

## UC Health Purchase Order Terms

**PURCHASE ORDER (PO) TERMS.** These PO terms are applicable to and incorporated by reference into any PO issued to Seller by UC Health, LLC, or any of its affiliates (UCH), for goods, materials, equipment, software (“Deliverables”), or services listed in the PO. All references herein to the PO include these PO terms. Receipt by UCH of a signed or electronic acknowledgement of the PO from Seller, or shipment or provision of any portion of Deliverables or services to UCH, will constitute unqualified acceptance of all PO terms and will be binding on Seller and UCH as if signed by duly authorized representatives of both parties.

**PRICE.** UCH will not pay prices for the Deliverables or services higher than those stated on the PO unless confirmation with correct pricing is received and acknowledged by UCH in the form of a corrected PO issued by UCH. Unless otherwise specified, all Deliverables and services under the PO are F.O.B Destination, Freight Prepaid and Allowed.

**QUANTITY.** The specific quantity ordered must be delivered in full and not be changed without UCH’s consent in writing. Any unauthorized quantity is subject to UCH’s rejection and return at Seller’s expense and responsibility.

**DELIVERIES.** Unless otherwise specifically noted in a PO, deliveries must be made to UCH’s designated receiving area, not to individuals or departments.

**IDENTIFICATION OF SHIPMENTS.** Packing slips must be included with all shipments and PO numbers must appear on all packages, packing slips, and invoices.

**PAYMENT.** UCH will pay Seller’s correct and undisputed invoices within 60 days of receipt by UCH. Invoices must reference the PO. UCH will not pay late fees, penalties, or interest charges. In each invoice, Seller shall provide UCH all data necessary to properly account for and cost report all discounts or rebates pursuant to the regulatory safe-harbor of the Anti-Kickback Statute for discounts set forth at 42 C.F.R. § 1001.952(h), as amended. The parties agree to work cooperatively in good faith to resolve any disputes related to invoices.

**INSPECTION, ACCEPTANCE, AND RETURNS.** UCH retains the right to delay acceptance in order to inspect shipped goods within 15 days after delivery, and to reject and return or hold at Seller’s expense and risk any nonconforming, short, or inferior Deliverables or any Deliverables not fully in compliance with any warranties, including those set forth herein. Risk of loss does not pass to UCH until UCH accepts the Deliverables. UCH’s mere receipt and/or signature acknowledging receipt of Deliverables will not constitute acceptance. Acceptance of Deliverables will occur when UCH notifies Seller that the Deliverables comply with all specifications and documentation, are ready for clinical use (if applicable), and any required training is complete. Any Deliverables damaged prior to receipt by UCH may be exchanged by UCH at Seller’s cost for a period of 15 days after delivery. Seller may not charge any restocking fee, and Seller must pay all return shipping costs. In addition to the aforementioned return rights, UCH may elect to return Deliverables in their original packaging and without any

damage caused by UCH for a credit in the following amounts: (a) Deliverables returned within 120 days of initial delivery shall receive a full credit; (b) Deliverables returned between 121 – 150 days after initial delivery shall receive a 75% credit; (c) Deliverables returned between 151-210 days after initial delivery shall receive a 50% credit; and (d) no returns or credits for Deliverables after 211 days after initial delivery. UCH may pay for reasonable shipping charges to return the unused, undamaged Deliverables.

**WARRANTIES.** Seller represents and warrants that: (a) it has all right, title, interest, and authority necessary and appropriate to agree to the PO and grant to UCH all rights provided hereunder; (b) Deliverables are free from defects in material and workmanship, of high quality material, merchantable, and free and clear of any and all claims, liens, and encumbrances; (c) all services provided hereunder shall be performed by skilled, trained personnel in a timely, professional, high quality manner in accordance with industry standards; (d) all Deliverables and services will fully conform to the PO, the applicable specifications and requirements of any governing bodies (including, but not limited to, regulatory authorities), applicable documentation, Request for Proposal responses, proposals, requirements, or other descriptions given; (e) Seller will adhere to the highest ethical and business standards in providing the Deliverables and services; (f) the Deliverables and services are and will be in compliance with all applicable laws, rules, regulations, and ordinances which govern the manufacture, sale, delivery or provision of the Deliverables and services; and (g) if any Deliverables or services are subject to any manufacturer’s warranties, Seller will assign such warranties to UCH. At UCH’s option, Seller will promptly repair or replace any Deliverables and re-perform any services not complying with these warranties at no cost to UCH, and Seller will bear all expenses and costs and risk of loss and damage in connection therewith. Repaired and replacement Deliverables, and re-performed services will also be warranted as set forth in this PO. If Seller does not repair or replace any Deliverables or re-perform any services not complying with these warranties within 45 days after notice from UCH, then at UCH’s option, the PO may be terminated by UCH and Seller will refund all consideration received from UCH under the applicable PO.

