

PURCHASE AGREEMENT TERMS AND CONDITIONS

This Purchase Agreement Terms and Conditions (“Purchase Agreement” or “Agreement”) is incorporated by reference to the Purchase Order (“PO”) issued by Palomar Health. Seller(s) acceptance of the Purchase Order constitutes acceptance of these terms and conditions unless a separate agreement has been fully executed by both the Seller and Buyer. Seller is aware that Buyer is a California Local Healthcare District, d/b/a Palomar Medical Center Escondido, Palomar Medical Center Poway, Palomar Health Downtown Campus, organized pursuant to Division 23 of the California Health and Safety Code and as such is to be considered a public entity. This Purchase Agreement including the terms and conditions on the face hereof contains the complete and full agreement between Buyer and Seller and no modifications of, or agreement to modify, any of the said terms and conditions shall be binding upon the Buyer unless made in writing and signed by an authorized agent of Buyer. This Purchase Agreement may only be accepted by Seller’s agreement to all of the terms and conditions appearing on the face and contained therein, or added as supplements hereto. Acceptance may be made by signing an acknowledgment hereof and returning it to Buyer; of performance, furnishing any products, or acceptance of any payment pursuant to this Purchase Agreement shall also constitute acceptance of this Agreement. Acceptance by commencement of performance shall constitute an unqualified agreement to the terms and conditions set forth herein unless otherwise modified in writing by the Parties. An acceptance stating additional or different terms shall not become part of this agreement unless accepted in writing and signed by an authorized agent of Buyer. When this Purchase Agreement is interpreted as an offer, acceptance is limited to the exact terms of this offer and Buyer hereby notifies Seller of our objection to any additional, missing, or different terms in the Buyer’s acceptance. When this Purchase Agreement is interpreted as an acceptance of Seller’s offer, this acceptance is expressly conditioned on Seller’s assent to any additional, deleted, or different terms (from Seller’s offer) on this form.

1. **Advertising.** The contents of this Agreement and its existence shall be confidential and except as required by law, Seller shall not, without first obtaining the written consent of the Buyer, in any manner advertise or publish the fact Seller has furnished or contracted to furnish to the Buyer the products and/or services purchased hereunder.
2. **Assignment.** Seller agrees that prior to full performance no assignment or transfer, in whole or in part, of any right of Seller against Buyer under this Agreement for furnishing any of the goods or services covered by this Agreement, however made, may be made without prior written consent of Buyer. In case of any such assignment, transfer or delegation without Buyer's written consent, Buyer may refuse to carry out this Agreement either with the assignor or assignee, but all rights of action for any breach of this contract by Seller are reserved to Buyer. Seller agrees that upon Buyer's request it will assign to Buyer (1) all rights Seller may have against manufacturers, distributors, assemblers or carriers for breach of warranties relating to the Articles covered by this Agreement and (2) any cause of action Seller has against the supplier whose non-performance has prevented or excused Seller’s performance to Buyer to the extent of Buyer's loss attributable thereto, Seller agrees to execute any documents of assignment that Buyer may request.

3. **Contingencies.** Excepting Force Majeure, the risk of loss, non-completion or non-delivery of goods covered by this Agreement because of either Seller's fault or because of contingencies beyond its control shall be borne by Seller. Prior to Buyer's acceptance of delivery Seller agrees that its duties and conditions hereunder shall not be excused by any such loss or impossibility of performance.

4. **Compliance with Laws.** In the performance of the duties required under this Agreement, both parties shall comply with all applicable laws, ordinances, and codes of local, state and federal governments, including but not limited to OSHA statutes and regulations the Health Insurance portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), California Confidentiality of Medical Information Act (COMIA), California Information Practices Act (IPA), California privacy laws detailed in the California Health and Safety Code as a result of AB 211 and SB 541 regarding misuse of patient information, the Joint Commission standards and the provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued thereunder.

5. **GPO/Purchasing Network.** Palomar Health reserves the right to amend pricing pursuant to contracts negotiated and awarded by our Group Purchasing Organization, Vizient, or our Purchasing Network, Captis (fmka UMCS).

