Purchase Order Terms & Conditions (UTC-0E)

FOR MEDICAL EQUIPMENT AND DEVICES TO BE EVALUATED ("EQUIPMENT")

1. COMPLETE AGREEMENT

This Purchase Order, together with all documents, drawings and specifications referred to in this Purchase Order and the Contact Schedule attached to these Purchase Order Terms and Conditions shall, when accepted by the Supplier, constitute the entire contract between the Supplier and Purchaser for the purpose of permitting the Purchaser to evaluate whether the Equipment meets the needs of the Purchaser and shall not be altered, amended or supplemented without the Purchaser's prior written approval. If there is a Master Agreement between the Purchaser and the Supplier, that this Purchase Order is issued under, in the event of any conflict or inconsistency between these Purchase Order Terms and Conditions and the Master Agreement, the terms and conditions of the Master Agreement shall govern. The Purchaser shall not be bound by any terms or conditions in any of the Supplier's forms or documents. Either the Supplier's written acceptance of this Purchase Order, or the shipment of any article, or the commencement of any work pursuant to this Purchase Order shall constitute unqualified acceptance and no contrary or additional terms or conditions shall apply. The Purchaser may insist upon strict compliance with these terms and conditions despite any previous custom, practice or course of dealing to the contrary.

2. PURCHASER

The Purchaser under this Purchase Order shall be the University Health Network; The Purchaser is identified in the Purchase Order as the party at the applicable ship to address. The Purchaser shall be entitled to all

the benefits of Supplier representations, warranties, covenants, and indemnities. Purchaser contact information and addresses shall be listed in the Contact Schedule. The Supplier shall select and use the appropriate site-specific contact information as applicable.

3. EVALUATION PERIOD AND TERMINATION

The evaluation period shall commence and terminate on the dates set out in the Purchase Order ("Evaluation Period") unless otherwise agreed to by the parties in writing and in accordance with the terms of this Purchase Order. The Purchaser reserves the right to terminate all or part of the Purchase Order at any time.

4. SUPPLY

The Supplier agrees to supply the Equipment stated during the Evaluation Period. Unless and until the Purchaser and the Supplier enter into a purchase agreement or lease agreement duly executed by authorized representatives of the Supplier and the Purchaser, the Purchaser shall have no obligation or commitment with respect to the Equipment, except as expressly set forth in this Purchase Order.

5. PRICES, PAYMENTS

The Supplier acknowledges that the Purchaser shall not be liable to the Supplier for any payment pursuant to this Purchase Order including, but not limited to price, duties and freight, licence fees or otherwise, including any taxes, of any kind, with respect to the Equipment.

6. DELIVERY

The Supplier shall deliver the Equipment, which includes any products or goods that are being evaluated pursuant to this Purchase Order, to the destination(s) specified in the Purchase Order to the attention of the Medical Engineering or Biomedical Engineering department

("Medical Engineering") of the Purchaser as specified in the Contact Schedule or such other destination as the Purchaser may inform the Supplier in writing from time to time. The Supplier must notify the Medical Engineering department of the Purchaser of delivery particulars in advance of delivery as required by the Purchaser. Prior to the delivery date(s) specified, if any, the Supplier shall send the information to the Purchaser as listed on the Contact Schedule.

The Supplier shall retain title and all risk of loss to the Equipment at all times that the Equipment is in the possession of the Purchaser or in transit to or from the Purchaser facilities. The Supplier is responsible, at its expense, within two (2) days of delivery of the Equipment, for the disposal off-site of the crating and packaging of the Equipment when requested by the Purchaser. The Supplier shall contact the Purchaser within two (2) days of delivery of the Equipment if disposal off-site is not possible and disposal onsite shall be made through the approval of the Purchaser at the Supplier's expense.

The Supplier shall specify, in writing, any installation and/or special test tools and/or kit requirements for the proper use and maintenance of the Equipment. The Purchaser shall be notified of such requirements before the Equipment is delivered. All supplies used during the Evaluation Period shall be provided at no charge to the Purchaser.

