

## **ATTACHMENT TO PURCHASE ORDER: SALK TERMS AND CONDITIONS OF PURCHASE**

1. **Contract Parties.** As used herein, the term "Supplier" includes the contractor named on the Salk purchase order and any associated quote, statement of work and/or work order (i.e. any Supplier provided documentation that is attached to the purchase order that describes the price and quantity of the goods and/or services and production of any deliverables) ("PO") and its subcontractors at any tier who will be providing equipment, materials or supplies ("Goods") and/or services ("Services"). As used herein, "Salk" refers to the Salk Institute for Biological Studies and "Premises" refers to any property owned, rented or leased by Salk. Salk and the Supplier will be referred to as a "Party" or collectively as the "Parties".

2. **Contract Formation & Complete Agreement.** These Salk Terms and Conditions of Purchase ("Terms and Conditions") are attached to and made an integral part of the PO creating the entire understanding and agreement between the Supplier and Salk for the purchase of the material Goods, Services and other subject matter as described herein. Supplier hereby agrees and understands that the PO can only be accepted upon the Terms and Conditions, notwithstanding any terms and conditions on Supplier's quote, invoice, acknowledgment or any other document or link Supplier may reference or provide to Salk at any time in connection with the subject matter herein ("Supplier Documents"), even if such Supplier terms and conditions expressly state that any Salk terms and conditions, including these Terms and Conditions, are not applicable, are void, and have no force or effect. The Parties hereto expressly reject any Supplier terms and conditions and agree such terms and conditions are not considered part of the PO. Any additional and/or different terms as may be contained in Supplier's Documents are hereby deemed to be material alterations, and Salk hereby gives notice of objection to and rejection of such material alterations. No additional and/or modified term or revision to this PO will be effective unless in writing and signed by a duly authorized representative of Salk. Notwithstanding the foregoing, if Supplier and Salk have previously entered into a written, mutually executed agreement ("Previous Agreement") and that Previous Agreement is referenced in the PO as taking precedence, then such Previous Agreement's terms and conditions will take precedence over these Terms and Conditions.

3. **Acknowledgement & Acceptance.** Supplier will provide a written acknowledgement of this PO to [orderconfirmations@salk.edu](mailto:orderconfirmations@salk.edu) within forty-eight (48) hours of PO receipt. Such acknowledgement will confirm the delivery date, pricing and other PO details. By performing under this PO or any part hereof, Supplier agrees to and accepts all the provisions of the PO including these Terms and Conditions and agrees to fully perform.

4. **Rescheduling.** Salk may at any time, but not less than seven (7) calendar days before the scheduled delivery date, reschedule the PO from such scheduled delivery date to another date, without charge or penalty.

5. **Delivery of Goods.** All deliveries will be F.O.B. (or Incoterm DAP for international Suppliers) Salk's receiving area, unless another delivery term and/or destination is specified in the PO. No deliveries may be made to individuals or departments. All shipments must be fully prepaid. Any shipping charges to which Supplier is entitled under the PO must be included in Supplier's invoice. Notwithstanding any prior inspections, Supplier bears the title and all risk of loss, damage, or destruction to Goods until final acceptance by Salk at Salk's delivery destination. Until such delivery is made, Supplier will insure the Goods against loss or damage for their full replacement value, the proceeds of which will be payable to Salk in the event of any loss or damage to the Goods. All Goods will be packed and shipped appropriately and in accordance with any packing and shipment specifications set forth in the PO. Shipments of Goods which may be damaged by excessive heat or cold must be properly protected in hot or cold seasons. All Goods will be shipped in complete lots. In

addition, all shipments will be accompanied by a detailed packing list which will reference the product type and quantity, lot number, and the PO number. Salk's count of the Goods will be accepted as final and conclusive on all shipments not accompanied by a packing list. Supplier will deliver all Goods on the scheduled delivery date. Goods shipped to Salk or its agents in advance of a scheduled delivery date, without Salk's prior approval, may be returned to Supplier at Supplier's expense or held at Salk Premises or its agent with deferred billing privileges. No shipment will be deemed complete until all ordered Goods have been delivered in accordance with Salk's instructions and accepted. Partial shipment must be authorized by Salk. No payment or other obligations of Salk will accrue on partial or incomplete shipments. Time is of the essence in delivery of the Goods. If Supplier becomes aware of any anticipated delay that would result in a change to the scheduled delivery date, Supplier will notify Salk as soon as possible and provide reasons for such delay. If delivery does not occur by the delivery date, and without limiting Salk's other rights available under the law, in equity, or under this PO, Salk may: (i) cancel the PO without penalty and demand a return or credit of all amounts paid by Salk in connection with such PO; (ii) assess a late charge in the amount of two percent (2%) of the net purchase price of the delayed Goods per day until the Goods are delivered; (iii) require Supplier to reimburse Salk any penalty imposed by Salk's customers as a result of such delay; and/or (iv) permit Supplier to make such delivery at the earliest possible date.

