

Purchase Order Terms and Conditions

1. **Scope.** Seller's provision of any goods, equipment or services under a purchase order, shall constitute Buyer's acceptance of these terms and conditions. These terms and conditions and any exhibits attached or incorporated by reference to the purchase order ("Order") constitute the entire and exclusive agreement between the Buyer and Seller. The Buyer expressly objects to the inclusion of any additional terms or conditions, written or oral, and such are hereby deemed to be material alterations and are hereby rejected. All capitalized terms not defined herein shall have the meanings ascribed to them in the Order.
 2. **Acceptance and Rejection of Goods, Equipment or Services.** Seller agrees to furnish the goods, equipment and services ("Purchases") in strict compliance with the specifications set forth in this Order and Buyer may at any time insist upon strict compliance with the terms and conditions of this Order notwithstanding any previous custom, practice, or course of dealing to the contrary. In the event Seller fails to comply with the terms and conditions of this Order, Buyer shall promptly notify the Seller and Buyer may, in Buyer's reasonable discretion, either (i) return the goods to Seller, at Seller's expense; or (ii) make the non-conforming goods or equipment available for pickup by Seller within thirty (30) days following Buyer's notice, after which time Buyer may dispose of the Purchases without any liability to Seller, and Seller shall be responsible for all costs incurred by Buyer to store such non-conforming Purchases. If the Seller is unable to provide the conforming Purchases within a reasonable period, within the sole reasonable judgment of Buyer, then Buyer may, in Buyer's reasonable discretion, either (i) procure a substitute Purchase elsewhere and charge Seller for any additional expense incurred; (ii) require Seller to provide substitute Purchases that conform to the terms of this Order or; (iii) require Seller to credit Buyer for the Purchases. Buyer will not be responsible for any Purchases delivered without an Order. Substitutions will not be accepted without Buyer's prior written approval. Buyer shall not be deemed to accept any Purchases if the defective condition of such Purchases could not be determined by Buyer's reasonable inspection.
 3. **Payment.** Within ten (10) days of delivery of the Purchases or within ten (10) days following completion of performance of services, Seller shall render an invoice for each Purchase pursuant to this Order specifying the nature of the Purchase (i.e. quantity and cost) date shipped or services performed, as applicable, all amounts due, Buyer's Order number, and any other information requested by Buyer. No more than one monthly invoice may be submitted to Buyer for services performed under this Order. Each invoice properly submitted to Buyer pursuant to this Order shall be due and payable by Buyer within ninety (90) days after receipt of the invoice; provided, if applicable, Seller acknowledges and agrees that a condition precedent to Buyer's payment of compensation to Seller is Buyer's receipt of funds from Buyer's customer for the Purchases under this Order, and Seller has no personal recourse against Buyer for payment of compensation hereunder other than against funds received by Buyer from Buyer's customer for purposes of paying Seller.
 4. **Termination.** Buyer may terminate the Order or any part thereof, upon written notice to the Seller, in accordance with the following: (i) at any time for its sole convenience without penalty; or (ii) for cause for any of the following: (x) if Seller fails to comply with any provision of this Order and fails to cure such breach within ten (10) days of receiving notice of such breach from Buyer; (y) if Seller becomes insolvent or suffers a voluntary or involuntary petition in bankruptcy to be filed against it or executes an assignment for the benefit of creditors; or (z) if Seller loses its license, accreditation, certification or other authorization needed to provide the Purchases. Buyer shall pay Seller the Order price for all Purchases accepted prior to termination. Buyer shall not pay Seller for any Purchases received or performed, including costs incurred by Seller's suppliers or subcontractors, after the effective date of termination. Seller shall refund to Buyer any amounts prepaid for Purchases not provided or accepted prior to termination.
 5. **Delivery.**
 - A. **Timing of Delivery.** Time is of the essence in connection with this Order. Delivery of all Purchases shall be made as described in this Order. If delivery dates cannot be met, Seller must inform Buyer immediately. Buyer reserves the right to change delivery schedules upon seven (7) days written notice to Seller.
 - B. **Risk of Loss.** Unless otherwise specified by Buyer, delivery shall be F.O.B. Destination. Risk of loss shall not pass to Buyer until the Purchases have been accepted by Buyer at the Destination. Seller assumes full responsibility for packing, crating, marking, transportation and liability for loss or damage in transit, notwithstanding any agreement by Buyer to pay freight, express or other transportation charges.
 6. **Confidentiality.** Seller, including its employees, shareholders, directors, officers or agents, agrees to keep strictly confidential at all times all information that it receives from Buyer or Buyer's customer (each a "Disclosing Party") under this Order, including, but not limited to, the identity of a Disclosing Party's customer, potential customer, vendor and any data, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, business plans, financial information, individual financial information, pricing and other information disclosed or submitted, orally, in writing, or by any other media ("Confidential Information"). The obligations set forth in this section do not apply to any Confidential Information that Seller can demonstrate: (i) Seller possessed prior to disclosure by the Disclosing Party, without an obligation of confidentiality; (ii) is or becomes publicly available without breach of this Order by Seller, other than nonpublic customer or employee information; (iii) is or was independently developed by Seller without the use of any Confidential Information of a Disclosing Party; or (iv) is or was received by Seller from a third party that does not have an obligation of confidentiality to a Disclosing Party or its affiliates. All Confidential Information shall remain the property of Buyer and/or Buyer's customer and will be returned to Buyer upon termination of this Order.
 7. **Indemnification.** In consideration of Buyer purchasing the Purchases specified in this Order, the Seller hereby agrees to indemnify and hold harmless Buyer Buyer's customers and its officers, directors, agents and employees, against all claims, liabilities, damages, losses and expenses, including reasonable attorneys' fees and cost of suit ("Claims") arising out of or in any way connected to the Purchases provided under this Order including, without limitation, (i) any claim based upon the death or bodily injury to any person; destruction or damage to property, or contamination of the environment and any associated clean up costs, (ii) Seller's violation of any federal, state, and municipal laws and regulations ("Laws"), (iii) any claim based upon the negligence, omissions or willful misconduct of Seller or any of Seller's employees, agents or subcontractors, and (iv) any claim by a third party against Buyer alleging that the Purchases or any component thereof, services or the results of such services, or any other product and processes provided under this Order, infringe a patent, copyright, trademark, servicemark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other products, software or processes. Seller shall not settle any such suit or claim without Buyer's prior written approval. Seller agrees to pay or reimburse Buyer for all costs that may be incurred by Buyer in enforcing this indemnity, including reasonable attorneys' fees.
- Should Buyer's use, or use by its agents, customers or subcontractors, of any Purchases purchased from the Seller be enjoined, be threatened by injunction, or be the subject of a legal proceeding, Seller shall, at its sole cost and expense, either (a) substitute fully equivalent non-infringing goods, equipment or services; (b) modify the Purchases so they no longer infringe but remain fully equivalent in functionality; (c) obtain for Buyer, its agents, customers or subcontractors the right to continue using the Purchases; or (d) if none of the foregoing is possible, refund all amounts paid for the infringing Purchases.
8. **Representations and Warranties.** Seller represents and warrants to Buyer that Seller has all necessary experience, qualifications, expertise, authority, licenses and permits to enable it to perform its obligations under this Order.

