

Purchase Order Terms and Conditions

Patient-Related Diagnostic and Therapeutic Electrical Equipment

1. **Inspection and Acceptance.** Buyer reserves the right to inspect and test (or have tested on its behalf) and either accept or reject goods that contain any defect in materials, workmanship, or design or fail to conform to the written specifications (the "Specifications") provided to Buyer for the goods ("Defective Product(s)"). Upon successful completion of the initial inspection, Buyer shall have the right to a thirty (30) day operational period ("Operational Period") to continue its inspection. Up until completion of the Operational Period, Buyer may, at its option, (i) return Defective Products at Seller's expense, for a full refund of the purchase price; (ii) return Defective Products to Seller for repair or replacement; or (iii) exercise any other rights that Buyer may have at law or in equity. Defective Products that are returned to Buyer after repair or replacement are subject to the same inspection and acceptance provisions of this P.O. as goods originally delivered. If Buyer returns Defective Products to Seller for repair or replacement, Seller shall repair or replace Defective Products within five (5) days of receipt thereof. Seller shall pay all costs related to repairing or replacing Defective Products, including, but not limited to: labor, materials, and inspection and shipping costs to and from Buyer's facilities. If Buyer incurs any such costs directly, Buyer may recover such costs from Seller or offset such amount against unpaid purchase orders for other goods. All goods and materials shall be new, unless otherwise specified in this P.O. Neither Buyer's inspection nor failure to inspect shall relieve Seller of any obligations hereunder.
2. **Manuals and Alerts.** At no additional cost to Buyer, all goods shall be delivered to Buyer with one complete set of operation instructions, schematics, and maintenance manuals. Seller shall notify Buyer of all service bulletins, device alerts, and field modifications that pertain to the goods.
3. **Spare Parts.** Seller shall provide to Buyer any required spare parts, test fixtures, and/or optional equipment for continued maintenance or improvement of the Equipment for the life of the goods. For the sale of spare parts or optional equipment, Buyer's standard purchase order terms and conditions shall apply unless otherwise agreed to by the parties in writing prior to the sale of spare parts or optional equipment. Seller warrants that its published price schedule is consistent with market prices for similar parts and services by other third party suppliers. Copies of all engineering change orders, field modifications, or related documents that affect the operation of any goods purchased under this P.O. must be provided to Buyer for as long as the goods are manufactured.
4. **Software.** For any software necessary to the operation, utilization, functioning, maintenance or repair of the goods ("Software"), Seller warrants that it is the owner of Software or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant such license without the further consent of any third party. Seller shall provide to Buyer copies of all Software modifications and applicable documentation that affect the operation and maintenance of goods. Seller warrants that Software shall not contain any virus or other malicious code. At no additional cost to Buyer, Seller shall provide Buyer hardware required for the installation of Software.
5. **Connectivity.** Seller shall disclose all device output connections to accommodate interface with hospital equipment and systems. For goods requiring remote connection via network or the internet, Seller shall provide evidence of rights to the technology.
6. **Warranty.** Sellers warrants to Buyer that the goods purchased under this P.O. are (i) free from defects in materials, workmanship or design, in conformance with the Specifications, vest in Buyer good and valid title to the goods free and clear of all liens, encumbrances, security interests, burdens and/or other claims; (ii) free of infringement or violation of any copyright, trademark or other intellectual property rights; (iii) EMI compatible in the clinical environment; and (iv) operational without interference in an IEEE 802 wireless environment. Further, Seller warrants that it has fully disclosed to Seller all device output connections for assurance of compatibility with Buyer's network. The warranty period is one (1) year from the date of successful installation of goods unless otherwise stated in the purchase order or final quotation. The warranty period for repaired or replaced goods is one (1) year from the date of acceptance by Buyer unless otherwise stated in the purchase order or final quotation. If a defect or nonconformance in materials, workmanship or design is discovered during the warranty period, Buyer may, at its option: (1) return the goods to Sellers at Seller's expense for a full refund of the purchase price; (ii) require Seller to repair or replace the Defective Product within five (5) days of receipt thereof; or (iii) exercise any other rights that Buyer may have in law or equity. Goods that are returned to Buyer under this warranty after repair or replacement are subject to the same inspection and acceptance provisions of this P.O. as goods originally delivered. If Buyer returns goods under this warranty to Seller for repair or replacement, Seller shall repair or replace goods with non-defective, conforming goods within five (5) days of receipt thereof. Seller shall pay all costs related to repairing or replacing such goods, including, but not limited to: labor, materials, inspection and shipping costs to any from Buyer's facilities. If Buyer incurs any such costs directly, Buyer may recover such costs from Seller or offset such amount against unpaid purchase orders for other goods. Seller will transfer any manufacturer's warranties to Buyer.

