

THIS PURCHASE ORDER AGREEMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS

- 1. DEFINITIONS.**
 - (A) "BHSF":** Baptist Health South Florida, Inc. or such affiliate thereof as may be identified as the buyer on the applicable Purchase Order.
 - (B) "Order" or "Purchase Order":** Purchase order issued and signed by BHSF for the purchase of goods and/or services referring to these Terms and Conditions (which are incorporated therein).
 - (C) "Purchasing Department":** BHSF department which handles all purchases of the goods and/or services of the Order.
 - (D) "Receiving Department":** BHSF department where goods (equipment, supplies, etc.) or services included in the Order are actually received.
 - (E) "Seller":** Person or company to which the Order is directed, and which provides the goods and/or services. "Seller" may include vendors, suppliers and/or manufacturers.
 - (F) "User Department":** BHSF department that will use the goods and/or services of the Order.
- 2. DELIVERY.** All shipments are FOB Destination, with the destination location and other delivery requirements included in the Purchase Order.
- 3. ACCEPTANCE.** All goods and services shall be received subject to BHSF's inspection and rejection at the BHSF designated location(s), including by a complete quality control check in the User Department to the satisfaction of the authorized User Department representative as deemed by the BHSF Corporate Director of Purchasing. Seller shall bear all risk of loss or damages, until such time as received and accepted by BHSF, FOB Destination notwithstanding.
- 4. INQUIRIES.** In the event that there are questions or problems in reference to the shipment, order, payments, all inquiries are to be directed to the BHSF Supply Chain Support Team at supplychainsupport@baptisthealth.net or 786-595-9001.
- 5. PACKAGING AND RECEIVING.** The Purchase Order number must appear on invoices, packing slips and all containers. Failure to do so will delay payment to the Seller. All goods shall be packaged, marked, or otherwise prepared for delivery in accordance with good commercial practices to obtain the lowest transportation rates. Seller shall mark on containers handling and loading instructions, shipping information, order item and this purchase order number, shipment date and addresses of Seller and BHSF. An itemized packing list must accompany each shipment. Seller will include on bills of lading or other shipping receipts correct classification and identification of the Goods shipped in accordance with all applicable governmental rules and regulations, including but not limited to, all applicable Department of Transportation regulations, Buyer's instructions, and carriers' requirements.
- 6. PRODUCT SUBSTITUTION.** Substitution by Seller is not permitted without written approval of the Purchasing Department. Unapproved substitutions will be returned at the expense of Seller.
- 7. CANCELLATION AND TERMINATION.** BHSF may, at any time, give 14 days' notice of the INTENT to terminate the Order (in whole or in part) (with or without cause) explaining the basis for such cancellation. If the basis of such cancellation or termination is without cause, such termination shall take effect upon the fourteenth day following BHSF's notice to Seller. If the basis of such cancellation or termination is for cause, and such grounds for termination have not been cured or removed within 14 days' written notice is given, such termination, shall take effect without liability of any kind to BHSF. If the basis of such termination is for cause arising out of the intentional misconduct, fraud or gross negligence of Seller, such termination shall take effect upon written notice to Seller.
- 8. TOTAL PURCHASE PRICE AND PAYMENT TERMS.** The price indicated on the Purchase Order represents the total purchase price, including installation. No supplemental or incidental payments will be made. Original invoice must be sent electronically to Baptist Health's Accounts Payable Department, APInvoices@baptisthealth.net or via US Mail to: Baptist Health South Florida, Attention: Accounts Payable, PO Box 29002 Miami, Florida 33102. Receipt of payment by Seller is contingent upon Seller's provision of all necessary Documentation and approvals. Unless otherwise stated in the Purchase Order, terms of payment will be forty-five (45) days after invoice is received by BHSF's Accounts Payable Department. Payment shall not constitute an acceptance of any services or goods provided nor will acceptance remove Seller's responsibility for latent defects, warranties, or other obligations.
- 9. FAILURE TO SUBMIT TIMELY INVOICES.** Seller further agrees that any invoices for Services and/or products (including any fees or expenses associated with the Services or products otherwise permitted by this Agreement) shall be submitted to BHSF within and no later than ninety (90) days after the Seller performs or provides the goods and services required by the Purchase Order and or incurs any such associated expense. If Seller fails to submit its invoices within such ninety (90) day period, or to the extent such invoice does not include or omits portions of costs, or appropriate back-up data or documentation in connection with the goods or services provided, Seller agrees that no compensation or reimbursement for such goods or services will be due or payable by BHSF, and the Seller specifically agrees to waive its rights to such compensation or reimbursement.
