, and deliverables are subject to final inspection and acceptance by Buyer at destination notwithstanding any payment or prior inspection at source. Final inspection will be made within a reasonable time after receipt of services, goods, or deliverables. Seller agrees to permit Buyer's inspectors to have access to Seller's plant at all reasonable times for the purposes of inspecting the items set forth in this Order of work in process for production of such items. Buyer reserves the right to refuse any services, goods, or deliverables and to cancel all or any part of this Order for services, goods, or deliverables not conforming to applicable specifications, drawings, samples, or descriptions. Acceptance of any part of this Order shall not bind Buyer to accept future shipments of non-conforming services, goods or deliverables, nor deprive it of the right to return non-conforming goods or deliverables already accepted. If any services, goods, or deliverables are rejected, the Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may: (a) require Seller to immediately re-perform any defective portion of the services and/or require Seller to immediately repair or replace non-conforming goods with goods that conform to all requirements of this Order; (b) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of this Order, in which event, all related costs and expenses (including, but not limited to, material, labor and handling costs and any required re-performance of value added machining or other service) and other reasonable charges shall be for Seller's account; (c) withhold total or partial payment; (d) reject and return all or any portion of such goods and/or services; and/or (e) rescind this Order without liability. For any repairs or replacements, Seller, at its sole cost and expense, shall perform any tests requested by Buyer to verify conformance to this Order.
7. Cancellation/Termination. In addition to Buyer's other remedies provided by law, including, without limitation, recovering cover, incidental, and consequential damages, Buyer may: (a) cancel this Order in whole or in part, without further obligation in the event of Seller's failure to deliver services, goods, or deliverables to Buyer as scheduled or if services, goods, or deliverables are defective or if Seller fails to comply with any of the terms or conditions of this Order.

Acceptance of part of the Order shall not oblige Buyer to accept later shipments or affect its right to return goods already accepted; or (b) terminate this Order at any time in whole or in part for its convenience upon written notice to Seller if causes beyond the reasonable control of Buyer make receipt or use of the ordered goods impracticable in the event of termination. In no event shall Buyer be liable for any loss of profits in the order or portion thereof so terminated.

8. Price and Invoice. Unless otherwise specified by Buyer, a separate invoice shall be issued for each shipment and only after the goods are shipped or services and deliverables delivered. No payment will be made prior to receipt of goods, services, or deliverables and current invoice (if such invoice is required by Buyer). Payment of specified prices shall constitute full consideration for the goods or services hereunder. Such prices shall be subject to adjustment only as specifically provided for in this Order. Unless otherwise specified, all prices include all applicable taxes, assessments and other amounts payable to governmental authorities. Invoices must also contain the following information: Order number, item number and description of the goods or services, quantities, and unit price for each type of goods or services and extended totals. Invoices not containing such information may result in payment delays by Buyer; such delays shall not subject Buyer to any penalty, interest or additional charges. Buyer's failure to object to provisions in Seller's invoice or other communications which conflict with the terms hereof shall not be deemed a waiver of the terms and conditions hereof, which shall prevail. Invoices will be paid within sixty (60) days after acceptance of services, goods, or deliverables by Buyer. Buyer reserves the right to take all discounts offered for payment within a shorter period. Buyer may withhold payment of any amounts to be paid to Seller which are disputed in good faith by Buyer.
9. Seller Responsibilities. Seller shall use commercially reasonable efforts (a) to provide to Buyer the goods and services ordered in accordance with the terms stipulated in this Order and the applicable, if any, supply, service or other agreement pursuant to which this Order was issued; (b) to keep Buyer advised of the status of this Order; (c) to permit duly authorized representatives of Buyer to review and observe, from time to time upon reasonable notice, the delivery of the goods and services; (d) to provide Buyer with such reports as are appropriate to the nature of the goods and services ordered and as may be reasonably requested by Buyer from time to time; (e) to keep, for orders requiring payment based on hours worked, cost of materials used and/or expenses incurred, records of hours worked, cost of materials used, and reasonable out-of-pocket expenses incurred in filling this Order, which records Buyer's duly authorized representatives may examine from time to time upon reasonable notice; and (f) to qualify and/or validate any and all quality systems, manufacturing and testing programs and instruments and process and production control systems prior to shipment of any goods or the furnishing of any services to Buyer. Seller shall notify Buyer, in writing, of any proposed changes in raw materials, components, manufacturing methods, design, quality assurance, testing programs, processes, or any other factors which have the potential to affect the performance, safety, or effectiveness of the products or service provided at least ninety (90) days prior to such actions and shall not make any such change without the prior written consent of Buyer.
10. Warranties. In accepting this Order, Seller unconditionally represents and warrants, notwithstanding any other representation or agreement to the contrary, that the goods and deliverables supplied pursuant to this Order are of merchantable quality, not used, rebuilt or made of refurbished material, unless approved in writing by Buyer, free from all defects in design, workmanship and material, conform to the specifications, drawings, samples, or other descriptions specified by Buyer, or if none are so specified, to Seller's standard published specifications for such material and are suitable for Buyer's intended uses and purposes in the ordinary course of its business. All warranties herein stated shall run to Buyer, its customers, and the users of the goods or deliverables or products into which such goods or deliverables may be incorporated. If this Order is for services, then by in accepting this Order, Seller also unconditionally represents and

