PURCHASE ORDER TERMS AND CONDITIONS

Colgate University ("Colgate") purchases goods and services ("Deliverables") only on the terms and conditions set forth herein, which constitute the entire agreement between it and a vendor/seller ("Seller").

1. **Offer and Acceptance; Terms Exclusive.** Seller’s commencement of work on, or Seller’s shipment of Deliverables in response to, Colgate’s purchase order ("Purchase Order") shall be deemed an acceptance of the Purchase Order and these terms and conditions. Colgate expressly objects to any and all different or additional terms and conditions of sale which Seller may set forth on its website, order acknowledgement form, or on any other document or communication of Seller related to Colgate’s purchase of the Deliverables. Colgate will recognize no modifications or additions to these terms and conditions unless it specifically agrees to them in writing. THIS OFFER IS EXPRESSLY LIMITED TO THESE TERMS AND CONDITIONS. IF THE PURCHASE ORDER IS DEEMED AN ACCEPTANCE OF A PRIOR OFFER BY SELLER, COLGATE’S ACCEPTANCE IS EXPRESSLY CONDITIONAL ON SELLER’S ASSENT TO THESE TERMS AND CONDITIONS.

2. ** Deliverables Being Purchased.** The Deliverables being purchased shall be as specified in the Purchase Order and as may be further specified pursuant to such written specifications and/or drawings as may be referred to on the Purchase Order (collectively “Specifications”).

3. **Time of Performance.** Performance of the Purchase Order at the date(s) specified for delivery of the Deliverables is an integral part hereof. Failure of Seller to make delivery of the Deliverables within the time specified on the Purchase Order, or within any extension agreed to in writing by Colgate, shall constitute a breach. Seller shall immediately notify Colgate in writing of any circumstance, event or occurrence which Seller believes or has reason to believe may result in the inability of Seller to deliver the Deliverables set forth in the Purchase Order on time. Colgate, at its option, may accept delivery at an earlier or later date or dates, but such acceptance shall not be deemed to waive any right or remedy available to Colgate under the Purchase Order. In the event of a breach, Colgate may, in addition to its other rights and remedies, reject any Deliverables and/or terminate its order in whole or in part, and purchase substitute goods and/or services elsewhere and charge Seller with any Loss incurred. The term “Loss” means every loss, liability, cost, damage and expense, including attorney’s fees and court costs. The term “Deliverables” means all goods and services to be delivered or provided as specified in Colgate’s Purchase Order. If no time is specified in an order, Colgate may, by reasonable advance notification to Seller, terminate an order in whole or in part if Seller fails to make delivery of the Deliverables within a reasonable time after the date of the Purchase Order.

4. **Delivery and Transportation.** Unless otherwise provided in the Purchase Order, Seller shall have title and bear the risk of any loss or damage to any Deliverables purchased hereunder until they are received by us at the destination specified in the Purchase Order, or if no destination is specified, at Colgate’s principal location. Upon such receipt, title shall pass from Seller and Seller’s responsibility for loss or damage shall cease except for loss or damage resulting from Seller’s negligence. Passing of this title upon such receipt shall not constitute acceptance of any Deliverable by Colgate. All Deliverables shall be suitably packaged and prepared for shipment to secure the lowest transportation rates and compliance with standard carrier regulations.

5. **Price and Payment.** The price and terms of payment for the Deliverables shall be as set forth on the face of the Purchase Order. Unless otherwise specified, the price set forth on the face of the Purchase Order includes all applicable taxes and all shipping costs, duties, and other charges. Payment thereof shall be made in accordance with the applicable provisions of the Purchase Order, or if none are stated, following the completion of all performance obligations of Seller and within thirty (30) days of Colgate’s receipt of Seller’s invoice.

6. **Changes.** Colgate may, at any time, by written notice to Seller, make changes to the Deliverables being purchased, or to the Specifications relating thereto, or to the method of shipment or packing, place of delivery, or delivery schedule. If any such change results in an increase or decrease in the cost of, or time required for, Seller’s performance of the Purchase Order, an equitable adjustment shall be made to the purchase price of the goods or services being purchased. Any claim by Seller for such an adjustment to the purchase price for the applicable Deliverables must be made in writing to Colgate within seven (7) days from the date of Seller’s receipt of the written change order.