6. **Confidential Information.** Seller agrees not to directly or indirectly disclose any information to others concerning Buyer's products, processes, purchases or plans. In addition, all drawings, specifications, data, designs, inventions, processes and other information supplied or paid for by Buyer shall be and remains Buyer's property, shall not be disclosed to others and shall not be reproduced or used by Seller for any purpose other than the performance of the work required hereunder without Buyer's prior written consent, and shall be returned to Buyer upon completion of this Agreement or upon demand. Buyer does not grant indemnity to Seller for infringement of any patent, trademark, copyright, or data rights. The purchase price of this Agreement is in part consideration for any design work performed by Seller in connection with this Agreement and incorporated in the articles to be delivered hereunder and Seller therefore shall not supply articles incorporating such design work or utilizing information supplied by Buyer to others without Buyer's written permission. This Agreement imposes no obligations on Seller with respect to information that: (1) was in Seller's possession before receipt from Buyer; (2) is or becomes a matter of public knowledge through no fault of Seller; (3) is rightfully received by Seller from a third party without a duty of confidentiality; (4) is disclosed by Buyer to a third party without a duty of confidentiality on the third party; (5) is independently developed by Seller; (6) is disclosed under operation of law.

7. **Changes.** No change shall be effective unless authorized in writing by Buyer. If such changes result in delay or an increase or decrease in expense to Seller, Seller shall notify Buyer immediately and negotiate an equitable adjustment, provided, however, that Seller shall, in all events, proceed diligently to perform the work or services or supply the items contracted for under this Agreement as changed. No claim by Seller for such equitable adjustment shall be valid unless submitted to Buyer in writing within thirty (30) days from the date of such change notice, accompanied by an estimate of charges resulting from such change. The Seller may change no specifications, materials or processes used in complying with the terms of this Agreement without written

authorization by Buyer. Any such change in the specifications, materials or processes subject to this Agreement, without such written authorization, is made at Seller's own risk and Seller hereby specifically agrees to accept full liability for any damages in any form whatsoever which are caused by or result from such change in specifications, materials or processes.

8. **Governing Law.** This Agreement is made by Buyer and accepted by Seller with reference to, and the right of all parties and the construction and effect of every provision hereof shall be subject to and construed according to, the Uniform Commercial Code and all other laws as in effect as of the date of this Agreement in the State appearing in Buyer's address at the top of the face hereof.

9. **Grounds for Insecurity.** The parties agree that each Party's expectation of receiving due performance will not be impaired. Buyer may find reasonable grounds for insecurity if any of the following happens: (1) insolvency of Seller; (2) Seller's filing of a voluntary petition in bankruptcy; (3) the filing of an involuntary petition to have Seller, declared bankrupt, provided it is not vacated within thirty (30) days from the date of filing; (4) the appointment of a receiver or trustee for Seller, provided such appointment is not vacated within thirty (30) days from the date of the appointment; (5) the execution by Seller of an assignment for the benefit of creditors; (6) Seller's assignment of its rights, or delegation of its non-delegable duties (see Paragraph 2), under this Agreement prior to full performance without Buyer's written consent; (7) Seller's commencement of accounts receivable financing. The above enumeration of grounds constituting insecurity is not exclusive but is in addition to any other proper grounds for insecurity. Buyer may require a financial statement from Seller at any time during the term of this Agreement for the purpose of determining Seller's financial responsibility. If assurance of performance is rightfully determined by Buyer, Buyer may require Seller to deliver to Buyer within ten (10) business days thereafter a bond in the amount of two times the value of the performance remaining to be performed by Seller which bond the parties stipulate is an adequate assurance of due performance conditioned to indemnify Buyer for any loss it may sustain by the failure of Seller to perform its obligations under this Agreement. If the assurance of due performance as required herein is not provided by Seller, Buyer may, but is not obligated to treat this Agreement as repudiated by Seller. The remedies provided in this paragraph are not exclusive and are in addition to those provided by law, including the right to suspend performance in the event of reasonable grounds for insecurity. No waiver of a breach of any provision of this contract shall constitute a waiver of any other breach of such provision or other provisions in this contract nor shall such waiver prevent Buyer from pursuing rights and remedies against any other breach of this contract.

