

PURCHASE ORDER TERMS AND CONDITIONS FOR HIGHMARK HEALTH AND ITS SUBSIDIARIES AND AFFILIATES

These terms and conditions apply to Purchase Orders dated April 18, 2016 and thereafter, until superseded. Any purchase order shall be governed by the Terms and Conditions effective on the date of acceptance of the Purchase Order.

- 1. Acceptance-Agreement.** If there is no written agreement between the parties concerning the subject matter referred to on the face hereof, this purchase order, which incorporates any prior specifications, samples, or descriptions of the goods and services and all express and implied warranties, becomes the entire and exclusive agreement between the purchasing entity identified on this order (hereinafter "Buyer") and Seller. Upon Seller's receipt and acceptance of this purchase order, Seller shall generate a purchase order acknowledgment. Such acknowledgment shall indicate receipt and acceptance of such an order. Commencement of performance and/or shipment of goods as specified on the purchase order shall also constitute acceptance by Seller. Seller agrees that Buyer is not to be bound by any term or condition of Seller in any written acknowledgment, invoice, or otherwise which is inconsistent with or in addition to the terms and conditions herein and that any such inconsistent or additional terms are rejected by Buyer unless specifically agreed to in writing by Buyer.
- 2. Price.** If price is not stated on this purchase order the price will be Seller's lowest prevailing market price. Except as may be otherwise provided in this order, the price(s) contained in this order shall include all applicable federal, state, and municipal taxes of any kind in effect on the date of this order and Buyer shall not be liable for any other costs or charges.
- 3. Termination.** In addition to any other remedies available to Buyer at law or under this contract, Buyer may terminate any contract with Seller in the event that: (i) Seller fails to perform its obligations under or otherwise breaches any provisions of this contract or any other contract between Buyer and Seller or any of Buyer's affiliates; (ii) Seller ceases to carry on its business substantially as such business is conducted on the date of the contract between Buyer and Seller and such change in circumstances modifies Buyer's obligations or impairs either party's ability to discharge its obligations under this contract; (iii) Seller institutes or suffers the institution against it of bankruptcy, reorganization, liquidation receivership or similar proceedings; (iv) Seller generally becomes unable to pay its debts as they become due; (v) any term, condition or provisions of this contract or any other contract between the Buyer and Seller becomes invalid or illegal under any applicable law, rule or regulation; or (vi) any event of Force Majeure listed herein, which continues for a period of more than thirty (30) days.
- 4. Warranty.** Seller warrants that all goods or services furnished hereunder shall be furnished in accordance with Buyer's specifications, merchantable, and free from any defects in workmanship or material. Seller also warrants that the items furnished hereunder are suitable and appropriate for their intended use. Seller shall extend all warranties it receives from its vendors, including but not limited to, third party original equipment manufacturers or service providers, to Buyer. This warranty is in addition to all warranties, express or implied, provided for under applicable law. All warranties will survive acceptance of and payment for any goods and services under this purchase order.
- 5. Indemnification.** Seller shall defend, indemnify and hold harmless Buyer, its officers, directors, affiliates, subsidiaries, agents, employees, successors and assigns from and against any and all claims, damages, costs, expenses (including reasonable attorneys' fees) fines, fees, penalties, losses, or liabilities (collectively "Losses"), arising out of or in any way connected with: (i) Seller's performance and obligations under this contract, including, but not limited to, claims for loss or damage to any property, or for death or injury to any person or persons; and (ii) Losses relating Seller's goods infringing, or potentially infringing, upon the intellectual property rights of a third party, including, without limitation, patent, copyright, trademark and trade secret rights. Seller agrees to comply with all applicable laws, regulations, rules and orders of Federal, State and Municipal government bodies and agencies, as well as any worksite rules and regulations of which it is made aware orally or in writing, and will defend and hold Buyer harmless from any loss or damage arising out of any violation thereof.
- 6. Changes.** Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause

an increase or decrease in the cost, or the time required for the performance, Buyer shall make such equitable adjustment and modify this purchase order in writing accordingly. Seller agrees to accept any such changes subject to this paragraph.

