

PURCHASE ORDER (P.O.) TERMS AND CONDITIONS

1. **Amendment/Entire Agreement/Multiple Originals.** This P.O., together with any attachments or exhibits, sets forth the entire agreement among the parties with respect to the subject matter hereof. Any prior agreements, promises, negotiations, or representations, whether oral or written, not expressly set forth in this P.O., are of no force or effect. Except as otherwise expressly stated herein, this P.O. may not be amended except by a writing signed by the parties. This P.O. may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.
2. **Assignment.** Neither this P.O. nor any portion of this P.O. may be assigned or delegated by any party without the prior written consent of the other parties unless: (i) otherwise allowed hereunder, or (ii) upon thirty (30) days prior written notice, assigned or delegated to a party controlled by, in control of, or under common control with the assigning party; provided such party is located in the United States. Any purported assignment or delegation in violation of this section is void. This P.O. binds and benefits the parties and their permitted successors and assigns.
3. **Certification Regarding Debarment.** The parties certify, to the best of their knowledge and belief, after due inquiry using industry standards, that the parties and/or any of their principals: (i) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency; and (ii) have not been convicted of a criminal offense related to the provision of health care items or services. Industry standards shall include, but not be limited to, performing monthly exclusion checks on federal and state exclusion databases for its employees, agents and contractors performing its duties under this P.O. Upon request, each party shall provide the other party documentation evidencing such completed exclusion checks and compliance with this Section. During the term of this P.O., the parties shall provide immediate written notice to the other parties if any party learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. In the event any party's certification is or becomes erroneous, the other party may terminate this P.O. immediately upon notice.
4. **Compliance.** During the term of this P.O., the parties agree to comply with any and all laws, rules, regulations, licensing requirements or standards that are now or hereafter promulgated by any local, state, and federal governmental authority/agency or accrediting/administrative body that governs or applies to their respective duties and obligations hereunder (the "Applicable Laws and Standards"). The Applicable Laws and Standards shall include, but not be limited to, state and federal privacy and security laws related to the use and disclosure of health and medical information, the requirements of the Department of Health ("DOH"), The Joint Commission and the National Committee on Quality Assurance ("NCQA"), as applicable.

None of the parties will, at any time, remunerate the other parties directly or indirectly for the referral, the inducement of a referral, or for the arranging of a referral of a Medicare or Medicaid patient. Nothing in this P.O. is intended to require or induce any party to refer any Medicare or Medicaid patient to the other parties.

Seller acknowledges the False Claims Act (31 U.S.C. § 3729-3733) ("FCA") imposes civil liability on any person or entity that knowingly, among other things, submits, or causes to be submitted, a false or fraudulent claim for payment to the U.S. government (*e.g.* Medicare/Medicaid). The parties recognize the mandates of the FCA as well as the summary of the FCA outlined in Purchaser's FCA policy which can be accessed at: <https://www.geisinger.org/about-geisinger/Corporate/vendor-relations>.

Seller warrants that it either: (i) has developed and implemented a written Identity Theft Prevention Program ("Program") designed to detect, prevent, and mitigate identity theft in connection with any person whose information is used and/or disclosed under this P.O. and is susceptible to identity theft; or (ii) will comply with Purchaser's Program (incorporated herein by reference) while performing its duties set forth in this P.O. which can be accessed at: <https://www.geisinger.org/about-geisinger/Corporate/vendor-relations>. Seller's Program shall comply with the Red Flag Rules under the Fair and Accurate Credit Transactions Act of 2003.

5. **Confidentiality of Business Information.** The parties agree to hold in confidence all materials, documents and information disclosed to it by any party pursuant to this P.O., including, without limitation, information relating to its sales, customers, students, business, finances, products, practices and techniques ("Confidential Information"). Except as expressly provided herein, neither the recipient nor its agents, attorneys, consultants and affiliates (collectively "Representatives") will (1) use the disclosing party's Confidential Information other than for the purpose for which it was disclosed pursuant to this P.O.; or (2) disclose the disclosing party's Confidential Information to any party that is not a party to this P.O., except (a) to its Representatives provided such Representatives: (i) have a business need to know such information; (ii) are bound to the same level of confidentiality set forth in this P.O.; and (iii) are located in the United States; and (b) to the extent required by

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law; provided that the disclosing party is notified of any such requirement with sufficient time (if possible) to seek a protective order or other modifications to the requirement.