7. **Quality.** All Deliverables shall conform strictly to all Specifications. Unless otherwise expressly stated, all Deliverables and all workmanship related thereto shall be the best of their respective kind. All Deliverables shall be subject to inspection and approval of Colgate; provided, however, no acceptance by Colgate of any Deliverables shall constitute a waiver of any right or remedy to which Colgate is otherwise entitled. If all or any portion of any Deliverables furnished to Colgate hereunder are rejected, they shall be held by Colgate for disposition at Seller’s risk of loss and expense and any payment on account thereof previously made by Colgate to Seller shall be promptly refunded. Any inspection or approval of Deliverables at Seller’s
facilities or elsewhere prior to final acceptance by Colgate shall be provisional only and shall not constitute final acceptance or be construed as a waiver of any right of subsequent inspection or approval or any other right or remedy.

8. **Quantity; Count.** Colgate shall have no obligation to accept or pay for any Deliverables in excess of that specified in the Purchase Order. Colgate may return excess Deliverables to Seller, and Seller shall reimburse Colgate for all costs or expenses incurred with respect thereto. Colgate’s count of Deliverables received shall be conclusive unless proven to be manifest error.

9. **Force Majeure.** Colgate shall not be liable for any failure or delay in performing any of its obligations hereunder with respect to any Deliverables if such failure or delay is caused by a strike, lockout, labor dispute, act of God, fire, flood, or other casualty or cause beyond its reasonable control.

10. **Patents and Proprietary Rights.** Seller represents and warrants that no Deliverables will infringe upon any patent right, copyright, trademark, or other proprietary right of any third person whatsoever. Seller shall indemnify and hold Colgate harmless from and against each and every loss, liability, cost, damage, or expense, including reasonable attorney’s fees, of whatever kind or nature (each a “Loss”), which arise directly or indirectly out of or in connection with any allegation, claim, or charge that any Deliverables furnished by Seller to Colgate hereunder, or the use of same constitutes an infringement of any patent or patent right, copyright, trademark, or other proprietary right or interest of any other person or entity. Seller shall, upon Colgate’s request, assume and pay for the defense of Colgate, against any such allegation, claim, or charge. Colgate shall promptly notify Seller of any action or proceeding commenced against Colgate with respect thereto. Colgate shall have the right to be represented in such matters by additional counsel of Colgate’s choice, acting at Colgate’s expense. Seller, at its expense, shall also use its best efforts to enable Colgate to continue to use such goods (a) by altering the Deliverables to make them non-infringing, provided such altered non-infringing Deliverables will fulfill the same function and perform the same as prior to such alteration or (b) by obtaining for Colgate non-infringing Deliverables which will fulfill the same function and perform the same as the infringing Deliverables or (c) by obtaining a settlement or license agreement permitting Colgate’s use of any infringing Deliverables.

11. **Warranties.** In addition to and without prejudice to all other warranties, expressed or implied by law, Seller warrants that all Deliverables delivered or specified within the Purchase order (i) will conform to all Specifications, (ii) will be free from all defects in material and workmanship, (iii) will be fit for the purposes for which they are intended, and (iv) will comply with all applicable federal, state and local codes, ordinances, rules and regulations (including, without limitation, the Occupational Health and Safety Act of 1970, all applicable environmental laws, and all rules and regulations related to each). All warranties, express or implied, shall survive inspection, acceptance and payment. In the event of Seller’s breach of any such warranty, in addition to other rights and remedies available to Colgate, at law or in equity, Colgate may return any Deliverables for a full refund, or direct Seller to promptly correct the breach by repairing or replacing the applicable items. Colgate reserves the right to repair, alter or modify, at Seller’s cost, items which fail to conform with the terms, conditions and Specifications of the Purchase Order when the same can be done by Colgate at a lesser cost than by returning the items to Seller. Seller warrants that it has and will convey to Colgate good and marketable title to the Deliverables subject to an order and that all such Deliverables are and shall be free from any liens or claims of any other person or entity.

12. **Default.** Colgate may terminate the Purchase Order or any part thereof for cause, including any failure by Seller to comply with the Purchase Order or any of the terms and conditions. Upon such termination, Colgate shall not be liable to Seller for any amount, and Colgate shall be entitled to exercise all rights and remedies at law and at equity to which it may be entitled, including but not limited to the right to seek and obtain both actual, special and consequential damages, and the equitable relief of injunction.