warrants, notwithstanding any other representation or agreement to the contrary, that: (a) its performance of the services and the deliverables arising therefrom, or any portion or function thereof, or the use of the deliverables or any portion thereof, will not violate or infringe any third-party patent, trademark, copyright, trade secret or similar rights; (b) the services will be provided by qualified personnel reasonably skilled and trained in the performance of the services and in a workmanlike and professional manner in accordance with general industry standards; (c) it is currently under no obligation to any third party, nor will it enter into any obligation to a third party, that could interfere with its rendering to Buyer the services or deliverables; (d) any documentation provided to Buyer shall meet reasonable standards of clarity and detail; and (e) all deliverables will be warranted to perform according to their specifications. The prices for the services and/or goods sold to the Buyer under this order are not less favorable than those currently extended to any other Seller customer for the same or like services or goods in equal or less quantities. In the event Seller reduces its price for such service or goods during the term of this Order, Seller agrees to reduce the prices hereof correspondingly. If any of the goods and/or services are found to be defective or otherwise not in conformity with the warranties in this paragraph, then, Buyer, in addition to any other rights, remedies, and choices it may have by law, contract, or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may: (i) require Seller to inspect, remove, reinstall, ship and repair or replace/reperform nonconforming goods and/or services with goods and/or services that conform to all requirements of this Order; (ii) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of this Order, in which event all related costs and expenses (including, but not limited to, material, labor and handling costs or other service) and other reasonable charges shall be for Seller's account; and/or (iii) reject and return all or any portion of such goods and/or services. Any repaired or replaced good, or part thereof, or re-performed services shall carry warranties on the same terms as set forth above.

11. Indemnification. Seller agrees to indemnify and hold harmless Buyer, its affiliates (and its and their respective directors, employees and agents) from any losses, liabilities, damages and expenses (including without limitation reasonable attorney's fees) arising, directly or indirectly, from: (a) Seller's breach of any provision hereof, including without limitation the confidentiality obligations and the warranties made herein; (b) any negligent or wrongful act or omission of Seller, its employees, consultants or subcontractors; (c) Seller's failure to comply with applicable laws and regulations in filling this Order; (d) any claim charging that Buyer's purchase of goods, services or deliverables under this Order constitutes misappropriation of trade secrets, breach of a confidential relationship, or trademark, trade secret or copyright infringement; and/or (e) any claim charging that any goods or deliverables acquired under this Order, or the use of such goods or deliverables, infringe a third-party's patent anywhere in the world. If the goods or deliverables, or the use of such goods or deliverables, are alleged to constitute an infringement and/or their sale or use is enjoined, Seller shall promptly, at its expense, either procure for Buyer and its affiliates the right to continue to use such goods or deliverables, or replace same with an equivalent non-infringing product, or modify same so it becomes an equivalent non-infringing product. This paragraph will not be construed to limit or exclude any other claims or remedies that Buyer or its affiliates (and its and their respective directors, employees and agents) may assert.
12. Limitation of Liability. Buyer's total liability arising out of this Order shall be limited to the fees paid by Buyer to Seller under this Order. IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR ANY INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, IRRESPECTIVE OF THE WAY IN WHICH SUCH DAMAGES MAY ARISE, INCLUDING, WITHOUT LIMITATION, BASED ON CLAIMS OF SELLER OR ANY OTHER PARTY ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT,

