

Nova Scotia Health Authority Purchase Order Terms and Conditions

1. Agreement

These terms and conditions are incorporated by reference and deemed to be part of the purchase order attached hereto between **Nova Scotia Health Authority (“Purchaser”)** and the vendor (“**Vendor**”) for the goods and/or services described therein (collectively, the “**Goods/Services**”). These terms and conditions along with the attached purchase order and any documents expressly incorporated herein (collectively, the “**PO**”) are the final and complete agreement between Purchaser and Vendor in relation to the Goods/Services, and Vendor is deemed to accept these terms and conditions by delivering the Goods/Services or any part thereof or commencing any work contemplated in this PO. Any terms and conditions proposed by the Vendor that are inconsistent with, or in addition to, the terms and conditions of this PO are void and of no effect, whether provided in an invoice, confirmation of purchase or other communication, unless expressly agreed by the parties in writing.

2. Price and Payment

The price payable by Purchaser for the Goods/Services will be as set out in the PO. Subject to verification by Purchaser, invoices will be paid within 30 days following receipt. Unless otherwise stated, the prices shown on the PO: (i) must include all necessary costs for packing, shipping, duties and any other expenses incurred while shipping and offloading Goods/Services to the point shown as the destination on the PO, (ii) are exclusive of taxes and (iii) are in Canadian dollars. Purchaser may withhold any withholding tax amounts required by law and will remit that tax to the applicable authorities.

3. PO Number and Packaging

The PO number must appear on all packing and delivery slips, bills of lading, customs documents, invoices, correspondence, and any other documents relating to this PO. Any hazardous products shipped under this PO must be correctly labeled according to applicable law, and the Vendor must provide Material Safety Data Sheets (“**MSDS**”) for any hazardous good shipped for the first time to the delivery point for this order, and also provide updated copies of any MSDS when requested. Detailed packing lists, preferably in duplicate, must accompany each shipment.

4. Delivery, Title & Acceptance

All Goods/Services will be shipped “**FOB Destination**”. The shipping and handling of any hazardous material will be in

accordance with all applicable laws and regulations. Title to all Goods/Services, or any part thereof, shall vest in Purchaser on delivery and acceptance by Purchaser. The receipt of or payment of the Product by Purchaser shall not be deemed to be acceptance thereof. All Goods/Services delivered are subject to inspection and testing within 45 working days after delivery at Purchaser’s premises, and Purchaser, acting reasonably, has the right to accept the Goods/Services or reject them.

Purchaser may cancel this PO, without penalty, and purchase substitute the Goods/Services elsewhere if the Goods/Services are not delivered within the time(s) specified in this PO or if any Goods/Services do not meet the requirements set out in the PO. The Purchaser reserves the right to charge the Vendor with any incidental or consequential damages that might be incurred relating to non-acceptance of Goods/Services.

5. Shipments from Outside of Canada

For any shipments originating outside of Canada, properly certified customs invoices in two parts must be sent separately to Purchaser at the time the shipment is made. Failure to provide required documentation may result in delay or return of the shipment by Canada Customs. An extra copy of customs invoices should accompany the bill of lading for on truck shipments.

6. Supplies & Standards

All Goods/Services that are electrical equipment must be marked as certified or approved for use in Canada. Purchaser reserves the right to refuse acceptance of any or all electrical equipment or component part which has not been approved by the Canadian Standards Association or that is certified to all appropriate CSA Standards by a recognized agency. The Vendor represents that any medical devices delivered under this PO comply with all applicable regulations; Purchaser reserves the right to refuse acceptance of any or all medical devices that do not comply with applicable regulatory requirements.

