

## TERMS AND CONDITIONS OF PURCHASE ORDER

Any offer by FUJIFILM Diosynth Biotechnologies U.S.A., Inc. (“**Buyer**”) to purchase goods, materials, and/or equipment and/or technology, software or other items (the “**Goods**”) and/or services, maintenance and/or repair (the “**Services**”) from the seller(s) identified on the face of the Purchase Order or as part of an Offer (each as subsequently defined) and/or providing the applicable Goods and/or Services (the “**Vendor**”), whether communicated in hard copy, or by electronic transmission, telephone or other means (the “**Offer**”), to the extent not otherwise subject to a specific written purchase agreement between, and duly executed by, Buyer and the Vendor (a “**Written Purchase/Service Agreement**”), shall be subject to and incorporate the following terms and conditions (together with the Offer, the “**Purchase Order**”). If any section of the Purchase Order is held to be invalid, the remaining provisions of the Purchase Order shall not be impaired or affected in any way. Unless otherwise expressly and specifically provided in a Written Purchase/Service Agreement, neither the Offer nor the Purchase Order constitutes an offer to purchase the Goods or Services exclusively from Vendor, and Buyer retains the right to enter into one or more agreements with other vendors for Goods or Services similar or identical to those provided by Vendor.

1. **Acceptance.** The earliest of Vendor’s issuing of acceptance or acknowledgement of the Purchase Order, promise of shipment or shipment of the Goods, or Vendor’s promise of performance or undertaking of performance of the Services, as applicable, shall constitute Vendor’s irrevocable acceptance of the Purchase Order and agreement that it will deliver the Goods and/or the Services in accordance with the Purchase Order and at the price, inclusive of all taxes, fees and/or duties applicable to the Goods and/or Services, specified in the Purchase Order or, if not therein specified, at the price otherwise mutually agreed upon by Buyer and Vendor. Vendor agrees to follow the shipping and invoicing instructions issued by Buyer, which instructions are incorporated by reference into the Purchase Order. Acceptance is limited to the terms and conditions hereof and any different or additional terms and conditions, whether or not in Vendor’s acknowledgement or in other documents, are hereby rejected and shall be of no force or effect. **THE PURCHASE ORDER AND ANY RELATED CONFIDENTIALITY AGREEMENT EXECUTED BY THE PARTIES SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES CONCERNING THE GOODS AND/OR SERVICES THAT ARE THE SUBJECT OF THE OFFER. NO AMENDMENTS OR MODIFICATIONS SHALL BE MADE EXCEPT IN WRITING SIGNED BY BUYER AND VENDOR.**

2. **Title, Risk of Loss, Freight, Insurance and Routing Rates.** Unless otherwise provided to the contrary in writing by Buyer in the Purchase Order, Vendor warrants that for both domestic and international shipments of Goods title shall pass clear, unrestricted, and unencumbered and risk of loss for the Goods shall pass to Buyer upon Buyer’s receipt and acceptance of the Goods, subject to paragraph 4(a), at the place specifically designated by Buyer or, if not so designated, at Buyer’s facility. Further, unless otherwise provided to the contrary in writing by Buyer in the Purchase Order, Vendor shall be responsible for arranging and paying for all freight, transportation and any related insurance. Insofar as Buyer is expressly accepting responsibility for the cost thereof, Vendor shall use only Buyer-approved methods, carriers and forwarders for transportation of Goods. Any costs, expenses or losses suffered or incurred by Buyer by reason of shipment by method or carrier or forwarder not approved by Buyer in advance and in writing, including, but not limited to, any difference in freight rates and/or extra costs of cartage, shall be deemed deductible from the invoice price and will be charged to Vendor’s account. The warranties included in this paragraph 2 shall survive inspection, delivery, acceptance and payment by the Buyer.

3. **Packing.** A packing slip showing order number must accompany each shipment. Packages must bear Buyer’s order number and show country of origin, gross, tare, and net weights, or quantity as required. No charge for packaging will be allowed by Buyer unless otherwise indicated on the Purchase Order. In the event specialized packaging is requested for safety reasons, Buyer, in writing, must approve packaging.

Where Vendor requests any additional payment for special packing, which payment is not included in the unit price for the Goods, the amount of that payment must be approved in advance by Buyer in writing and shall appear on the invoice accompanying Goods and be separately identified as follows: “A separate packing charge of US\$ [ \_\_\_\_ ] per unit has been paid by Buyer and is not included in the invoice price.”

4. **Inspection and Rejection.** (a) Final inspection of the Goods shall be made by Buyer at the place specifically designated by Buyer or, if not so designated, at Buyer’s facility. If the Goods or the tender of delivery fails in any respect to conform to specifications or the terms and conditions of the Purchase Order or if the Goods are defective or unsuitable, or do not conform to all express warranties or warranties implied by law, Buyer at its option may reject all the Goods, accept all of them, or accept any commercial unit and reject the remainder, and Vendor shall either give to Buyer a full credit or refund of the purchase price of the rejected whole or portion of the Goods or Vendor, at Vendor’s expense, shall repair or replace the nonconforming Goods in accordance with Buyer’s instructions. Buyer’s expenses for inspection of the Goods found to be nonconforming shall, at Buyer’s option, be charged to and promptly paid by Vendor or deducted from amounts due Vendor. Buyer’s failure to inspect the Goods or to detect nonconformities in the Goods shall not affect Buyer’s remedies as to such nonconformities. Regardless of its actions, Buyer will retain all of its rights against Vendor as to such nonconformities.