- 10. OWNERSHIP AND LICENSE RIGHTS.** All information, data, property or other materials furnished by or on behalf of BHSF to Seller hereunder will remain the property and confidential and proprietary information of BHSF (the "BHSF Information"), and Seller shall identify, maintain, preserve, and/or dispose of such material in accordance with BHSF's direction. Seller shall treat all BHSF Information confidentially, use it solely for purposes of providing goods and services hereunder, and may not use it for any other purpose or disclose it to any third parties without the prior written permission of BHSF. Sellers breach of these requirements shall entitle BHSF to obtain specific performance and/or injunctive relief from an appropriate court to enforce these obligations. All materials, software, tools, data, inventions, reports, models, formulas, macros, works of authorship, products, deliverables, documentation, innovations, or any other materials provided to BHSF or conceived, created, reduced to practice, or otherwise developed, delivered, or prepared by Seller or any of its employees, agents, or permitted subcontractors, in connection with Seller's performance under this Order ("BHSF Materials") shall be owned by BHSF to the fullest extent permitted by law. BHSF shall have the exclusive right, title, and interest, including all intellectual property and ownership rights, in BHSF Materials, including, without limitation, the right to obtain and to hold in its own name copyrights, patents, and trademarks, including any related registrations or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereto. To the extent that exclusive right, title, and interest in the BHSF Materials may not originally vest in BHSF as contemplated in this Order, Seller hereby irrevocably assigns all right, title, and interest, including any intellectual property and ownership rights, in the foregoing to BHSF and will cause its employees, agents, and permitted subcontractors to irrevocably assign to BHSF all such rights and will cause its employees, agents, and permitted subcontractors to, give BHSF all reasonable assistance and execute all documents necessary to assist with enabling BHSF to prosecute, perfect, register, or record its rights in and to the BHSF Materials. Seller hereby grants to BHSF and BHSF hereby accepts the grant of a fully paid, worldwide, nonexclusive, perpetual, royalty-free license to use the object code and to make archival copies of the software as identified on the face of this Order or in the statement of the work that does not otherwise constitute BHSF Materials (as defined below). If so required by the statement of work, Seller shall grant and BHSF hereby accepts the grant of a license to use, modify, reproduce and sublicense to Client, under the terms of BHSF's contract with Client, the object code of said software. Seller hereby grants, and BHSF hereby accepts such other rights in said software as are set forth on the face of the Order or in the statement of work. Seller shall assume all responsibility for including appropriate proprietary rights legends on Seller's software and any accompanying documentation. BHSF shall not remove or alter any such legends. In the event the software purchased under this Order is required to support one of BHSF's customers or clients, BHSF shall have the right to transfer any and all licenses to the respective end user in accordance with BHSF's contract or agreement with use end user(s). If any software constitutes BHSF Materials as provided herein, BHSF shall have such rights of ownership as set forth in this Section.
- 11. SCHEDULE AND TIME OF THE ESSENCE.** Time is of the essence. Unless expressly stated to the contrary on the face of the Purchase Order, all services and goods shall be provided and delivered no later than 30 days from the date of issuance of the Order by BHSF. Seller will immediately notify BHSF in writing (and no later than 48 hours) of any potential delay (including any back orders), and any extensions to the delivery time or method(s) shall be subject to the advance written approval of BHSF. Seller shall be liable for any costs or damages incurred by BHSF arising out of such delays, unless BHSF has approved in writing an adjustment to the delivery terms and schedule.
- 12. WARRANTY.** Seller warrants that the goods and services shall be free from liens and defects in design, material, workmanship, and title, and shall conform in all respects to the terms of the Purchase Order and to the applicable drawings, designs and specifications, if any, issued for manufacture, and shall be new and of the best quality, if no quality is specified, and comply with all applicable laws. All goods must meet the requirements of All goods must meet the requirements of UL 60601-1 and NFPA 99. All Services shall be performed All Services shall be performed by qualified personnel in a professional and workmanlike manner, in accordance with the highest applicable industry standards. Seller warrants and represents that all services and goods including, without limitation, software provided hereunder shall be free of any computer virus or any other similar harmful, malicious, or hidden programs or