

## Order Terms and Conditions

### 1. Certain Definitions.

"Applicable Law" shall mean any law, statute, ordinance, code, rule, regulation, published standard, permit, judgment, decree, writ, injunction, ruling, order, administrative guidance or other requirements of or promulgated by any Governmental Authority (defined below), whether existing at present or later enacted, applicable to the performance of this Purchase Order or in any manner affecting the Products or Services, including without limitation any laws relating to human health, occupational or process safety or the protection of the environment, the U.S. Foreign Corrupt Practices Act and the Federal Food, Drug and Cosmetic Act.

"Buyer" shall mean the Bayer legal entity named in this Purchase Order.

"Deliverables" shall mean any work product prepared by Provider for delivery to Buyer under this Purchase Order.

"Governmental Authority" means any applicable federation, nation, state, sovereign or government, any federal, supranational, regional, state, local or municipal political subdivision, any governmental or administrative body, instrumentality, department, or agency or any court, administrative hearing body, arbitrator, commission, or other similar dispute resolving panel or body, and any other entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of a government with jurisdiction over the applicable matter.

"Products" shall mean the goods, raw materials, equipment, parts, components or other items covered by this Purchase Order, including any Deliverables delivered in connection with this Purchase Order.

"Provider" shall mean the individual or entity providing the Products and/or Services covered by this Purchase Order.

"Purchase Order" shall mean this purchase order issued by Buyer to Provider.

"Services" shall mean the services or work covered by this Purchase Order.

### 2. Acceptance.

This Purchase Order constitutes an offer by Buyer to purchase the Products and/or Services from Provider upon the terms and conditions stated herein and is not an acceptance of any offer by Provider to sell. This Purchase Order is not binding on Buyer until it is accepted by Provider. Provider will be deemed to have accepted this Purchase Order when it (i) indicates its written acceptance on the face hereof or other written confirmation, (ii) delivers any or all of the Products covered by this Purchase Order, or (iii) starts to perform the Services covered by this Purchase Order, whichever occurs first. Buyer may withdraw this Purchase Order at any time prior to acceptance by Provider.

This Purchase Order, together with the documents attached hereto, incorporated herein by reference or referencing this Purchase Order, shall constitute the final and complete agreement of the parties and may not be modified or rescinded unless agreed to in writing by Buyer's authorized representative. No terms stated by Provider in its proposal or in accepting or acknowledging this Purchase Order shall be binding and Provider is hereby notified of Buyer's objection to and rejection of any additional or different terms in Provider's quotation, acknowledgement, invoice or other forms. Buyer's Purchase Order expressly limits acceptance to the terms and conditions contained in this Purchase Order, and notice of objection to any different or additional terms in any response is hereby given. If this Purchase Order is construed as an acceptance of an offer, this acceptance is expressly conditioned upon the Buyer's assent to any different or additional terms contained in this Purchase Order or any attachments or exhibits thereto. If this Purchase Order is construed as a confirmation of an existing non-written contract, the parties agree that this confirmation states the exclusive terms of such contract between the parties. The parties further agree that this Purchase Order, when used by the parties to place orders for Products and/or Services in conjunction with or pursuant to a written contract, shall be construed to supplement the terms of such written contract to the extent that the terms of this Purchase Order are not inconsistent with such written contract. Regardless of its construction, this Purchase Order incorporates by reference all terms of the Uniform Commercial Code providing any protection to Buyer, including, but not limited to, all warranty protection (express or implied) and all of Buyer's remedies under the Uniform Commercial Code.

### 3. Product Uniformity.

Provider shall not make any changes in the Products that may alter properties, impurities, specifications, dimensions, or any other characteristic of the Products.

### 4. Delivery.

Provider's performance shall be in strict conformance with the delivery and other time provisions specified in this Purchase Order. Buyer's production schedules and/or other operations are based upon Provider's assurance of completion of performance or delivery to Buyer by the date specified in this Purchase Order. Time is of the essence. If delivery and/or performance dates cannot be met, Provider shall inform Buyer in writing of Provider's best possible delivery and/or performance time. If Buyer has not approved the alternate dates, or Provider does not deliver or perform on time, Buyer may cancel this Purchase Order and purchase the Products and/or Services elsewhere, and hold Provider liable for any costs or damages incurred, both direct and indirect, resulting from Provider's late, defective or unacceptable delivery or performance. Similarly, any losses as a result of a deviation from Buyer's routing instructions or specific instructions relating to performance will be charged to Provider's account. Provider shall not ship any Products ahead of schedule unless authorized by Buyer in writing. Buyer may return, at its option, all unauthorized early Product shipments to Provider at Provider's expense. Payments for early Product shipments shall be postponed until normal maturity after the scheduled delivery date. Provider shall maintain availability of the Products and/or Services purchased under this Purchase Order for at least two (2) years after the delivery of such Product and/or Service. If Provider determines within this period that it will no longer be possible to ensure this availability, Provider must inform Buyer without delay and, if Provider is unable to offer Buyer any other reasonable possibility of supply, Provider will provide Buyer with the opportunity of procuring an all-time requirements of Products and/Services twelve (12) months before production of such Product and/or Service is stopped. Provider shall forward notice of shipment of Products to Buyer within twenty-four hours, and such notice is an express condition to Buyer's duties under this Purchase Order. The original Bill of Lading must accompany the invoice and be mailed in accordance with the instructions on the face of this Purchase Order. Complete

packing lists must accompany each Product shipment and each shipment must equal exact amounts ordered unless otherwise agreed to in writing. Separate invoices are required for each Purchase Order and for each Product shipment when partial deliveries are made and each invoice shall reference the relevant Purchase Order number.