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- A. Goods and Equipment. Seller represents and warrants that all goods delivered shall be merchantable and/or fit for the purposes for which such goods are intended or ordinarily employed. Further, Seller warrants that all goods delivered shall be free from defects in materials and workmanship and shall conform to all applicable specifications, drawings, and other descriptions for a period of one (1) year from the date of delivery to Buyer or for the period provided in Seller's standard warranty covering the goods, whichever is longer. Any replacement or repaired goods or equipment shall be warranted for the remainder of the warranty period or three (3) months, whichever is longer.
- B. Services. Seller represents and warrants that all services shall be completed in a professional and workmanlike manner, with the degree of skill and care that is required by current, good and sound professional procedures. Further, Seller warrants that it owns or possesses all licenses and other rights necessary with respect to all software and other materials used in providing the services under this Order. Seller represents and warrants that the performance of services hereunder will not conflict with, or be prohibited in any way by, any other agreement or legal restriction to which Seller is bound.
- C. Laws. Seller represents and warrants that the provision of Purchases hereunder, Seller has complied with all applicable Laws. If Seller is performing services on-site at Buyer's or Buyer's customer's premises, Seller shall conform to and comply with all of Buyer's and Buyer's customer's rules, regulations, procedural practices and instructions regarding Seller's activities.
- D. Non-Exclusion. Seller represents and warrants that neither Seller nor its employees, representatives, agents, suppliers, or subcontractors performing services or supplying goods/equipment under this Order is (i) on the list of suspended, excluded, sanctioned or debarred providers issued by the Office of Inspector General, General Services Administration, Office of Foreign Assets Control, or similar agencies of the state in which the services are performed or (ii) are suspended, excluded from or sanctioned by, any federal or state health care plan or program. Seller shall notify Buyer immediately in the event that Seller receives notice of such suspension, exclusion, sanction or debarment affecting itself or any of its employees, representatives, agents, suppliers, or subcontractors performing services or supplying goods/equipment under this Order.