10. **Inspection and Rejection.** Goods and services purchased hereunder are subject to inspection, test and approval at any reasonable places and times, and in any reasonable manner made known to Seller before delivery, including inspection at Seller's facilities during and after the period of manufacture, and at Buyer's facilities or any other point of destination specified on the face of this Agreement. Buyer shall be allowed a reasonable time to inspect said goods before acceptance, which period of time shall not be less than five (5) business days from the date of the receipt of the goods. Notwithstanding any payments, other prior inspection or the fact this Agreement may call for delivery at point of shipment, Buyer reserves the right to reject and refuse acceptance, at the place it receives the goods or services, of the whole or any part of the goods and services purchased which do not conform

to the terms of this Agreement, with specifications, drawings, and data which are a part of this Agreement, or with Seller's warranties (expressed or implied). Notice of rejection shall be deemed given to Seller by oral or written notice to Seller of intention not to accept the same; such notice need not include a statement of any objections that will be relied upon by Buyer as a basis for breach. Buyer reserves all rights and remedies for Seller's breach provided for by the Uniform Commercial Code specified in Paragraph 8, and provided by any other applicable law. Buyer reserves the right to deduct (from the payment otherwise required to be made for any accepted part) damages it has suffered from any breach by Seller, under this or any other Agreement from Buyer to Seller and no payment by Buyer shall be deemed an acceptance of the goods or any other Agreement from Buyer to Seller and no payment by Buyer shall be deemed an acceptance of the goods or a part thereof without further evidence of an intention to accept after inspection. Freight charges accruing from rejected materials are the Seller's responsibility.

11. **Insurance and Indemnification.** If Seller is required to enter premises owned, leased, occupied, or under the control of Buyer during delivery or installation of goods or rendering of services called for by this Agreement, Seller agrees to defend, indemnify and hold harmless Buyer, its officers, employees and agents from all loss expense, damage, claim, suits or liability arising from injury, including death, to persons or property to the extent arising from or in any way growing out of Seller or its subcontractors, or their respective employees. Seller agrees to maintain and require its subcontractors to maintain commercial general liability insurance coverage in minimum limits of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000) aggregate and include customer as an additional insured on such policy and Workmen's Compensation and Employers Liability insurance coverage providing at least One Million Dollars (\$1,000,000) employers' liability limits and statutory benefits covering all individuals deemed employees of Seller as required by law. Certificates of duplicate coverage, evidencing such insurance and providing that no expiration, termination or modification of the insurance coverage shall take place within thirty (30) days prior written notice by the insurer to Buyer shall be furnished to Buyer before commencement of this Agreement and thereafter upon request. All insurance coverage required hereunder shall be written with insurance carriers, which have an A.M. Best rating of A-VIII or better. Further, such policies shall contain a Waiver of Subrogation in favor of the customer. Seller also agrees for itself and its subcontractors to contact Buyer's Security Office and to comply with all safety and security requirements specified by such Security Office.

Indemnity. No limitation of liability or provisions to the contrary withstanding, Seller hereby agrees to indemnify, protect, defend and hold harmless Palomar Health, its affiliated corporations, and their respective directors, officers, managers, members, employees and agents, from and against any and all claims, costs, liabilities, losses, damages, injuries, demands, actions, causes of action, suits, proceedings, judgments and expenses, including, without limitation, reasonable attorneys' fees, court costs and other legal expenses (collectively, a "Claim" or "Claims"), to the extent such claims arise out of Seller's material breach of this Agreement and/or the negligence or willful misconduct of Seller, its agents, employees, servants or sub contractors under this Agreement. Palomar Health will provide prompt notice of any such Claim to Seller and will reasonably cooperate with Seller's defense efforts. This indemnity continues beyond the expiration or termination of this Agreement for Claims arising from acts or omissions which occurred during the Term.

12. **Overtime.** Buyer will not compensate Seller for any overtime or premium payment made for the purpose of filling this Agreement within the time required unless authorized in advance in writing by an authorized agent of Buyer.

13. **Packing and Shipping.** No charges will be allowed for boxing, wrapping, cartage or storage unless so specified on the face of this Agreement. Seller shall pack or otherwise prepare all goods for shipment so as to secure the lowest transportation rates consistent with early delivery, meeting requirements of carriers and safeguarding against damage from weather, transportation and storage. On the date shipment is made, Seller shall mail to Buyer shipping documents and a copy of the packing slip bearing Buyer's Purchase Order number, part number and quantities shipped. Buyer's count will be accepted as conclusive on shipments not accompanied by a packing slip. Seller shall furnish Buyer invoices in duplicate. When Buyer furnishes containers or packing material, Seller agrees to package materials in quantities and carton sizes as specified by Buyer.

14. **Payment and Credit Terms.** If discount terms are set forth on the face of this Agreement, the discount period will be computed from those terms, and if no discount term is set forth on the face of this Agreement, invoices will be paid within forty five (45) days after the later of receipt of an undisputed invoice, and (1) the date of Buyer's acceptance of the Article(s) following receipt and inspection, or (2) Within forty five (45) days of Buyer's receipt of an undisputed invoice for all lots ordered, prepared in accordance with the terms of this Agreement.