6. **Inspection and Acceptance of Goods.** Within thirty (30) days after delivery of the Goods to Salk, Salk or its agent will have the right to inspect the delivered Goods as to quantity and compliance to the specifications. If the Goods do not conform to the specifications ("Defective Goods"), Salk will provide Supplier a written notice of rejection specifying the nonconformance. Upon rejection of the Goods, Salk may: (i) reduce the quantity of the Goods ordered in the PO by the quantity of the Defective Goods, without charge or penalty; (ii) require Supplier to promptly replace or correct the Defective Goods, without charge; (iii) correct the Defective Goods itself or through a third party and require Supplier to pay for the cost of such correction; and/or (iv) require Supplier to reimburse Salk for any penalties imposed by Salk's customers as a result of such Defective Goods. If the quantity of delivered Goods is less than the quantity specified in the PO, Supplier will promptly deliver to Salk the number of Goods necessary to meet the quantity set forth in the PO(s) and will pay to Salk any reasonable losses incurred by Salk by reason of or in connection with its failure to deliver the appropriate quantity of Goods. Supplier will bear all risk of loss with respect to all Defective Goods returned to Supplier and will promptly pay for or reimburse all costs incurred by Salk to return, store or dispose of any Defective Goods.

7. **Performance of Services.** Supplier will perform the Services described on the PO in the manner and means by which Supplier chooses in Supplier's sole discretion and control; provided, however, that Supplier agrees to perform the Services in a prompt, efficient, ethical and professional manner in accordance with the terms of this PO and Salk's Supplier Guidelines, Contractor Safety Manual and other information posted on the General Policies & Procedures page at <https://www.salk.edu/about/doing-business-with-the-salk-institute/> which are made part of the PO by reference. Supplier will not subcontract or otherwise delegate any of Supplier's obligations under this PO without Salk's prior written consent. Supplier will provide, at its own expense, a place of work and all equipment, tools, and other materials necessary to perform the Services; however, to the extent necessary to facilitate performance of the Services, Salk may make its own equipment or Premises available to Supplier as further agreed to in writing by the Parties. If Services are to be performed onsite at Salk a separate Release & Indemnification Agreement and proof of insurance may be required which will become a part of this PO.

8. Fees And Payment. Salk agrees to pay Supplier the prices listed in the PO that apply to the Goods and Services ordered by, delivered to, performed for and accepted by Salk. If prices are not stated in the PO, it is agreed that the Goods and Services shall be invoiced at the price last quoted to Salk or the prevailing market rate, whichever is lower. Supplier will submit to Salk an itemized invoice for payment upon each shipment of the requested Goods and/or completion of requested Services. The invoice will include: the PO number, if Goods: the part numbers and description of the Goods, unit prices, total prices and any shipping expenses; if Services: a description of the Services performed with the associated fees, deliverable Goods provided, locations where Services were performed, total prices and any pre-approved travel expenses to be paid by Salk according to the PO. The prices for Goods will be inclusive of all applicable taxes. Supplier will be solely responsible for, and will indemnify and hold Salk harmless from and against, the payment of all taxes (including sales, use, value-added, and income taxes) and other governmental charges (including customs duties), and any related fines, penalties, and interest, arising from the performance by Supplier of any Services or the payment of fees to Supplier under this PO. Supplier will use its best efforts to achieve cost savings for the manufacture and delivery of Goods and/or performance of the Services, and reduce the prices for the Goods and Services by the savings realized. Unless stated otherwise in the PO, Salk will pay any undisputed invoice within thirty (30) days after acceptance of the applicable Goods and Services by Salk. All invoices must be emailed to [accountspayable@salk.edu](mailto:accountspayable@salk.edu) to ensure prompt payment. Supplier is hereby notified that Salk cannot provide assurance that invoices will be received and/or paid on time if they are submitted by any other means. Any credits or adjustments in favor of Salk may be offset against any amount owed to Supplier hereunder, whether or not such amounts are currently due or payable. Salk will take any and all discount payment terms offered on disputed invoices, regardless of when payment is actually made, if it is determined that the dispute is due to Supplier's error or omission. Time is of the essence and Supplier must provide an accurate invoice or request payment of an outstanding invoice balance within ninety (90) days of shipment of Goods and/or performance of Services to guarantee payment. Due to the requirements of Salk's external funding sources and Salk's fiscal year closing process, all Goods shipped and all Services performed in the months of May and June must be billed promptly to ensure Salk can process and Salk can pay all related invoices in the ten (10) business days following Salk's fiscal year, which ends on June 30.

