



STANFORD UNIVERSITY
Purchase Order Terms and Conditions

1. DEFINITIONS

"Buyer" means the Board of Trustees of the Leland Stanford Junior University ("Stanford University"). "Seller" means the person, firm or corporation supplying the goods or services under the purchase contract, and includes all sales or other agents, subcontractors, employees and distributors thereof. However, specific Federal government clauses referenced below, concerning the U.S. Government's right to patents or to audit or inspect records mean both the U.S. Government or Stanford University.

2. ACCEPTANCE OF THE PURCHASE CONTRACT BY SELLER

The purchase contract may be accepted only on the terms set forth herein. Terms in any acceptance by Seller which are in addition hereto or not identical with the terms hereof will not become a part of any contract unless Buyer specifically and expressly agrees in writing that such other terms are accepted. By accepting this contract or any part hereon, Seller agrees to and accepts all the provisions of the purchase contract.

3. ACCEPTANCE BY BUYER

Buyer shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by Seller. Buyer at its option may reject all or any portion of such goods or services which do not in Buyer's sole discretion comply in every respect with each and every term and condition of this purchase contract. Buyer may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If Buyer elects to accept nonconforming goods or services, Buyer, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate Buyer for the nonconformity. Any acceptance by Buyer, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.

4. RISK OF LOSS

Until accepted by Buyer as provided above, Seller shall bear all risk of loss and damage, unless such loss or damage results solely from the active negligence of Buyer.

5. SALES AND OTHER TAXES

Unless otherwise specified herein, Seller agrees that the price quoted herein includes all federal, state and local sales, use, excise, transaction, and other taxes.

6. CASH DISCOUNT PERIOD

The cash discount period available to Buyer shall commence on the later of Buyer's receipt of all goods and services or receipt of the invoice.

7. ASSURANCE

If at any time Buyer in good faith determines that it is insecure with respect to Seller's ability or intent to fully perform, then Seller agrees to provide Buyer with written assurance fully satisfactory to Buyer in Buyer's sole discretion of Seller's ability and intent to fully perform. Such assurance shall be provided within the time and in the manner specified by Buyer. Seller immediately shall notify Buyer of any circumstance, which may cause Seller to fail to fully perform. Upon Buyer's good faith determination that Seller cannot or will not perform, then Buyer may deem this contract to be breached by Seller (unless performance is excused as provided below) and may procure from other sources.

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8. ASSIGNMENT

Seller shall neither assign any right nor delegate any duty without the prior written consent of Buyer. Notwithstanding any notice of assignment, Buyer's tender of payment to the Seller named herein, or to any person reasonably believed by Buyer to be entitled to payment, shall fully satisfy Buyer's obligation to pay, and in no event shall Buyer be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

9. EXCUSE

Seller shall be excused for any nonperformance due principally to circumstances which are both beyond its control and not foreseeable, but in no event shall Seller be excused for any inability to obtain goods or services necessary for Seller's performance, nor for any labor dispute involving employees of Seller, Buyer, any subcontractor of either, any carrier, or any other person.

10. NOTICE OF LABOR DISPUTES

Whenever an actual or potential labor dispute delays or threatens to delay the performance of this order, Seller shall immediately notify Buyer in writing, presenting all relevant information concerning the dispute and its background.

11. WARRANTY

Seller warrants that the goods and services set forth herein (a) are of merchantable quality; (b) are fit for the particular needs and purposes of Buyer as may be communicated to Seller; (c) comply with the highest warranties, representations and options expressed by Seller orally or in any written advertisement, correspondence or other document provided to or in the possession of Buyer; (d) comply with all applicable laws, codes and regulations as published by any national or statewide association or group; and (e) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties is breached, Seller agrees to correct all defects and nonconformities, to be liable for all direct, indirect, consequential and other damages suffered by Buyer and any other persons, and to defend and indemnify Buyer from any claim asserted by any person resulting in whole or in part from such breach.

12. DEFAULT.

Buyer may, by written notice, terminate this purchase contract, in whole or in part, for failure of Seller to perform any of the provisions hereon, including failure to deliver as and when specified. If so terminated, Seller shall be liable for all damages, including, without limitation:

- (a) the excess cost of reprocurring similar goods or services;
- (b) shipping charges for any items Buyer may at its option return to Seller, including items already delivered, but for which Buyer no longer has any use because of Seller's default; and
- (c) amounts paid by Buyer for any items Buyer has received but returns to Seller.

