



# CEDARS-SINAI MEDICAL CENTER.

## PURCHASE ORDER: TERMS AND CONDITIONS

All Cedars-Sinai Medical Center Purchase Orders (“Order”) shall be subject to the following terms and conditions:

Cedars-Sinai Medical Center (“Buyer”) hereby requests that the vendor named on the Order (“Seller”) furnish the items of material, equipment and/or services listed on the Order, upon and subject to the terms, conditions and limitations contained herein and on the Order, all of which shall constitute the contract between Buyer and Seller. The material, equipment, labor and/or services to be provided pursuant to the Contract are sometimes referred to hereinafter as the “Work.”

1. The Order is expressly conditional on acceptance by Seller of the terms and conditions herein. The Order contains the entire understanding between Buyer and Seller with respect to this purchase 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, Buyer’s 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 schematics, operational and service manuals, parts catalogs and warranties must be packed and shipped with equipment, as applicable.

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 at Buyer’s receiving department unless otherwise specified in the Order. No charges for crating, boxing, drayage, packing or for 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 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 or terms specifically incorporated by reference herein.

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 works prepared by Seller 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. At all times, such property shall be subject to disposition of Buyer and at the termination of the Order shall be returned to Buyer unless Buyer directs otherwise in writing.

8. Buyer reserves the right to cancel this Order, without cause, 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. 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 from and against all claims, liability, loss, damage or expense, including reasonable attorneys' fees and court costs, resulting from: (a) the purchase or use of any product supplied or services performed hereunder; (b) the Seller's failure to comply with 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 in Section 13, below) while such Stored Items are on Buyer's premises; and (e) any litigation based thereon, with respect to any part of the items covered by the Order, and such obligations shall survive acceptance of the items and payment therefor by Buyer. Seller shall pay all costs, including attorneys' fees, incurred in enforcing this indemnification provision. 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, 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.

13. 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.

14. 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. 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.

15. 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.

16. 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 and all of the transactions it contemplates, including, without limitation, its validity, interpretation, construction, performance and enforcement. The parties agree that Los Angeles County, California shall be the situs of any legal proceeding arising out of or relating to the Order. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section, and stipulates that the state and federal courts located in Los Angeles, California shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related 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.

17. 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.

18. 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.

19. 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 compliance program policies ("Compliance Plan"), which is available at [www.cedars-sinai.edu/purchasing](http://www.cedars-sinai.edu/purchasing), and agrees that it shall review the Compliance Plan before commencing the Work. Buyer's Compliance Plan includes, among other things, 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: (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 and shall otherwise comply with Buyer's Compliance Plan; (B) it shall notify Buyer within two (2) business days of any conviction, citation, judgment or settlement affecting the representations and warranties contained in items (ii), (iii), (iv) or (v) above;

and (C) any debarment, exclusion, ineligibility, sanction or listing as described in items (ii), (iii), (iv) or (v) above is grounds for immediate termination of the Order by Buyer.

20. Seller hereby certifies that neither Seller nor Seller's personnel assigned to Buyer have been charged with or convicted of any crime or offense. 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, including with respect to the matters set forth in Section 19, above.

21. Seller represents that the prices charged for the items or services covered by the Order comply with applicable government regulations in effect at time of quotation, sale or delivery and at all subsequent times.

22. Buyer's policy prohibits employees from accepting gifts or gratuities from vendors doing business with, or seeking to do business with, Buyer. Buyer shall have the right to cancel the Order forthwith in the event Seller proffers any gift or gratuity to an employee of Buyer contrary to Buyer's policy concerning gifts and gratuities.

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. During the performance of this Order, Seller agrees as follows:

(a) Seller will not discriminate against any employee or applicant for employment because of race, color, age (over 40), marital status, religion, sex, actual or perceived sexual orientation, national origin, ancestry, medical condition (cancer related), physical or mental handicap or Vietnam era veteran status. 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 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 (over 40), marital status, religion, sex, actual or perceived sexual orientation, national origin, ancestry, medical condition (cancer related), physical or mental handicap or Vietnam era 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 agrees, in connection with the subject matter of the Order, to cooperate fully with Buyer by, among other things, maintaining and making available all necessary records, in order to assure Buyer will be able to meet all requirements for participation in and payment associated with public or private third party payment programs, including but not limited to, matters covered by Section 1861(v)(1)(I) of the Social Security Act, as amended, and any written regulations thereto (collectively, the "Act"). Seller shall comply with the following requirements, which are set forth in Section 1861(v)(1)(I) of the Act and 42 C.F.R. Section 420.300 et seq.:

(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 (including all writings, recordings, transcriptions and tapes of any description) that are necessary to certify the nature and extent of such costs; and

(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 420.300], 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) of the Act 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 marketing, public relations, advertising, display or other business purpose or make any use of Buyer's facilities for any activity unrelated to the express business purposes and interests of Buyer under the Order, 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 list Buyer as a 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 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 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 health information concerning patients of Buyer or Seller shall otherwise have access to proprietary or individual personal information of Buyer, Seller and Buyer shall enter into Buyer's form of Agreement to Secure Protected Personal Information (Including Business Associate Agreement Provisions).

32. Buyer's Purchasing Department will evaluate and select environmentally preferable products whenever possible.

33. Seller and all of Seller's personnel who will attend meetings, perform Work or have any presence at Buyer's facilities shall have a current (within a year) certificate of health clearance, including a PPD test or chest x-ray showing no active tuberculosis. In accordance with Buyer's policy, in the event that any of Seller's personnel will have direct contact with Buyer's patients, such personnel shall also be required to obtain verification of a titre test proving immunity to rubella, measles, mumps, varicella-zoster virus infection (chicken pox), or proof of immunization, proof of immunization against hepatitis B (heptavac) and such other health issues subsequently identified by Buyer. Seller shall (a) ensure compliance with this Section; (b) be solely responsible for all costs and

expenses related to providing such certificates of health clearance; and (c) maintain files of all health examinations of Seller's personnel assigned to 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 hereunder, Seller shall ensure that all such personnel have current certifications and training in the relevant fields and current California licenses to practice their professions. If so requested by Buyer, Seller shall maintain and provide the following information to Buyer with respect to each employee assigned to Buyer as requested by Buyer: (a) copies of all active specialty certifications and California professional licenses; and (b) certificates of completion of all professional development courses or training completed in the last three (3) years.

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 Medical Center: (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. During the term of this Order, 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 resulting from mass media "want ads" not specifically directed towards Buyer's employees. Furthermore, Seller shall not assign any employee of Buyer hired by Seller in violation of this Section 37 to (x) provide goods or services to Buyer or (y) otherwise work directly or indirectly with Buyer in any capacity. In the event that Seller violates this provision, Seller shall pay liquidated damages equal to seventy-five percent (75%) of the solicited employee's annual salary as of the date of such solicitation or such employee's separation from Buyer, as applicable. Seller agrees that this liquidated damages amount represents the costs incurred by Buyer in recruiting, training, educating and replacing such employee. 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 37 is necessary to protect this proprietary and trade secret information.