The recipient agrees to (i) implement appropriate administrative, physical and technical safeguards and internal controls to protect the confidentiality of the disclosing party's Confidential Information; (ii) allow the disclosing party the right to review such safeguards and internal controls; and (iii) provide immediate notice to the disclosing party of any unauthorized uses and disclosures of the disclosing party's Confidential Information.

All Confidential Information shall be delivered to the disclosing party promptly after the termination of this P.O. upon the disclosing party's request provided; however, the parties may retain copies as necessary for purposes of meeting applicable professional standards and/or legal requirements.

The obligations of this section shall not apply to: (i) information which is or becomes public, except through breach of this P.O.; (ii) information which is known, developed or becomes known independently from this P.O.; and (iii) information which is received from a third party which was not prohibited from disclosing such information.

This section shall survive termination of this P.O.

6. **Confidentiality of PHI.** Seller acknowledges that Purchaser may create or access protected health information ("PHI") as defined in 45 CFR 160.103. Seller agrees to advise its employees, agents and/or subcontractors (collectively "personnel") that, should such personnel be incidentally exposed to or incidentally access PHI, such personnel must maintain the PHI in strictest confidence. This section shall survive termination of this P.O.
7. **Construction of P.O.** The parties acknowledge that they have thoroughly reviewed this P.O. and bargained over its terms in an arms-length process. Accordingly, this P.O. shall be construed without regard to the party or parties responsible for its preparation and shall be deemed to have been prepared jointly by the parties. All titles of articles or sections under this P.O. are solely for convenience and do not constitute a substantive part of this P.O. Words importing the singular include the plural and vice versa. Words importing one gender include both genders.
8. **Delivery.** Unless otherwise noted on the face hereof, the written acknowledgment of this P.O. or the delivery of any goods and/or services shall constitute acceptance by Seller of the terms and conditions of this P.O. Seller shall suitably pack, mark, and ship all goods in accordance with the requirements of common carriers to secure the lowest transportation costs. Seller shall deliver goods FOB Purchaser unless otherwise noted on the face hereof. Deliveries shall be made as specified without charge to Purchaser for boxing, crating, storing, or refrigeration unless otherwise specified in writing by Purchaser.

FURTHERMORE, SELLER SHALL REFERENCE THIS P.O. NUMBER ON THE SHIPPING LABEL FOR ALL GOODS SHIPPED PURSUANT TO THIS P.O. AND PURCHASER RESERVES THE RIGHT TO REFUSE ACCEPTANCE OF ANY GOODS NOT CLEARLY IDENTIFIED WITH SUCH P.O. NUMBER. SHOULD ANY SHIPPING CHARGES APPLY, SELLER SHALL REFERENCE THE FEDEX ACCOUNT NUMBER AS STATED ON THE P.O. IF COMBINED SHIPPING WEIGHT EXCEEDS 150 POUNDS, SELLER SHALL CALL 1-888-457-5851 FOR FURTHER INSTRUCTIONS.

9. **Disclosure of Discounts.** Seller agrees: (i) to fully and accurately report the existence of any discount program on the invoice or statement submitted to Purchaser; (ii) to inform Purchaser of Purchaser's obligations to report its cost on its cost report, if applicable, and to comply with the following standards: (1) the discount must be earned based on purchases of that same good or service bought within a single fiscal year of Purchaser, (2) Purchaser must claim the benefit of a discount in the fiscal year in which the discount is earned or the following year, (3) Purchaser must fully and accurately report the discount in the applicable cost report, (4) Purchaser must provide upon request by the U.S. Secretary of Health and Human Services (or their designee) that the above information has been provided by Seller; and (iii) when the value of the discount becomes known, Seller shall provide Purchaser with documentation of the calculation identifying the specific goods/services purchased to which the discount applies.
10. **Governing Law.** The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this P.O. The federal or state courts located in the Commonwealth of Pennsylvania shall have jurisdiction over all matters arising out of or relating to this P.O.