7. **Inspection/Testing.** All goods ordered hereunder will be subject to inspection and testing by Buyer at all reasonable times and places, and in any event, prior to acceptance. It is expressly agreed that inspections and/or payments will not constitute final acceptance and that all goods will be subject to final inspection and/or testing after delivery to Buyer. If the goods delivered do not meet the specifications or otherwise do not conform to the requirements of this purchase order and/or the warranties provided herein, Buyer will have the right to reject them. Goods which have been delivered and rejected in whole or in part may, at Buyer's sole option: (i) be returned to Seller for reimbursement, credit or replacement; or (ii) may be held for disposition at Seller's sole expense and risk. For services that fail inspection and/or testing Buyer may, at its option, may require Seller to either, in a timely manner either re-perform the services, at no additional cost to Buyer, or reimburse Buyer for the costs paid for such defective services.
8. **Delivery, Title & Risk of Loss.** Title shall pass to Buyer on delivery of the conforming goods to Buyer's designated location. Notwithstanding any agreement to pay freight, express or other transportation charges, the risk of loss or damage in transit shall be upon the Seller. Delivery shall not be complete until the goods have been actually received, inspected and accepted by Buyer. Unless otherwise agreed to in writing by the parties, cost of freight and delivery shall be borne by Seller. If Buyer is to be responsible for freight and delivery costs, the parties will cooperate in determining the most economical means and route of shipment for transporting and delivering the merchandise. Seller is prohibited from using Buyer's shipping account without prior, written authorization from Buyer's authorized representative. If Seller uses an unauthorized means or route for delivery, any additional expense incurred will be charged to Seller.
9. **Late Shipments.** In this purchase order and any written agreement, time shall be of the essence. If Seller fails to deliver on time, Buyer may purchase replacements elsewhere and Seller will be liable for all costs and damages Buyer incurs. Seller will promptly notify Buyer if it is unable to comply with the delivery date specified in this purchase order or the written agreement.
10. **Invoice/Payment.** A separate original invoice is required for each shipment under this order, and no invoice will cover material on more than one order. Buyer's purchase order number must appear on all correspondence. Discount period and net payment period will be calculated from date of receipt of invoice or after receipt of the products or services, whichever is later. Payment of invoice does not constitute inspection and acceptance of material covered by this order, but rather such goods or services will be subject to inspection, test, acceptance or rejection as provided for in Section [Inspection/Testing] of this contract.
11. **Quantity/Substitution.** Buyer accepts no responsibility for goods or materials shipped in excess of the quantities specified herein, and any such excess may at Buyer's option be returned to Seller at Seller's expense. Substitution of material will not be permitted unless Seller receives Buyer's prior written authorization.
12. **Statutory Compliance.** Seller shall comply with all applicable federal, state, and local laws and ordinances and all lawful orders, rules and regulations thereunder that are in effect as of the date of this purchase order, including but not limited to the following:
 - U.S. Department of Health and Human Services' Health Insurance Portability and Accountability Act of 1996 ("HIPAA")
 - "Violent Crime Control Act of 1994", and related Pennsylvania Insurance Department Notice ("PID Notice")
 - Occupational Safety and Health Act of 1970 and all subsequent revisions thereof.
13. **Confidentiality.** Seller agrees that all information obtained by or provided to Seller in providing goods to Buyer and/or carrying out the services provided hereunder, including the contents of this purchase order, will be maintained in confidence by Seller and that Seller will not publish nor disclose to any third party nor otherwise make use of such confidential information except for the performance of such services or supply of such goods hereunder. Buyer's confidential information includes, but is not limited to, Buyer's financial, account, human resources, provider and other proprietary information. This obligation shall not apply with respect to any information (a) which is already in the possession of Seller prior to acquiring the information hereunder, (b) which is or becomes in the public domain through no fault of Seller, or (c)