13. CHANGE OR CANCELLATION FOR CONVENIENCE

Buyer by written notice may change or terminate all or any part of this purchase contract for Buyer's convenience. If such a change results in an increase or decrease in costs to be incurred or time needed to complete performance of this contract, then Buyer and Seller will make a fair and equitable modification of their rights and obligations under this agreement, provided however that Buyer will not compensate Seller for any services not performed or goods not shipped by the date of such change or termination. If such goods are standard items of Seller's inventory, Seller's claim for an equitable adjustment under this paragraph must be submitted to Buyer in writing within 30 days of receipt of notice of change or termination, otherwise all such claims of Seller shall be deemed to have been waived.

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14. CONFLICT OF INTEREST

- a. Buyer's policy requires avoidance of real or apparent conflict of interest. No employee, officer or agent of Buyer shall knowingly participate in the selection, award or administration of a contract with Seller if Buyer or any member of Buyer's immediate family has a material financial interest in Seller, or is negotiating or has any arrangement concerning prospective employment with Seller.
- b. No officer, employee or agent of Buyer shall either solicit or accept gratuities, favors or anything of monetary value from Seller, including any contingent fee.
- c. If Seller has reason to believe any officer, employee or agent of Buyer has violated any provision of this paragraph, Seller immediately shall notify Buyer of the suspected violation by sending notice thereof to Internal Audit, Stanford University, Stanford, CA 94305, explaining the situation in full. Seller's failure to so notify Buyer shall be a material breach of this agreement and Buyer, at its option, may terminate this agreement.

15. RECITALS AND INTERPRETATION

Seller acknowledges the following facts and agrees that this contract will be executed and interpreted with due regard thereto: that Buyer is a nonprofit charitable trust and therefore does not accept risks that normally would be acceptable to a commercial enterprise, that Buyer is wholly or partially self-insured for liability and property damage, that time is of the essence for Buyer and that delays can cause multi-million dollar losses due to loss of contract funds and/or inability to conduct or complete academic courses and/or research projects and/or patient care activities. This contract shall not be modified, supplemented, qualified or interpreted by any usage of trade unless actually known to the personnel of Buyer who are involved in this contract.

16. INDEMNITY

Seller agrees to forever indemnify, defend and save harmless Stanford from and against, and to waive any and all claims against Stanford for, any and all claims, suits and demands of liability loss or damage whatsoever, including attorneys fees, whether direct or consequential, on account of any loss, injury, death or damage to any person or persons of property (including without limitation all agents and employees of Seller and Stanford and all property owned by, leased to or used by either Seller or Stanford or both) on or account of any loss or damage to business or reputation or privacy of any person, arising in whole or in part in any way from Seller's performance hereunder or in any way connected therewith or in any way related thereto, and regardless of whether such loss, injury, death or damage results in whole or in part from (a) the negligence or omission of Stanford or (b) any product liability of Stanford or any person or (c) any strict liability of Stanford or any person.

There are excluded from the above indemnity and waiver provisions any such claims, suits and demands of liability, loss or damage resulting solely from Stanford's gross recklessness, active negligence, or willful intent to injure. As used in this indemnity and waiver provision, and for purposes of Seller's insurance, "Stanford" shall be deemed to include Stanford University, its Trustees, Directors, officers, employees, faculty, students, agents, affiliated organizations and their insurance carriers, if any.

17. INSURANCE

Unless more specific insurance provisions are attached, the following shall apply.

Commercial General Liability (bodily injury, property damage, personal injury) with a single limit of not less than \$2,000,000 for a single occurrence and Automobile Liability insurance, with a single limit of not less than \$1,000,000 for a single occurrence.

Commercial General Liability and Automobile Liability insurance policies shall include the following provisions:

- Additional Insureds: The Board of Trustees of the Leland Stanford Junior University, its officers, agents, representatives, students, employees and volunteers shall be included as additional insureds.
- Primary Coverage: Above insurance shall be primary as respects all other insurance or self-insurance in force. Stanford University and/or Stanford Hospital and Clinics insurance or self-insurance shall be excess and noncontributory.

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- Cancellation Notice: Thirty (30) days prior written notice of cancellation or material change in the insurance must be given to the University.
- Waiver of Subrogation: Contractor and Contractor's insurance companies waive their rights to subrogation against the above named insureds by endorsement.

