

General Purchase Order Terms and Conditions

In the terms and conditions below, HENNEPIN HEALTHCARE SYSTEM, INC. a public subsidiary corporation of Hennepin County, doing business as Hennepin County Medical Center shall be referred to as "HCMC," the company supplying goods and/or services under this purchase order (the "Purchase Order") shall be referred to as the "Seller," and the goods and/or services described in and provided pursuant to this Purchase Order are referred to as "Goods" or "Services," as the case may be.

1. ACKNOWLEDGEMENT AND ACCEPTANCE

Acceptance of this Purchase Order by Seller constitutes acceptance of all of the terms and conditions stated herein. To the extent that any project description document, attached hereto, if any ("Project Description"), quotation, order acceptance, confirmation, invoice or other document of Seller contains conflicting, differing or additional terms from the terms and conditions herein, the terms and conditions herein will control and all such conflicting, differing or additional terms are rejected by HCMC, are considered a material alteration hereof, and shall have no effect unless expressly agreed to in writing by HCMC. Seller's signed acknowledgement of the Purchase Order, or Seller's shipment of Goods, performance of Services, or acceptance of payment for Goods or Services shall conclusively affirm Seller's agreement to these terms and conditions. If this Purchase Order is not signed and returned to HCMC, either by mail or fax, HCMC, at its option, may cancel this Purchase Order at any time.

2. FOB; DAMAGE DURING DELIVERY

Delivery of Goods under this Purchase Order shall be by FOB Destination Minneapolis, Minnesota or another destination as specified by HCMC and the risk of loss or damage shall remain with Seller until actual delivery to HCMC. Seller shall be responsible for damages sustained during delivery. Any resulting claims against carriers shall be the responsibility of Seller. Replacement of any damaged Goods shall be the sole responsibility of Seller. Supplier must use only HCMC contracted carriers as follows: (1) If shipping charges contractually apply, ship via Fedex Account: 476551336, (2) If combined shipping weight exceeds 150 lbs, call Opti-Freight at: 888-457-5851 for instruction prior to shipping.

3. PAYMENT TERMS

Unless otherwise indicated in this Purchase Order, HCMC shall render payment within sixty (60) days of the date of delivery and acceptance of Goods or provision of Services, or from the date of a conforming invoice, whichever is later. All invoices for payment shall be in U.S. Dollars and shall include the Purchase Order number, and a summary of the total Purchase Order value, total value of Goods provided or Services performed to date of the invoice, total value of invoicing to date and value of the current invoice. Invoices for payment not including such information may be returned to Seller without payment or rejected. Seller may submit invoices to accounts_payable@hcmcd.org.

4. PACKAGING

All packages, cases, crates, etc., are to be marked with Seller's name and the applicable HCMC Purchase Order number. A packing list must accompany each shipment of Goods. HCMC shall not be responsible or liable for any packaging charges, unless otherwise agreed to herein by HCMC.

5. DELIVERY

The delivery and performance requirements, manner of delivery and specified dates of this Purchase Order shall be strictly adhered to and shall not be modified without the prior written acceptance of HCMC. Time is of the essence. In the event of failure to deliver or perform by the dates specified in this Purchase Order, HCMC reserves the right to cancel such Purchase Order in total or any unexecuted part of such Purchase Order. Goods not shipped in time to meet the delivery requirements and dates under a Purchase Order, at HCMC's option, shall be delivered at the fastest

means available, at the sole expense of Seller. Notwithstanding anything to the contrary herein, no delivery shall be made without at least twenty-four (24) hours advance notice being given by Seller to HCMC.

6. DELAY IN SUPPLY

In the event of failure by Seller to deliver any Goods or perform any Services contained in this Purchase Order, other than as a result of acts of God, force majeure, civil commotions, fire, war, perils of the sea, or HCMC's written request, HCMC shall have the right to cancel all or any remaining part of this Purchase Order, without payment of compensation, and obtain delivery or performance from other sources. Any and all increased costs and expenses thereby incurred by HCMC in obtaining such delivery or performance shall be recompensed against any moneys due or to become due to Seller or shall be recoverable as damages hereunder.

7. CHANGES

Except as otherwise provided herein, this Purchase Order may not be amended, modified, supplemented, cancelled or discharged, except in writing and agreed to by both HCMC and Seller. Except as modified herein, any modification of any Project Description shall be at Seller's sole cost and expense, unless Seller notifies HCMC of such modification and HCMC approves such modification in writing.