(b) If the Services or the tender of delivery fail in any respect to conform to specifications, the terms and conditions of the Purchase Order or applicable industry standards or if the Services are deficient, at Buyer’s option, Vendor shall promptly either give to Buyer a full credit or refund of the purchase price of the rejected nonconforming or deficient Services or, at Vendor’s expense, shall remedy or perform the Services again in accordance with Buyer’s instructions. Buyer’s expenses for inspection of the Services found to be nonconforming or deficient shall, at Buyer’s option, be charged to and promptly paid by Vendor or deducted from amounts due Vendor. Buyer’s failure to inspect the Services or detect nonconformities or deficiencies in the Services shall not affect Buyer’s remedies as to such nonconformities and/or deficiencies. Regardless of its actions, Buyer will retain all of its rights against Vendor as to such nonconformities and/or deficiencies.

5. **Excess or Partial Shipments or Partial Performance.** (a) Buyer may, but is not obligated to, accept shipments that are in excess of or less than the quantity ordered. Such shipment may be returned at Buyer’s option to Vendor at Vendor’s expense and risk. (Buyer shall have the option to call for delivery of the Goods in two or more lots, on prior notice thereof.)

(b) Buyer may, but is not obligated to, accept or pay for partial performance of any of the Services.

6. **Price and Payment.** (a) If omitted from the Purchase Order, the price shall be the lowest prevailing market price, but never more than Vendor’s last quotation. Buyer is not obligated to pay for any boxing, crating or cartage charges, nor to purchase any dies, tools, molds, engravings, drawings, or similar items unless specifically agreed to by Buyer in writing.

(b) Vendor’s invoices shall be in English and contain a complete description of the Services or Goods (including, but not limited to, with respect to Goods commercial designation, material composition and, if part of another item, identification of the item to which a part, and quantity shipped), unit and total price paid or payable with any taxes specifically identified, terms of purchase and any additional statements as provided by the Purchase Order as applicable. Vendor’s invoices for Goods shall be accompanied by a signed (1) original bill of lading, or (2) express “shipper’s collect receipt,” or (3) in case of prepaid shipments, original paid transportation bill showing the full amount of all freight and related charges paid. A separate invoice must cover each shipment. Amounts due and owing on invoices shall be for the quantity of the Goods received or Services performed on the accompanying signed receiving documents, at the price set forth in the Purchase Order, unless modified by Buyer in writing. Vendor’s invoices shall be issued only after delivery in accordance with the Purchase Order has occurred, and no later than 90 days after Buyer’s receipt of the Goods and/or Vendor’s completion of the Services. Buyer shall be entitled to reject and not pay Vendor’s invoice if it fails to meet the requirements of this paragraph 6. Buyer also may withhold total or partial payment until the Goods and/or Services conform to the requirements of the Purchase Order.

(c) Payment terms will be as set forth in the Offer, but in no event will payment on Vendor’s invoices be due less than 60 days from Buyer’s receipt of invoice.

7. **Confidentiality.** Vendor agrees that all information, processes, and other data received from Buyer or its affiliates or obtained from access to Buyer’s or its affiliates facilities or personnel or representatives whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as “confidential,” (“Confidential Information”) are and shall remain the property of Buyer and shall not be used (except solely for the performance of the Purchase Order) or disclosed to any third party, except that Confidential Information shall not include information which (a) is public knowledge, (b) is lawfully acquired by Vendor from third parties, or (c) Vendor can demonstrate from its written records was already in Vendor’s possession at the time of initial receipt from Buyer. Vendor shall return all documents and materials furnished by Buyer to Vendor upon performance of the Purchase Order or otherwise at Buyer’s

request. If any Confidential Information is required to be disclosed by Vendor pursuant to any judicial order, law, or governmental agency, Vendor shall give Buyer immediate notice thereof so that Buyer may seek a protective order, and in any event, Vendor shall disclose only the minimum Confidential Information required in order to comply with any such order, law, or agency. Buyer shall be entitled to injunctive relief for any violation of this paragraph. It is understood that any information received by Buyer may be used by Buyer as Buyer sees fit and without legal liability. Vendor shall not use Buyer's name without prior written permission from Buyer.

8. **Warranty.** Vendor expressly warrants that all Goods shall be merchantable within the meaning of Article 2-314(2) of the Uniform Commercial Code. In addition, Vendor expressly warrants that all Goods and all Services shall conform to Buyer's specifications, designs, descriptions, instructions, drawing, data, samples and federal, state and local laws, orders and regulations, including, but not limited to those regarding occupational safety and health and shall be free from defect in material (and from spoilage in the case of perishable Goods), design and workmanship and shall be suitable for the intended use, including, without limitation, such defects as could create a hazard to life or property. This warranty shall survive any inspection, delivery, acceptance, and/or payment of or for the Goods or Services. Vendor further warrants that it shall perform all Services covered hereunder in a competent, safe and professional manner in accordance with the highest standards and best practices of Vendor's industry. Vendor warrants that it possesses all licenses, qualifications, and registrations necessary to perform such Services and to deliver such Goods. The warranties included in this paragraph 8 shall survive any inspection, delivery, acceptance or payment by Buyer.

9. **Indemnification, Limitation of Liability and Insurance.** (a) In addition to the provisions of paragraphs 15 and 17, Vendor will defend, indemnify and hold harmless Buyer and its affiliates, and its and their respective directors, officers, employees, representatives, agents, successors and assigns, as well as any of their customers buying, leasing, selling, receiving or using the Goods and/or receiving or using the Services from and against any and all claims (including third party claims), demands, liabilities, losses, damages, fines, assessments, judgments, penalties, costs and expenses (including reasonable attorneys' fees), in any way relating to (i) the failure of Vendor to perform and comply with its warranties and obligations under the Purchase Order, (ii) the breach by Vendor of any applicable law, regulation, or order, or arising out of or relating to any use, possession, transportation, consumption, or sale of the Goods and/or any performance, delivery or receipt of the Services, including in each case, but not limited to, claims of unfair competition, bodily injury, property, or other damage, or (iii) the presence of Vendor's agents, employees or subcontractors, or the equipment of Vendor or such persons, at Buyer's premises, regardless of whether such claims, demands, liabilities, losses, damages, fines, assessments, judgments, penalties, costs and expenses arise out of or relate to or are imposed by reason of negligence, willful misconduct, strict liability, tort, contract, statute, ordinance, regulation, code, principle of equity or common law, or any other theory or remedy.