7. SHIPMENT

The Equipment shall be shipped in a manner that does not trigger any charge payable by the Purchaser on delivery, and in the event of any such charge, the Supplier shall forthwith reimburse the Purchaser for such charge.

8. REJECTED EQUIPMENT

The Supplier shall be responsible for removal or replacement of any rejected Equipment, at its own expense. Equipment rejected by the Purchaser shall be at the Supplier's risk for damage or loss.

9. WARRANTY, GUARANTEE, COMPLIANCE

The Supplier warrants that the Equipment and/or work shall conform to the description and applicable specifications, drawings, samples or other description furnished or specified by the Purchaser, shall be of good merchantable quality, of good material and workmanship, free from defect and fit and sufficient for the purposes intended, for the Evaluation Period. Defective Equipment and or parts shall be replaced at the Supplier's expense as well as all labour charges for Evaluation Period. The Supplier also warrants that the Equipment and/or work shall be new, unless stated in the Purchase Order, shall comply with all federal, provincial and local laws, regulations and orders applicable to the manufacture, sale, packaging, storage, labeling and delivery of the Equipment and to the performance of the work, that the Supplier has absolute title, and that the use of the Equipment by the Purchaser shall not infringe on any other entities' rights. For evaluations involving patients, the Supplier shall commission the Equipment prior to use and perform all required maintenance during the Evaluation Period. The warranties shall apply notwithstanding any inspection or testing of the Equipment. The foregoing is in addition to any warranty or service guarantee given by the Supplier to the Purchaser.

10. TRAINING

The Supplier shall provide training as agreed to in writing by the Supplier and the Purchaser and attached to this Purchase Order.

11. CLEANING, DISINFECTING AND STERILIZATION

For any Equipment that is not intended to be single use, or any single-use Equipment received unsterile which requires sterilization prior to use, prior to the delivery of the Equipment, the Supplier shall submit to the Manager/Director of the Regional Processing Centre/Central Processing/Sterile Processing department of the Purchaser:

i. a letter from a senior official of a quality, safety, regulatory or compliance department process parameters for the specific Equipment and/or a Scientific Validation Report that deals with the efficacy of the cleaning, disinfecting and sterilization of the Equipment, as applicable;
ii. reprocessing instructions: step-by-step instructions on the cleaning, disinfection, maintenance, sterilization, reprocessing, disassembly and reassembly of the specific Equipment;
iii. for Equipment sets containing multiple instruments: a picture of the Equipment set contents and a catalogued list of the individual pieces of the Equipment sets; and
iv. for containerized Equipment sets: a letter and/or a Scientific Validation Report stating Equipment consisting of multiple instruments can be sterilized as a set in the container provided and a catalogued list of the individual pieces of the containerized Equipment sets.

12. MANUALS AND BULLETINS

The following manuals/materials must be provided at no charge and shipped with the Equipment, unless otherwise specified in the Purchase Order:

a. One (1) complete sets of operator/user manuals, including software manuals as applicable and any other printed or

electronic media available for user education (e.g. videos, CD-ROMS); and

b. One (1) complete set of service manuals including, but not limited to, electrical/mechanical/pneumatic schematics manuals, parts lists, pricing lists or schedules, software manuals, troubleshooting guides as applicable.

13. ELECTRICAL EQUIPMENT

All electrical Equipment evaluated pursuant to this Purchase Order shall be authorized or approved in accordance with the Ontario Electrical Safety Code, current as at the date of delivery, by a Certification Organization, accredited with the Standards Council of Canada Act (Canada), and shall bear the Certification Organization's mark which identifies equipment certified for use in Canada. Certification shall be to the standard that is appropriate for the intended use of the Equipment at the Purchaser's facilities.