9. Warranty. Supplier warrants that all Goods shall be free from defects in design, workmanship, material, and manufacture; shall be of merchantable quality and be fit and suitable for the purpose intended by Salk; and shall comply with the requirements of this PO and with all specifications, drawings and samples. Supplier further warrants that all Services, from itself and/or any subcontractors: (a) will provide the functionality described in the PO, will be provided in a good and workman like manner in accordance with prevailing standards within the industry and, where applicable, will employ and comply with reasonable industry standard information technology security procedures; (b) will have full right, power, and authority to be provided under this PO without the consent of any third party, including the right to grant all licenses granted to Supplier in this PO. The foregoing warranties are in addition to all other warranties, express or implied, and survive delivery, inspection, acceptance, or payment by Salk. Supplier warrants and certifies that (i) in the performance of this PO it will comply with all applicable federal, state or local statutes, rules, regulations, policies, and orders, including without limitation those pertaining to Public Health Services ("PHS") Assurance, United States Department of Agriculture ("USDA") registration, and/or Association for Assessment and Accreditation of Laboratory Animal Care ("AAALAC") International accreditation concerning laboratory animal welfare and labor, wages, hours, and other conditions of employment including but not limited to any anti-discrimination and anti-harassment

regulations, and applicable price ceilings (if any), and that the Goods delivered hereunder shall be produced in compliance with the Fair Labor Standards Act; (ii) neither it nor any of its principal employees is listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension;" and (iii) all Goods will be free from liability for infringement of, or claim of royalties for, patent rights, copyright, trademark, trade secrets or confidential or proprietary intellectual property rights, mechanic's liens and other encumbrances of any third party (collectively "Rights and Encumbrances"). These warranties may not be limited or disclaimed by Supplier. If Salk experiences any defect, failure or non-conformity during the warranty period, Salk shall have the right to take the following actions, at Salk's option: (1) retain the defective Goods in whole or in part with an appropriate adjustment in the price for the Goods; (2) require Supplier to repair or replace the defective Goods and/or reperform the Services in whole or in part at Supplier's sole expense, including all shipping, transportation and installation costs; (3) correct or replace the defective Goods with similar Goods, and/or reperform the Services and recover the total cost from Supplier, including the cost of product recalls; and (4) exercise all other rights under the California Uniform Commercial Code and any other applicable statutes in any jurisdiction. The rights and remedies of Salk and the warranties of Supplier set forth in this PO shall not be exclusive and are in addition to any other rights, remedies and warranties provided by law or under this PO.

10. Limitation of Liability. IN NO EVENT SHALL SALK BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR CONTINGENT DAMAGES FOR ANY REASON, WHETHER OR NOT SALK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL SALK'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT OWED BY SALK TO SUPPLIER FOR THE APPLICABLE ITEMS GIVING RISE TO THE CLAIM. SALK FURTHER DISCLAIMS ANY AND ALL LIABILITY, AND SUPPLIER ACCEPTS ALL RESPONSIBILITY WITH REGARD TO LABORATORY ANIMAL WELFARE INCLUDING BUT NOT LIMITED THOSE CERTAIN RULES, POLICIES AND/OR OBLIGATIONS AS DEFINED BY PHS ASSURANCE, USDA REGISTRATION AND/OR AAALAC INTERNATIONAL ACCREDITATION.