5. Risk of Loss.

Risk of loss or damage shall be borne by Provider until Product shipment reaches the destination indicated on the face of this Purchase Order irrespective of when title passes to Buyer.

6. Rejection and Revocation of Acceptance.

Buyer shall have a reasonable opportunity to inspect Products and/or Services and reject them if they fail to conform to the requirements of this Purchase Order, and to revoke its acceptance of them when appropriate. With regard to Products that are rejected or for which acceptance has been revoked, Buyer, at its option and at the expense and risk of Provider, may return such Products to Provider or store them until Provider provides instructions for disposal. Rejected Products and/or Services are not to be replaced without written authorization from Buyer, and Provider shall reimburse Buyer for any payment made by Buyer with respect to such rejected Products and/or Services. Provider will permit Buyer and its representatives to enter Provider's facilities at reasonable times to inspect such facilities and any goods, inventories, work-in-process, materials, machinery, equipment, tooling, fixtures, gauges and other items and processes related to Provider performance of this Purchase Order in relation the Products and/or Services. No such inspection by Buyer will constitute acceptance by Buyer of any work-in-process or finished Products and/or Services or otherwise affect the Buyer's rights under this Purchase Order. Payment for Products and/or Services without reasonable opportunity to inspect the same shall not constitute acceptance.

7. Changes.

Buyer may direct Provider to make changes in the Products and/or Services ordered including, without limitation, reasonable changes to quantities, method of shipping or packing, place of delivery or delivery dates, or changes in the requirements of the drawings, specifications or instructions. Provider shall promptly review such changes and within five (5) days inform Buyer of any change in Provider's cost of performance or delay in delivery. Upon mutual agreement as to any price or delivery change, Buyer shall issue a written change order. If the parties are unable to agree upon the amount to the adjustment, acting reasonably and in good faith, Buyer may without any liability terminate this Purchase Order as to all affected Products and/or Services. In the event Provider shall fail to comply with this procedure, Provider shall be deemed to have waived all claims for increased cost or extension of time of performance.

8. Prices; Payment.

Provider's prices shall not be higher than last quoted or charged to Buyer or stated on this Purchase Order unless otherwise agreed to in writing. No charges by Provider will be allowed for transportation, boxing, crating, or other packaging unless agreed to herein. Standard payment terms are net ninety (90) days unless otherwise stated on the Purchase Order. Time for payment and the period for any discount privilege shall not begin to run until both Provider's invoice and Products and/or Services have been received. Buyer shall not be obliged to pay for Products upon their delivery, but shall have the right to make payment for Products delivered in the normal course of its business and any payment made for Products delivered or Services performed shall be without prejudice in the event of any defect in the Products and/or Services or breach of contract, whether known before or after payment. Buyer shall also have the option to withhold payment for Products and/or Services found upon inspection to be defective or for Provider's breach of contract.

9. Set-Off.

All claims for monies due or to become due from Buyer under this Purchase Order, including claims of assignees, shall be subject to the deduction by Buyer of any set-off or counterclaim arising out of this or any other of Buyer's purchase orders with Provider, whether such set-off or counterclaim arose before or after such assignment.

10. Taxes.

The price quoted in this Purchase Order includes an allowance for all federal, state and local taxes levied by any Governmental Authority which Provider is required to collect and pay with respect to production, sale, or shipment of the Products and/or performance of the Services. In case of new taxes or the reduction of tax rates, Buyer should be informed of such changes, and this Purchase Order price shall be adjusted accordingly.

Provider agrees to comply with all Applicable Law with respect to compensation paid to its employees and also with respect to its performance of this Purchase Order, and assumes exclusive liability for filing reports and making payment of all taxes or contributions as required by such Applicable Law.

11. Reimbursable Expenses.

Reasonable expenses incurred by Provider in the course of performing Services, including round trip economy airfare (or round trip business class airfare for intercontinental travel), auto rental, meals, lodging and long distance telephone charges, will be reimbursed to Provider by Buyer at cost as set forth, and up to the amount (if any) specified in this Purchase Order; provided, however, that all travel, meal and lodging expenses shall be reimbursed only if plans for same are approved by Buyer in advance. Receipts shall be submitted with the invoices for any expense in the amount of \$25.00 or greater. Mileage will be reimbursed at the IRS standard rate.