8. INDEMNITY

Seller agrees to defend, indemnify, and hold harmless HCMC, its officials, officers, agents, volunteers and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, resulting directly or indirectly from any act or omission of Seller, a subcontractor, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this Agreement, and against all loss by reason of the failure of Seller to perform any obligation under this Agreement.

Seller shall promptly notify HCMC of any claim, action, cause of action or litigation brought against Seller, its employees, officers, agents or subcontractors, which arises out of the services contained in this Agreement. Seller shall also notify HCMC whenever Seller has a reasonable basis for believing that Seller and/or its employees, officers, agents or subcontractors, and/or HCMC, might become the subject of a claim, action, cause of action, criminal arrest, criminal charge or litigation arising out of and/or related to the services contained in this Agreement. Failure to provide the notices required by this section is a material violation of the terms and conditions of this Agreement.

9. QUALITY REQUIREMENTS FOR GOODS

Seller shall provide and maintain an inspection system, including tests and test reports, acceptable to HCMC in its reasonable discretion covering the inspection of Goods provided under this Purchase Order, and Seller shall tender to HCMC for acceptance only such Goods that have been inspected in accordance with such inspection system and that have been determined by Seller to conform to the Purchase Order requirements. However, all Goods provided under this Purchase Order are subject to final inspection and acceptance within a reasonable time after actual delivery and HCMC shall have the right to reject any defective or nonconforming Goods despite any prior inspection by Seller. Payment for any Goods shall not be deemed an acceptance thereof.

10. QUALITY REQUIREMENTS FOR SERVICES

Seller shall provide and maintain a system of inspection and oversight acceptable to HCMC in its reasonable discretion to ensure all Services provided under this Purchase Order will be diligently performed in accordance with the Project Description, if applicable, and the applicable industry practices and standards of diligence, care and skill currently recognized in Seller's industry. The adequacy of the performance of the Services provided under this Purchase Order are subject to final inspection within a reasonable time after actual performance and HCMC shall

have the right to terminate any Purchase Order that fails to meet the oversight requirements and minimum quality standards provided in this Paragraph 10.

11. RETURN OF DEFECTIVE GOODS

All Goods supplied under this Purchase Order that do not meet with the approval of HCMC, that are shipped contrary to Purchase Order instructions, or that are in excess of the quantity or quantities ordered under this Purchase Order, will be returned to Seller or held pending a mutual agreement between HCMC and Seller regarding their disposition, subject to Seller's risk of loss and sole expense.

12. EXECUTION OF PURCHASE ORDER

Only Purchase Orders sent in writing via fax, mail, courier or e-mail and signed by duly authorized HCMC supply chain management personnel shall serve as an official intent of purchase by HCMC.

13. CHEMICALS & HAZARDOUS SUBSTANCES

All Material Safety Data Sheets required by applicable law (MSDS) (each, a "Data Sheet"), shall accompany all Goods (including, without limitation, any chemicals or hazardous substances) provided under this Purchase Order. In addition, Seller shall provide a copy of each such Data Sheet to HCMC's Supply Chain Management Department. Seller shall maintain a catalog of any and all applicable Data Sheets that are provided in connection with Seller's performance of work under this Purchase Order at a HCMC site.

14. COMPLIANCE WITH LAWS

Seller agrees to comply with all federal, state and local laws, rules and regulations, including, but not limited to, Executive Order 11246, the Equal Employment Opportunity Act and any amendments thereto, pertaining to nondiscrimination in employment, the Occupational Safety and Health Act of 1970, the Fair Labor Standards Act, any laws, regulations and executive orders related thereto, and any other applicable federal, state or local law or regulation. Seller shall, in accordance with Paragraph 8, indemnify and hold HCMC harmless against any liability arising out of or resulting from Seller's failure to so comply. Upon request, Seller shall supply HCMC with copies of compliance reports and any other information necessary to demonstrate compliance with this Paragraph 14.