(b) To the extent permitted by applicable law, in no event shall Buyer or its affiliates be liable for any business interruption, lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages of any kind arising in connection with the Purchase Order or the parties' respective rights or obligations arising thereunder, regardless of the form

of action (whether in contract, tort or any other form of liability) and regardless of whether advised of the possibility of such damages.

(c) Except to the extent provided otherwise by a Written Purchase/Service Agreement, in exchange for a license to enter onto Buyer's premises to perform Services and as otherwise required to cover its liability under the Purchase Order, Vendor shall obtain and maintain at all times and with companies acceptable to Buyer insurance of the kinds and in the amounts no less than those listed below:

- i) **Workers' Compensation:**  
Vendor agrees to carry that amount of insurance equal to the statutory limit in each state in which Vendor is required to provide workers' compensation coverage.
- ii) **Employers Liability:**  
Vendor agrees to carry \$500,000 per each person / \$500,000 policy limit / \$500,000 per accident.
- iii) **Commercial General Liability:**  
Vendor agrees to carry coverage in the amount of \$1,000,000 limit per occurrence and an annual aggregate of \$2,000,000.
- iv) **Automobile Liability (for owned, non-owned, and hired vehicles):**  
Vendor agrees to carry a combined single limit of \$1,000,000.
- v) **Fidelity/Crime Liability, including blanket employee dishonesty (only when performing Services on Buyer's premises):**  
Vendor agrees to carry \$1,000,000 per loss.
- vi) **Vendor Personal Property (only when performing Services on Buyer's premises):**  
Vendor agrees to carry property insurance for the replacement cost of Vendor's personal property or be fully responsible for any damage or loss to its own personal property however caused.
- vii) **Pollution Legal Liability (only to the extent required by the Services):**  
Vendor agrees to carry coverage (which shall include defense within policy limits) in the amount of \$5,000,000 per occurrence and an annual aggregate of \$5,000,000, including coverage for transportation and for on-site and offsite third-party bodily injury and property damage claims arising from pollution conditions arising out of or related to the Services.
- viii) **Umbrella Liability:**  
Vendor agrees to carry coverage in the amount of \$5,000,000 per occurrence and an annual aggregate of \$5,000,000 of umbrella or excess liability coverage over (ii) through (iv) above.

Vendor further agrees to provide to Buyer, upon acceptance as provided in paragraph 1, Certificates of Insurance evidencing the coverage stated above and to provide evidence of renewal on a continuous basis. In addition, Vendor agrees that the policies

referenced in the Certificates of Insurance shall be primary and noncontributory, contain waivers of subrogation in favor of Buyer, and may not be changed or terminated without at least 30 days' prior written notice to Buyer. Vendor shall list Buyer as an additional insured on all such policies.

Buyer has no obligation to procure or maintain any minimum insurance coverage.

10. **Changes.** Buyer may, at any time, make changes in the quantity or specifications of the Goods or Services to be delivered or performed or may change any other term or condition of the Purchase Order by written notice to Vendor. Any claim for an adjustment to the prices, time of performance, or other term or condition must be made by Vendor in writing within fifteen (15) days from the date of receipt of such change.

11. **Compliance with Laws and Buyer Policies.** (a) All Goods and Services provided to Buyer will be in compliance with all federal, state and local laws, rules, and regulations. Without limiting the foregoing, Goods and Services shall be in compliance with: (i) §§5 and 12 of the Federal Trade Commission Act; (ii) the Fair Packaging and Labeling Act; (iii) the provisions of the federal Food, Drug, and Cosmetic Act concerning adulterated or misbranded Goods and §§404 or 505 of that Act concerning shipment of substances or any similar foreign, state or local laws; (iv) the Federal Insecticide, Fungicide, and Rodenticide Act; (v) applicable laws regarding misbranded or banned hazardous substances; (vi) the Fair Labor Standards Act; (vii) all applicable federal equal employment opportunity requirements, including, without limitation, any such requirements set forth in the certification of compliance executed by Vendor at Buyer's request, the terms of which are incorporated herein by reference; (viii) the Occupational Safety and Health Act; (ix) the Immigration Reform and Control Act; (x) the California Safe Drinking Water and Toxic Enforcement Act of 1986; (xi) the substantive equivalent of any of the foregoing in any state or foreign jurisdiction; and (xiii) all rules, regulations, and policies under each of the foregoing.

(b) **Restriction on Use of Certain Hazardous Substances in Electrical and Electronic Components.** Vendor warrants that the resale, supply or export of the Goods (whether used as a component or otherwise) by Buyer in any market will not violate any law, directive or regulation, including, but not limited to, Directive 2015/863/EU of the European Parliament, Restriction on the Use of Certain Hazardous Substances in Electrical and Electronic Equipment ("**EU RoHS**"), European Directive (EC) No 1907/2006 on the Registration, Evaluation, Authorization and Restrictions of Chemicals ("**EU REACH**"), and notification of use of "Conflict Minerals" under Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (collectively, the "**Applicable Directives**"). Vendor further agrees to provide for each of the Goods delivered a Declaration of Conformity, and upon request of Buyer any necessary supporting technical data regarding compliance with the Applicable Directives by Vendor. Vendor also shall ensure compliance with the obligations set forth in this paragraph 11(b) by any subcontractors that develop the Goods, or part thereof, on behalf of Vendor.

