

## Purchase Order General Terms and Conditions

- 1. CONTRACT TERMS** – Unless otherwise agreed to in writing by Howard Hughes Medical Institute (“HHMI”), the terms and conditions set forth in Sections 2-22 below apply to all HHMI purchase orders for goods or services (products) other than purchase orders for equipment provided to HHMI solely for demonstration purposes (“Demonstration Equipment”) and the terms and conditions set forth in Sections 2 and 23 below apply to all HHMI purchase orders for Demonstration Equipment, in addition to any terms set forth on the face of, or attached to or incorporated by reference into, an individual purchase order. HHMI objects to any different, additional or conflicting terms proposed by Seller in any communication between the parties or otherwise (including on any of Seller’s invoices, acknowledgements, other forms or website), all of which shall be deemed material alterations of the order, unless HHMI expressly agrees in writing to such terms. Subject to the foregoing, if there is any conflict between these terms and the terms of Seller’s forms or website, these terms shall prevail.
- 2. CHANGES** – No change or other modification to the order shall be binding upon HHMI unless accepted in writing by HHMI.
- 3. WARRANTY**- In addition to its standard warranties, Seller warrants to HHMI that each product furnished hereunder and any component part thereof will be: (a) in conformity with the specifications in all respects and, if a non-custom product, fit for the purpose intended; (b) new (unless otherwise specified) and of good quality; (c) free from faulty workmanship, material, or design; and (d) free and clear of all liens, claims, security interests or other encumbrances of any kind, with Seller having good and marketable title thereto. Services furnished hereunder shall be performed in a professional and workmanlike manner. Warranties shall not be deemed waived by reason of HHMI’s inspection or acceptance of any product or component part or by payment for them.
- 4. INSPECTION/ACCEPTANCE** – Seller grants to HHMI the right to visit the facilities of Seller or its subcontractors or suppliers to inspect material or determine progress of manufacture or shipment. HHMI’s acceptance shall not be deemed to occur until all products on the order have been received and/or installed and approved by HHMI as conforming to the order. If any part of the products received are not in accord with HHMI’s specifications, HHMI shall have the right to cancel any unshipped portion of the order.
- 5. DELIVERY** – The specific quantity ordered must be delivered in full, unless partial deliveries are authorized, and must not be changed without HHMI’s written consent. HHMI reserves the right to reject or cancel all or any part of the order, delivered or undelivered, if Seller does not make deliveries as specified or scheduled. Any unauthorized quantity is subject to return at Seller’s expense, the one exception being overruns and under runs associated with the printing industry.
- 6. NO ASSIGNMENT OF ORDER** – Except for any payment due hereunder, the order may not be assigned, transferred or subcontracted by Seller, in whole or in part, without the written approval of HHMI.

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7. **TERMINATION FOR CAUSE** – HHMI may terminate the order in whole or in part for cause without liability to Seller by written notice to Seller -if Seller defaults, fails to comply with the terms and conditions of the order, or makes an assignment for the benefit of creditors or becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency or the relief of debtors.
8. **TERMINATION FOR CONVENIENCE** – HHMI may terminate the order in whole or in part for its convenience by written notice to Seller. In the event of such termination, Seller may claim its reasonable costs incurred prior to the effective date of termination plus, for custom products only, a reasonable allowance for profit on the portion of the work completed, all to be determined in accordance with generally accepted accounting procedures; provided, that the total sum payable upon termination shall not exceed the order price reduced by payments previously made. If it appears that Seller would have sustained a loss on the entire order had it been completed, no profit shall be allowed. Completed work or raw material included in Seller's cost shall be held for disposition in accordance with HHMI's instructions.
9. **INDEMNITY** – Seller agrees to indemnify and hold harmless HHMI and its agents and employees from and against any judgment, liability, loss, damage or expense, and to assume at Seller's own expense the defense of any claim or action brought by any person: (a) for injury to or death of persons or damage to property caused by or arising out of or in connection with products provided by Seller under the order, except to the extent caused by the negligence of HHMI; (b) for alleged infringement of patents, copyrights, trademarks, trade secrets or other intellectual property rights by reason of the possession, use or sale of any goods furnished hereunder by Seller, or by reason of the performance of any services hereunder by Seller; and (c) for failure to comply with the requirements of the section hereof entitled **COMPLIANCE WITH LAW**. Seller waives any right to assert workers' compensation immunity against HHMI under the foregoing.
10. **FINAL PAYMENT** – Acceptance by Seller of the final payment on the contract price shall be and shall operate as a release of HHMI from all claims of Seller arising out of or in connection with the order.
11. **LEASED OR CONSIGNED PRODUCTS** – HHMI is not responsible for lost or damaged products leased or consigned to HHMI unless the loss or damage is occasioned by HHMI's own negligence.
12. **INDEPENDENT CONTRACTOR** – Seller agrees that any services shall be performed by Seller, its employees, agents, suppliers or subcontractors, as independent contractors, and not as employees of HHMI, and that such persons doing work shall not be considered or represent themselves as employees or agents of HHMI.
13. **PROPRIETARY RIGHTS** - If the products to be supplied hereunder have been provided or designed in accordance with specifications furnished or originated by HHMI, any data, report, know-how, physical or intellectual property or other material prepared or produced in connection therewith (deliverables) shall be "works made for hire" by Seller for HHMI,