13. **Right of Termination.** Colgate may, at any time, upon notice to Seller, terminate or reduce the Purchase Order with regard to all or any part or parts of the Deliverables not then completed. Upon such notice, Seller shall cease work (including the manufacturing and/or procuring of materials for the fulfillment of the Purchase Order) in accordance with and to the extent specified in such notice. In such event, all work completed by Seller before the giving of such notice, shall be paid for on a percentage of completion basis, relative to the pricing for the Deliverables set forth in the Purchase Order. Seller shall have no other or additional claim for damages, compensation, loss of profit, allowance or otherwise by reason or directly or indirectly arising out of any action taken or notice given by Colgate under or pursuant to the provisions of this section.

14. **Indemnification.** Seller shall indemnify and hold Colgate harmless from and against each and every Loss, of whatever kind or nature arising out of or in connection with any act or omission of Seller, its employees, agents or representatives or the failure of Seller to comply with any obligation, term, condition, or warranty set forth in the Purchase Order or in these terms and conditions.

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15. **Entire Agreement.** A Purchase Order, including the Specifications and these terms and conditions, constitutes the entire agreement between Colgate and Seller with respect to the Deliverables which are the subject matter thereof, and all prior or contemporaneous understandings or agreements, oral or written, are merged therein. No subsequent changes or modifications of the Purchase Order are binding upon Colgate unless accepted by it in writing. Seller expressly waives all provisions contained in correspondence, forms, or other writings relating to the sale of the Deliverables covered by the Purchase Order which negate, limit, extend, or conflict with the provisions thereof. In the event any term or provision hereof shall be deemed unenforceable, the remaining terms and conditions shall remain in effect to the fullest extent possible.

16. **Financial Responsibility.** Seller warrants that it has and will at all times maintain and, upon request by Colgate, show that it has sufficient working capital and financial ability to perform and complete the Purchase Order. Seller warrants to Colgate that it is not insolvent within the meaning of the Federal Bankruptcy Laws and the laws of the states in which it conducts its business. In addition to any and all other rights and remedies which Colgate may have pursuant to the Purchase Order or at common law, Colgate reserves the right to terminate the Purchase Order without liability in respect of any undelivered Deliverables if Seller (i) becomes insolvent or bankrupt, (ii) makes any general assignment for the benefit of its creditors, (iii) if any trustee or receiver is appointed of any substantial part of Seller’s assets or (iv) Seller is adjudicated bankrupt.

17. **Modification.** The Purchase Order shall not be modified, altered, amended or waived in whole or in part except by a further writing signed by the party to be charged.

18. **Controlling Law; Jurisdiction.** The Purchase Order shall be governed by and construed in accordance with the laws of the State of New York without effect given to its choice of law provisions. All disputes between Colgate and Seller relating to the subject matter of the Purchase Order shall be resolved exclusively in the state or federal courts located in Madison County, New York. Seller consents to the personal jurisdiction of such courts.

19. **Assignment.** Seller may not assign or transfer any right or interest in or to the Purchase Order to any third party whatsoever without the prior written consent of Colgate.

20. **Notices.** Any and all notices required to be given hereunder shall be in writing and hand-delivered (including by courier), with an appropriate receipt thereof obtained, or sent by United States certified mail, return receipt requested, to the addresses of the respective parties set forth on the Purchase Order, or to such other address as either party may designate to the other by written notice for such purpose from time to time.

21. **Dispute Resolution.** Dispute resolution under the Purchase Order shall be through litigation in New York State Supreme Court venued in Madison County, New York.

22. **Non Discrimination.** It is the policy of Colgate not to discriminate against any employee or applicant for employment on the basis of their race, color, creed, religion, age, sex, pregnancy, national origin, marital status, disability, protected Veteran Status, sexual orientation and gender identity and expression, genetic information, victims of domestic violence and stalking, familial status, and all other categories covered by law. This policy shall apply to all employment actions, including but not limited to recruitment, hiring, upgrading, promotion, transfer, demotion, layoff, recall, termination, rates of pay or other forms of compensation and selection for training at all levels of employment. Colgate will not discharge or discriminate against employees or applicants who inquire about, discuss, or disclose their own compensation or the compensation of another employee or applicant. Seller shall not discriminate and shall comply with applicable laws and Institution policies prohibiting discrimination on the basis of race, color, religion, sex, sexual orientation, national origin or citizenship status, age, disability or veteran status.