7. Confidentiality and Privacy

The Vendor acknowledges and confirms that information provided to it by Purchaser hereunder, or to which the Vendor has access as a result of providing the Goods/Services to Purchaser may be Confidential Information. In this PO, “**Confidential Information**” shall mean any information which

is confidential in nature or that is marked or treated as being confidential by Purchaser, whether such information is or has been conveyed to the Vendor orally or in written or other tangible form, and whether such information is received directly or indirectly, such as in the course of business discussions or other investigations by Vendor. Without limiting the generality of the forgoing, Confidential Information shall include information that is personally identifiable about an employee or customer of Purchaser, whether or not expressly labeled, marked, or otherwise expressly identified as confidential or personal. Unless required by law or an order of a court of competent jurisdiction, or previously known, or acquired by a third party who had a right to disclose the Confidential Information, such Confidential Information shall not be disclosed by the Vendor, without the prior written consent of Purchaser.

The Vendor acknowledges and agrees that Purchaser may disclose this PO or portions thereof as may be required pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act (Nova Scotia)*.

If the Vendor is a "service provider" as defined in the *Personal Information International Disclosure Protection Act, (Nova Scotia)* ("PIIDPA") as a result of the type of Goods/Services that it is providing to Purchaser under this PO, Vendor represents, warrants and undertakes to Purchaser that it shall comply with its obligations under PIIDPA which can be found

The Vendor acknowledges that information about identifiable individuals, including without limitation personal health information as that term is defined in the *Personal Health Information Act (Nova Scotia)* ("**Personal Information**"), has, is or may be disclosed to Vendor for the sole purpose of Vendor performing its obligations under this PO. Accordingly, Vendor shall exercise all reasonable precautions to protect Personal Information from unauthorized access, disclosure, copying, use or modification, storage and retention and, in any event, treat any information which is "personal information" as defined in the *Personal Information Protection and Electronic Documents Act (Canada)* and the *Freedom of Information and Protection of Privacy Act (Nova Scotia)*, as amended, in accordance with these Acts and, if applicable, treat any information which is "personal health information" as defined in the as that term is defined in the *Personal Health Information Act (Nova Scotia)*, in accordance with that Act.

8. Warranty

The Vendor represents and warrants that the Goods/Services shall be: (i) of merchantable quality; (ii) fit for the purposes intended, (iii) free from liens or encumbrances of title; (iv) free from defects in design, material and workmanship; (v) strictly in conformance with applicable samples, specifications

and drawings provided by Vendor to Purchaser; and (vi) provided in accordance with all applicable laws and regulations. These warranties are in addition to any other warranties, express or implied or arising by operation of law, custom or usage and shall survive the inspection, acceptance and use of the Goods/Services by Purchaser. The Vendor further warrants that Purchaser shall be entitled to utilize the Goods/Services, in accordance with the requirements of this PO without infringing any trade secret, patent, copyright, industrial design or other intellectual property right enforceable in Canada.

Unless a longer warranty period is specified on the face of the PO, or is otherwise provided, the foregoing warranty shall be valid for one year from the date of acceptance of the Goods/Services by the Purchaser.

If the Purchaser discovers that there are any weaknesses, deficiencies, failures, breakdowns, or deterioration in workmanship at any time prior to the expiration of any applicable warranty period, or if the Goods/Services do not conform to the terms and conditions of this PO, the Purchaser may (i) require that the Vendor promptly replace, redesign, or correct the defective and non-conforming Goods/Services at no expense to the Purchaser, or (ii) replace or correct the defective Goods/Services, and charge the Vendor for all expenses incurred by the Purchaser.

9. Indemnity

The Vendor agrees to indemnify and hold harmless Purchaser, its employees, servants, agents, successors and assigns from and against all damages, costs, loss, expenses (including legal fees), claims, actions, suits or other proceedings of any kind or nature, which they, or any of them, may at any time incur or sustain as a result of the Goods/Services, or arising out of a breach of a warranty given by the Vendor under this PO, or arising from a breach of this PO, or any act, omission or negligence of the Vendor, or any of its employees, servants, agents, or subcontractors, in the performance of this PO, including without limitation, any injury or death to persons, or loss of or damage to property.