Worker's Compensation insurance and employer's liability insurance must cover all persons whom the Contractor may employ in carrying out the services hereunder. Worker's compensation insurance will be in accordance with the Worker's Compensation Law of the State of California.

18. USE OF BUYER'S NAME

Seller agrees not to use Buyer's name or other trademarks, or the name or trademarks of any related organization, or to quote the opinion of any of Buyer's employees or agents in any advertising, promotion or other written or oral disclosure without the prior written consent of the Buyer's Senior Director of Business Development.

19. APPLICABLE LAW, ETC.

This contract and the performance hereunder shall be construed according to the law of California as applied to contracts made and performed within California. The parties hereto agree that any dispute arising under this contract shall be resolved in the courts of Santa Clara County or in the Federal District Court for the Northern District of California, and Buyer and Seller hereby submit themselves to the personal jurisdiction of said courts. All rights and remedies of Buyer and Seller shall be cumulative.

20. COMPLETE AGREEMENT

This purchase contract (including these Terms and Conditions), any specifications or additional terms and conditions attached or referenced, and the material described in paragraph 11 above ("Warranty") constitute the entire agreement between Buyer and Seller. Seller's quotation is incorporated only insofar, as is specifically so stated in the purchase contract hereof. No other terms or conditions are binding on Buyer unless accepted by it in writing.

21. PURCHASE ORDER NUMBER

Seller will use best efforts to include Buyer's 8-character purchase order number as part of the delivery address on all goods and services delivered to Buyer. Failure to do so will cause Buyer significant delivery difficulties and delays.

22. LIVING WAGE

This Purchase Order is subject to the University's "Living Wage and Benefit Guidelines for Stanford Contractors", which can be found at http://fingate.stanford.edu/staff/buypaying/policy_notes/living_wage_benefit_guide.html, hereinafter referred to as "The Guidelines".

Supplier represents and warrants that it will comply with The Guidelines as amended by the University from time to time. Supplier acknowledges that failure to comply with The Guidelines will be deemed a material breach of this Purchase Order. Supplier agrees to provide in a timely manner upon University's written request, but in any event not more than 10 business days, written evidence of compliance satisfactory to the University.

23. ANTI-TRUST VIOLATIONS

Buyer and Seller recognize that in actual economic practice, overcharges, resulting from antitrust violations are in fact usually borne by the Buyer. Therefore, Seller hereby assigns to the Buyer any and all claims for such overcharges as to goods and services purchased in connection with this order, except as to overcharges not passed on to the Buyer resulting from antitrust violations commencing after the date of this contract or other event establishing the price under this contract.

24. ACCESS TO RECORDS

If this agreement is for the provision of services with a value of \$10,000 or more within a 12-month period, then until the expiration of four years after the furnishing of any services pursuant to this agreement, Seller shall

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make available, upon written request from the Secretary of the U.S. Department of Health and Human Services or from the U.S. Comptroller, such books, documents and records of Seller as are necessary to certify the nature and extent of the reasonable cost of services to Buyer. If Seller enters into an agreement with any related organization to provide services pursuant to this agreement with a value of \$10,000 or more within a 12-month period, such agreement shall contain a clause identical in content to the first sentence of this paragraph. This paragraph shall be of force and effect only to the extent required by P.L. 96-449.

25. GOVERNMENT REQUIRED CLAUSES

All Federal Grant and/or subcontract purchases are subject to the terms and conditions defined in Public Law 87-653 (Truth in Negotiations) and the Copeland "Anti-Kickback" Act. In addition the following clauses are incorporated herein by reference according to the amount of this order, and references to Government (or United States) and Contract shall be interpreted as necessary to apply to the U.S. Government or the Buyer and Seller, respectively.

FAR Number Title of Clause

Regardless of Amount:

52.203.11 Certification & Disclosure Re: Payments to Influence Certain Federal Transactions

52.222.4 Contract Work Hours and Safety Standards Act

52.225.13 Restrictions on Certain Foreign Purchases

52.227.10 Filing of Patent Applications-Classified Subject Matter

52.227.11/12/13 Patent Rights

52.247.63 Preference for U.S. Flag Air Carriers

52.247.64 Preference for Privately Owned U.S. Flag Commercial Vessels

252.227.7034 DFAR Patents- Subcontracts DOD only

252.227.7039 DFAR Patents Reporting Subject Inventions DOD only

52.222.21 Prohibition of Non-Segregated Facilities

52.222.26 Equal Opportunity

52.222.35 Affirmative Action for Disabled Veterans of the Vietnam Era

52.222.36 Affirmative Actions for Workers with Disabilities

52.222.37 Employment Reports on Disabled Veterans of the Vietnam Era

Orders over \$100,000 all of the above clauses plus:

52.203.6 Restrictions on Subcontractor Sales to the Government

52.203.7 Anti-Kickback Procedures

52.203.12 Limitation on Payments to Influence Certain Federal Transactions

52.215.2 Audit and Records- Negotiation, Alternative II

52.219.8 Utilization of Small Business Concerns

52.227.1 Authorization and Consent Alternative I

52.227.2 Notice and Assistance Regarding Patent and Copyright Infringement

42 U.S.C. 7401, et. seq Clean Air Act

33 U.S.C. 1251, et. seq Federal Water Pollution Control Act

Orders over \$500,000 all of the above clauses plus:

52.219.9 Small Business Subcontracting Plan

Orders over \$550,000 all of the above clauses plus:

52.215.12/13 Subcontractor Cost or Pricing Data- Modifications

26. CONFIDENTIALITY

Seller affirms that it is in compliance with the Gramm-Leach-Bliley Act and 16 CFR Part 314 providing safeguards to confidential financial information (CFI) according to commercially acceptable standards and no less rigorously than it protects its own CFI.

(Rev 09/01/2009)

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BUSINESS ASSOCIATE ADDENDUM

The use of this clause is applicable in situations where the Seller has access to, or creates or discloses Protected Health Information to perform a service on Stanford's behalf

This Addendum (the "Addendum") is between THE LELAND STANFORD UNIVERSITY (BUYER) ("Covered Entity") and SELLER ("Business Associate"). Covered Entity and Business Associate are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (defined below). Both Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the privacy regulations promulgated pursuant to HIPAA, including, but not limited to, 45 C.F.R. Parts 160 and 164 Subpart E (the "Privacy Regulation"), and the security regulations promulgated pursuant to HIPAA, including, but not limited to 45 C.F.R. Parts 160 and 164 Subpart C (the "Security Regulation"), as may be amended from time to time. This Addendum sets forth the terms and conditions pursuant to which Protected Health Information will be handled by Business Associate and third parties during the term of the Agreement and after its termination. The Parties agree as follows:

1. DEFINITIONS

1.1 Designated Record Set. Designated Record Set shall have the meaning set forth in 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended, or revised.

1.2 Data Aggregation. Data Aggregation shall have the meaning set forth in 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended, or revised.

1.3 Health Care Operations. Health Care Operations shall have the meaning set forth in 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.

1.4 Privacy Officer. Privacy Officer shall have the meaning set forth in 45 C.F.R. § 164.530(a)(1) as such provision is currently drafted and as it is subsequently updated, amended or revised.

1.5 Protected Health Information. As set forth in 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised, Protected Health Information means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (iii) that is provided by, or created or received by, Business Associate from or on behalf of Covered Entity.

1.6 Required By Law. Required By Law shall have the meaning set forth at 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended or revised.

1.7 Security Incident. Security Incident shall have the meaning set forth at 45 C.F.R. § 164.304, as such provision is currently drafted and as it is subsequently updated, amended or revised.

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1.8 Terms used but not otherwise defined in this Addendum shall have the same meaning as those terms in the Privacy Regulation or Security Regulation, as they are currently drafted and as they are subsequently updated, amended, or revised.

2. PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

2.1 Services. Pursuant to the Agreement, Business Associate provides services (“Services”) for Covered Entity that involve the use and disclosure of Protected Health Information. Except as otherwise specified herein, Business Associate may make any and all uses of Protected Health Information necessary to perform its obligations under the Agreement, provided that such use would not violate HIPAA or the Privacy Regulation if done by Covered Entity or such use is expressly permitted by this Addendum. Moreover, Business Associate may disclose Protected Health Information for the purposes authorized by this Addendum only, (i) to its employees, subcontractors and agents, in accordance with Section 3(g), (ii) as directed by Covered Entity in accordance with this Addendum, or (iii) as otherwise permitted by the terms of this Addendum including, but not limited to, Section 2.2 below. Any other use and/or disclosure not permitted or required by this Addendum (“Unauthorized Use and/or Disclosure”) is prohibited.