11. Confidential Information. As used herein, "Confidential Information" means any and all information related this performance of Services or provision of Salk-Owned Material (as defined below) or Goods under this PO or to Salk's business or non-published research (including without limitation images, videos, trade secrets, technical information, business forecasts and strategies, marketing plans, donor and supplier lists, Protected Personnel Information ("PPI"), Protected Health Information ("PHI"), financial data, health or medical information, and proprietary information of third parties provided to Salk in confidence). During the term of this PO and at all times thereafter, Supplier will (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted or required by this PO, (c) refrain from disclosing or permitting others to disclose any Confidential Information to any third party without obtaining Salk's express prior written consent on a case-by-case basis, and (d) limit access to the Confidential Information to employees or agents of Supplier who have a reasonable need to have such access in order to perform the obligations set forth in the PO. Supplier will ensure that any of its employees and agents who will have access to any Confidential Information or perform under this PO has entered into a binding written confidentiality agreement with terms at least as protective as those contained in this Section. Supplier will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Supplier

protects its own confidential or proprietary information of a similar nature and with no less than reasonable care. Supplier will promptly notify Salk in writing if it becomes aware of any violations of the confidentiality duties or obligations set forth in this PO. Supplier's obligations under this Section will terminate with respect to any particular information that Supplier can prove, by clear and convincing evidence, (a) Supplier lawfully knew prior to Salk's first disclosure to Supplier, (b) a third party rightfully disclosed to Supplier free of any confidentiality duties or obligations, or (c) is, or through no fault of Supplier has become, generally available to the public. Additionally, Supplier will be permitted to disclose Confidential Information to the extent that such disclosure is expressly approved in writing by Salk, or is required by law or court order, provided that Supplier immediately notifies Salk in writing of such required disclosure and cooperates with Salk, at Salk's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure, including filing motions and otherwise making appearances before a court. In the event of actual or threatened breach of the provisions of this Section, in addition to any other remedy that Salk have in law or equity, Salk will be entitled to seek immediate injunctive and other equitable relief, including but not limited to specific performance, without waiving any other rights and remedies available. Supplier will not remove any tangible embodiment of any Confidential Information from Salk's Premises without Salk's express prior consent. Upon Salk's request and upon any termination or completion of this PO, Supplier will promptly (a) return to Salk or, if so directed by Salk, destroy all tangible embodiments of the Confidential Information and/or Salk-Owned Material (in every form and medium), (b) permanently erase all electronic files containing or summarizing any Confidential Information, and (c) certify to Salk in writing that Supplier's has fully complied with the foregoing obligations.

12. Intellectual Property and Work Product. As used in this PO, (a) "Intellectual Property" includes but is not limited to all concepts, Confidential Information, Salk-Owned Material, data, biological materials, cell lines, chemical compositions and structures, designs, diagrams, documentation, reports, articles, drawings, ideas and inventions (whether or not patentable), know-how, business plans, trademarks, methods, models, procedures, schematics, devices, algorithms, software code, specifications, techniques, works of authorship, and other forms of technology; (b) "Intellectual Property Rights" means all copyrights, trademark rights, patent rights, trade secret rights, and other proprietary rights in any jurisdiction; and (c) "Work Product" means (i) all deliverable Goods, (ii) all Intellectual Property, in any stage of development, that Supplier conceives, creates, develops, or reduces to practice in connection with the Goods and Services, and (iii) all tangible embodiments (including models, presentations, prototypes, reports, samples, and summaries) of each item of such Intellectual Property. Supplier agrees that all Work Product will be the sole and exclusive property of Salk. All works of authorship which fall within the definition of "works made for hire" under United States Copyright Act of 1976 will be considered works made for hire and owned by Salk. Supplier hereby irrevocably and unconditionally assigns to Salk all right, title, and interest worldwide in and to the Work Product and all Intellectual Property Rights thereto. Supplier understands and agrees that Supplier has no right to use the Work Product except as necessary to perform under this PO for Salk. If applicable, Salk may provide Intellectual Property to Supplier that will be described on the PO so as to allow Supplier to perform the Services ("Salk-Owned Material"). Salk owns and will retain ownership in all Intellectual Property Rights to the Salk-Owned Material pursuant to this Section 11. Supplier agrees to use the Salk-Owned Material only to perform the Services and not for any other purpose. **SALK-OWNED MATERIAL PROVIDED BY SALK TO SUPPLIER IS PROVIDED "AS IS." SALK DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR**