10. Limitation of Liability

Except for Vendor's obligations under section 7 (Confidentiality and Privacy) and any damages resulting from Vendor's gross negligence or willful misconduct, in no event will either party be liable to the other for any indirect, consequential, or punitive damages, including any lost profits, goodwill or business opportunities for any matter relating to the Goods/Services or this PO.

11. Insurance

Vendor shall purchase and maintain insurance appropriate for a prudent supplier of the Goods/Services, as determined in the discretion of the Purchaser, acting reasonably. The Vendor shall provide proof of such insurance, if requested by the Purchaser.

12. Changes, Modifications, Termination

The Purchaser reserves the right at any time, to cancel or terminate this PO in whole or in part, by written or verbal notice, confirmed in writing.

The Purchaser also reserve the right to make changes in any one or more of the following: (i) quantity; (ii) specifications; (iii) methods of shipment or packing; (iv) place or timing of delivery. If any such change creates the requirements for an adjustment in the cost of the Goods/Services, or the time required for performance of this PO, an equitable adjustment shall be made in the price or delivery schedule, or both.

No agreement or understanding to modify this PO shall be binding on the Purchaser unless in writing and signed by the Purchaser.

13. Independent Contractor

In accepting this order, the Vendor agrees that it is an independent contractor for all intents and purposes and shall not at any time hold itself out as an employee, servant or agent of Purchaser. No partnership, joint venture, agency or other legal relationship is created or deemed to be created by this PO or any actions of the parties hereunder.

14. Assignment

The Vendor may not assign any of its rights or obligations hereunder or subcontract the performance of any of the obligations under this PO without the prior written consent of Purchaser, acting reasonably.

15. Governing Law

This PO and the contract resulting from its acceptance shall be construed according to the laws of the Province of Nova Scotia and the laws of Canada applicable therein without regard to conflict of law principles.

LANGUAGE FOR HYPERLINK:**PERSONAL INFORMATION INTERNATIONAL DISCLOSURE
PROTECTION ACT**

The Vendor acknowledges and confirms that it is a "service provider" as defined in the *Personal Information International Disclosure Protection Act*, SNS 2006 c. 3 ("PIIDPA"), that it has read and understands its obligations as a service provider thereunder and that as a service provider it is legally bound by the obligations imposed on it by PIIDPA. It is a condition precedent to the Purchaser entering into an agreement with the Vendor that the Vendor irrevocably undertakes, covenants and agrees to be bound by and comply with the obligations imposed on it as a service provider under PIIDPA.

The Vendor further covenants, warrants and represents to the Purchaser that it will not at any time provide or allow the release of personal information to which it has access in its capacity as a service provider to the Purchaser in response to any "foreign demand for disclosure" or permit or allow the "unauthorized disclosure of personal information" as each of those terms are defined in PIIDPA.

The Vendor shall implement and strictly enforce security arrangements that will ensure that all personal information that it collects or uses on behalf of the Purchaser is protected at all times from unauthorized access or disclosure and shall confirm in writing to the Purchaser, upon request, the details of such security arrangements. The Vendor also agrees to implement and enforce any additional security procedures as may be required by the Purchaser from time to time to protect the personal information that the Vendor collects or uses on behalf of the Purchaser. The Purchaser shall be authorized, upon giving prior written notice to the Vendor, to enter the premises of the Vendor during normal business hours for the purpose of conducting an audit of the security arrangements referenced herein.

All personal information that the Vendor obtains or becomes aware of while providing services to the Purchaser is not and shall not be or be deemed to be the property of the Vendor. The Vendor acknowledges and agrees that it will not, either directly or indirectly, acquire any rights to use or own any such personal information other than the right to use it for the sole purpose of fulfilling its obligations to the Purchaser under an agreement with the Purchaser.

The Vendor expressly confirms that the laws of the Province of Nova Scotia shall apply to its obligations as a service provider to the Purchaser, notwithstanding the laws or the order of any court outside Canada.