which is rightfully obtained on a non-confidential basis from a third party. In addition, certain categories of information, such as Buyer's members' Protected Health Information ("PHI"), is subject to protection under applicable federal and state laws and regulations. To ensure the confidentiality of the above information is protected, Seller agrees to permit Buyer to review Seller's facilities, security practices, and policies relating to the protection of such confidential information. Seller agrees to complete and promptly return to Buyer any affirmation or certification used by Buyer to monitor Seller's compliance with these and other applicable provisions, which certification shall not be required more than once in any twelve (12) month period.

14. **Equal Opportunity.** In conformity with all applicable Federal laws, regulations, and executive orders, Seller pledges to strive to eliminate discrimination in the workplace. Assignments of personnel to perform the Services hereunder shall be made solely on the basis of qualifications without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, mental or physical disability or any other status protected by law. To the extent applicable, the equal employment opportunity and affirmative action requirements set forth in 41 C.F.R. Part 60-1.4(a) (women and minorities), 41 C.F.R. Part 60-250.5(a) and Part 60-300.5(a) (covered veterans), and 41 C.F.R. Part 60-741.5(a) (individuals with disabilities), and the employee notice requirements set forth in 29 C.F.R. Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this Agreement.
15. **Affirmative Action.** Seller agrees to comply, and to cause its agents and subcontractors to comply with the provisions of 41 C.F.R. Section 60-1.4(a), 41 C.F.R. Section 60-250.5(a) and Section 60-300.5(a), and 41 C.F.R. Section 60-741.5(a), which provisions are, if applicable, hereby incorporated by reference. As required, Seller agrees to submit Form EEO-1 on an annual basis and to maintain written up-to-date affirmative action programs for each of its facilities.
16. **Subcontract.** In the event that this Purchase Order is deemed to be a Subcontract under Medicare Part A or Part B, the following Federal Acquisition Regulations shall apply: FAR 52.222-21, Certification of Nonsegregated Facilities; FAR 52.222-26, Equal Opportunity; FAR 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans; FAR 52.222-36, Affirmative Action for Handicapped Workers; FAR 52.223-37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era; FAR 52.223-6, Drug Free Workplace; FAR 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees; FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels; and FAR 52.219-8, Utilization of Small Business Concerns. In the event that this Purchase Order is deemed to be a subcontract under Highmark's Federal Employee Health Benefits contract, the following Federal Acquisition Regulations shall apply; FAR 52.215-1, Examination of Records by Comptroller General; FAR 52.222-26, Equal Opportunity; FAR 52.22235 Affirmative Action for Special Disabled and Vietnam Era Veterans; FAR 52.222-36, Affirmative Action for Handicapped Workers; and FAR 52.223-2, Clean Air and Water.
17. **Facilities.** Seller certifies that it does not and will not maintain or provide for its employees any segregated facilities and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained.
18. **Assignment and Subcontracting.** No part of this purchase order may be assigned or subcontracted without prior written approval of Buyer.
19. **Governing Law.** This order and all rights and obligations hereunder shall in all respects be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, exclusive of its conflicts of laws rules. Buyer and Seller each irrevocably agrees that any legal proceeding seeking the enforcement or interpretation of this contract shall be brought in the state or federal courts located in Pittsburgh, Pennsylvania. Each party hereby irrevocably submits to the jurisdiction of any such courts, and waives any objection it may now or hereafter have to the placing of venue in any such courts and any right to remove any such action or proceeding to another court.
20. **Entire Agreement.** If there is no written agreement between the parties concerning the subject matter referred to on the face hereof, then this purchase order and any documents referred to on the face hereof, constitute the entire agreement between the parties. If a written agreement exists between the parties concerning the subject matter referred to on the face hereof, then the terms and conditions of such written agreement shall take precedence over these terms and conditions.