9. Compliance with Law.

- A. HIPAA. In the event that Seller receives Individually Identifiable Health Information from Buyer or Buyer's customer, as defined in Health Insurance Portability and Accountability Act, as amended, then Seller shall comply with all obligations relating to "business associates" as that term is defined in the act.
 - B. Access to Books, Documents and Records. If applicable, for the purpose of implementing Section 1861(v)(1)(I) of the Social Security Act, as amended, and any regulations thereunder, Seller shall until the expiration of four (4) years after furnishing the Purchases to Buyer, make available upon written request from the Secretary of the Department of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, this Order and all books, documents and records of Seller that are necessary to certify the nature and extent of costs incurred by Seller for Purchases. Further, if Seller enters into a subcontract which has a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, Seller shall include in the subcontract a clause requiring the same. Seller shall immediately inform Buyer of any request by a governmental authority for Seller or its subcontractors to produce or allow inspection of records related to Seller's or its subcontractor's provision of Purchases.
 - C. Nondiscrimination. Neither party will discriminate in any unlawful manner. **The parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sexual orientation, gender identity, sex, or national origin. Moreover, these regulations require that the parties take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sexual orientation, gender identity, sex, national origin, protected veteran status or disability.**
10. **Insurance**. Seller and any Seller's subcontractors shall at all times during the term of this Order, at its own sole cost and expense, carry and maintain workers' compensation in the amounts required by statute, employer's liability, commercial general liability, automobile liability, and, if Seller or any Seller subcontractors are performing services on-site at Buyer's or Buyer's customer's premises, commercial crime insurance in such amounts as are reasonable and appropriate for the business being insured, and such other insurance as may be required by law or prudent business practices. Before initiation of service, Seller shall furnish to Buyer certificates of such insurance and/or copies of the applicable policies. All such insurance shall operate independent and apart from Seller's indemnification obligations hereunder, and the insurance requirements herein shall not be deemed a limit on Seller's liability or obligations and are not to be considered as indicative of the ultimate amounts and types of insurance that Seller may need to protect its own interests. Buyer shall not have any liability to Seller for any additional insurance Seller may purchase to comply with the terms of this Order.
11. **Limitation of Liability**. Buyer shall not be liable to Seller, its employees, representatives, agents, suppliers, or subcontractors for any anticipated profits or incidental, consequential, or punitive damages or penalties of any kind. Buyer's liability on any claim for loss, damage or expense arising out of this Order shall not exceed the purchase price identified in this Order. Any action caused by alleged breach of this Order by Buyer must be commenced within one (1) year after the cause of action has accrued.
12. **Setoff**. Buyer may deduct, recoup and set off any amounts that Seller or any affiliate of Seller then owes to Buyer or amounts from Claims Buyer may suffer related to this Order, whether under the Order or in order to avoid or settle the filing of a lien by a subcontractor of Seller for Purchases, or otherwise and whether or not Seller shall have assigned to another its rights to receive amounts that Buyer is required to pay under the Order.
13. **Independent Contractor**. Seller and, its employees, agents, suppliers and subcontractors are independent contractors with respect to Buyer and are not employees of Buyer, and such persons shall not be considered or represent themselves as employees or agents of Buyer.
14. **Assignment**. No part of this Order may be assigned, transferred, or subcontracted, other than to an affiliate or subsidiary, by either party without the other party's prior written consent and such assignee shall be subject to all claims and defenses that Seller and Buyer at any time may have against the other under this Order. All assignees, transferees, agents and/or subcontractors must agree to be bound to the terms and conditions of this Order.
15. **Product Recalls**. Seller shall monitor the recall status of all Purchases related to this Order and must notify Buyer of any such recalls not more than 72 hours after Seller first learns of any recall. Recall notices must include instructions and information regarding the recall and appropriate action to be taken by Buyer. Seller must pay all costs associated with the correction of the recall and actions taken in response to the recall.

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- 16. Use of Name.** Seller will not: (a) use the name, trademark, logo or other identifying marks or proprietary indicia of Buyer or Buyer's customer, or any affiliate thereof, in any sales, marketing, promotional or publicity activities or materials; or (b) issue any press release, interviews or other public statement regarding this Order or the parties' relationship, without the prior written consent of Buyer and, if applicable Buyer's customer.
- 17. Buyer Code of Conduct.** Buyer strives to demonstrate high ethical standards in its business practices. The Buyer Code of Conduct, available for review at <http://compass-usa.com/Pages/Code-of-Ethics.aspx>, contains the minimum standards by which the parties are expected to conduct themselves when performing their respective obligations under this Agreement. Buyer shall have the right, in its sole and absolute discretion, to immediately terminate this Order for cause in the event of any violation of the Buyer Code of Conduct by Seller.
- 18. Miscellaneous.** Notice. Notice by email by Buyer shall be deemed sufficient notice. Survival. Any obligations and duties, which by their nature extend beyond the expiration or termination of this Order, shall survive the expiration or termination of this Order. Severability. If any item, provision, or condition of this Order is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated as a result of such decision. Waiver. Buyer's failure to insist on performance of the terms and conditions herein or to exercise any right or privilege or Buyer's waiver of any breach hereunder, shall not thereafter waive the same or other terms, conditions, rights, privileges or affect any subsequent breach. Jurisdiction. This Order shall be construed in accordance with, and disputes shall be governed by the laws of the Commonwealth of Pennsylvania, without giving effect to any choice or conflict of law provisions or rule. Seller irrevocably consents to jurisdiction and venue for all controversies arising out of, or relating to this Order in the courts in Pennsylvania and agrees to litigate such disputes only in those courts. Meaning. "days" shall mean calendar days.