(c) If Vendor is on Buyer's site in the performance of the Purchase Order, Vendor shall comply with Buyer's policies and standard operating procedures.

(d) Buyer and Vendor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), which are incorporated herein by

reference, as applicable. 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 individuals without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin, and to employ and advance in employment qualified individuals with disabilities and protected veterans. If applicable in accordance with its terms, Buyer and Vendor also shall abide by the requirements of 41 CFR 61-300.10 regarding veterans' employment reports and 29 CFR Part 471, Appendix A to Subpart A regarding posting a notice of employee rights.

(e) Vendor warrants and covenants that Vendor shall comply, and shall ensure that any permitted subcontractor complies, with all laws, regulations, rules and orders issued by any governmental agencies or authorities that are applicable to performance of Vendor's obligations under the Purchase Order.

(f) Buyer requires and Vendor further warrants and certifies that it will not obtain merchandise from manufacturers/sellers where it has knowledge or has reason to believe that said manufacturers/sellers are in violation of Buyer's Business Integrity and Environment, Social, Governance (ESG) Standards for Business Partners, found at the following link: <https://fujifilmidiosynth.com/business-integrity-esg/>

(g) Vendor represents that it is current and in good standing with any permits or licenses required for the performance of Services. Vendor shall at all times keep Buyer's premises free of any waste materials or rubbish caused by its personnel in performing the Services, and shall remove all tools, equipment, surplus materials and waste from Buyer property upon conclusion of the Services.

12. Assignment. Neither the Purchase Order, Vendor's accounts receivable, or any rights or obligations hereunder shall be assigned or delegated by Vendor without the prior written consent of Buyer and any attempted assignment or delegation without such consent shall be void and in no event relieve Vendor in whole or in part of its obligations hereunder. Purchases of parts and materials normally purchased by Vendor in the ordinary course of its business required by the Purchase Order shall not be construed as an assignment or subcontract.

13. Termination. (a) Buyer, subject to the provisions of paragraph 13(d), by written notice to Vendor, may terminate immediately all or any part of the Purchase Order in any one of the following circumstances:

- i. If Vendor fails to perform any of its obligations under the Purchase Order; or
- ii. If Vendor dissolves or ceases to do business, a petition is filed by or against Vendor under the bankruptcy laws applicable to Vendor, Vendor makes a general assignment for the benefit of its creditors, a receiver is appointed for any property of Vendor or Vendor is generally unable to pay its debts when due.

Vendor also expressly agrees that time is of the essence to the Purchase Order and Vendor's failure to meet any delivery date in the quantity or quantities specified or failure to timely perform any of the Services shall

constitute material breach of the Purchase Order for which Buyer may terminate immediately all or any part of the Purchase Order. No acceptance of Goods or Services after the delivery date will waive Buyer's rights with respect to such late delivery.

(b) Notwithstanding any provision in the Purchase Order to the contrary, Buyer may terminate any Purchase Order for convenience upon ten days' written notice to Vendor. Vendor shall cease to perform Services and/or provide Goods under such Purchase Order on the date of termination specified in such notice. In the event of such termination, Buyer shall be liable to Vendor only for those Services satisfactorily performed and those conforming Goods delivered to Buyer through the date of termination.

(c) In the event that Buyer terminates the Purchase Order in whole or in part, as provided in paragraphs 13(a) and 13(b), Buyer may procure replacements for the Goods or the Services from other sources upon such terms and in such manner as Buyer may consider appropriate. Vendor shall promptly remit to Buyer upon demand any amounts exceeding the contract price of, and charges included in, the Purchase Order incurred by the exercise of Buyer's rights under this paragraph, and Vendor shall continue the performance of the Purchase Order to the extent not terminated.

(d) If the Purchase Order is terminated as provided in paragraphs 13(a) and 13(b), Buyer, in addition to any other rights provided herein, may require Vendor to transfer title and deliver to Buyer in the manner and to the extent directed by Buyer any completed Goods and such partially completed Goods and materials acquired for the performance of such part of the Purchase Order as has been terminated, and Vendor, upon Buyer's direction, shall protect and preserve property in the possession of Vendor in which Buyer has an interest. Payment for completed Goods delivered to and accepted by Buyer shall be at the applicable contract price.

14. Force Majeure. Buyer shall have the right to terminate the Purchase Order, without any liability of any kind to Vendor, at any time upon written notice to Vendor in the event that the Purchase Order is suspended for more than 15 days by reason of force majeure.

15. Export and Import Laws, Country of Origin, Duty Drawback.

(a) Vendor acknowledges that the Goods and/or Services sold or otherwise transferred hereunder may be subject to U.S. and other governmental export and import control laws applicable to the purchase, sale, lease, use, export, import or other transfer (collectively, "**transfer**") of such Goods and/or Services, in whole or in part, including, without limitation, export and import administration regulations and Executive Orders and regulations administered by the Office of Foreign Assets Control of the U.S. Department of Treasury (referred to as the "**Transfer Laws**"). Vendor warrants that it is familiar with the requirements and restrictions of all Transfer Laws, and shall comply with such laws at all times. Vendor will defend, indemnify and hold harmless Buyer and its affiliates and its and their respective directors, officers, employees, representatives, agents, successors and assigns from and against any and all claims (including third party claims), demands, liabilities, losses, damages, fines, assessments, judgments, penalties, costs and expenses (including reasonable attorneys' fees) in any way relating to any violation of the Transfer Laws or any transfer of the Products and/or Services, whether direct or indirect, by Vendor.