**PURPOSE IN THE SALK-OWNED MATERIAL.** In accordance with the PO, including any schedule therein, Supplier will deliver all Goods and disclose all other Work Product to Salk (or any person designated by Salk in writing) in the form specified in the PO or otherwise designated by Salk. Intellectual Property (a) developed, acquired, or otherwise obtained by Supplier prior to accepting PO (collectively, "Background Technology"), (b) developed, acquired, or otherwise obtained by Supplier during the term of this PO unrelated to the provision of Services and provision of Goods ("Independent Technology"), or (c) licensed or obtained by Supplier from third parties (collectively, "Third-Party Technology") unrelated to the performance of Services and provision of Goods will remain Supplier's Intellectual Property (individually and collectively, "Supplier IP") and may not be used by Supplier in the performance of Services unless such Intellectual Property has been specifically identified and its use approved in writing by Salk. Salk acknowledges that, prior to the execution of this PO, Supplier may have invented, developed, or created certain Background Technology and that Supplier may invent, develop or create Intellectual Property during the term hereof that does not constitute Work Product hereunder. Except as set forth herein, nothing herein assigns or transfers to Salk any Intellectual Property Rights, title or interest in or to any Background Technology or any Supplier IP and the only Intellectual Property which Supplier assigns to Salk under the terms of this PO is Work Product and all Intellectual Property Rights thereto. Notwithstanding the foregoing, Supplier unconditionally grants to Salk a non-exclusive, perpetual, irrevocable, worldwide, fully-paid right and license, with the right to sublicense through multiple levels of sub-licensees, under all of Supplier's Intellectual Property Rights in any and all of Supplier's IP that is used or incorporated in any Work Product or otherwise used by Supplier in performance of the Services (whether or not identified or described in the PO), (a) to reproduce, create derivative works of, distribute, publicly perform, publicly display, digitally transmit, and otherwise use the Work Product in any medium or format, whether now known or hereafter discovered, (b) to use, make, have made, sell, offer to sell, import, and otherwise exploit any product or service based on, embodying, incorporating, or derived from the Work Product, and (c) to exercise any and all other present or future rights in the Work Product

13. Cancellation and Suspension. Salk may cancel the PO in whole or in part by written or electronic notice, if Supplier: (i) fails to deliver Goods or perform Services in accordance with specified delivery times, requirements or other specifications; (ii) fails to replace or correct defective Goods or Services as Salk requires; or (iii) fails to comply strictly with any provision of or repudiates or anticipatorily repudiates this PO. Upon cancellation pursuant to the foregoing sentence, Supplier shall: (1) supply any portion of the Goods or perform any Services for which this PO is not cancelled; (2) be liable for additional costs, if any, for the purchase of similar Goods and Services to cover such default; and (3) at Salk's request, transfer title and deliver to Salk any Goods whether completed or not. Salk's rights and remedies as described herein are in addition to any other rights and remedies provided at law or in equity. Salk may also cancel the PO in whole or in part without cause upon written or electronic notice, provided that if the cancelled Good is a custom product, Salk will pay for the materials and labor costs incurred to date to manufacture such custom product. Salk may suspend the provision of Services or delivery of Goods in whole or in part, with or without cause and for Salk's own convenience at any time. Upon written or electronic notice of suspension Supplier will: stop providing Services and/or manufacturing and shipping Goods whether completed or not on the date and to the extent specified in the notice; place no further orders or subcontracts for Services or Goods to the extent they relate to the suspension; suspend all orders, sourcing and subcontracts to the extent they are related to the suspension; take such action as may be necessary or as directed by Salk to protect and preserve any Salk-Owned Materials or Goods that are in Supplier's possession.

14. Indemnity by Supplier. Supplier shall defend, indemnify and hold harmless Salk (and its officers, directors, agents and representatives) from and against any and all claims, suits, losses, penalties, damages (whether actual, punitive, consequential or otherwise) and associated costs and expenses (including attorney's fees, expert's fees, and costs of investigation) and all liabilities that are caused in whole or in part by: (i) any actual or alleged infringement of any Rights and Encumbrances; (ii) any breach by Supplier of this POs; (iii) any violation of applicable laws, regulations, and/or policies, including but not limited to PHS Assurance, USDA registration and/or AAALAC International accreditation concerning laboratory animal welfare by Supplier, its employees, officers, agents, subcontractors or representatives (collectively, ("Supplier Personnel"); (iv) any negligent or intentional act, error or omission by any Supplier Personnel in connection with this PO; and (v) if any Supplier Personnel enter upon Salk's Premises in connection with this PO, any failure of Supplier Personnel to observe Salk's rules and regulations and any damage or injury otherwise caused or suffered by any Supplier Personnel, while on, entering or leaving Salk's Premises. Supplier shall be obligated to obtain and inform such Supplier Personnel of, and cause them to comply with, all current rules and regulations of Salk, particularly those relating to traffic, safety, and fire precautions in Salk's labs or other Premises. Supplier further agrees to carry all workers compensation, occupational disease and liability insurance, necessary under state and federal statutes or to fully protect Salk against the risks herein mentioned. Upon request, Supplier agrees to furnish Salk with a certificate showing it is properly insured with regard to such risks. Supplier is responsible for obtaining any business or professional license necessary for performance under any purchase order and maintaining them throughout the period of performance which includes all warranty periods.

