

Purchase Order Terms and Conditions

1 ENTIRE AGREEMENT

The attached purchase order (the "PO" or "order") and these terms and conditions constitute the entire agreement (together, this "Agreement") between Covaris, Inc. ("Covaris") and the provider of the products or services identified in the PO (the "Provider") with respect to the product(s) (the "Product(s)") and/or services (the "Services") described in the PO, and no term or condition hereof may be amended, modified or waived except by a writing signed by an authorized representative of Covaris. Provider's acceptance of Covaris' offer to purchase Products and/or Services is expressly conditions on Provider's agreement to all of the terms and conditions set forth herein. Terms, if any, included on any Provider's invoices, acknowledgment forms or other documents shall not apply and are hereby voided. To the extent the parties have executed a supply agreement related to materials and/or services to be provided by Provider to Covaris ("Supply Agreement"), the terms and conditions of the Supply Agreement shall be deemed to be incorporated into the PO and the Supply Agreement shall be deemed to be a part of the purchase order. In the event of a conflict between the terms of the Supply Agreement and the terms of the purchase order or these terms and conditions, the terms of the Supply Agreement shall control.

2 COMPENSATION

If the PO is for Products, no additional charges of any kind other than those specified on the face of this order, and agreed to by Covaris, including charges for packing, will be allowed or paid. If the PO is for fixed-price Services, payment shall not exceed the amount set forth in the PO. If the PO is for time and materials Services, payment shall not exceed the cap stated for hourly fees and the stated cost of materials. Provider shall be responsible for payment of all expenses not specified on the face of the PO or otherwise agreed in a writing signed by an authorized representative of Covaris. Provider's invoices shall make reference to the identification number set forth on the PO. In the case of Services, unless otherwise stated on the PO, Provider shall invoice Covaris each month until completion of the Services. Covaris shall pay each invoice net 30 days after receipt.

3 DELIVERY OF PRODUCTS

Time and rate of deliveries are critical for this order and if Provider does not make deliveries as specified on the face of this order, Covaris reserves the right to cancel/and or purchase elsewhere and hold Provider accountable for all reasonable excess costs and expenses incurred by Covaris.

4 PROVISION OF SERVICES

Provider shall complete the Services in accordance with any schedule, and within any time, specified in the PO; provided, however, that Provider shall not be liable to Covaris for any delay caused by Covaris. Provider will determine the method, details and means of performing the Services, but must at all times observe Covaris' safety and security policies when performing Services at Covaris' premises. Provider is an independent contractor of Covaris and not an employee, agent, joint venture or partner of Covaris. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Covaris and Provider or employees or agents of Provider. Covaris shall, however, be entitled to exercise a broad general power of supervision and control over the results of the work performed by Provider to ensure satisfactory performance. This power of supervision shall include the right to inspect and request modification of the scope of the PO.

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Provider warrants to Covaris that the Products will, at the time of delivery, conform to Covaris' then current documentation supplied with the Products. Provider further warrants to Covaris that the Products will be free from defects in material and workmanship for a period of one (1) year from the date of delivery to carrier (the "Warranty Period"). Provider will, at its sole option, repair or replace any Product or component part found by Covaris to be defective if notified, in writing within the Warranty Period, and the defective Product is returned to Provider prepaid. Covaris must first obtain shipping instructions from Provider prior to returning any defective Product under this warranty. All repaired/replaced Products or components are warranted for thirty (30) days or the remaining unexpired term of the original warranty, whichever is longer. Provider shall perform the Services diligently, professionally and in accordance with all applicable professional and industry standards. Provider shall perform the Services through the use of personnel and equipment appropriate for the type of Service to be provided and will use its best efforts in performing the Services. Covaris may inspect the results of Provider's efforts at reasonable intervals and will inform Provider if performance is unsatisfactory, in which event Provider agrees to correct deficiencies within a reasonable time to be agreed between Covaris and Provider.

6 CONTROL OF CHANGES AND INVESTIGATION COOPERATION

Provider shall not make any unauthorized changes to the materials, specifications, design, manufacturing process, quality system, or location of manufacture relating to any Product or Service covered under this Agreement without the prior written approval of Covaris. Any such change made without Covaris' prior written consent shall constitute a material breach of this Agreement. Provider shall cooperate fully with Covaris in the event of a product complaint, field action, or investigation, including, but not limited to, providing supporting records, access to facilities and relevant personnel, and responding in a timely and thorough manner. Failure to comply with these requirements may result in corrective action up to and including immediate termination of this Agreement, cancellation of any pending purchase orders, and removal from Covaris' Approved Supplier List.

7 PROOF OF SHIPMENT

Provider shall forward to Covaris with the invoice the express receipt or bill of lading signed by the carrier, evidencing the fact that shipment has been made.

8 CONFIDENTIALITY

In the event that Provider will have access to confidential or proprietary information of Covaris ("Confidential Information") in connection with providing the Products or performing the Services, Provider agrees: (i) not to disclose or make available any Confidential Information to any third parties, (ii) to disclose Confidential Information only to those of Provider's employees that have a need to know such Confidential Information in order for Provider to perform its obligations hereunder and who have executed agreements with Provider that impose confidentiality obligations on such employees that are no less restrictive as those set forth herein, and (iii) not to use the Confidential Information for any purpose other than to perform Provider's obligations hereunder.