(b) Vendor warrants the accuracy of any declarations of origin it includes with its delivery of the Goods, including but not limited to

certificates of origin, such that Buyer can rely on any such origin declarations for compliance with any trade-related law, rule or regulation, including, without limitation, to determine eligibility for preferential duty under free trade agreements. Vendor shall promptly notify Vendor, in writing, of any known documentation errors and/or changes to the origin of the Goods. Vendor agrees, to the extent permitted by law, to indemnify, defend and hold harmless Buyer from and against any and all claims (including third party claims), demands, liabilities, losses, damages, fines, assessments, judgments, penalties, costs and expenses (including reasonable attorneys' fees) in any way relating to any errors in Vendor's documentation or declaration of origin.

(c) Vendor acknowledges that the Goods and/or Services sold or otherwise transferred under the Purchase Order have not been sourced, in whole or in part, from Cuba, Iran, North Korea, Syria, the Crimea, Donbas (Luhansk and Donetsk) regions of Ukraine, the Xinjiang Uyghur Autonomous Region of China, or any other territory or jurisdiction subject to restrictions or economic sanctions under applicable law, or any facility employing North Korean labor.

(d) If Vendor is the importer of record for any of the Goods sold hereunder, including, without limitation, component parts, upon Buyer's request, Vendor shall provide Buyer with all necessary customs documentation to enable Buyer to file and obtain duty drawback.

16. Importer Security Filing. Vendor shall be responsible for the timely submission to Buyer of importer security filing information ("**ISF**") as required by United States Customs and Border Protection ("**CBP**"). Timely filing will be no less than four days prior to Goods being laden on board the vessel at the origin port. Vendor shall be held responsible for any and all claims (including third party claims), demands, liabilities, losses, damages, fines, assessments, judgments, penalties, costs and expenses (including reasonable attorneys' fees) and storage and drayage imposed by CBP, arising out of or relating to any inaccurate, incomplete or untimely submission or failure to submit the ISF to Buyer.

17. Third Party Rights, Patents Trademark, Trade Name and Copyrights. Vendor warrants that the purchase, sale or use of the Goods or any part thereof and/or the purchase, sale, receipt or performance of the Services will not infringe, misappropriate or encroach on any third party's personal, contractual or proprietary rights, including any United States or foreign patent, trademark, service mark, trade name, trade secret or copyright, and Vendor will fully indemnify Buyer and its affiliates, and its and their respective directors, officers, employees, representatives, agents, successors and assigns, as well as any of their customers buying, leasing, selling, using or receiving the Goods and/or the Services, from and against any and all claims (including third party claims), demands, liabilities, losses, damages, fines, assessments, judgments, penalties, costs and expenses (including reasonable attorneys' fees) in any way relating to any and all alleged and actual infringements, misappropriations or encroachments. Vendor covenants that, upon Buyer's request and discretion, and at Vendor's expense, Vendor will defend or assist in the defense and subsequent appeal of any suit or action which may be brought against Buyer, its affiliates, and its and their respective directors, officers, employees, representatives, agents, successors and assigns, as well as those buying, leasing, selling, using or receiving any of the Goods and/or the Services supplied by Vendor claiming infringement, misappropriation or encroachment of any third party's personal, contractual or proprietary rights, including any patent, trademark, service mark, trade name, trade secret or copyright. In case

the purchase, sale or use of the Goods or any part thereof and/or the purchase, sale, receipt or performance of the Services, are enjoined, Vendor, at its own expense, shall elect, with the approval of Buyer (which approval shall not be unreasonably withheld), either to: (a) procure for Buyer, its affiliates and its and their respective directors, officers, employees, representatives, agents, successors and assigns, and customers the right to continue to purchase, sell, use and receive said Goods or part thereof and/or the Services; (b) modify said Goods or part thereof and/or the Services so that the purchase, sale, lease, use, receipt and/or performance, as the case may be, are no longer enjoined; or (c) accept the return of said Goods and refund the purchase price and transportation and installation cost, if any, of the Goods and/or the Services. This warranty shall survive any inspection, delivery, acceptance or payment by Buyer. In no event shall Vendor enter into any settlement without Buyer's prior written consent.

18. **Buyer's Property.** Vendor acknowledges and agrees that all tangible and intangible property, including materials, drawings, software, tools, dies, molds or engineering designs furnished or specifically paid for by Buyer ("**Buyer's Property**"), (a) shall be and remain the property of Buyer, (b) shall be subject to removal at any time without additional cost upon demand by Buyer, (c) shall be used only in filling this order for Buyer, (d) shall be kept separate from other materials or tools, and (e) shall be clearly identified as the property of Buyer. Vendor assumes all liability for loss or damage to Buyer's property, with the exception, in the case of molds, tools, dies, or engineering designs, of normal wear and tear. Buyer's Property furnished by Buyer is furnished to, and accepted by, Vendor "AS IS" with all faults and without any warranty whatsoever, express or implied, and shall be used by Vendor at its own risk. Vendor shall keep Buyer's Property free of encumbrances and insured at Vendor's expense at an amount equal to the replacement cost thereof with loss payable to Buyer.

19. **Payment for Special Tools, Dies, Molds and Engineering Designs.** If and to the extent that Buyer is responsible for the cost of the same pursuant to the terms of the applicable Purchase Order, payment for special tools, dies, molds and engineering designs ("Tooling") will not be made until such time as Buyer approves samples of produced Goods and all right, title and interest in Tooling shall vest in Buyer. If a payment for a special die or mold is made and not included in the unit costs of the produced Goods, the invoice for the produced Goods must state: "A separate payment of US\$ [\_\_\_\_\_] was received by us from Buyer in connection with tools/dies/molds used in the production of this merchandise. See Purchase Order [\_\_\_\_\_]." If tools, dies, molds or engineering designs are supplied to Vendor free of charge by Buyer, the invoice must state: "Molds / tools/dies/engineering designs were supplied free of charge by Buyer and not included in the unit costs above."

20. **General.** All warranties shall be construed as conditions as well as warranties. No waiver of a breach of any term of the Purchase Order shall constitute a waiver of any other breach or provision of the Purchase Order.