14. LICENSES

All Equipment, which includes any products or goods that are being evaluated pursuant to this Purchase Order, that is defined as a Device under Food and Drugs Act (Canada) and as a Medical Device under the Food and Drugs Act (Canada), Medical Devices Regulations shall be licensed with Health Canada, Therapeutic Products Directorate, Medical Devices Bureau, unless it is exempted under the Food and Drugs Act (Canada), Medical Devices Regulations. The Supplier shall have a Medical Device Establishment License under the Food and Drugs Act (Canada), Medical Devices Regulations unless it is exempted under the Food and Drugs Act (Canada), Medical Devices Regulations. At the time of delivery, the Supplier shall provide satisfactory evidence as applicable.

15. LATEX

The Supplier shall provide the following information with respect to the Equipment, at the time of delivery or before if requested, whether:

i. the Equipment contains any latex;
ii. the packaging of the Equipment contains any latex; and
iii. the Equipment indicates on the smallest unit packaging if there is latex in the Equipment or if it is latex-free. The Purchaser requests the right to ask for additional information with respect to latex.

16. CUSTOMS

All commercial customs documents, including but not limited to commercial invoices, Canada Customs Invoices, and bills of lading, as applicable, shall be fully and satisfactorily completed in accordance with Canada Border Services Agency ("CBSA") requirements. The Supplier shall obtain from the Purchaser and show on the relevant commercial documents all that are accessible of the following: the Purchase Order Number or the department name of the Purchaser evaluating the Equipment. Equipment eligible for duty free entry into Canada according to NAFTA shall be accompanied by a fully completed NAFTA Certificate of Origin or Statement of Origin, as appropriate, stamped or printed. Penalties assessed by CBSA due to incomplete, inaccurate or missing information on a commercial customs document shall be the responsibility of the Supplier, shall be charged to and paid by the Supplier or shall be deducted from any payment owing to the Supplier. Equipment being evaluated may be eligible for temporary entry in the name of the Supplier. The Supplier shall provide prior advance notice to allow the broker to determine eligibility for temporary entry.

17. INDEMNIFICATION

The Supplier shall be responsible for and shall save harmless and indemnify the Purchaser, the Purchasers' employees, subcontractors, agents, officers and directors from and against all losses, costs, damages, suits, claims and demands of every nature whatsoever arising out of or by reason of the Equipment delivered or work performed pursuant to this Purchase Order, performance or purported performance of the terms and conditions of this Purchase Order by the Supplier or the Supplier's employees, subcontractors, agents, officers and directors, including without limitation those made or sustained in respect of property damage, personal injury (including death) and infringement of any intellectual property right, including but not limited to copyright, trademark, patent or trade secret.

18. MEDICAL ALERTS AND SAFETY NOTIFICATIONS

a. In the event that a medical alert, recall, safety notification, advisory or warning is issued or communicated, applicable to the Evaluation Period, by the Supplier or manufacturer of the Equipment or a recognized reporting agency involving any of the Equipment delivered to any of the addresses set out in the Contact Schedule or such other designated destination or posted on the Health Canada Web site, the Supplier shall:
    i. communicate the medical alert, recall safety notification, advisory or warning by registered mail and by facsimile to the appropriate location(s) as listed on the Contact Schedule;
    ii. follow any Health Canada protocols and requirements; and
    iii. take all steps necessary to remedy the situation at no cost to the Purchaser.
b. The supplier shall also:

i. inform the Purchaser of any possible design defect or malfunction condition occurring anywhere in the world with the Equipment, or equipment similar to the Equipment supplied under this Purchase Order, at its earliest possible opportunity, but in no event, more than five (5) days after the Supplier becomes aware of the existence of such a defect or malfunctioning condition; and

ii. communicate the situation set out in Section 18 (b) (i) to the Purchaser in the same manner as set out in Section 18 (a) above.

19. CONFIDENTIALITY

All information which the Supplier receives or acquires from the Purchaser either in writing, orally or through observation of the Purchaser's operation, or in the course of the Supplier's fulfilling its obligations hereunder, shall be held by the Supplier in confidence at all times and the Supplier shall not use the information unless required by this Purchase Order. Accordingly, the Supplier shall ensure that all recipients of the said information, including the Supplier's own employees, subcontractors, agents, officers and directors assume obligations identical in principle with those which the Supplier assumes under this section.