15. Force Majeure. A failure, default or delay by either party to perform due to causes beyond the control of and without the fault or negligence of such party is deemed excusable during the period in which such cause of failure continues. Such causes may include acts of nature, acts of Government (in sovereign or contractual capacity), fire, flood, strike, freight embargo and other similar extraordinary events. When Supplier becomes aware of any actual or potential force majeure condition, Supplier shall immediately notify Salk of the condition and anticipated duration of the delay. During the period of any delay or failure to perform by Supplier, Salk, at its option, may purchase Goods and/or Services from other sources and reduce its schedules to Supplier by such quantities, without liability to Salk, or cause Supplier to provide the Goods and/or Services from other sources in quantities and at times requested by Salk and at the price set forth in the PO. If requested by Salk, Supplier shall, within five (5) days of such request, provide adequate assurance that the delay will not exceed such period of time as Salk deems appropriate. If the delay lasts more than the time period specified by Salk, or Supplier does not provide adequate assurance that the delay will cease within such time period, Salk may, among its other remedies, immediately cancel the applicable POs without liability.

16. Audit. Supplier agrees that its books, documents, papers, and records which are pertinent to the PO shall be accessible to Salk, the relevant funding agency, and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of making audits, examinations, excerpts and transcriptions.

17. Required Clauses for Grant Funded Procurements. If funding for this transaction was provided by a U. S. Government agency, Supplier agrees that, to the extent they are applicable to Supplier in connection with this PO; Supplier will comply fully with the following statutes, regulations, and requirements cited by the Office of Management and Budget ("OMB") in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Procurement Standards §200.317 – 200.326

including Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards ("Uniform Guidance" or "UG"), which are incorporated herein by reference, and available at <https://www.govinfo.gov/app/details/CFR-2014-title2-vol1/CFR-2014-title2-vol1-sec200-318>.

- (a) E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- (b) the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").
- (c) the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").
- (d) Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).
- (e) Any applicable rights of the Federal Government or Salk to inventions made under a contract or agreement for the performance of experimental, developmental, or research work (37 CFR part 401 and any implementing regulations issued by the awarding agency).
- (f) Rights to Inventions Made Under a PO, Contract or Agreement. If a Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- (g) all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).
- (h) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C 6201).
- (i) the Byrd Anti-Lobbying Amendment (31 U.S. C. 1352).

18. Required Federal Contract Flow Down Clauses. The U.S. Government mandates that certain Federal Acquisition Regulations ("FAR") and Department of Defense FAR Supplement ("DFARS") clauses flow down to the Supplier when applicable if funding for this transaction was provided by a US Government Contract or Subcontract. Addendum "Federal Government Contracts Special Terms and Conditions" will apply to this transaction when attached to a PO.

19. Notice of Equal Employment Opportunity/Affirmative Action Obligations. The Salk Institute is an equal opportunity employer and federal contractor or subcontractor. Consequently, the Parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. 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, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. The Parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

20. Publicity. Supplier will not use Salk's name, symbols, logos, images, including those of buildings and premises, or marks in any form of publicity without Salk's prior written consent.

21. Miscellaneous. No right or obligation under this PO may be assigned by Supplier without the prior written consent of Salk. Salk may assign the rights or obligations or both of this PO in whole or part at any time. If Salk fails to insist on performance of any term or condition, or fails to exercise any right or privilege hereunder, such failure shall not constitute a waiver of such term, condition, right or privilege. The obligations of the following sections shall survive any cancellation: 7, 9, 10, 11, 12, 13, 15, 16, 17 and 18. Any provision of this PO that is held unenforceable or invalid for any reason shall be replaced by a valid and enforceable provision that most closely affects the intent of the invalid provision, and the remainder of the PO shall continue in full force and effect. Supplier warrants and represents that no law, rule, regulation, order or ordinance of the United States, a state, any governmental agency or authority of any country has been violated in supplying the Goods ordered herein. This PO shall be governed by and construed under the laws of California, excluding its conflicts of law rules. Any suit arising out of this PO, at law or in equity, shall be brought in a state or federal court in San Diego County, California. Each party consents to personal jurisdiction in the above courts. Supplier further consents to such venue as Salk selects in any of such courts.