12. Representations and Warranties.

*General.* With respect to all Products to be delivered under this Purchase Order, Provider represents and warrants that all Products (i) sold hereunder shall be free and clear of all liens, encumbrances and/or colorable claims, (ii) shall be of merchantable quality, free from defects in material, design and workmanship and fit for the particular purposes intended, (iii) shall conform to all requirements of this Purchase Order, including without limitation, all specifications, samples, drawings and plans, if any, (iv) are not articles, which cannot be legally transported or

sold under the provisions of any Applicable Law and are not misbranded within the meaning of any federal, state or local law, when bearing labels affixed by Provider, and (v) will not infringe or misappropriate the intellectual property, proprietary or other property right of any third party. With respect to Services to be performed under this Purchase Order, Provider represents and warrants that (i) the Services shall be performed in conformity with the highest industry standards practiced by professional firms in performing work of a similar nature at the time the Services herein are performed and in the same place as the services hereunder are provided, (ii) Provider shall use its best efforts in the performance of the Services and its other obligations hereunder, (iii) the Services will not infringe or misappropriate the intellectual property, proprietary or other property right of any third party and (iv) any Deliverables will be free from any lien, encumbrance or third party claim. The warranties in this paragraph shall survive any inspection, delivery, acceptance, payment or use by Buyer or its customers of the Products or Services and shall run to Buyer, its successors, assigns, customers and users. If a defect is discovered after further processing, use or delivery of Products and/or Services despite compliance with the provisions above, Provider shall be obliged to bear all costs in connection with the return, exchange or correction of such defective Products and/or Services. The costs include the costs of inspection, transportation, labor and material.

*Compliance with Applicable Law.* Provider at all times shall comply with all Applicable Law in the performance of this Purchase Order. Without limiting the foregoing, Provider specifically acknowledges applicability of the additional specific representations and warranties set forth in Exhibit A to this Purchase Order.

*Compliance with Bayer Policy.* Provider shall comply with the principles described in Bayer's Supplier Code of Conduct, which can be accessed at [www.supplier-code-of-conduct.bayer.com](http://www.supplier-code-of-conduct.bayer.com) ("Supplier Code of Conduct"). Provider represents and warrants that it is in compliance with the Supplier Code of Conduct as of the date of this Purchase Order, and covenants that it shall remain in compliance with the Supplier Code of Conduct throughout the term of this Purchase Order as the Supplier Code of Conduct may be in effect from time to time. Any violation by Provider of the Supplier Code of Conduct shall be grounds for "Termination for Cause" (as defined below), except that the cure period shall not apply and Bayer may immediately terminate this Purchase Order in its sole discretion.

*Licenses and Permits.* Provider shall secure and maintain any and all required permits, consents and authorizations required to provide Products and/or Services under this Purchase Order.

13. Adulteration and Misbranding.

Provider agrees that no material constituting, or being part of, any shipment or other delivery now or hereafter made to Buyer will at the time of such shipment or delivery, be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, as amended or within the meaning of any Applicable Law in which the definition of adulteration and misbranding are substantially the same as those contained in the Federal Food, Drug, and Cosmetic Act, as amended, as said Act and such laws are constituted and effective at the time of such shipment or delivery, or be a material which may not, under the provisions of Section 404 or 505 of said Act, be introduced into interstate commerce. Provider hereby agrees to permit inspections by any Governmental Authority, including without limitation the Food and Drug Administration, of the manufacturing facilities and records relative to the Products or Services supplied hereunder.

14. Confidentiality.

All information or data furnished by Buyer or its affiliates to Provider, orally, electronically or in writing, including but not limited to drawings, plans, specifications or other documents, data or information (collectively, Confidential Information), shall be treated as confidential by Provider. Provider shall not make any use of Confidential Information except in performance of this Purchase Order. The only persons from Provider who are authorized to access Confidential Information shall be the persons who need to know such Confidential Information in order to provide the Products and/or Services to Buyer and who are bound by obligations of confidentiality substantially similar to those under this Purchase Order. Provider shall not disclose the Confidential Information to anyone before or after performance of this Purchase Order without the written consent of Buyer. All Confidential Information shall be returned to Buyer or destroyed upon Buyer's request. Provider shall immediately notify Buyer of any unauthorized disclosure of Confidential Information. Provider will comply with all Applicable Law in regard to privacy, protection and confidentiality of Confidential Information, including without limitation, the Standards for Individually Identifiable Health Information, 45 C.F.R. §§160 and 164 (the "HIPAA Privacy Regulation") promulgated pursuant the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as currently in effect. If Provider deems it necessary in the performance of its duties under this Purchase Order to disclose any "Protected Health Information" (as such term is used in the HIPAA Privacy Regulation), then, in advance of any such disclosure, Provider shall obtain a written authorization for the use and disclosure of such Protected Health Information in accordance with the HIPAA Privacy Regulation. In the event that Provider breaches this Section, damages may not provide an adequate remedy for Buyer. Therefore, Provider acknowledges that, in the event of a breach or threat of breach of this Section, Buyer may seek injunctive relief, in addition to any other relief available at law or in equity.