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11. **Indemnification.** Each party agrees to protect, indemnify, and hold harmless the other party and their agents, employees, directors and affiliates from and against any and all damages, injuries, claims, liabilities and costs (including attorneys' fees), which may be suffered or incurred under this P.O., as a result of a breach of this P.O., or the negligent or intentional acts of the indemnifying party, its employees, agents, consultants, or subcontractors. This provision will not in any way limit any other statutory, regulatory or common law defense and hold harmless rights to which either party may be entitled. Said indemnity is in addition to any other rights that the indemnified party may have against the indemnifying party and will survive the termination of this P.O.
12. **Independent Entities.** None of the provisions of this P.O. shall be deemed or construed to create any relationship between the parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this P.O. None of the parties have any express or implied rights nor authority to assume or create any obligation or responsibility on behalf of or in the name of the other party, except as may otherwise be set forth in this P.O.

In the event Seller's independent contractor status is determined to be misclassified, Seller and Seller's employees, agents and subcontractors performing Seller's duties and responsibilities set forth in this P.O., shall, for himself, his heirs, executors, administrators, legal representatives and permitted assigns waive any and all potential claims to Purchaser employee benefits. Seller hereby represents and warrants that the performance of Seller's duties under this P.O. will not breach or be in conflict with any other agreement to which Seller or its employees, agents, or subcontractors who perform such duties are a party or are bound. Seller further represents and warrants that its services provided pursuant to this P.O. will not be affected or altered as a result of any relationship you have with a third party involved in the provision of health care services or equipment.

Seller is responsible for paying any sums for income tax, unemployment insurance, social security, or any other withholding pursuant to any law or requirement of any governmental body relating to any compensation it receives pursuant to this P.O.

Seller agrees it is not entitled to and will not take any tax position that is inconsistent with being a service provider to Purchaser. In particular, Seller agrees not to claim any depreciation or amortization deduction, investment tax credit, or deduction for service payment as rent with respect to managed property.

13. **Insurance.** Each party agrees to maintain during the term of this P.O., at its own cost and expense, insurance coverage in amounts consistent with industry standards and necessary and reasonable to insure itself and its employees and agents against any claims of any nature, which may arise from performance of its duties and responsibilities under this P.O. Notwithstanding the foregoing, in the event Seller receives identifiable patient information from Purchaser pursuant to this P.O., Seller agrees to also maintain Information Security and Cyber Liability insurance coverage with minimum amounts of \$10 million per occurrence and \$10 million annual aggregate. If any such insurance coverage is on a "claims-made basis", in the event the policy expires or is terminated, "tail coverage" must be purchased to cover any subsequent claims based on acts or omissions that occurred during the term of this P.O. Upon request, the parties agree to provide one another with a Certificate of Insurance evidencing said insurance covering such liability with an insurer AM Best rated A or better or through a qualified self-insurance program. Further, the parties agree to notify one another immediately if the aggregate coverage as stated on the Certification of Insurance is impaired more than fifty percent (50%).
14. **Medicare Access to Records.** If the services provided under this P.O. have a cost or value of \$10,000 or more over a twelve (12) month period, the parties agree to preserve and provide access to each one's contracts, books, documents, and records to the Comptroller General of the United States, Health and Human Services, and their duly authorized representatives until the expiration of four (4) years after the furnishing of services under this P.O. or as may be provided by regulation from time to time to implement the provisions of the Social Security Act relating to the determination of reasonable costs as a provider of, or a subcontractor of, services under the Medicare program.
15. **No Waiver.** A delay or omission by a party to exercise any right under this P.O. shall not be construed to be a waiver of such right. No waiver by any party of a breach of this P.O. will be deemed a waiver of any subsequent breach.
16. **Nondiscrimination.** Each party agrees to comply with all applicable Federal, state and local laws respecting discrimination. The parties hereby incorporate the requirements of 41 C.F.R. § 60-1.4(a), 41 C.F.R. § 60-741.5(a), 41 C.F.R. § 60-250.5(a), 41 C.F.R. § 60-300.5(a), and 29 C.F.R. § 471 Appendix A to Subpart A (Executive Order 13496), as applicable. This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities. Further, each party agrees it will not discharge or in any other manner discriminate against their employees or applicants because those employees or applicants have inquired about, discussed, or disclosed their own pay or the pay of another employee or