15. WARRANTY

Seller warrants it is a merchant as defined in the Uniform Commercial Code. Seller warrants that all Goods delivered hereunder, if any, will (i) be merchantable, (ii) be free from defect of design, material or workmanship, (iii) conform strictly to the specifications, descriptions, drawings, or sample specified or furnished to HCMC, (iv) be free from security interests, liens or encumbrances, (v) be fit and safe for their intended purpose, and (vi) be safe and appropriate for the purpose for which such Goods or Services are normally used. Seller warrants that all Services rendered hereunder, if any, will be performed in a professional and workmanlike manner in accordance with the applicable professional industry standards of diligence, care and skill currently recognized in Seller's industry. The warranties contained herein shall begin at the time of performance, receipt at the delivery location or installation, if applicable, whichever is later, unless a later time is specified in the manufacturer policy stated in the Project Description. Such warranties shall survive for greater of (a) one (1) year, (b) the standard warranty term provided by Seller to its customers, or (c) as provided under applicable law. Notwithstanding anything to the contrary contained herein, the foregoing shall not limit any additional warranty or warranty period otherwise agreed to by the parties in writing. The warranties contained herein shall survive any inspection, delivery, performance, acceptance, or payment by HCMC of the Goods or Services. HCMC may, at its option, return for credit or require prompt replacement or correction of any of the Goods or Services which do not conform to the foregoing warranties at Seller's expense. In the event that Seller fails to make such replacement or correction, HCMC shall have the right to obtain such replacement or correction from other sources. Any and all increased costs and expenses thereby incurred by HCMC in obtaining such replacement or correction shall be setoff against any moneys due or to become due to Seller or shall be recoverable as damages hereunder. Corrected or replaced Goods or Services shall be subject to the

terms and conditions of this Purchase Order in the same manner and to the same extent as Goods or Services originally delivered hereunder. If part of the Goods to be delivered or Services to be performed hereunder are defective or nonconforming, HCMC may cancel any unshipped portion of the Goods or cancel any unperformed Services, as the case may be, covered by the Purchase Order. The rights of HCMC provided in this Paragraph 15 shall be in addition to any other rights provided by law, this Purchase Order, or any other contract.

16. INDEPENDENT STATUS

Seller acknowledges that it is an independent business acting as an independent contractor. Though Seller may perform Services, no agent, representative or employee of Seller shall be or be considered an agent or employee of HCMC.

17. BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy by or against Seller, the inability of Seller to meet its debts as they become due, or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then HCMC shall be entitled, at its sole option, to cancel any unfilled part of this Purchase Order without any liability whatsoever.

18. ASSIGNMENT

Seller shall not delegate any duties, nor assign any rights or claims under this Purchase Order, or for the breach hereof, without the prior written consent of HCMC. Any such attempted delegation or assignment shall be void. Any change of control of Seller shall be deemed an assignment hereunder.

19. SET-OFF AND COUNTERCLAIMS

All claims for moneys due or to become due from HCMC shall be subject to deduction by HCMC for any setoff or counterclaim arising out of this or any other of HCMC's purchases from Seller.

20. TERMINATION

This Purchase Order, or any portion hereof, may be terminated by HCMC at any time with or without cause. As used herein, the term "cause" shall include, but not be limited to, (a) a breach by Seller of any of the terms hereof, including any warranty made in connection with the purchase ordered hereunder or (b) any allegation that any of the Goods or Services furnished hereunder infringes any patent, trademark, copyright or other proprietary right of any third party, or violates any statute, ordinance or administrative order, rule or regulation. If HCMC terminates without cause, HCMC will compensate Seller for the actual and reasonable expenses incurred by Seller for work in process requested by HCMC up to and including the date of termination, provided such expenses do not exceed the agreed upon prices in this Purchase Order.

21. TAXES

Seller is responsible for payment to the proper taxing authority of all sales, use and similar taxes.

22. CONFIDENTIALITY

Seller will neither use any Confidential Information (as defined below) for any purpose other than in performing its duties hereunder nor disclose the existence of this Purchase Order or any information contained herein without the express written consent of HCMC. "Confidential Information" includes, but is not limited to, all designs, articles and other proprietary information developed by HCMC, supplied to HCMC or made according to HCMC's direction.

23. LIMITATION OF LIABILITY

To the extent permitted by law, in no event will HCMC (including any subsidiaries of HCMC or other related entities) be liable for any lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages relating to this Purchase Order.

24. INSURANCE

Seller shall maintain in effect, at its expense, insurance of such types and in such amounts as is commercially reasonable in connection with the conduct of its business, including, without limitation, insurance coverage for its liability and indemnity obligations hereunder.

25. SEVERABILITY

If any provision of this Purchase Order shall under any circumstances be deemed invalid or inoperative, this Purchase Order shall be construed with the invalid or inoperative provision deleted, and the rights and obligations of the parties shall be construed and enforced accordingly.

26. NONWAIVER

HCMC's failure to enforce any provisions of this Purchase Order or rights hereunder shall not operate as a waiver of such provisions or rights and the same shall remain in full force and effect for the duration of this Purchase Order.

27. GOVERNING LAW

This Purchase Order and the acceptance of it shall be an Agreement made in the State of Minnesota and governed by the laws thereof, and all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the herein parties and performance under it. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the herein parties will be in the appropriate federal court within the State of Minnesota. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.