20. FIPPA

The Supplier and the Purchaser acknowledge and agree that as of January 1, 2012, the Freedom of Information and Protection of Privacy Act (Ontario) ("FIPPA") applies to and governs certain information. The Purchaser will maintain the confidentiality of this information in accordance with the provisions of FIPPA. However, the Supplier acknowledges and agrees that FIPPA may also require the disclosure of such information to third parties.

21. PUBLICITY

The Supplier shall not, in any of its advertising or otherwise, indicate that it has supplied or may in the future supply goo ds to the Purchaser or use the Purchaser's name for the purpose of advertising or solicitation of business without the prior written consent of the Purchaser.

22. NON -WAIVER

Failure of the Purchaser to insist upon strict performance of any of the terms and conditions, or to exercise any rights or remedies provided in this Purchase Order or by law, or to properly notify the Supplier in the event of breach, or the acceptance of or payment for any Equipment or approval of design, shall not release the Supplier of any warranties or obligations of this Purchase Order.

23. INSURANCE

a. The Supplier shall maintain insurance covering public liability, bodily injury and property damage, product and completed operations liability and contractual liability in amounts satisfactory to and with a company approved by the Purchaser. Such policy shall contain a cross-liability clause; an endorsement adding the Purchaser as an additional insured; and an endorsement stating that the policies shall not be cancelled, allowed to expire or materially change d without thirty (30) days prior written notice to the Purchaser. Upon request, the Supplier shall provide a certificate of liability insurance setting out the insurance coverage referred to in this section.
b. The Purchaser shall maintain insurance covering bodily injury and property damage in amounts that are reasonable for a party

carrying out activities similar to those of the Purchaser in the Province of Ontario.

24. GOVERNING LAW

This Purchase Order shall be construed under and governed by the laws of the Province of Ontario, Canada.

25. SURVIVAL

In addition to the length of survival of any provision which may be explicitly stated in this Purchase Order, all of the indemnifications and confidentiality obligations, made by the Supplier and set out in this Purchase Order, shall survive the expiry or termination of this Purchase Order, as shall all other provisions of this Purchase Order which, by their nature, might reasonably be expected to survive.

26. COMPLIANCE WITH ACCESSIBILITY STANDARDS

a. Each of the Supplier and Purchaser agrees that it shall comply with all applicable laws when carrying out the terms of this Purchase Order. Without in anyway limiting the scope of the foregoing sentence, the Supplier agrees that the goods and/or services provided hereunder shall comply with applicable accessibility standards under the *Accessibility for Ontarians with Disabilities Act, 2005* ("AODA") and its regulations. If requested by the Purchaser, acting reasonably, the Supplier shall provide evidence of the policies, procedures and training practices that it has implemented to comply with the foregoing.

b. The Supplier shall comply, and shall ensure that its personnel read and comply, with all Purchaser policies in respect of the *Accessibility for Ontarians with Disabilities Act, 2005* and its regulations, as may be applicable to the goods and/or services

27. AODA COMPLIANCEP ROCEDURE

a. The Purchaser will manage complaints efficiently, fairly, effectively, and uniformly. In the event that an AODA complaint is registered in respect of any aspect of the competitive procurement process, the complainant shall submit the complaint in writing by mail, fax or email to the Purchaser, including the following:
    i. specific identification of the AODA accessibility requirement that is alleged to have been breached;
    ii. specific description of each act alleged to have breached the AODA requirement;
    iii. precise statement of the relevant facts;

iv. identification of the issues to be resolved;

v. complainant's arguments and supporting documentation and

vi. complainant's requested remedy.

b. Once a written complaint has been submitted to the Purchaser (to the contact identified in the procurement document or contract), receipt will be acknowledged within five (5) business days. If the information regarding the complaint is incomplete, the Purchaser will contact the complainant within ten (10) business days. Anonymous complaints will not be processed through this protocol.

Contact Schedule

The Supplier shall select and use the appropriate site-specific information as applicable.

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