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applicant of their employer. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information. Each party shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

17. **Non-Solicitation.** Seller agrees not to solicit, directly or through a third party, any employee of Purchaser or its affiliate for employment or as an independent contractor for a period of two (2) years following said employee's final work date at Purchaser. Seller further agrees that in the event Seller solicits an employee of Purchaser or its affiliate, Seller shall pay to Purchaser, within thirty (30) days upon demand by Purchaser, an amount equal to two (2) times the annual salary of said employee, regardless of position or specialty.
18. **Notices.** All notices and communications related to this P.O. must be in writing and will be deemed given: (i) when personally delivered, (ii) upon confirmation of a facsimile transmittal, or (iii) upon receipt when deposited with the United States Postal Service, postage prepaid, addressed as follows or to such other person, fax and/or address as the party to receive may designate by notice to the other:
19. **Notification of Incidents.** Each party agrees to promptly notify the other party after the discovery of any incidents, occurrences, claims, or other causes of action involving this P.O. that could negatively impact the other party in order to permit the timely and appropriate evaluation, determination of responsibility, and opportunity for mitigation. The parties agree to cooperate with each other as may be necessary to resolve such matters. Notwithstanding the above, none of the parties shall be required to provide the other party with copies of patient safety materials as defined in the Pennsylvania Patient Safety Act, to the extent that releasing the same would waive any legal privilege applicable to said materials.

The Pennsylvania Breach of Personal Information Notification Act ("Act 94") was enacted to protect individuals' personal information. Notwithstanding anything in this P.O. to the contrary, if Seller requires an individual's Personal Information (as defined under Act 94) to be transferred from Purchaser, Seller shall ensure its employees, agents and/or subcontractors use appropriate encryption or redaction to protect such Personal Information from being accessed and/or acquired in an unauthorized manner. Seller further agrees to: (i) immediately notify Purchaser upon the discovery of any incidents or occurrences where Personal Information has been accessed and/or acquired in an unauthorized manner; (ii) cooperate with Purchaser as requested by Purchaser so that Purchaser may provide notification to those individuals whose Personal Information was accessed and/or acquired in such unauthorized manner; and (iii) cover any costs, losses or damages incurred by Purchaser due to Personal Information being accessed and/or acquired in an unauthorized manner while in the possession of Seller or its employees, agents and/or subcontractors.

This section shall survive the termination of this P.O.

20. **Pricing.** Purchaser shall not be billed at prices higher than stated on this P.O.
21. **Payment Terms.** Payment terms for products purchased under this P.O. shall be net forty-five (45) days from the date the invoice is received by Purchaser.
22. **Promotional Materials.** Except as otherwise stated in this P.O., each party agrees not to use the name, trademark, service mark, or design registered to the other party or its affiliates in any publicity, promotional, or advertising material, unless review and written approval of the intended use is obtained from the other party prior to the release of any such material.
23. **Purchaser Policies.** Seller agrees to abide by all applicable Purchaser rules, policies and standards while performing Seller's duties hereunder including, but not limited to, the policies found at <https://www.geisinger.org/about-geisinger/Corporate/vendor-relations>, which are incorporated herein by reference. Notwithstanding other termination provisions contained herein, any failure by Seller to comply pursuant to this section may result in immediate termination of this P.O. by Purchaser, without penalty to Purchaser.
24. **Release of Information.** The provisions of this P.O. are confidential and protected from disclosure to a third party, other than its agents, attorneys, consultants and designees, unless disclosure is required by law, or said third party is bound to the same level of confidentiality set forth in this P.O.