2.2 Business Activities of Business Associate. Business Associate may use and disclose Protected Health Information if necessary for the proper management and administration of Business Associate or to meet its legal responsibilities; provided, however, that such Protected Health Information may be disclosed to third parties for such purposes only if the disclosures are required by law or Business Associate obtains assurances from the person to whom the information is disclosed that:

- a. the information will remain confidential;
- b. the information will be used or further disclosed only as required by law or for the purpose for which the information was disclosed to the person; and
- c. the person will notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.3 Additional Activities of Business Associate. In addition to using the Protected Health Information to perform the Services set forth in Section 2.1 of this Addendum, Business Associate may use Protected Health Information for Data Aggregation purposes for the Health Care Operations of Covered Entity, if expressly authorized under the Agreement. Under no circumstances may Business Associate disclose Covered Entity’s Protected Health Information to a third party pursuant to this Section 2.3 absent Covered Entity’s explicit authorization.

3. RESPONSIBILITIES OF BUSINESS ASSOCIATE WITH RESPECT TO PROTECTED HEALTH INFORMATION

Business Associate hereby agrees to do the following:

- a. use and/or disclose the Protected Health Information only as permitted or required by this Addendum or as otherwise Required By Law. Business Associate shall not, without the prior written consent of Covered Entity, disclose any Protected Health Information on the basis that such disclosure is Required By Law without first notifying Covered Entity so that Covered

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Entity shall have an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, Business Associate shall refrain from disclosing the Protected Health Information until Covered Entity has exhausted all alternatives for relief. Business Associate shall require reasonable assurances from third parties receiving Protected Health Information in accordance with Section 2.2 hereof that such third parties will provide Covered Entity with similar notice and opportunity to object before disclosing Protected Health Information on the basis that such disclosure is Required By Law.

- b. report to the designated Privacy Officer of Covered Entity, in writing, any Unauthorized Use and/or Disclosure of which Business Associate becomes aware within five (5) days of Business Associate's discovery of such Unauthorized Use and/or Disclosure.
- c. report to the designated Privacy Officer of Covered Entity, in writing, any Security Incident occurring on or after the compliance date of the Security Regulation of which it becomes aware within five (5) days of Business Associate's discovery of such Security Incident.
- d. mitigate, to the greatest extent possible, any deleterious effects from any Unauthorized Use and/or Disclosure of Protected Health Information of which Business Associate becomes aware.
- e. mitigate, to the greatest extent possible, any deleterious effects from any Security Incident occurring on or after the compliance date of the Security Regulation of which Business Associate becomes aware.
- f. use diligent efforts to maintain the security of the Protected Health Information and to prevent Unauthorized Use and/or Disclosure of such Protected Health Information. Business Associate shall maintain and implement a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of Business Associate's operations and the nature and scope of its activities to reasonably and appropriately protect the privacy, confidentiality, integrity and availability of Protected Health Information. In addition to any safeguards set forth in this Addendum, Business Associate shall use any and all appropriate safeguards to prevent Unauthorized Use or Disclosure of Covered Entity's Protected Health Information.
- g. require all of its subcontractors and agents that receive or use, or have access to, Protected Health Information to agree, in writing, (i) to adhere to the same restrictions, conditions and obligations concerning Protected Health Information that apply to Business Associate pursuant to this Addendum; and (ii) not to subcontract or assign its rights and obligations under the Agreement without obtaining Business Associate's and Covered entity's prior written consent. Before allowing any subcontractor or agent that is not organized under the laws of any state within the United States ("Foreign Subcontractor") to use or disclose, or have access to, Protected Health Information, Business Associate shall obtain the prior written consent of Covered Entity, which consent may be withheld in Covered Entity's sole discretion. Notwithstanding anything to the contrary in the Agreement, and in addition to any other remedies available to Covered Entity under this Addendum, the Agreement or at law, if Business Associate breaches the terms of this Section 3.g. of this Addendum, Business Associate shall pay Covered Entity one hundred

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thousand dollars (\$100,000.000), representing reasonably pre-estimated liquidated damages and not a penalty..