FAILURE OF ANY REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. **Intellectual Property.** Buyer will be the exclusive owner of all deliverables created by Seller in connection with or during the performance of services provided pursuant to this Order, any works based on or derived from such deliverables ("Derivatives"), and any ideas, concepts, inventions or techniques that Seller may conceive or first reduce to practice in connection with developing the deliverables ("Deliverable Concepts") (the deliverables, Derivatives, and Deliverable Concepts are collectively referred to as, "Buyer Materials") and all intellectual property rights therein, including patents, copyrights, trade secrets, trademarks, moral rights, and similar rights of any type under the laws of any governmental authority (collectively, "Intellectual Property Rights"). All copyrightable Buyer Materials shall be prepared by Seller as a "work made for hire" for Buyer, and Buyer shall be considered the author of the Buyer Materials for purposes of copyright. To the extent that Buyer does not acquire ownership of such copyrights as a work made for hire, and with respect to all other rights, Seller hereby assigns and agrees to assign upon creation to Buyer all right, title and interest in and to the Buyer Materials and all Intellectual Property Rights therein. To the extent such assignment of rights and ownership is invalid or any of the foregoing rights, including moral rights, may be inalienable, Seller agrees to waive and agrees not to exercise such rights, and if such waiver and agreement are deemed invalid, to grant to Buyer and its designees the exclusive, transferable, perpetual, irrevocable, worldwide and royalty free right to make, use, market, modify, distribute, transmit, copy, sell, practice, and offer for sale and import the Buyer Materials and any process, technology, software, article, equipment, system, unit, product or component part covered by the Deliverable Concepts or a claim of any patent in any part of the Deliverable Concepts. At Buyer's request, Seller will obtain the execution of any instrument, including from any employee or contractor, that may be appropriate to assign these rights under this paragraph to Buyer or perfect these rights in Buyer's name. Seller agrees that any copyrightable material prepared for Buyer shall carry on the face thereof in legible form a copyright notice identifying Buyer and the year of publication.
14. **Buyer's Property.** Seller agrees that any and all information and tools, jigs, dies, drawings, patterns, and specifications supplied or paid for by Buyer shall be and remain Buyer's property and shall be held by Seller for Buyer unless directed otherwise. Seller will account for such items and keep them in good working condition and fully covered by insurance at all times without expense to Buyer.
15. **Assignment and Agency.** No assignment of rights or delegation of duties under this Order shall be binding upon Buyer, without its prior written consent. No invoices may be rendered by anyone other than the named Seller without the written consent of the Buyer. All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any other purchase orders with Seller, whether such setoff or counterclaim arose before or after such assignment by Seller. Seller acknowledges that Buyer's offer under this Order may be based on an agency arrangement with Buyer's customer and in such cases Seller agrees that this Order shall inure to the benefit of Buyer's customer as a third party beneficiary of all rights of Buyer under this Order.
16. **Confidentiality.** Seller shall keep in confidence and shall not, without securing the prior written consent of Buyer, originate any publicity (including any news release or public announcement) or disclose to any third party information relating to: the existence of the relationship with Buyer; Buyer's purchasing systems or practices (including, without limitation, descriptions of purchased items, quantities purchased and prices paid); the nature of the services performed and deliverables and goods delivered under this Order; and any proprietary or confidential data, designs, or other information supplied by, or on behalf of, Buyer. Notwithstanding the foregoing, Seller may disclose such confidential information (a) to Seller's employees having a need to know such information to process this Order or improve the services provided by Seller to Buyer; or (b) to comply with applicable laws, court orders, or government regulations.