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25. **Severability.** In the event any provision of this P.O. is rendered invalid, illegal or unenforceable, the remaining provisions of this P.O. shall remain in full force and effect. Further, the parties shall renegotiate and amend the P.O. to comply with the requirements of law. If the parties fail to reach such an amendment satisfying each of the parties within ninety (90) days' following a written request by one of the parties, then any party may terminate this P.O. upon thirty (30) days' written notice, without further obligation or penalty, financial or otherwise, to the other parties.
26. **Survival.** Sections **4, 5, 6, 11, 19 and 28** shall survive expiration or termination of this P.O. indefinitely.
27. **Vaccination and Screening Requirements.** Seller warrants that the following criteria have been met for each of its employees, agents and/or subcontractors performing Seller's duties set forth in this P.O. prior to performing such duties and shall provide evidence of such to Purchaser immediately upon request:
- A. (i) a single Tdap vaccination if in a building where patient care is provided (unless with an approved medical or religious exemption); (ii) annual Influenza vaccination or if declined, such individual will be required, while in a Purchaser building where patient care is provided from mid- November through March (or as otherwise indicated by Purchaser Infection Control), to wear a mask when within six feet of another person; (iii) Two-Step Tuberculosis Skin Test (negative, or positive with documented follow-up chest x-ray) done within one year prior to the start; (iv) completed Hepatitis B Vaccination [or declination]; and (v) physical showing the individual is medically clear of communicable diseases if duties will be performed at a Life Purchaser facility; Additionally, the following vaccines are recommended: (i) Rubeola, (ii) Mumps, (iii) Rubella, and (iv) Varicella;
 - B. Pass a drug screen minimally testing for (i) Amphetamines; (ii) Benzodiazepines; (iii) Cannabinoids; (iv) Cocaine; (v) Opiates; (vi) Oxycodone; and (vii) Heroin [6-Acetylmor] done within 1 year prior to the start;
 - C. Criminal history record check through PATCH (PA Access to Criminal History), showing no relevant criminal history, done within 1 year prior to the start;
 - D. Seven year nationwide criminal history record check, showing no relevant criminal history, done within 1 year prior to the start;
 - E. PA Child Abuse History Clearance Form (Website Check) (CT-113), showing no relevant criminal history, done within 1 year prior to the start; and
 - F. Fingerprint-based Federal Criminal History Records Check, in compliance with Pennsylvania Act 73 of 2007, showing no relevant criminal history, done within 1 year prior to the start.

Renewals of the criminal history record checks and child abuse clearance set forth above shall be done at least every five years and evidence of such renewals shall be provided to Purchaser immediately upon request.

During the term of this P.O., Seller shall provide immediate written notice to Purchaser if Seller learns that any of the above affirmations was erroneous when submitted or has become erroneous by reason of changed circumstances. Notwithstanding other termination provisions contained herein, in the event any of the above affirmations were or become erroneous, Purchaser may immediately terminate this P.O. without penalty (financial or otherwise).

28. **WARRANTY. SELLER WARRANTS THAT ALL GOODS WILL BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP, THAT THEY WILL BE IN FULL CONFORMITY WITH THE SPECIFICATIONS, DRAWINGS, OR SAMPLES, AND IF THEY ARE TO BE INSTALLED BY SELLER, THAT THEY WILL FUNCTION PROPERLY WHEN INSTALLED. THESE WARRANTIES SHALL SURVIVE ACCEPTANCE AND PAYMENT. ALL WARRANTIES CONTAINED HEREIN SHALL EXTEND TO PURCHASER, ITS EMPLOYEES AND PATIENTS. SELLER WARRANTS IMMEDIATE REPLACEMENT OR REPAIR FREE OF CHARGE, OF ANY GOODS OR PARTS OF ANY GOODS SUPPLIED HEREUNDER WHICH PROVE DEFECTIVE IN MATERIALS OR WORKMANSHIP BEFORE THE EARLIER OF 18 MONTHS AFTER DELIVERY OR 12 MONTHS AFTER FIRST BENEFICIAL USE AS INTENDED BY PURCHASER. SELLER WARRANTS THAT THE PRODUCTS SOLD, OR SERVICE RENDERED TO PURCHASER SHALL CONFORM TO THE STANDARDS AND/OR REGULATIONS PROMULGATED BY THE U.S. DEPARTMENT OF LABOR UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.**