data. For the purposes of this Article, the term "software" shall include, without limitation, firmware, computer operating systems, application programs, databases, and interface systems and devices. All goods and services provided under the Purchase Order must carry at least a one-year warranty (or such longer period as set forth in the Purchase Order or required by applicable law), including on parts and labor; with such warranty commencing at first commercial use or upon BHSF's written acceptance, whichever occurs first. All warranties provided herein shall run to and inure to the benefit of BHSF, its successors, assigns and customers and users of the goods and services covered by this Order. Seller agrees to replace or correct defects in any goods or services not conforming to the foregoing warranty promptly, without expense to BHSF, when notified of such non-conformity by BHSF. In the event of failure by Seller to correct defects in or replace non-conforming goods or services promptly, BHSF may make such corrections or replace such goods or services and charge Seller for the costs incurred by BHSF thereby. Said warranties shall be in addition to any warranties given by Seller to BHSF. None of said warranties and no other implied or expressed warranties shall be deemed disclaimed or excluded unless evidenced by a purchase order, change order, change notice or revision issued and signed by BHSF.
- 13. OPERATING MANUALS.** BHSF shall be provided with written materials related to the goods and services provided and made available to the public, including, a minimum of two copies of operating manuals, electrical and mechanical schematics, technical specifications and current parts lists must be received prior to (and shall be a condition precedent to) payment of the final invoice.
- 14.** All goods must meet the requirements of UL 60601-1 and NFPA 99.
- 15. 48-HOUR NOTIFICATION.** 48-hour notification to the Receiving Department at the phone number noted under "ship to" is required on all large equipment and furniture prior to delivery to the receiving dock. This time is necessary to coordinate movement of equipment from the receiving dock to the User Department. Should Seller fail to notify the Receiving Department, any necessary storage or additional transportation costs as a result will be assumed by Seller.
- 16. IN-SERVICE SUPPORT.** A qualified representative of the Seller is required to provide in-service support to all appropriate personnel as may be deemed necessary to BHSF.
- 17. HAZARD COMMUNICATION.** Seller agrees to provide the User Department with a Material Safety Data Sheet for each product covered under this Purchase Order, where applicable, in accordance with the OSHA Hazard Communication Standard, 29 CFR Part 1910.1200(Revised), with the first shipment. All hazardous materials must be properly labeled.
- 18. TRANSPORTATION EXPENSES.** Seller must bear the total cost (including transportation expense and insurance) of recalled or updated goods, equipment, products, or parts. Seller shall be responsible for promptly furnishing an acceptable substitute for the product(s) at no additional cost to BHSF and with the written approval of BHSF.
- 19. CONFORMANCE WITH APPLICABLE LAWS.** Seller represents that goods and services covered by this Order were not manufactured and are not being sold or priced in violation of any Federal, State or local law. Seller represents and warrants that it shall perform its obligations and exercise its rights hereunder in compliance with applicable laws that are now or may in the future become applicable, including, but not limited to, laws related to minimum hours and wages, occupational health and safety, fair employment and employment practices, workers' compensation insurance and safety in employment. Without limiting the generality of the foregoing, Seller shall, at its sole cost and expense, procure and thereafter maintain all permits, approvals, certificates and licenses, if any, required in connection with its provision of any goods or services to be provided under the Purchase Order and at all times comply with the conditions and requirements of each such permit, approval, certificate and license and, upon request, submit copies of each of the same for review by BHSF.
- 20. FEDERAL ACCESS AND INDEPENDENT CONTRACTOR.** In the event the Seller shall be deemed to be a subcontractor subject to the disclosure requirements of 42 U.S.C. § 1395x(v)(1)(I), or amendments thereto, until the expiration of four (4) years following the completion of furnishing services under this Agreement, upon written request of BHSF, the Seller shall make available to the Secretary of the Department of Health and Human Services, or to the Controller General, or any duly authorized representatives thereof, a copy of this Agreement and such books, documents, and records of the Seller that are necessary to certify the nature and extent of the costs to BHSF of the services provided pursuant to this Agreement. If the Seller carries out its duties of this Agreement through a subcontract with a related organization involving a value or cost of \$10,000.00 or more over a twelve-month period, the Seller shall cause such subcontract to contain a clause to the effect that until the expiration of four (4) years after furnishing of such services pursuant to such