15. Insurance.

The work to be performed under this Purchase Order will be performed entirely at Provider's risk, and Provider assumes all responsibility for the condition of tools and equipment used in the performance of this Purchase Order. The Provider warrants and represents that, at its own expense, it has or shall obtain insurance of the following types: Commercial General Liability, on an occurrence coverage form basis, including coverage for Products/Completed Operations, Blanket Contractual, and Broad Form Property Damage; Automobile Liability covering all owned, non-owned and hired vehicles; Workers Compensation as required by Applicable Law; and, if handling any Personal Data (defined below) pursuant to this Purchase Order, Cyber Liability. Employers Liability Deductible amounts under the foregoing policies shall be paid by Provider. Provider shall obtain a waiver of its insurer's right of subrogation against Buyer and other providers working at the site, and Provider shall name Buyer as an additional insured on its Commercial General Liability and Automobile Liability policies. It is expressly understood that Buyer does not, in any way, represent that the amount of insurance obtained by Provider is sufficient or adequate to protect Provider's interests or liability.

16. Indemnity and Limitation of Liability.

*Scope of Indemnity.* Provider shall, at its own expense, defend, indemnify and hold harmless Buyer, its successors and assigns, and its and their affiliates, employees, officers, directors and customers, against any and all claims, losses, demands, damages, costs, expenses or money judgments (including reasonable attorneys' fees), injuries (including sickness, disease or death), liabilities and legal proceedings, arising out of or in connection with (i) the Products supplied and/or Services performed hereunder, (ii) the acts or omissions of Provider or any of its officers, directors, managers, agents, employees, representatives, supervisors, successors, assigns, subcontractors or anyone acting on any of their behalf, arising from or related to the performance or non-performance of Provider's obligations under this Purchase Order, (iii) any representation

or warranty made or given by Provider, (iv) any claim by any party that the Products or Services furnished by Provider infringe any third party's intellectual property rights, (v) any assertion that Buyer should be deemed the "employer" or "joint employer" of any individual performing under this Purchase Order, and (vi) any claim by a taxing entity that Buyer and/or its affiliates are responsible for Provider's tax obligations except to the extent all claims, losses, demands, damages, costs, expenses, actions or liabilities incurred by the Provider have resulted from the negligence, fraud or willful misconduct of the Buyer. Buyer shall notify Provider promptly of the institution of any such claim or suit and Provider may conduct the defense of it or settlement negotiations, provided that no settlement will be agreed to without Buyer's prior written consent, unless the sole relief is monetary damages and there is no admission of liability attributable to Buyer. Buyer reserves the right to compromise or settle its own liability any time upon releasing Provider from its obligations under this paragraph. If Buyer is enjoined from using equipment it leased or purchased, Provider agrees, at Buyer's election, but without expense to Buyer, to remove said equipment and immediately terminate the lease or purchase it from Buyer at the original purchase price. Provider's obligation to defend Buyer and to hold it harmless shall survive any resale of equipment or termination of lease of equipment under this paragraph.

**Personal Injury or Death.** THIS INDEMNITY PROVISION INCLUDES, BUT IS NOT LIMITED TO, CLAIMS FOR, ON ACCOUNT OF, OR ARISING FROM PERSONAL INJURIES OR DEATH ACTUALLY OR ALLEGEDLY SUSTAINED BY EMPLOYEES OF PROVIDER OR ITS SUBCONTRACTORS OR OTHER ENTITIES ACTING ON PROVIDER'S BEHALF. PROVIDER HEREBY EXPRESSLY WAIVES, FOR PURPOSES OF THIS INDEMNITY PROVISION, ANY IMMUNITY IT MAY HAVE UNDER ANY WORKER'S COMPENSATION OR SIMILAR LAWS FROM LIABILITY FOR SUCH PERSONAL INJURY CLAIMS BROUGHT BY BUYER PURSUANT TO THIS INDEMNITY; PROVIDED HOWEVER THAT SUCH WAIVER SHALL NOT APPLY TO CLAIMS ASSERTED BY PROVIDER'S EMPLOYEES AGAINST PROVIDER. PROVIDER SHALL REQUIRE ALL OF ITS SUBCONTRACTORS AND OTHER ENTITIES ACTING ON ITS BEHALF IN CONNECTION WITH, ARISING FROM OR RELATED TO THE PERFORMANCE OF OBLIGATIONS UNDER THIS PURCHASE ORDER, TO ENTER INTO A VALID AGREEMENT TO SIMILARLY WAIVE ANY IMMUNITY EACH OF THEM MAY HAVE UNDER ANY WORKER'S COMPENSATION OR SIMILAR LAWS FROM LIABILITY FOR SUCH PERSONAL INJURY OR DEATH CLAIMS BROUGHT BY BUYER PURSUANT TO THIS INDEMNITY.

*Limitation of Liability.* Buyer's liability for breach of this Purchase Order shall not exceed the difference between the resale price of any materials or work in process, sold in good faith and in a commercially reasonable manner and the price paid by Buyer for such materials or work in process, less expenses and costs saved in consequence of Buyer's breach. Buyer shall not be liable for any indirect, incidental, special or consequential damages, including but not limited to, Provider's loss of actual or anticipated profits arising out of, or arising from, this Purchase Order or from the performance, suspension, termination or breach hereof. Provider's remedies contained herein are not optional, but shall be Provider's exclusive remedies.