- h. make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to the Secretary of the U.S. Department of Health and Human Services ("HHS") (or any officer or employee of HHS to whom the Secretary of HHS has delegated such authority) for purposes of determining Covered Entity's compliance with the Privacy Regulation and Security Regulation after the compliance dates, respectively, of those regulations, subject to attorney-client and other applicable legal privileges. Business Associate shall immediately notify Covered Entity upon receipt by Business Associate of any request for access by the Secretary of HHS and shall provide Covered Entity with a copy thereof as well as a copy of all materials disclosed pursuant thereto.
- i. upon reasonable prior written notice, make available during normal business hours at Business Associate's offices all records, books, agreements, policies and procedures relating to the use and/or disclosure of, and security of, Protected Health Information to Covered Entity for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of this Addendum.
- j. document such disclosures of Protected Health Information as necessary to enable Covered Entity to respond to an individual's request for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528. Specifically, Business Associate shall maintain a record of all disclosures of Protected Health Information, including the date of the disclosure, the name and, if known, the address of the recipient of the Protected Health Information, a brief description of the Protected Health Information disclosed, and the purpose of the disclosure (including an explanation of the basis for such disclosure).
- k. within 10 days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's Protected Health Information in accordance with 45 C.F.R. § 164.528. In the event that an individual requests an accounting of disclosures directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request; Covered Entity shall be responsible for preparing and delivering to the individual any such accounting requested.
- l. subject to Section 6.3 below, return to Covered Entity or destroy, within 30 days of the termination of this Addendum and/or the Agreement, the Protected Health Information in its possession and retain no copies (which for purposes of this Addendum shall include, without limitation, destruction of all backup tapes).

4. RESPONSIBILITIES OF BUSINESS ASSOCIATE WITH RESPECT TO HANDLING OF DESIGNATED RECORD SET

In the event that the Protected Health Information received by Business Associate pursuant to the Agreement constitutes a Designated Record Set, Business Associate hereby agrees to do the following:

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- a. at the request of, and in the time and manner designated by Covered Entity, provide access to the Protected Health Information to Covered Entity for inspection or copying, to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524. In the event that an individual requests access to Protected Health Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request; Covered Entity shall be responsible for delivering to the individual the information he or she has requested.
- b. at the request of, and in the time and manner designated by Covered Entity, make any amendment(s) to the Protected Health Information that Covered Entity directs pursuant to 45 C.F.R. § 164.526. In the event that any individual requests an amendment of Protected Health Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of such request; Covered Entity will then direct Business Associate to amend its Protected Health Information, as may be appropriate based on the individual's request.

5. REPRESENTATIONS AND WARRANTIES OF BUSINESS ASSOCIATE

Business Associate represents and warrants to Covered Entity that all of its employees, agents, representatives, subcontractors and members of its Workforce, whose services may be used to fulfill obligations under the Agreement or this Addendum are or shall be appropriately informed of the terms of this Addendum.

6. TERM AND TERMINATION

6.1 Term. This Addendum shall become effective on the Agreement Effective Date and shall continue in effect until termination or expiration of the Agreement, subject to the provisions of Section 8.1, unless terminated as provided in this Section 6.

6.2 Termination by Covered Entity. As provided under 45 C.F.R. § 164.504(e)(2)(iii), Covered Entity may immediately terminate this Addendum and the Agreement if Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under the provisions of this Addendum. Alternatively, if Covered Entity has determined that Business Associate has breached a material term of this Addendum and does not immediately terminate the Agreement and this Addendum, then Covered Entity shall: (i) provide Business Associate written notice of the existence of an alleged material breach; and (ii) afford Business Associate an opportunity to cure the alleged material breach within 5 days. In the event that Business Associate does not cure the breach within 5 days, Covered Entity may terminate, the Agreement, if feasible (as determined by Covered Entity), or if termination is not feasible, report the problem to the Secretary of HHS.

6.3 Effect of Termination. Upon termination of the Agreement and this Addendum pursuant to this Section 6, Business Associate shall return or destroy all Protected Health Information that Business Associate and its agents and subcontractors still maintain in any form. If such return or destruction is not feasible, then Business Associate will so notify Covered Entity in writing, and shall (a) extend any and all protections, obligations, limitations and restrictions contained in this Addendum to Protected Health Information retained by Business

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Associate, its agents and its subcontractors after the termination of the Agreement and this Addendum, and (b) limit any further uses and/or disclosures to those purposes that make the return or destruction of the Protected Health Information infeasible.