subcontract, upon written request of BHSF, the subcontractor shall make available to the Secretary, or to the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents, and records of the subcontractor that are necessary to verify the nature and extent of costs incurred by the Seller for such services. Seller shall be an independent contractor, and it nor any of its employees, contractors, agents, or representatives shall be deemed for any purpose to be an employee, agent, servant, or representative of BHSF.

21. INDEMNITY. To the fullest extent permitted by law, Seller will defend, indemnify, and hold BHSF, its affiliates, subsidiaries and their respective officers, agents, and employees harmless from all claims proceedings, liabilities and expenses (including reasonable legal fees and expenses) arising out of: (i) the acts or omissions of Seller, its employees, agents or its subcontractors; (ii) injury or death to persons, or loss of or damage to property, or fines and penalties which may result, in whole or in part, by reason of the buying, selling, distribution, or use of any of the services or goods except to the extent that such damage is directly due to the negligence of BHSF; (iii) the infringement or violation of any patent, copyright, trade secret, or other proprietary interest of any third party resulting from BHSF's use, distribution, sale, sublicensing, or possession of the services or goods or from the use or possession of the services or goods; (iv) false claims submitted by Seller under the Order or as a result of a misrepresentation of fact or fraud by Seller; or (v) any virus, (including, without limitation, the costs of debugging any virus and of alternative processing while debugging is under way) and shall promptly correct, repair or replace, at BHSF's option and at Seller's sole expense.

22. GOVERNING LAW. This Purchase Order shall be governed by the law of the State of Florida, without regard to the application of any conflict of law provisions. Venue for any litigation or trial shall be in Miami-Dade County, Florida.

23. HIPAA. Seller agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, and the corresponding HIPAA regulations related to the confidentiality and security of medical information, including but not limited to executing a business associate agreement ("BAA") with BHSF, if applicable. In the event such an agreement is required and a separate BAA has not been executed, then this Purchase Order shall serve as a business associate agreement, and Seller agrees that Seller shall:

- a) Not use or further disclose protected health information ("PHI") other than as permitted by this Purchase Order or as required by law;
- b) use appropriate safeguards to prevent use or disclosure of PHI other than as permitted by this Purchase Order;
- c) report to BHSF any use or disclosure not permitted by this Purchase Order of which Seller becomes aware;
- d) ensure that any agents or subcontractors to whom Seller provides PHI received from, or created, received, maintained or transmitted by Seller on behalf of, BHSF agrees to the same restrictions and conditions that apply to Seller;
- e) maintain and make available PHI to BHSF as necessary for BHSF to comply with patients' rights to access, amend, and receive an accounting of the disclosures of their PHI;
- f) make available to the Secretary of Health and Human Services its practices, books and records relating to the use and disclosure of the PHI;
- g) return to BHSF or destroy all PHI once this Purchase Order is terminated
- h) unless agreed to in writing by BHSF, only use, disclose, and/or de-identify PHI as permitted by BHSF for purposes of providing the good and services hereunder, or as required by law.