If disclosure is permitted under clause (b) above, Seller shall consult with Buyer in connection with any publicity in a reasonable time prior to its release to allow Buyer to comment thereon, and to prevent its release if so permitted by law. Seller agrees that it will take appropriate action by instruction, agreement, or otherwise with its employees and subcontractors who are permitted access to the aforementioned information to notify them of Seller's obligations hereunder. Upon Buyer's request any data, designs, or other information furnished to Seller (and copies thereof) shall be returned to Buyer. All such confidential information disclosed by Buyer to Seller shall remain the property of Buyer. Seller acknowledges and agrees that it does not, by implication, estoppel or otherwise, acquire any intellectual property right, title or ownership, nor a license to make, have made, use or sell any product using Buyer's confidential information, or any license under any patent, patent application, utility model, copyright, mask work right, or any other intellectual property right, with respect to any such confidential information disclosed by Buyer hereunder.

17. **Material Safety Data Sheets.** An appropriate material safety data sheet ("MSDS") and labeling, as and if required by law, will precede or accompany each shipment of Seller. Further, Seller shall send to Buyer updated MSDS's and labeling as required by law.
18. **Independent Contractor Relationship.** Seller is an independent contractor in all its operations and activities under this Order. The employees used by Seller to perform its obligations under this Order shall be Seller's employees exclusively without any relationship whatsoever to Buyer. Seller shall be responsible for and hold harmless Buyer and its customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Order.
19. **Subcontracting.** No goods to be delivered under this Order shall be procured by Seller from a third party in completed or substantially completed form without Buyer's prior written consent. Any changes in the Seller's use of the subcontractors previously authorized by Buyer will require Buyer's prior written consent. If Seller uses any subcontractors, Seller will be solely responsible to ensure that its subcontractors comply with the provisions set forth in this Order.
20. **Applicable Law.** This Order and acceptance hereof, shall be governed by the laws of the State of New York, without regard to its conflict of laws rules or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. Seller irrevocably consents to the personal jurisdiction of the state and federal courts in and for Albany County, New York, and irrevocably waives any claim that it may have that any proceedings brought in such courts have been brought in an inconvenient forum.
21. **Compliance with Laws.** During the performance of this Order, Seller agrees to comply with all applicable federal, state, and local laws in connection with the performance of its obligations under this Order. The Seller represents by acceptance of this purchase order, contract, subcontract or sales agreement that he/she will comply with the current final rules, amendments and provisions of Executive Orders 11246, 13496, the Rehabilitation Act of 1973, including Section 503, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the 2002 Jobs for Veterans Act (JVA), and their implementing regulations at 41 CFR Part 60. The Seller will also comply with the current final rules, amendments and provisions of 29 CFR Part 471, including the employee notice provisions set forth in 29 CFR Part 471, appendix A to subpart A.

The Seller shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, age, national origin, marital status, citizenship, physical and mental disability, criminal record, sexual orientation, gender identity or expression, status as a disabled, recently separated, active duty wartime or campaign badge, Armed Forces service medal or other protected veteran, genetic information, predisposition or carrier status, status

with respect to receiving public assistance, domestic violence victim status or any other characteristics protected under applicable law.

This notice references 41 CFR 60-300.5(a) by citation:

**“This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). The regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.”**

This notice references 41 CFR 60-741.5(a) by citation:

**“This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). The regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified with disabilities.”**