15. **Price.** Please see PO for the Pricing Schedule. The price for goods or services covered by this Agreement shall be the lower of either the price shown on the face of this Agreement or the price to Seller in effect on the date of delivery to customers in the same class as Buyer for like quantities of goods and services of like grade and quality. Seller agrees that the pricing on this Agreement will be fixed.

16. **Remedies and Waiver.** Buyer reserves the right to return for refund of the purchase price or repair at Seller's cost all or any part of the goods delivered under this Agreement. All remedies reserved in this Agreement shall be cumulative and additional to any other or further remedies provided for by the terms of this Agreement or by the governing law set forth in Paragraph 8 hereof.

17. **Taxes.** Except for Sales and Use Taxes in the state shown on Buyer's address of destination on the face of this Agreement, if applicable, the price of the goods and services covered by this Agreement includes all taxes, fees, excises, or charges which are now or may hereafter be imposed (whether by Federal, State, Municipal or other public authority) with respect to the manufacture and sale of such goods, and any services to be rendered by Seller hereunder. Seller shall separately state on its invoices the amount of Sales and Use Taxes applicable to the sale of the goods covered by this Agreement. Property and inventory taxes shall be borne by the Party holding title to the goods under Paragraph 21.

18. **Termination Without Cause.** Buyer may terminate all or any part of this Agreement at any time without cause by written notice to Seller. Seller may thereafter submit a termination claim to Buyer for reasonable and necessary out-of-pocket costs and expenses not previously paid by Buyer for (1) performance of the Agreement

up to the date of notice of termination and (2) discontinuing performance provided Seller proceeds immediately to minimize such costs and expenses. Buyer reserves the right to approve the reasonableness of said termination claim. Any termination claim must be submitted to Buyer within thirty (30) days after the effective day of termination. The provisions of this subparagraph shall not limit or affect the right of Buyer to cancel this Agreement for cause and shall not apply to a cancellation with cause.

19. **Cancellation with Cause.** If Seller fails to make delivery in accordance with the Delivery Schedule or otherwise fails to observe or comply with any of the other terms, conditions, or warranties set forth in this Agreement, unless such delay or failure is due to Buyer or to force majeure, or fails to make progress as to endanger performance thereof, or in the event of any grounds for insecurity in relation to Seller's performance as detailed in Paragraph 10 of this Agreement, Buyer may, in addition to any other rightful remedy provided in this Agreement or by the governing law (See Paragraph 8), cancel the Agreement as to goods not yet shipped and services not yet rendered, by written notice to Seller, without any liability by Buyer to Seller on account thereof, and may produce, purchase or otherwise acquire substitute goods or services elsewhere on such terms or in such manner as it may deem appropriate in the exercise of commercially reasonable judgment, and Seller shall be liable to Buyer for any excess costs or other expenses incurred by Buyer.

20. **Title and Warranties.** Seller warrants that at all times subsequent to its acceptance of this Agreement, it has the right to transfer good title to the goods, that the goods will be free from all security interests, liens and encumbrances, of any nature whatsoever and that Buyer will have peaceful possession and quiet enjoyment of the goods.

21. **Waiver.** The failure of Buyer in anyone or more instances (1) to insist upon performance of any of the terms or conditions of this Agreement, or (2) to exercise any right or privilege in this Agreement, or the waiver of any breach of the terms or conditions of this Agreement, SHALL NOT BE CONSTRUED AS THEREAFTER WAIVING ANY SUCH TERMS, CONDITIONS, RIGHTS OR PRIVILEGES and the same shall continue and remain in full force and effect as if no waiver had occurred. The acceptance of a nonconforming installment is not a waiver of any breach as to that installment or of the contract as a whole and such nonconformity may be asserted at any time prior to the earliest date at which the next succeeding installment delivery may be made.