This Purchase Order may be terminated by BHSF if it has a reasonable belief that the Seller has violated any material term in the above paragraph. BHSF, however, shall provide Seller with fourteen (14) days' prior written notice (or such longer period if required by applicable law) in which time Seller shall have the ability to cure (and provide BHSF with written evidence of such cure of) such violation.

24. FAIR LABOR STANDARDS ACT. As of the Effective Date of this Purchase Order Agreement and at all times during the term of this Purchase Order Agreement, Seller shall ensure (i) Seller and all of Seller's subcontractors who provide services under this Agreement pay their respective employees at least federal or Florida minimum wage (as applicable), and (ii) neither Seller nor any of Seller's subcontractors apply for or hold certificates issued by the US Department of Labor (USDOL) under Section 14(c) of the Fair Labor Standards Act to pay subminimum wages to workers with disabilities as described under such section. Further, Seller agrees to check the USDOL list of 14(c) Certificate Holders prior to engaging any subcontractor to provide services to Baptist Health under this Agreement. Failure of Seller to pay federal or Florida minimum wage (as applicable) shall be a material breach of this Agreement.

25. INSURANCE. Seller shall maintain all insurance as required by law, including but not limited to Worker's Compensation Insurance for all employees engaged in the work, Commercial General Liability (CGL), and Automobile liability when applicable for all owned, non-owned and hired vehicles that are used in carrying out the contract. Seller shall provide to BHSF a certificate of such insurance from its insurance provider from time to time upon request.

26. CHANGES. Company may at any time, by written change order, suspend performance in whole or in part, make changes in drawings, designs, specifications, method of shipment or packaging, time or place of delivery, and quantities, or otherwise change the requirements hereof. If any such change causes an increase or decrease in the cost of, or the time required for performance, a corresponding adjustment will be made in the Purchase Order price or delivery schedule, if applicable. Any claim for adjustment of any of the terms of the Purchase Order shall conclusively be deemed to be waived unless asserted in writing within three (3) calendar days from the date of written notification of such change.

27. ASSIGNMENT. Seller shall not assign or transfer (in whole or in part) any interest in this Purchase Order without the written consent of BHSF, and any such attempted assignment or transfer shall be deemed null and void and without effect without such BHSF written consent. BHSF shall have the right to assign or transfer this Purchase Order (in whole or in part) to any related entity, affiliate or other third party or entity, upon written notice to Seller, and in such case, Seller shall look solely to such transfer or assignee for payment and such other obligations of BHSF herein, and BHSF shall be released from any remaining obligations under this Purchase Order.

28. ENTIRE AGREEMENT AND OTHER TERMS. This Purchase Order Agreement with any written documents by specific reference constitutes the entire Agreement and supersedes all prior agreements, proposals, representations, and communications between the parties hereto, unless noted otherwise on the face of this document, or when mutually agreed upon in writing by BHSF and Seller, or both. This form when properly signed and bearing a purchase order number is the only authorization which will be recognized by BHSF for charges to its account. If any term or provision of this Purchase Order Agreement is deemed invalid, illegal, or unenforceable in any jurisdiction by any

court of competent jurisdiction or under any statute, regulation, ordinance executive agreement or other rule of law, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Purchase Order Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, then such provision shall be deleted or modified, at the election of BHSF and Seller, but only to the extent necessary to comply with such ruling, statute, regulation, ordinance, agreement or rule and the remaining portions of the Purchase Order Agreement shall remain in full force and effect. Any sections or exhibits that by their nature should survive the termination or expiration of this Purchase Order Agreement, or which would reasonably be expected to be performed after the termination or expiration of this Purchase Order Agreement, shall survive and be enforceable after termination or expiration of this Agreement, including, without limitation, provisions relating to confidentiality, ownership, representations and warranties, indemnification, limitations of liability, audit rights, effects of termination, and governing law.