17. Suspension or Termination.

*Termination for Cause.* Buyer may suspend or terminate this Purchase Order, in whole or in part, immediately if Products or Services furnished hereunder do not strictly conform to specifications or instructions of Buyer, or if Provider is in material breach of any of the terms hereof, including without limitation, its representations and warranties.

*Termination for Convenience.* Buyer, for its convenience, shall have the right to suspend or terminate Provider's work hereunder, or any part thereof, including delivery, upon notice to Provider. Provider shall promptly comply with Buyer's instructions to minimize any cost to Buyer.

*Bankruptcy or Insolvency.* Buyer may cancel this Purchase Order without any further liability to Provider, its successors or assigns, if Provider becomes insolvent, is adjudicated bankrupt or has a voluntary or involuntary petition of bankruptcy filed against it.

*Effect of Termination.* Buyer will notify Provider of the termination of the Purchase Order and Provider shall immediately stop all work on the Purchase Order. Buyer may provide a verbal notice to terminate which may be immediately confirmed in writing. In the event of termination or suspension, Provider shall be entitled to recover only its uncompensated actual direct costs incurred prior to the date of Buyer's termination, plus those actual direct costs arising from Buyer's termination, so long as Provider furnishes to Buyer a complete termination cost analysis substantiating all costs claimed owing and in no event shall the total price paid by the Buyer exceed the price(s) specified in this Purchase Order with respect to the portion of the Products and/or Services that are relevant to the claim. Any cost claimed by Provider under this Section shall be subject to the audit and approval of Buyer. Upon termination, any partially completed Products or Deliverables shall become the property of Buyer in their then state of completion. In the event that any of Services are not fully performed by Provider, whether as a result of termination or otherwise, Provider shall only be compensated for those Services actually performed. Buyer's payments upon suspension or termination under this paragraph will be in full satisfaction of all claims that Provider may have against Buyer.

18. Intellectual Property.

Except as provided below, upon full and final payment to Provider under this Purchase Order, any Deliverables will become the property of Buyer, and to the extent necessary, Provider thereby assigns all right, title and interest in and to the Deliverables to Buyer. Provider agrees to execute and deliver any and all papers necessary to reflect Buyer's interest in the Deliverables. To the extent that any intellectual property right owned by Provider relates to or is incorporated in any of the Deliverables, Provider hereby grants Buyer, upon full and final payment to Provider, a worldwide, perpetual, royalty-free, fully paid-up, non-exclusive license to use such intellectual property right for its business purposes. Provider further agrees that any invention or discovery, whether patentable or not, made or conceived by its employees or contractors assigned to provide services hereunder, which relates to the business of Buyer, shall be the property of Buyer, as shall any invention made or conceived by any employee or contractor of Provider which is at least partially based on Buyer Confidential Information, as that term is defined in this Purchase Order. All materials developed by Provider, its employees or contractors pursuant to this Purchase Order, in any form, shall be considered works for hire and all rights to such materials, including the copyright, shall belong to Buyer, survive inspection, delivery, acceptance, payment or use and shall remain property of Buyer, its successors and/or assignors.

19. Responsibility for Buyer Property.

All material, including tools or machines, furnished or specifically paid for by Buyer, shall be (i) the property of Buyer, (ii) subject to removal at all times without additional cost upon demand by Buyer, (iii) used only in filling orders from Buyer and/or its affiliates, (iv) kept separate from

other materials or tools, (v) clearly identified as the property of Buyer, (vi) insured by Provider with loss payable to Buyer, (vii) kept confidential, and (viii) at the discretion of Buyer, returned to Buyer at the termination of this Purchase Order. Provider assumes liability for all loss or damage, excepting normal wear and tear, to such materials and agrees to supply detailed statements on the material as requested by Buyer.

20. Country of Origin; Certificates.

All Products will be marked conspicuously, legibly, and permanently in English with the country of origin of the Products and its components, as such is determined and required by Applicable Law. Improper or incomplete markings will cause all expenses and penalties (including legal fees) incurred by Buyer to be charged back to the Provider and/or offset against other amounts owed to Provider. Repetitive failure to properly mark Products will constitute a breach hereof and may result in Buyer issuing immediate termination of this Purchase Order.

Provider agrees to provide a valid NAFTA Certificate (including product name, country of origin and harmonized tariff system number), or, in the alternative, a statement that the product does not qualify for NAFTA. In the case of imported Products, and if applicable, Provider agrees to provide a Certificate of Delivery.

21. Miscellaneous.

*Force Majeure.* No liability shall result from delay in performance, or non-performance, caused by circumstances beyond the reasonable control and without the fault or negligence of the party affected, including, but not limited to, Acts of God, fire, flood, war, government action, terrorist act, accident, labor trouble or shortage, inability to obtain material, equipment or transportation. The curing of any delay in performance or non-performance as a result of the causes described in the foregoing sentence shall be prosecuted with due diligence by the affected party and shall include reasonable updates as to the status of such condition and its expected impact on the ability to perform under this Purchase Order. At Buyer's option, quantities so affected by the causes described in the first sentence of this paragraph may be eliminated from this Purchase Order without liability, but this Purchase Order shall remain otherwise unaffected.