22. **Warranties.** Seller warrants that the goods and services described herein and all components of the goods whether manufactured by Seller or others shall: (1) be merchantable, (2) strictly conform to the description of the goods on the face of this Agreement, which is part of the basis of the bargain, (3) strictly conform to specifications, if any, including performance specifications and, if Seller's design, be free from design defect, (4) have been manufactured properly and the material used shall have been carefully chosen, (5) be free from defects in workmanship, (6) be fit strictly for the particular purpose(s) for which the goods are required by Buyer, and for handling and use in respect to that purpose(s). Buyer has previously informed Seller of the particular purpose(s) for which the goods are required and hereby informs Seller that Buyer is relying entirely on Seller's skill or judgment to select and/or furnish goods suitable for the particular purpose(s), regardless of the fact that the

description on the face of this Agreement may specify the goods by their patent or trade name. These warranties shall be in addition to any other warranties, express, implied, or statutory. All warranties shall run to Buyer, its customers and subsequent Agreements of the goods of which they originally are a part. THERE ARE NO EXCLUSIONS, LIMITATIONS OR DISCLAIMERS OF THESE WARRANTIES. All warranties shall be construed liberally in favor of Buyer. Seller agrees at its expense to defend or, at Buyer's option, assist in the defense of any action in any court against Buyer, its customers or subsequent owners, insofar as such action is based upon alleged facts, which amount or may amount to a breach of any of the foregoing warranties. Seller agrees to defend and indemnify Buyer, its customers or subsequent owners from all liability, loss, costs and expenses, including reasonable attorney's fees, resulting from any breach of any or all of said warranties, express or implied. Notice of breach of warranty shall be deemed sufficient if given by Buyer within 180 days after the discovery thereof by Buyer, may be given orally or in writing, and need only inform Seller that the goods or services are troublesome, need repair or must be watched. The notice need not include a clear statement of all objections that will be relied upon by Buyer as the basis for breach. All warranties shall be construed as conditions as well as promises. The warranties expressed herein shall be construed as consistent and cumulative with one another and with all warranties implied by law. It is the intent of Buyer and Seller that if any warranties are held to be inconsistent, Buyer may, at any time, including in the course of a suit for breach, select which of them shall be excluded from the contract.

23. **Validity.** The invalidity in whole or in part of any term or condition of this Agreement shall not affect the validity of the rest of this Agreement or any other term or condition herein.

24. **Notices.** All notices required to be sent under this Agreement to Buyer shall be sent to its address as printed on the face hereof. Any notice to be sent to Seller shall be sufficient if mailed to Seller's address as listed on the face hereof

25. **Dispute Resolution.** Prior to bringing any action in a court of law, or to terminating this Agreement for cause, the parties agree that senior managers from the Buyer and Seller will meet promptly (within 5 business days) and attempt in good faith to resolve any disputed issues. No action or termination shall be brought or shall be effective until 10 business days after such meeting has taken place. Should the dispute not be resolved during this meeting, the Parties agree to consider other forms of alternative dispute resolution, such as non-binding arbitration prior to initiating any action in a court of law.

26. **Successors and Assigns.** This Agreement shall be binding on the successors and assigns of the parties hereto.

27. **Independent Contractor.** In the performance of the work, duties and obligations under this Agreement, it is mutually understood and agreed that Seller is at all times acting and performing as an independent contractor. Further, nothing in this agreement is intended nor shall be construed to create between Hospital and Seller an employer/employee relationship, a joint venture relationship or a lease or landlord/tenant relationship. Therefore, the parties agree and understand that Hospital is not responsible in any way, directly or indirectly, for any

employment-related benefits for Seller or its agents. Such benefits not covered include, but are not limited to, salaries, vacation time, disability leave, Workers Compensation benefits, Social Security, or health education.

28. **Licensure/Certification.** To the extent that a professional licensure and/or certification is required to provide the services described herein, Seller and its agents/employees shall be so licensed and/or certified at all times during the term of this Agreement; verification of such licensure or certification to be supplied by Seller, on an annual basis, or at any time upon the proper request of the appropriate Buyer's agent. The Seller shall provide the Buyer with a file on each of its employees assigned to the Buyer. The file shall include a current statement of qualification from a physician, of the reliability of the employee to physically perform the tasks assigned, a document validating annual tuberculosis screening test and immunization for Rubella and Rubeola. All medical screens are subject to the review and approval of the hospital Employee Health Nurse. The file shall also contain a current copy of licensure issued by the State of California and any other information that may be pertinent to the qualifications of the employees and their fitness to perform the assigned functions. The file must be complete, and in the hands of the Buyer prior to services being rendered by the Seller's employee. In addition, Seller agrees to abide by the Palomar Health "Non-Employee Personnel at Palomar Health" procedure attached hereto and incorporated by reference as Exhibit 4.

29. **Set-Off.** Buyer shall be entitled to set-off any amount owing from Seller to Buyer or any of its affiliated companies against any amount due or owing to Seller with respect to this Agreement.