7. **Pricing; Invoices and Payment.** The prices in this P.O. include all direct, indirect, and incidental charges related to the sale and delivery of the goods to Buyer, including but not limited to packaging, packing, crating, storage, forwarding agent and brokerage fees, insurance costs, freight shipping charges, document fees, duties and charges of any kind. Invoices will be payable thirty (30) days following the date of delivery of goods and Buyer's receipt or invoice, together with the appropriate supporting documentation unless otherwise stated in the purchase order. Each invoice will be subject to verification by Buyer. Submit invoice in duplicate to: **Accounts Payable, P.O. Box 300327, Houston, Texas 77030**. Buyer shall have the right (but not the duty) to withhold payments due to Seller hereunder and apply same to the payment of any obligations of Seller to Buyer. Delay in receiving invoices, as well as errors and omissions on invoices, will be considered just cause for Buyer to withhold payment without losing discount privileges, if any. Seller will retain for the longer of (i) two (2) years after the delivery of any goods under this P.O. or (ii) until the final resolution of any outstanding dispute between Buyer and Seller, Seller's internal books and records pertaining to the goods, in sufficient detail and condition to permit inspection, review, and/or audit of such books and records by Buyer or Buyer's authorized representatives, and Buyer or Buyer's authorized representatives shall have the right to conduct such inspection, review and/or audit of such books and records upon reasonable advance notice to Seller.
8. **Termination.** Buyer or Seller may terminate this P.O. upon default of the other party, upon written notice to the defaulting party. Buyer may terminate this P.O. at any time for any reason, upon notice to Seller. Upon termination of this P.O. by Buyer for reason(s) other than Seller's default, Buyer's entire liability shall be to purchase the following, without duplication: (i) all goods that had been purchased by Seller to fulfill Buyer's order as evidenced by reasonable documentation provided to Buyer, and (ii) all goods received by Buyer that have been paid for. Upon termination of this P.O. by Buyer due to Seller's default, Buyer may elect to purchase, at Seller's cost, any goods Seller may have purchased to fulfill Buyer's order; or (ii) exercise any other rights that Buyer may have in law or in equity.
9. **Sales Taxes.** Buyer is a non-profit corporation that is exempt from taxation under federal and state law; and therefore, Buyer is exempt from any taxes that arise from or relate to the goods provided by Seller pursuant to this P.O.
10. **Delivery; Title and Risk of Loss or Damage.** Time is of the essence. Failure to deliver the goods on the date and place agreed to is a default under this P.O. Seller shall notify Buyer of any delay to the delivery date and Buyer may elect; at its option to (i) accept the revised delivery schedule; (ii) terminate this P.O.; (iii) require Seller, at Seller's expense, to deliver the goods by a different mode of transportation; and/or (iv) exercise any other remedy available to Buyer at law or in equity. Title and risk of loss or damage passes to Buyer upon receipt by Buyer.
11. **Packing, Marking and Shipment.** Seller shall prepare and pack all goods in accordance with good commercial practice so as to affect safe delivery without damage or loss. Seller shall mark each shipping container to show Buyer's P.O. number or other Buyer reference number. Seller shall include in each container a packing list showing the P.O. number, part number, and quantity.
12. **Trademarks, Logos, and Advertising.** Buyer's name, trademark and/or logo may not be used by Seller without Buyer's prior written approval. Seller will not, without Buyer's prior approval (which approval Buyer may withhold in its discretion), refer to Buyer in any advertising, press release, client list, or other promotional or marketing materials.
13. **Confidentiality.** Seller agrees to maintain as confidential any information disclosed to it by Buyer.
14. **Insurance.** If Seller delivers goods within any Buyer facility, Seller shall maintain comprehensive general and professional liability insurance with limits no less than \$1,000,000.00 per occurrence and \$3,000,000.00 annual aggregate and shall provide Buyer with certificates of insurance upon request. In addition, Seller will secure and maintain statutory minimum workers' compensation insurance. If requested by Buyer, all insurance policies hereunder shall (i) name Buyer as an additional insured, (ii) not be cancelable without thirty (30) days prior written notice to Buyer and shall be written as primary policies (primary over any insurance carried by Buyer) not contributing with and not in excess of coverage which Buyer may carry, if any, and (iii) include an endorsement waiving the insurer's right of subrogation against Buyer.
15. **Indemnification.** **SELLER AGREES TO PAY, DISCHARGE AND HOLD HARMLESS, DEFEND AND INDEMNIFY BUYER AND ITS AFFILIATES FROM ALL LIENS, CLAIMS, DAMAGES, SUITS (INCLUDING LEGAL FEES AND OTHER EXPENSES INCIDENT THERETO), JUDGMENTS, AWARDS AND LIABILITY, WHETHER GROUNDLESS OR NOT, THAT ARISE OUT OF OR RELATE TO THE AGREEMENT OR THE SERVICES PROVIDED UNDER THE AGREEMENT (COLLECTIVELY, "CLAIMS"), INCLUDING, BUT NOT LIMITED TO, CLAIMS: (A) BY SUBCONTRACTORS, MATERIALMEN, SUPPLIERS, LABORERS AND OTHERS RELATING TO THE PAYMENT FOR GOODS/SERVICES PROVIDED PURSUANT TO THE AGREEMENT OR ANY PORTION OR COMPONENT THEREOF ("PAYMENTS"); (B) BY AN INDIVIDUAL OR ENTITY ON ACCOUNT OF ANY DAMAGE TO PROPERTY OR INJURY (INCLUDING DEATH) TO PERSONS (INCLUDING ANY DAMAGE OR INJURY TO THE PROPERTY OR PERSON OF ANY EMPLOYEE OF SELLER OR BUYER); OR (C) FOR BREACH OF ANY REPRESENTATION, WARRANTY, COVENANT OR OBLIGATION OF SELLER HEREUNDER.** Seller shall, whenever Buyer requests, furnish Buyer with proof satisfactory to Buyer that all Payments have been made and deliver executed lien releases from Seller and its subcontractors and suppliers. Buyer shall also have the right, at its option, to pay directly to any individual or entity any payment due or to become due from Seller. Such