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*and all title to all rights in and to such deliverables shall vest in HHMI. To the extent the deliverables are not works made for hire, Seller hereby assigns any and all rights in such deliverables to HHMI. Deliverables shall not be reproduced or disclosed to third parties except with the written consent of HHMI. All drawings, photographs, data and other written material or information supplied in connection therewith shall at all times remain the property of HHMI and be returned promptly upon request.*

- 14. COMPLIANCE WITH LAW** – *Goods supplied or services rendered by Seller under the order shall comply with the Occupational Safety and Health Act and the standards promulgated thereunder, if applicable, as well as with all other applicable Federal, State, and local laws and regulations, including safety laws of the state where the goods supplied hereunder are to be shipped, laws relating to hazardous or regulated materials (with Seller having sole responsibility for packaging, labeling and shipping of such materials, including notifying carriers and other handlers of any risks inherent in shipments of such materials), and laws relating to export control (with Seller agreeing to label any export controlled product with specific information about the export controls applicable to the product).*
- 15. PACKAGING** – *HHMI's purchase order number must appear on the outside of each package and all packing slips. A packing slip must be included with each shipment.*
- 16. INVOICE REQUIREMENTS** – *HHMI'S purchase order number must appear on all invoices. If HHMI's purchase order number does not appear on the invoice, the invoice will be rejected.*
- 17. EXTRA CHARGES/FREIGHT CHARGES** – *No charges of any kind including, but not limited to, charges for shipping, handling, packaging or insurance will be allowed unless specified by HHMI. All shipments on which freight charges are due, Seller will set them up as Prepaid and Add, will prepay the freight charges and add them to the invoice. Collect (i.e., COD) shipments cannot be accepted.*
- 18. WAREHOUSE RECEIPT** – *In cases where HHMI directs Seller to warehouse the products until HHMI can receive the products, Seller shall deliver to HHMI a warehouse receipt as evidence of HHMI's title to the products. Such warehouse receipt shall be issued and signed by an authorized agent of the warehouse in which the products are stored by Seller prior to delivery to HHMI. The warehouse receipt shall state the location of the warehouse where the products are stored; the date of issue of the receipt; a description of the products or of the packages containing the products; and the fact of HHMI's ownership of the products.*
- 19. RISK OF LOSS; TITLE** – *Until the actual receipt of the products by HHMI, Seller shall bear any and all risk of loss or damage relating to the products. Seller shall be fully responsible for the safe storage, warehousing, security, receipt, delivery, unloading, protection and insurance of the products. Title to the products shall pass to HHMI upon actual receipt of the products by HHMI.*
- 20. INSURANCE** – *HHMI self-insures goods upon title of goods being transferred to HHMI. If Seller provides insurance to protect the merchandise until the actual receipt by HHMI (e.g.,*

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*terms of F.O.B. Destination), Seller shall bear the expense of this insurance. Additionally, if Seller is providing services on HHMI's premises, Seller must provide HHMI with evidence of sufficient workers' compensation, employer's liability, commercial general liability and professional liability insurance in advance of providing the services.*

- 21. PAYMENT DISCOUNTS** – *Time, in connection with discounts offered, will be computed from the date of delivery, or date of receipt of correct invoice, whichever is later.*
- 22. SALES TAX** – *HHMI is located in both states that provide a sales tax exemption and states that do **not** provide sales tax exemption. In all cases, it is the shipping destination that determines taxability. Upon request, HHMI will provide a listing of all states that provide sales tax exemption to HHMI. Sellers are required to bill for sales tax in those shipping destinations that are not exempt and to pay this to the appropriate taxing authority in a timely manner.*
- 23. EQUIPMENT DEMONSTRATIONS** – *Demonstration Equipment is provided to HHMI at no charge so that HHMI can test and evaluate the equipment as necessary to determine whether the equipment would be useful to HHMI in its research operations. HHMI has no obligation to purchase the Demonstration Equipment. If HHMI decides to purchase the Demonstration Equipment, it will do so by issuing a new purchase order to Seller. The terms of any such future purchase order will be set forth in the purchasing documentation prepared at the time of purchase. The schedule for the demonstration period will be as agreed upon by HHMI and Seller, provided that either HHMI or Seller may end the demonstration period earlier by giving reasonable notice to the other and HHMI and Seller may extend the demonstration period by mutual agreement. Seller will be responsible for arranging and paying for shipment of the Demonstration Equipment to the destination specified by HHMI for the demonstration. Unless otherwise agreed, HHMI will be responsible for arranging and paying for shipment of the Demonstration Equipment back to Seller at the end of the demonstration period if HHMI decides not to purchase the Demonstration Equipment. During the demonstration period, Seller will provide reasonable assistance with installing and making operational the Demonstration Equipment, if needed, and will provide any training necessary to effectively and safely use, test and evaluate the Demonstration Equipment. Title to the Demonstration Equipment will remain with Seller throughout the demonstration period. HHMI will not have rights to sell, loan, pledge, or otherwise transfer rights in or encumber the Demonstration Equipment during the demonstration period. During the demonstration period, HHMI will use the same care in respect of the Demonstration Equipment as it uses to safeguard its own equipment. Seller will retain all risk of theft or other loss or damage to the Demonstration Equipment, except to the extent such theft, loss or other damage is not attributable to ordinary wear and tear and is due to negligence on the part of HHMI or its employees or agents. The equipment demonstration will not be considered to create any of the following: a partnership or lease between Seller and HHMI; an endorsement by HHMI of Seller or the Demonstration Equipment; the right on the part of Seller to publicize the demonstration; or any restriction on the use or purchase by HHMI of any equipment provided by any other supplier.*