30. **Data Requirements.** Seller agrees to furnish at no charge any data called for by this Agreement and data order separately which relates to the supplies or services ordered hereunder.

31. **Audit and Inspection.** Seller agrees to make available to the Secretary of Health and Human Services (HHS), the Comptroller General of the Government Accounting Office (GAO), Buyer, and Buyer's Fiscal Intermediary and their authorized representative, all contracts, books, documents and records that are necessary to certify to the nature and extent of the costs hereunder for a period of six (6) years after the furnishing of goods or services related to this Agreement. In addition, Seller agrees, if goods or services are to be provided by subcontract that such subcontractor make available to the HHS, GAO, Buyer and Intermediary or their authorized representatives, all contracts, books, documents, and records that are necessary to certify the nature and extent of the costs thereunder for a period of four (4) years after the furnishing of goods or services thereunder.

32. **Assembly.** Seller agrees to provide complete assembly services for their equipment or product, as needed, either from the Seller's company or a third party and that they further understand that this service is provided to Buyer at NO CHARGE. Any third party assembly service will hold Buyer not liable should third party Seller be injured, as a result of their own negligence, while on Buyer's property.

33. **Patient Care.** Pursuant to Section 70713 of Title 22, Seller understands and agrees that Hospital, with its Medical Staff, retains professional and administrative responsibility for services rendered to Hospital patients. Further, Seller shall conduct his/her activities in providing services hereunder consistent with relevant law and regulation, the Medical Staff Bylaws, the Medical Staff Rules and Regulations, Hospital policy and procedures,

Emergency Medical Treatment and Labor Act (EMTALA), Title 22, the standards and requirements under The Joint Commission (for accreditation of healthcare organizations) (TJC), professional standards, Hospital philosophy and values. The parties understand and agree that this provision is intended to fulfill requirements of TJC and state law and is not intended to modify the independent contractor relationship, or mutual indemnification requirements between the parties herein.

34. **Environmental.** Seller, and any agent or delegate of Seller authorized to perform pursuant to this Agreement, as applicable, has and is in compliance with all Environmental Laws. For purposes of the section, "Environmental Laws" shall include all constitutional provisions, statutes, ordinances or other laws duly enacted and enforceable, rules and regulations, any binding interpretations or orders of any governmental entity relating to polluting the environment including any emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, pesticides or industrial, infectious, toxic or hazardous substance (including friable asbestos) or waste into the environment (including ambient air, surface water, groundwater, land surfaces, subsurface strata) through processing, generation, distribution, treatment, storage, disposal, transport or handling of pollutants, contaminants, chemicals or industrial, infectious, toxic or hazardous substances or wastes. Seller will promptly notify customer of any materials environmental conditions upon Seller's awareness of it.

35. **Compliance.** It is acknowledged that the Corporate Compliance Program applies to the services and obligations described herein. This program is intended to prevent compliance concerns such as fraud, abuse, false claims, excess private benefit and inappropriate referrals. This compliance program requires and it is hereby agreed that any regulatory compliance concerns shall be promptly reported either to an appropriate manager of through the hotline (800-850-2551). Further, it is represented and warranted that all individuals providing service hereunder shall not at any time have been sanctioned by a health care regulatory agency and, finally, that all investigatory activity relevant to this organization shall be promptly reported to an organization manager via the hotline (as above). Failure to abide by these compliance requirements shall immediately and automatically terminate this agreement.

36. **Access to Books and Records.** Seller agrees that until the expiration of four (4) years after the furnishing of any services under this agreement, Seller will make available upon written request to the Secretary of Health and Human Services, or upon request to the Comptroller General of the U.S. or any of their duly authorized representatives, this Agreement and books, documents and records of Seller that are necessary to certify the nature and extent of the costs incurred by Buyer under this agreement.

37. **Entire Agreement.** This Purchase Agreement contains all the terms and conditions agreed to by the parties and supersedes all prior agreement(s) covering the subject matter purchased hereunder. No other understanding, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto. Nothing in this Contract shall be construed as consent to any suit, action or waiver of any defense in a suit brought against Palomar Health, in any State or Federal Court.

38. **Force Majeure.** The obligations of the Parties to perform under this Agreement will be excused during each period of delay caused by acts of God, by shortage of power or materials not caused by Seller's failure to

timely perform its duties, by governmental orders or by other events that are beyond the reasonable control of the Party obligated to perform ("Force Majeure Event").