*Relationship of Parties.* Provider is an independent contractor for all purposes, without express or implied authority to bind to bind Buyer by contract or otherwise. Neither Provider nor its employees, agents or subcontractors are employees or agents of Buyer, and are therefore not entitled to any employee benefits of Buyer, including but not limited to, any type of insurance.

*Safety and Site Requirements.* Provider or its subcontractors, employees, agents and guests of any of them shall at all times comply with all safety and security regulations in effect from time to time at Buyer's site or as applicable away from Buyer's site.

*Assignment; Subcontracting.* This Purchase Order shall not be assigned by Provider without Buyer's prior written consent. Provider shall not subcontract all or any part of its performance of this Purchase Order to any other party without Buyer's prior written consent. No assignment or subcontracting by Provider, with or without Buyer's consent, shall relieve Provider of any obligations under this Purchase Order.

*Publicity.* Neither party shall use in any manner, directly or indirectly, or refer to the other party's name, including any proprietary logos, in any advertisements, sales promotions, press releases or releases to professional or trade publications, without the other party's prior express written approval.

*Governing Law.* The validity, interpretation, and performance of this Purchase Order shall be governed by the Applicable Law of the State of Delaware without regard to its conflicts of laws principles and Provider agrees to the exclusive jurisdiction of the state and federal courts located in the State of Delaware.

*Waiver.* Buyer's waiver of any breach by Provider of any of the provisions of this Purchase Order shall not constitute a waiver of any other breach of the same or any other provision. Buyer's rights and remedies under any provision of this Purchase Order shall be in addition to, and not in substitution or limitation of, any other rights or remedies available to Buyer under Applicable Law.

*Headings and Severability.* Any headings are inserted solely for convenience of reference, shall not constitute a part of this Purchase Order and shall not otherwise affect the meanings, content, effect or construction of this Purchase Order. In the event that any provision contained herein is held to be invalid or unlawful, such provision shall be severable from the remaining provisions of this Purchase Order, which shall remain in full force and effect.

## Exhibit A

### Compliance with Laws:

#### Additional Representations and Warranties of Provider

Provider at all times shall comply with all Applicable Law in the performance of this Purchase Order, including without limitation those related to antitrust, anti-corruption, privacy, discrimination, disabilities, fair labor standards, payment of wages, international trade, intellectual property, fraud and abuse, false claims, sampling, and prohibition of kickbacks and unlawful self-referrals. Additionally, Provider at all times shall comply with the following specific requirements as applicable to the Products and/or Services:

*Interactions with Healthcare Professionals and Providers.* In the event any Products or Services being furnished by Provider are to be utilized by or for the benefit of any Pharmaceuticals, Consumer Health, Radiology or other health care related businesses of Buyer:

1. **Interaction with Healthcare Professionals.** The parties acknowledge that Buyer conducts its relationships with healthcare professionals in compliance with applicable laws, including without limitation 42 C.F.R. §1001.952(d), the “safe harbor” to the U.S. Anti-Kickback Statute, 42 U.S.C. §1320a-7(b), with respect to personal services, the PhRMA Code on Interactions with Healthcare Professionals (the “PhRMA Code”) promulgated by the Pharmaceutical Research and Manufacturers of America (PhRMA), the AdvaMed Code of Ethics on Interactions with Healthcare Professionals, as amended, promulgated by the Advanced Medical Technology Association (“AdvaMed”) and Section 6002 of the Patient Protection and Affordable Care Act (the “Physician Payment Sunshine Act”) and its applicable implementing regulations (42 C.F.R. §403.904). Provider, in the performance of this Purchase Order, shall conduct its relationships with healthcare professionals (and, to the extent applicable, shall cause its employees and subcontractors to conduct their relationships with healthcare professionals) in accordance with all applicable laws, the PhRMA Code and AdvaMed.
2. **Debarment.** Provider further represents and warrants that it has not and has never been, nor has any of its employees, agents, or subcontractors (or subcontractor agents or employees) been (i) convicted of a crime for which a person or entity can be debarred under Section 306(a) or 306(b) of the United States Food, Drug and Cosmetic Act (21 U.S.C. Section 335(a) and (b)) or under 42 U.S.C. Section 1320a-7 or (ii) sanctioned by, suspended, excluded, or otherwise deemed ineligible to participate in any federal health benefit program, including Medicare and Medicaid, or any other federal procurement or non-procurement programs. Provider further warrants that it shall immediately notify Buyer if Provider or any of its employees, agents or subcontractors (or subcontractor agents or employees) hereafter is or becomes the subject of any investigation or proceeding which may result in a conviction or sanction as described in (i) or (ii) above.
3. **Bona fide Services.** All Services requested by, and to be performed for, Buyer represent bona fide services and under no circumstances is the requisition of such Services, or the remuneration therefore, meant to serve as an obligation, express or implied, to purchase, prescribe or otherwise support Buyer’s products.