7. INDEMNIFICATION

Business Associate agrees to indemnify, defend and hold harmless Covered Entity and its affiliated corporations and entities and their officers, agents and employees (collectively, Covered Entity's "Indemnitees") against all actual and direct losses, liabilities, damages, claims, costs or expenses (including reasonable attorney's fees) they may suffer as the result of third party claims, demands, actions, investigations, settlements or judgments against them arising from or in connection with any breach of this Addendum or of any warranty hereunder or from any negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Regulation and Security Regulation, by Business Associate or its employees, directors, officers, subcontractors, agents or other members of its Workforce. To the extent that the Agreement contains a provision that limits Business Associate's liability under the Agreement, Business Associate's obligation to indemnify Covered Entity and its Indemnitees under this Section 7 shall be excluded from such limitation of liability. Business Associate's obligation to indemnify Covered Entity and its Indemnitees shall survive the expiration or termination of this Addendum for any reason.

8. MISCELLANEOUS

8.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 3(h), 3(j), 6.3, 7, 8.5, 8.8 and 8.10, and Section 3 (except Sections 3(h) and 3(j)), solely with respect to Protected Health Information Business Associate retains in accordance with Section 6.3 because it is not feasible to return or destroy such Protected Health Information, shall survive termination of this Addendum indefinitely. In addition, Section 4 shall survive termination of this Addendum, provided that Covered Entity determines that the Protected Health Information being retained pursuant to Section 6.3 herein constitutes a Designated Record Set.

8.2 Entire Agreement; Amendments; Waiver. This Addendum constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supercedes any previous agreements between the Parties relating to the same subject matter. This Addendum may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

8.3 No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

8.4 Notices. Any notices to be given under this Addendum to a Party shall be made via U.S. Mail or express courier to such Party's address set forth below, and/or via facsimile to the facsimile telephone numbers listed below.

STANFORD UNIVERSITY
Purchase Order Terms and Conditions

BUSINESS ASSOCIATE ADDENDUM

If to Covered Entity, to:

Stanford University Purchasing and Contracts
340 Bonair Siding Road
Stanford, CA 94305
Attn: Stefani Fukushima
Fax: 650-723-1267

with a copy to:

Stanford University Office of the General Counsel
Building 170, 3rd Floor, Main Quad
P.O. Box 20386
Stanford, CA 94305-2038
Attention: Patrick Dunkley, Senior University Counsel
Fax: 650-723-4323

If to Business Associate, to:

Attn: _____
Fax: _____

with a copy to:

Attn: _____
Fax: _____

Each Party may change its address and that of its representative for notice by giving notice thereof in the manner provided above in this Section 8.4.

8.5 Counterparts; Facsimiles. This Addendum may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

8.6 Effect of Agreement. Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Agreement shall remain in full force and effect.

STANFORD UNIVERSITY
Purchase Order Terms and Conditions

BUSINESS ASSOCIATE ADDENDUM

8.7 Interpretation. The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The Parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with the Privacy Regulation and Security Regulation.

8.8 Governing Law. This Addendum shall be governed by and construed in accordance with the laws of the State of California, without application of principles of conflicts of laws.

8.9 Amendment to Comply With Law. The Parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The Parties agree to take such action as is necessary to implement the standards and requirements of HIPAA, the Privacy Regulation, the Security Regulation, and other applicable laws relating to the security or confidentiality of Protected Health Information. The Parties further agree that if current or future federal or state laws, rules, or regulations adversely impact a Party's performance under the Agreement or this Addendum, the Parties will negotiate in good faith to amend the Agreement and/or this Addendum, as necessary, to be consistent with the requirements of HIPAA, the Privacy Regulation, the Security Regulation, or other applicable laws, as the same may be amended from time to time. Covered Entity may terminate the Agreement and this Addendum in the event that the Parties are unable to modify the Agreement and/or Addendum to remain in full compliance with HIPAA, the Privacy Regulation, the Security Regulation or other applicable law.

8.10 Injunctions. Covered Entity and Business Associate agree that any violation of the provisions of this Addendum may cause irreparable harm to Covered Entity. Accordingly, in addition to any other remedies available to Covered Entity at law, in equity, or under this Addendum, in the event of any violation by Business Associate of any of the provisions of this Addendum, or any explicit threat thereof, Covered Entity shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages.

8.11 State Law. Nothing in this Addendum shall be construed to require or permit Business Associate to use or disclose Protected Health Information without written authorization from an individual who is a subject of the Protected Health Information, or written authorization from any other person, where such authorization would be required under state law for such use or disclosure.

(Rev 04/17/2009)