22. Environmental Compliance. Seller warrants that all goods and services sold hereunder shall have been produced, sold, delivered and furnished in strict compliance with all applicable environmental laws and regulations. Seller shall execute and deliver such documents as may be required to effect or to evidence compliance. All environmental laws and regulations required in agreements of this charter are hereby incorporated by this reference, including all executive orders relating to the environment, amendments, and any subsequent executive orders relating to the environment on government contracts.
23. Insurance. The following applies if this Order involves assembly, repair or services in or upon Buyer’s customer’s premises. Seller shall maintain such insurance as will cover and include the entire obligation assumed in this Order as well as insurance as will protect him from claims and liability under the Workman’s Compensation Act (for the state where Seller is performing the services and at least the minimum required by applicable statute) and from any other claims or liability from damages including bodily injury and for damages to property, which may arise from operations under this Order. Certification of such insurances shall be submitted to Buyer prior to commencement of work. To satisfy the provisions outlined above, Seller must submit a certificate of insurance signed by the insurer naming Buyer as an additional insured.
24. HIPAA Compliance. Seller may provide certain services to Buyer or Buyer’s customers and, in connection with those services, Buyer or its customers may disclose to Seller individually identifiable health information (“PHI”) as defined in and subject to protection under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated pursuant thereto (“HIPAA”). Buyer’s customers include “Covered Entities,” which are subject to HIPAA. This Section is to allow Buyer’s customers to comply with HIPAA. “PHI” and “ePHI” shall mean Protected Health Information and Electronic Protected Health Information, respectively, as defined in 45 C.F.R. §160.103, limited to the information Seller received from or created or received on behalf of Buyer as Buyer’s Customer’s Business Associate. Buyer and Seller agree that: (a) Seller shall not use or further disclose PHI other than as permitted by this Order or required by law. (b) Seller shall use appropriate safeguards to prevent the use or disclosure of the PHI other than as permitted by this Order, and shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI (“Safeguards”); (c) Seller shall report to Buyer: (i) any use or disclosure of the PHI not permitted by this Order or by law of which Seller becomes aware; and (ii) any Security Incident of which Seller becomes aware; (d) To the extent that Seller uses one or more subcontractors or agents to provide services under this Order, and such subcontractors or agents receive or have access to the PHI, each such subcontractor or agent shall: (i) enter into a written agreement with Seller containing the same restrictions and conditions set forth in the business associate provisions of HIPAA that apply through Seller; and (ii) implement reasonable and appropriate Safeguards to protect ePHI; (e) Seller agrees to make (i) its internal practices, books and records relating to the use and disclosure of PHI and (ii) its policies, procedures and documentation required by the Security Rule relating

to the Safeguards, available to the Secretary of the U.S. Department of Health and Human Services or his designee to the extent necessary to determine Buyer’s customer’s compliance with HIPAA; (f) Seller agrees to make available to Buyer (or at Buyer’s direction to a Buyer’s customer) the information in its possession required to provide an accounting of Seller’s disclosures of PHI as required by HIPAA; and (g) Seller shall use reasonable commercial efforts to mitigate any harmful effect that is known to Seller of a use or disclosure of PHI by Seller in violation of this Order.

25. Excluded Provider. Seller represents and warrants that it, and, to the best of its knowledge, its employees and subcontractors providing services and/or goods pursuant to this Order are not debarred, excluded, suspended or otherwise ineligible to participate in a federal health care program, nor have they been convicted of any health care related crime (an “Excluded Provider”). Seller shall immediately notify Buyer in writing in the event that it becomes aware that any of its employees or subcontractors providing services and/or goods pursuant to this Order has become an Excluded Provider. Buyer may terminate this Order upon written notice to Seller if Seller, or any of its employees or subcontractors providing services and/or goods pursuant to this Order, becomes an Excluded Provider.
26. Availability of Records. Until the expiration of seven (7) years after furnishing services or goods pursuant to this Order, Seller shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, this Order and the books, documents and records of Seller that are necessary to certify the nature and extent of the costs for which Buyer seeks reimbursement. Seller further agrees that if Seller carries out any of the duties of this order through a subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such products pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs.
27. Recall. In the event that a recall of goods is necessitated by a defect, a failure to conform to specifications, applicable laws, or any other reason within Seller’s control, Seller shall bear all costs and expenses of such recall, including without limitation, costs of notifying customers, customer refunds, cost of returning goods, and other expenses incurred to meet obligations to third parties.
28. Miscellaneous. Headings used herein are for convenience only and shall not be used for interpretive purpose. A party’s failure to act with respect to another party’s breach of any provision contained herein does not constitute a waiver. If any provision herein is held to be invalid or unenforceable, such provision shall be narrowly construed, if possible, or otherwise deemed ineffective and the remaining provisions shall not be affected. These terms and conditions will survive the fulfillment of this Order.
29. Force Majeure. Neither party shall be liable in respect of any non-performance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control including but not limited to strikes, lock outs or labor disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war or civil war. If an event of force majeure exceeds one (1) month, the Buyer may cancel the Order without liability.