**INDEMNIFICATION.** Seller shall indemnify, defend and hold UCH (and its affiliates, officers, employees, directors, and agents – together with UCH, the “UCH Indemnitees”), harmless from and against any and all liabilities, damages, claims, or other losses and costs (including reasonable attorney’s fees) which any UCH Indemnitees may suffer as a result of claims, demands, or judgment against them based upon strict liability in tort, negligence, or breach of express or implied warranties, arising out of Seller’s obligations under the PO or the distribution or use of defective or deficient Deliverables or services supplied by Seller to the extent that such liability and/or damage is not caused by the negligent act(s) or omission(s) of a UCH Indemnitee or a deviation by a UCH Indemnitee from the written recommendations or instructions furnished by

Seller. Seller shall indemnify, defend, and hold the UCH Indemnitees harmless from and against any Infringement Claim. If any Deliverable or service provided or installed under this PO becomes the subject of an Infringement Claim or becomes the subject of an injunction or settlement prohibiting the use of such Deliverable or service, then (within 24 hours of the injunction or settlement) Seller must at its own expense (a) procure for UCH the right to continue using the Deliverable or service, (b) replace the Deliverable or service with non-infringing Seller products or services with equivalent or better capacity performance, or (c) refund to UCH the price paid for the Deliverable or service. As used herein, Infringement Claim means any assertion that a Deliverable or service furnished to UCH under the PO infringes any existing patent, trademark, copyright, or other proprietary right of any third party.

**SOFTWARE (IF APPLICABLE).** To the extent any Deliverables or services include any software, Seller grants to UCH a perpetual, royalty-free, nonexclusive license to use such software (including third-party or packaged software) and its related documentation, effective as of the date of the PO.

**CANCELLATION AND/OR TERMINATION.** Notwithstanding acceptance of Deliverables or any performance of services after Seller's breach, UCH will have the right to immediately cancel and/or terminate the PO without cost or liability to UCH for the following reasons: (1) if Seller breaches any part of the PO; (2) if Seller is otherwise unable to meet its obligations as they become due; (3) if Seller or any of Seller's key personnel is convicted of an offense related to health care or is listed by a federal or state agency as being excluded, debarred, suspended or otherwise ineligible for federal or state program participation; (4) if Seller becomes bankrupt, insolvent, or has a receiver appointed for it; (5) on account of defects in supplies, workmanship or quality, or if supplies are not shipped as specified in the PO, or on release authorizations or schedules issued in connection with the PO, time being of the essence, or are not in accordance with approved samples or specifications issued in connection with the PO. UCH may also terminate the PO for convenience at any time and for any reason by providing 30 days' notice.

**FACILITY ACCESS.** It is understood and agreed by Seller that a Seller representative shall not have open and free access to UCH's facilities. UCH shall have the right to ban a Seller representative from visiting any UCH facility if UCH, in its sole discretion, determines that such representative poses a health risk to patients or has violated UCH's policies or standards of conduct. Each Seller representative must comply with UCH's then current vendor credentialing system, as well as all applicable federal and state health screening laws and regulations for persons who perform services in healthcare facilities.

**MISCELLANEOUS.** Assignment: If Seller assigns, subcontracts, delegates or otherwise transfers this PO or any duties or claims under the PO without UCH's prior written consent (which shall not be unreasonably withheld or delayed), then UCH will have the right to cancel all of UCH's obligations under the PO, without liability or cost to UCH. Governing Law: The PO shall be interpreted and enforced under the laws of the State of Ohio, without

regard to principles of choice of law. Any action to interpret or enforce this Agreement may be brought by the parties only in a federal or state court located in Hamilton County, Ohio. UCH and Seller expressly agree and consent to such venue. Public Announcement: Without UCH's prior written consent, Seller will not engage in promotion or publicity related to the PO, or make public use of any copy or semblance of any trade name, trademark, service mark, insignia, symbol, or logo of UCH. Limitation of Damages: IN NO EVENT WILL UCH BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES RELATED TO THE PO. Notices: Any notice required to be given under the PO must be in writing, postage and delivery charges pre-paid, and may be sent by hand delivery, overnight mail service, first-class mail, or certified mail with return receipt requested. Notices are deemed to have been given, and are effective upon, actual receipt by the other party or, if mailed, upon the earlier of the fifth day after mailing or actual receipt by the other party. Partial Invalidity; No waiver: If any provision of the PO is or becomes void or unenforceable by force or operation of law, the other provisions will remain valid and enforceable. The failure of either party to enforce any of its rights under the PO will not constitute a waiver of such rights or of any other rights under the PO. Remedies: No remedy conferred by any of the specific provisions of the PO is intended to be exclusive of any other remedy, and each and every remedy will be cumulative and will be in addition to every other remedy given hereunder, now or hereafter, existing at law, in equity, by statute or otherwise. The election of any one or more remedies by either party will not constitute a waiver of the right to pursue other available remedies.

**ENTIRE AGREEMENT.** The PO will constitute the complete and exclusive statement of the agreement between Seller and UCH with respect to the subject matter hereof, which supersedes all prior agreements, understandings, representations or warranties, whether oral or written, between Seller and UCH relating to such order. No part of the PO will be added to, modified, or superseded unless duly authorized representatives of the parties consent in writing in a document referencing the PO. Seller acknowledges and agrees that any provisions contained in any acknowledgement hereof, in Seller's invoice, or in any agreement neither negotiated nor authorized by the parties, that are inconsistent with or in addition to the PO will have no effect and will not constitute any part of the PO.