21. **GMP Goods and Services.** If the Purchase Order is for current Good Manufacturing Practices (cGMP) Goods or Services, the following additional provisions apply.

(a) Goods shall be manufactured, packaged and delivered in accordance with current Good Manufacturing Practices regulations and standards applicable to the Goods provided under the Purchase Order; and Services shall be provided in accordance with current Good Manufacturing

Practices and Good Laboratory Practices regulations and standards applicable to the Services provided under the Purchase Order.

(b) Vendor is prohibited from making changes to: corporate name, part number or catalog number, manufacturing or testing site, manufacturing or testing process, or specifications without prior written notification to Buyer at: **FUJIFILM Diosynth Biotechnologies U.S.A., Inc.**, Supplier Quality, 101 J. Morris Commons Lane, Morrisville, NC 27560 or email: [fdbusuppliemotify@fujifilm.com](mailto:fdbusuppliemotify@fujifilm.com).

(c) Vendor must assure current specifications are on file with and have been approved by Buyer.

(d) Vendor must notify Buyer of any change to Transmissible Spongiform Encephalopathy/Bovine Spongiform Encephalopathy (TSE/BSE) or animal origin status for any materials or Goods supplied by sending written notification to Buyer thirty (30) days prior to such change at: **FUJIFILM Diosynth Biotechnologies U.S.A., Inc.**, Supplier Quality, 101 J. Morris Commons Lane, Morrisville, NC 27560 or email: [fdbusuppliemotify@fujifilm.com](mailto:fdbusuppliemotify@fujifilm.com).

(e) Vendor will not subcontract production or Services without obtaining prior written approval from Buyer's Vendor Quality department.

(f) Vendor will periodically complete surveys regarding its quality systems and records. Vendor will permit Buyer to periodically audit or to conduct a "for cause" audit of Vendor's quality systems and related records at the Vendor's site during Vendor's normal business hours.

(g) Vendor shall possess all licenses, qualifications, and registrations necessary to perform such Services and to deliver such Goods. All Goods and Services provided to Buyer shall be in compliance with all federal, state and local laws, rules, and regulations.

(h) Vendor agrees to notify Buyer of any regulatory agency actions, inspections and resulting corrective actions that may have impact on the material or Services purchased by Buyer.

(i) Vendor agrees to use only new primary packaging materials and agrees to not re-use any primary packaging materials for Goods purchased by Buyer.

(j) Vendor is responsible for maintaining quality records relating to Goods and Services provided hereunder. Records for such Goods and Services shall be retained for a minimum of seven (7) years. Quality records must be readily available for review during a scheduled Buyer quality audit. If records are maintained electronically, they shall comply with FDA 21 CFR Part 11 regulation.

(k) If Vendor and Buyer have entered into a quality agreement governing the quality requirements of Goods and/or Services provided by Vendor ("Quality Agreement") Vendor shall provide Goods and/or Services in compliance with the terms of such Quality Agreement. In the event of a conflict between the Quality Agreement and these terms and conditions, these terms and conditions shall control, except with respect to quality matters, in which case the Quality Agreement shall govern. The Quality Agreement shall apply to Goods and/or Services provided by Vendor notwithstanding any provisions to the contrary in Vendor provided terms and conditions.

(l) Vendor expressly agrees to not provide Goods manufactured in higher risk countries, including without limitation, China, India, Laos, Myanmar, Sri Lanka, and Bangladesh.

(m) Vendor shall evaluate its subcontractors for quality assurance and compliance with applicable laws and regulations, including cGMP. Vendor shall manage its subcontractors to ensure continuing compliance with the above.

22. **No Debarment.** Vendor represents and warrants that neither it nor any parent or affiliate, officer, director, employee or agent of Vendor is included on any of the restricted party lists maintained by the United States Government or any other governmental or non-governmental entity, including but not limited to: the SDN List and Foreign Sanctions Evaders list administered by OFAC, Denied Parties List, Unverified List or Entity List maintained by the Bureau of Industry and Security (BIS), the Excluded Parties List maintained by the General Services Administration (GSA), the List of Excluded Individuals/Entities maintained by the Office of Inspector General of the Health and Human Services Department (HHS/OIG), or the List of Statutorily Debarred Parties maintained by the U.S. State Department's Directorate of Defense Trade Controls (DDTC). This representation and warranty shall be ongoing during the performance of Vendor's obligations under the Purchase Order, and Vendor shall immediately notify Buyer of any change in the status of this representation and warranty. Any breach of the forgoing representation or warranty, or breach of such notice requirement shall be deemed to be a material breach of the Purchase Order giving Buyer the right to terminate for cause. Seller further represents and warrants that neither Seller nor any of its employees, workers or subcontractors who are directly concerned with the performance of providing Goods or Services hereunder have been debarred, or convicted of a crime which could lead to debarment, under the Generic Drug Enforcement Act of 1992, 21 United States Code §§335(a) and (b) ("Debarment Events"). If a Debarment Event occurs, or a situation which could reasonably lead to a Debarment Event occurs, Vendor shall promptly notify Buyer and Buyer shall have the right to immediately terminate the Purchase Order for breach.

23. **Wood Pallets.** The following shall apply to any Vendor of 1) cGMP materials or products that will be used by Buyer in manufacturing; 2) wood pallets; and/or 3) non-cGMP materials or products whereby Buyer has previously notified Vendor to comply. Any shipment to a Buyer site or location using wood pallets shall only be done if the wood pallets meet the following criteria:

- a. Certified heat treated wood pallets, in accordance with the International Standards for Phytosanitary Measures (ISPM) 15 "Regulation of Wood Packaging Materials in International Trade", developed by the International Plant Protection Convention (IPPC), as amended; provided, however, that nothing herein or therein shall permit the use of any chemical on wood pallets to be supplied to Buyer.
- b. No additional chemical treatments have been used on such wood pallets, including, but not limited to Methyl Bromide.
- c. Contain the heat-treatment certification (stamped "HT"), the country of origin two-letter designator, the regional identifier, and a registration number in accordance with ISPM, and such stamp, designator and number will be located on the wood pallets to be supplied to allow Buyer to visually inspect the wood pallet, upon receipt.