payments shall be, at Buyer's option, credited against amounts owed to Seller or reimbursed by Seller without delay. Seller assumes all risks of damage or injury to Seller's own property or person from whatever cause.

16. **Notice.** All notices shall be in writing and such notices shall be sent to the mailing address for the party set forth on the first page of this P.O. or any substitute mailing address the party may provide to the other by notice hereunder. Notice shall be considered to be given on the date it is sent by prepaid mail or, if otherwise delivered, on the date of delivery.
17. **Entire Agreement; Additional or Different Provisions Rejected; Modification; Amendment.** This P.O. constitutes the entire agreement between the Buyer and the Seller. Any additional or different provisions proposed by Seller are rejected and will not be effective unless agreed to in writing by Buyer. The parties may agree to amend provisions contained in these Purchase Order Terms and Conditions if such amendment (1) specifically references the provision(s) in the Purchase Order Terms and Condition to be amended, (2) specifically provides how such provisions(s) is amended, and (3) is executed by Buyer. Otherwise, this P.O. may be amended or renewed only by written agreement of both parties.
18. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the United States of America and the State of Texas, without regard to its conflict of laws provisions.
19. **Venue.** Venue for any action or proceeding relating to this Agreement or Services is only proper in Harris County, Texas. The parties hereto expressly submit to the personal jurisdiction of Harris County, Texas.
20. **Legal and Code Compliance.** Seller warrants that the goods sold and materials and services supplied hereunder and every other activity connected therewith have been and will be produced, manufactured, delivered, supplied, and performed in compliance with all applicable laws, ordinances, rules and regulations. Further, Seller warrants that the goods sold hereunder comply with all applicable local and national codes and standards.
21. **Assignment.** Seller shall not assign this P.O. or otherwise delegate any goods to be provided hereunder without the prior written approval of Buyer. Buyer reserves the right to approve or disapprove all sub-vendors or sub-suppliers provided by Seller, which may be withheld at Buyer sole discretion. Seller shall be fully responsible for all work performed by sub-vendors or sub-suppliers.