*Federal Acquisition Regulations.* In the event any Products or Services being furnished by Provider are in furtherance of or fulfilling, in whole or in part, Buyer’s obligations with respect to a federal agency procurement award or contract, Provider agrees to comply with all applicable Federal Acquisition Regulations and applicable laws and regulations of the U.S. Small Business Administration, including without limitation the Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals clause of Section 8(d) of the Small Business Act. Provider further agrees to comply with all Applicable Law including without limitation the Fair Labor Standards Act and all other Applicable Law related to discrimination. **Buyer and Provider shall abide by the requirements of 41 CFR §§ 60-1.4(a) or (b) (as applicable), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.** Provider agrees, to the extent applicable, to comply with the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, which are hereby incorporated by reference into this Purchase Order. Without limiting the foregoing, Provider agrees, to the extent applicable: (a) to comply with the equal employment opportunity and affirmative action provision of: (1) Executive Order 11246, as amended and U.S. Dept. of Labor regulations issued pursuant thereto (41 CFR 60); (2) Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793), as amended; and U.S. Dept. of Labor regulation issued pursuant thereto (41 CFR 60-741), in contracts for \$2500 or more; and (3) Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 U.S.C. 2012), and U.S. Dept. of Labor regulations pursuant thereto (41 CFR 60-250), in contracts for \$10,000 or more; Title VII of Civil Rights of 1964, 78 Stat. 253, as amended, and regulations issued pursuant thereto; (b) to comply with the requirement of the certification of non-segregated facilities as ordered by the Secretary of Labor (32 F.R. 7439) and as required by 41 CFR 60-1; (c) to comply with Executive Order 11141 which proscribes discrimination because of age by government contractors and subcontractors; (d) to comply with the provisions of the Executive Order 12092, as amended, and any federal procurement regulations adopted pursuant thereto or to any other Executive Orders issued under Section 206 of the Economic Stabilizations Act of 1970 (PL 91-379), as amended; (e) in domestic, non-personal contracts over \$10,000, to comply with the Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals clause of Section 8(d) of the Small Business Act as amended (15 USC 631), and to provide subcontracting plans pursuant thereto; with Federal Acquisition Regulation 52.219-8 (if this contract is less than \$550,000), and with Federal Acquisition Regulation 52.219-9 (if this contract is more than \$550,000), with the same force and effect as if Provider were the prime contractor under a government contract containing these regulations; (f) to comply with the regulations regarding Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) as specified in Federal Acquisition Regulation 52.222-35; (g) in domestic, non-personal contracts over \$10,000, to comply with the regulations for Affirmative Action for Workers With Disabilities as specified in Federal Acquisition Regulation 52.222-36; (h) to comply with the regulations for Combating Trafficking in Persons as specified in Federal Acquisition Regulation 52.222-50; (i) to comply with the regulations applicable to the Preference for Privately-Owned U.S. Flag Commercial Vessels as specified in Federal Acquisition Regulation 52.247-64; (j) to comply with regulations, rules and orders promulgated by federal agencies pursuant to Executive Order 12138 regarding the promotion of women’s owned businesses where applicable; and (k) until three years after payment under the order, to afford the Comptroller General of the United States or any of his duly authorized representatives, access to, and the right to examine any pertinent books, papers and records of Provider involving transactions relating to this Purchase Order. Provider agrees to comply with all applicable laws, ordinances or regulations pertaining to nondiscrimination toward employees; nondiscrimination in hiring practices, and the elimination of segregated facilities.

**Trade Compliance.** Provider shall be the importer of record on all imports into the United States. Provider represents and warrants that it will comply with all Applicable Law relating to exports and import of goods and will supply all necessary information relevant to import of Products by the recipient. Provider also shall supply to Buyer such other information related to the export or import of Products as Buyer may from time to time request. Additionally, Provider agrees that:

1. **Supply Chain Security.** With respect to any imports into the United States, Provider shall use reasonable efforts to bring its supply chain security capabilities into substantial compliance with the security guidelines set forth in U.S. Customs and Border Protection's Customs-Trade Partnership Against Terrorism program and to complete a supply chain security questionnaire as provided by Bayer. 'Reasonable Efforts' means, with respect to a given goal, the efforts that a reasonable person in the position of the Provider would use so as to achieve that goal as expeditiously as possible. When Provider is responsible for selecting carriers, they must be C-TPAT members or if C-TPAT membership is not available to such carriers in general, have been screened by Provider and determined by Provider to meet C-TPAT requirements. Provider must immediately notify Bayer of any container seal discrepancy or breakage (for any reason).
2. **Human Rights.** No Products sold under this Purchase Order will be manufactured by use of prohibited labor including convict, forced, child or indentured labor.
3. **Controlled Technology or Technical Data.** In the event any Products or Services being furnished by Provider potentially relate to technology or technical data that is subject to export control laws and regulations, Confidential Information or other information obtained in connection with its performance of this Purchase Order may be considered technology or technical data that is subject to the export control laws and regulations of the United States or other countries, and hereby agrees to comply with any such Applicable Law. To the extent applicable, Provider agrees to cooperate with Buyer to ensure compliance with United States import and export laws and regulations, including without limitation by ensuring that its employees abide by deemed export laws and adhere to the compliance processes for import and export laws and regulations of Buyer or any of its affiliates. If requested by Buyer, Provider agrees to implement a verification process to validate (and be able to demonstrate to Buyer) that Provider and its employees, agents, subcontractors and subcontractor agents and employees have complied with all applicable import and export control laws including without limitation U.S. deemed export regulations. Provider further agrees that it will not assign to perform work with regards to Products or Services being provided to Buyer any person or subcontractor or subcontractor agent or employee who is not a US Person (defined below) unless Provider has (a) provided Bayer with all information necessary for it to determine whether disclosure of information during the course of such person's or subcontractor's or subcontractor agent's or employee's assignment could require an export license; and (b) has received from Bayer written permission to assign such person, subcontractor or subcontractor agent or employee to Buyer work. For the purposes of this section, a "US Person," means any person who is: (i) a Citizen of the United States, (ii) lawfully permitted for permanent residence in the United States, or (iii) a protected individual under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)).

**Data Security.** In the event any Provider obtains access to Personal Data in connection with its provision of Products or Services this Purchase Order, this paragraph shall apply. "Personal Data" means any information that identifies or can be used to identify an individual, including information related to Buyer's and its affiliates' personnel (e.g., employees, temporary workers and independent contractors), customers, suppliers and invitees, that is provided to, or obtained, used, accessed, maintained, or otherwise handled by, Provider in connection with providing Products or Services under this Purchase Order. Confidential Information (as defined in above) includes, without limitation, Personal Data. Provider shall at all times comply with and treat Personal Data in accordance with the requirements of the Data Protection Requirements. "Data Protection Requirements" means all Applicable Law relating to the collection, use and protection of information that identifies an individual or can be used to identify an individual that apply in a jurisdiction in or from which Buyer or Provider collects, transmits, stores, uses and discloses Personal Data. Provider shall develop, implement, maintain and monitor a comprehensive, written information security program that contains administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of the Personal Data. Provider certifies and shall ensure that its information security program is consistent with: (i) Buyer's information security practices and requirements as may be issued to Provider by Buyer from time to time, and (ii) the Data Protection Requirements (including the Massachusetts data security regulations (201 Mass. Code Regs. §§ 17.01-17.05)). Provider shall notify Buyer in writing immediately (and in any event within twenty-four (24) hours) whenever Provider reasonably believes that there has been an actual or possible unauthorized acquisition, destruction, modification, use, or disclosure of, or access to, Personal Data in its (or any of its subcontractors' or service providers') possession or control (an "Information Security Breach"). Unless required by Applicable Law, Provider shall not notify any individual or any third party other than law enforcement of any potential Information Security Breach involving Personal Data without first consulting with, and obtaining the permission of, Buyer. Buyer, in its sole discretion, may direct Provider to correspond with or notify individuals regarding potential or actual breaches of Personal Data. If Buyer so directs, Provider shall be responsible, at Provider's sole cost and expense, for filing all notices and making all notifications required by Applicable Law in case of an Information Security Breach, and shall provide Buyer with sufficient documentation to support that all legal obligations have been satisfied. Even if Buyer elects to file all notices and make all notifications itself, Provider shall promptly reimburse Buyer for all costs related to such notices and notifications. Further, if Buyer consults outside advisors (e.g., attorneys, consultants) to determine and/or address its and/or its affiliates' legal obligations resulting from an Information Security Breach, Provider shall promptly reimburse Buyer for all such reasonable costs and losses. Provider shall provide, at Provider's sole cost, reasonable assistance and cooperation requested by Buyer and/or Buyer's designated representatives, in the furtherance of any correction, remediation or investigation of any such Information Security Breach and/or the mitigation of any damage, including without limitation three years of identity theft protection and credit monitoring services (i.e., all of AllClear Credit Monitoring, Identity Theft Monitoring and Identity Repair; or equivalent) to any individual whose Personal Data was included in the Information Security Breach, and (ii) any other notification or credit reporting service that Buyer may determine appropriate to send or provide to individuals impacted or potentially impacted by the Information Security Breach. Provider shall indemnify, hold harmless, and defend Buyer and Buyer's affiliates and its and their officers, directors, employees, agents, successors, assigns and subcontractors from and against any and all losses and threatened losses arising from, in connection with, or based upon any claim against any of them that result from, occur or arise in connection with any of the following: (a) violation of the requirements of this paragraph or the Data Protection Requirements; (b) any Information Security Breach; (c) any remedial action taken by Buyer as the result of an Information Security Breach; and (d) any other costs incurred by Buyer with respect to Buyer's enforcement of its rights in this paragraph. This paragraph shall survive any expiration or termination of this Purchase Order. Provider shall be fully responsible for, and shall pay, all costs and expenses incurred by Provider or its personnel or agents with respect to the obligations imposed under this paragraph.