24. **Setoffs and Counterclaims.** Any sums payable to Vendor arising from any transaction or occurrence hereunder shall be subject to all claims and defenses of Buyer and Buyer may set-off and deduct against

any such sums all present and future indebtedness of Vendor to Buyer. Vendor shall be deemed to have accepted each such deduction unless Vendor, within 30 days following receipt of the deduction voucher, notifies Buyer in writing as to why a deduction should not be made and provides documentation of the reasons given.

25. Conflicts. Except for the Technical Quality Agreement, if any term of the Purchase Order conflicts with the terms of a definitive written agreement executed and delivered by Buyer and Vendor which covers the Purchase Order, then the terms of such definitive agreement to the extent of such conflict shall prevail.

26. Hazardous Chemicals. All products provided by Vendor (a) shall be packaged and shipped in compliance with all applicable USDOT regulations, including, without limitation, the hazardous materials regulations, 49 C.F.R. Parts 171-180, and (b) shall bear a label which satisfies the requirements of the OSHA hazard communication standard, 29 C.F.R. § 1910.1200. Vendor also shall comply with 29 C.F.R. § 1910.1200(g) regarding material safety data sheets.

27. Independent Contractor. The relationship of Buyer and Vendor is that of independent contractors and nothing in the Purchase Order shall be interpreted or construed as creating or establishing any (i) agency, partnership or joint venture relationship between Buyer and Vendor, or (ii) employer and employee relationship between Buyer and Vendor or employees or other personnel of Vendor or any of its subcontractors.

28. Intellectual Property Ownership. All concepts, inventions, ideas, patent rights, data, trademarks, and copyrights which are related to or arise out of or in connection with (i) Vendor's work product or (ii) any and all Services performed by Vendor pursuant to the Purchase Order, shall be the exclusive property of, and all ownership rights shall vest in, Buyer. Vendor agrees to sign all necessary documents and take such other actions as Buyer may reasonably request in order to perfect any and all such rights in Buyer. The parties expressly agree that all works created pursuant to the Purchase Order are "Works Made for Hire" as defined in the U.S. Copyright Act and shall vest exclusively in Buyer as author. All other work product, whether copyrightable or not, including, without limitation, any works which may be deemed not to be Works Made For Hire created pursuant to the Purchase Order, are hereby assigned to Buyer, including, without limitation, all right, title, and interest in and to the copyright thereof throughout the world, including all renewals and extensions thereof and including the right to make and distribute copies in any media, to translate and the right to make derivative works therefrom. This paragraph shall survive any delivery or payment under or termination of the Purchase Order.

29. Certifications. Vendor hereby represents and warrants to Buyer, and covenants and agrees, that it has caused all equipment and equipment parts and components and all other electrical or electronic Goods (the "Electrical Goods") to be approved and certified for use in the United States by a Nationally Recognized Testing Laboratory qualified by the Occupational Safety and Health Administration, and that the Electrical Goods are in compliance with all applicable federal, state and local laws, orders and regulations, including those regarding occupational safety and health. Additionally, if Buyer is permitted or authorized to sell, license or otherwise distribute the Electrical Goods in international markets or territories, Vendor hereby further represents and warrants to Buyer, and covenants and agrees, that it has caused the Electrical Goods to be appropriately certified for use, and the Electrical Goods meet all applicable laws, orders and regulations for product safety in such market

or territory. If the Electrical Goods are not at any time certified and in compliance with any of the aforementioned laws, orders or regulations, Vendor at no cost to Buyer shall take all steps necessary to modify or replace the Electrical Goods so as to make them so certified or in compliance.

30. Recordkeeping. During the performance of the Purchase Order and for three (3) years thereafter, Vendor shall maintain, in accordance with generally accepted accounting practices, accurate and complete records of all contracts, papers, correspondence, accounts, invoices, and other information relating to the Services performed and Goods delivered under the Purchase Order, and upon prior written notice to Vendor, shall permit Buyer or Buyer's representatives to examine, copy, and audit such records during normal business hours.

31. Nonwaiver. No waiver by Buyer of any one or more defaults by Vendor shall be effective unless in writing and signed by Buyer, and no effective waiver shall be construed as a waiver of any other or any earlier or later defaults, whether of a like kind or different nature.

32. No Third-Party Beneficiaries. Nothing contained in the Purchase Order shall create or be deemed to create a contractual relationship with, or any rights in favor of, any third party.

33. No Oral Change. The Purchase Order and any provisions hereof may not be modified, amended, waived, extended, changed, discharged, or terminated orally or by any act or failure to act on the part of Buyer or Vendor, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge, or termination is sought.

34. Governing Law and Waiver of Trial by Jury. THE PURCHASE ORDER AND THE RIGHTS AND OBLIGATIONS OF THE BUYER AND VENDOR IN CONNECTION WITH THE PURCHASE ORDER SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE (WITHOUT GIVING EFFECT TO ITS PRINCIPLES OF CONFLICTS OF LAWS). TO EXPEDITE RESOLUTION OF ANY ACTION, SUIT, OR PROCEEDING WHICH ARISES HEREUNDER, BUYER AND VENDOR IRREVOCABLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY SUCH ACTION, SUIT, OR PROCEEDING OF ANY KIND OR NATURE IN ANY COURT TO WHICH IT MAY BE A PARTY.

35. Jurisdiction. Vendor by accepting the Purchase Order irrevocably and unconditionally submits and waives any objection to the jurisdiction of the federal and state courts located in Westchester County, New York, U.S.A. for purposes of any suit, action or proceeding arising out of or relating to the Purchase Order, agrees to take any and all future action necessary to submit to the jurisdiction of such courts and further agrees that any suit brought, or judicial proceeding initiated, against Buyer will be exclusively in the federal court located in Westchester County, New York, U.S.A., or, if such court lacks subject matter jurisdiction, the state court located in Westchester County, New York, U.S.A. However, Buyer may at its option bring suit, or institute other judicial proceedings, against Vendor in any court in any place where Vendor or any of its assets may be found. The United Nations Convention on Contracts for the International Sale of Goods shall not govern the Purchase Order.

36. Time of the Essence. Time is of the essence as to the observance, performance, and fulfillment of Vendor's duties, obligations, and responsibilities to Buyer.

37. Advertising and Publicity. Vendor will not advertise its Services, in any media, at Buyer's facilities or to anyone in Buyer's employ without Buyer's prior written approval of the form and content of such advertising. Vendor shall not use the name, trademarks or logos of Buyer, its parent or any subsidiary or affiliate in any customer list, advertising, sales presentation, news release or other public communication without the prior written consent of Buyer.

38. Government Contracts Flowdown Provisions. To the extent that the Goods or Services purchased under this Purchase Order are "commercial items" as defined by Federal Acquisition Regulation ("FAR") 2.101 ("Commercial Items"), if and as such list may be revised from time to time, and may contribute to or be incorporated into Buyer's products or Services provided to the United States Government, the FAR clauses listed in FAR 52.212-5(e) (Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items) and the Defense Federal Acquisition Regulation Supplement ("DFARS") referenced below are incorporated into this Purchase Order by this reference, and Vendor accepts and agrees to comply, as applicable, therewith. If any of the clauses listed in FAR 52.212-5(e) or the referenced DFARS are not applicable by their terms, they shall be self-deleting. Vendor shall incorporate into each lower tier contract issued in support of the Purchase Order the FAR clauses listed in FAR 52.212-5(e) and referenced DFARS, in each case as applicable, in accordance with the respective flow down requirements specified therein. The full text of FAR and DFARS clauses, respectively, may be accessed electronically at these addresses: <https://www.acquisition.gov/far/> and <https://www.acquisition.gov/dfars>. The referenced DFARS clauses include the following: 252.203-7002 (Requirement to Inform Employees of Whistleblower Rights); 252.204-7012 (Safeguarding Covered Defense Information and Cyber Incident Reporting) (if the Purchase Order involves covered defense information); 252.204-7018 (Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services); 252.225-7048 (Export-Controlled Items); 252.211-7003 (Item Unique Identification and Valuation); 252.219-7003 (Small Business Subcontracting Plan (DOD Contracts)) (if the Purchase Order exceeds \$750,000); 252.223-7008 (prohibition on hexavalent chromium); 252.226-7001 (Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns) (if the Purchase Order exceeds \$500,000); 252.227-7015 (Technical Data – Commercial Items); 252.227-7019 (Validation of Asserted Restrictions – Computer Software) (if the Purchase Order includes computer software that Buyer will supply to the federal Government); 252.227-7037 (Validation of Restrictive Markings on Technical Data); 252.246-7003 (notice of potential safety issues) (if the Purchase Order is for parts, subassemblies, assemblies, installation equipment, or support equipment for a system, and the failure, malfunction, absence, nonconformance or deficiency of which may result in death, permanent disability, injury or occupational illness requiring hospitalization, or property damage exceeding \$1 million); and 252.244-7000 (Subcontracts for Commercial Items). In all clauses listed herein, terms shall be revised to suitably identify the party to establish Vendor's obligations to Buyer and to the Government, and to enable Buyer to meet its obligations under its prime contract or higher-tier subcontract, as applicable. Without limiting the generality of the foregoing, the term, "Contracting Officer" means "Buyer's Authorized Representative," "Contractor" shall mean "Vendor," "Subcontractor" shall mean "Vendor's Subcontractor" under the Purchase Order, "Contract" means the Purchase Order, and "Government" means "Buyer." However, notwithstanding the foregoing,

the words "Government" and "Contracting Officer" do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative; or (2) when title to property is to be transferred directly to the Government. Additional Government Flowdown Clauses applicable to Vendor's provision of Goods or Services can be found at <https://www.fujifilmusa.com/termsandconditions/vendor/fdbu/pdf/TCPO-FDBU-FAR-TERMS.pdf> The parties recognize that the URL may change from time to time and agree that any such change will not affect the applicability of the material referenced. Buyer agrees to provide Vendor the new URL upon Vendor's request in the event of a change. These General Flowdowns, including Special Provisions are an integral part of the Purchase Order and are incorporated into the Purchase Order by reference.

39. Entire Agreement. The Purchase Order, the Technical Quality Agreement, as applicable, and the Government Contract Flowdowns, if applicable, together with any other document executed by Buyer and Vendor concurrently herewith or which otherwise incorporates this document, represents the entire agreement by and between Buyer and Vendor with respect to the subject matter hereof and thereof and supersedes all prior communications, negotiations, representations, or agreements, either written or oral, relating to the subject matter hereof or thereof.

40. Miscellaneous. All rights and remedies granted to Buyer under the Order shall be in addition to and not in lieu of Buyer's rights and remedies arising by operation of law, contract or equity. Any provisions of the Order that are typewritten or handwritten by Buyer shall supersede any contrary or inconsistent printed provisions. Buyer shall have the right to withdraw its license to Vendor to access Buyer's Property for the performance of Services at any time without notice, or bar any Vendor personnel from entering Buyer premises at any time and from time to time without notice for any reason or for no reason.