9 PROVIDER'S PERSONNEL

Provider shall be solely responsible for payment of compensation to its personnel and for all related federal and state income tax withholding, social security taxes, unemployment insurance and the like. Provider agrees to maintain and to provide Covaris on request with documentation of adequate insurance coverage for professional (if applicable) and general liability, bodily injury, property damage and workers' compensation coverage for its personnel who perform the Services. All personnel of Provider who perform Services shall be citizens of the United States or holders of a valid Permanent Resident Card. Provider shall provide Covaris on request with documentation of personnel citizenship or permanent residence.



10 INSPECTION AND REJECTION

All Products and deliverables identified on an order or resulting from the performance of the Services ("Deliverables") are subject to Covaris' inspection and testing. Covaris reserves the right, upon reasonable notice to Provider, to conduct an on-site inspection, which may also include Covaris' customer. Defective Products or Deliverables, or Products or Deliverables not in accordance with the specifications, may be rejected and held for Provider's instruction at Provider's expense and risk, and if Provider so directs, Covaris will return the defective Products or Deliverables to Provider, at Provider's cost and expense. If inspection discloses that part of the Products or Deliverables received are not in accordance with the specifications, Covaris shall have the right to cancel any unshipped portion of the order and purchase elsewhere and hold Provider accountable therefore. Payment for Products, Services or Deliverables prior to inspection shall not constitute acceptance thereof or of any Services and is without prejudice to any and all claims that Covaris may have against Provider. Notwithstanding inspection and payment, Provider shall, at all times, be responsible and liable for latent defects.

11 PROVIDER'S/COVARIS' PROPERTY

All materials and equipment, including tools, furnished by Provider in connection with Services performed at Covaris' premises shall be clearly identified as the Provider's property and shall be returned to Provider upon completion of the Services. Provider shall be solely responsible for care and maintenance of such materials and equipment. All materials and equipment, including tools, furnished or paid for by Covaris in connection with the Products or Services shall be used exclusively in filling orders for Covaris, shall be clearly identified as Covaris' property, and shall be subject to removal at any time without charge or recourse upon demand by Covaris. Provider agrees to indemnify and hold Covaris harmless against all loss or damage to such materials and/or equipment, reasonable wear excepted.

12 PRE-EXISTING INTELLECTUAL PROPERTY

Title to all Intellectual Property (as defined below) furnished to Provider by or on behalf of Covaris ("Covaris Pre-Existing Intellectual Property") and all Intellectual Property Rights therein (as defined below) or thereto shall at all times remain in Covaris. Provider acknowledges the propriety and confidential nature of any Covaris Pre-Existing Intellectual Property. Provider shall use Covaris Pre-Existing Intellectual Property only in connection with this order and, without the prior written approval of Covaris, shall not disclose any Covaris Pre-Existing Intellectual Property to any person, firm, corporation or other entity, other than Covaris' or Provider's employees, subcontractors or government inspectors; provided that, in the case of Provider's employees or subcontractors, each such employee or subcontractor has signed a written confidentiality agreement that is at least as protective of the applicable Covaris Pre-Existing Intellectual Property as this Agreement. Provider shall upon Covaris' request or upon completion of this order, promptly return all Covaris Pre-Existing Intellectual Property to Covaris. "Intellectual Property" means any and all intellectual property and tangible embodiments thereof, including without limitation inventions, discoveries, designs, drawings, specifications, developments, methods, modifications, improvements, processes, know-how, show-how, techniques, algorithms, databases, computer software and code, mask works, formulae, techniques, trade secrets, graphics or images, text, audio or visual works, materials that document design or design processes, or that document research or testing, schematics, diagrams, product specifications and other works of authorship. "Intellectual Property Rights" means, collectively, all rights in, to and under patents, trade secret rights, copyrights, trademarks, service marks, trade dress and similar rights of any type under the laws of any governmental authority.



13 NEW INTELLECTUAL PROPERTY

If Provider is engaged by Covaris under a PO to perform Services, then any Intellectual Property furnished to Covaris by or on behalf of Provider under such PO ("New Intellectual Property") constitutes "works made for hire" for Covaris, as that phrase is defined in the Copyright Act of 1976 (Title 17, United States Code), and Covaris will be considered the author and will be the owner of the New Intellectual Property and all Intellectual Property Rights in or to such New Intellectual Property or that claim or cover such New Intellectual Property. If any New Intellectual Property does not qualify for treatment as "works made for hire", or if Provider retains any interest therein for any other reason, Provider hereby assigns and transfers, and will assign and transfer, to Covaris all ownership and interest in such New Intellectual Property and any and all Intellectual Property Rights in and to any New Intellectual Property or that claim or cover any New Intellectual Property. Provider acknowledges that all personnel performing Services for Covaris under this Agreement have executed appropriate agreements with Provider so that Provider may fulfill Provider's obligations under this Section 12. Provider agrees to execute any documents of assignment or registration requested by Covaris relating to any and all New Intellectual Property and/or any and all Intellectual Property Rights in and to any New Intellectual Property or that claim or cover any New Intellectual Property. Provider agrees at the cost and expense of Covaris to cooperate fully with Covaris, both during and after the Services engagement, with respect to the procurement, maintenance and enforcement of Intellectual Property Rights in or related to New Intellectual Property.

14 INDEMNIFICATION

Provider, at its own expense, shall indemnify, defend and hold Covaris and its customers harmless from and against any and all claims, demands, suits, judgments, damages and liabilities, costs and expenses (including reasonable attorney's fees and court costs) arising directly or indirectly out of or in connection with (a) performance of the Services, (b) any allegation that any Product infringes or violates any United States or foreign patent, copyright, trademark, trade name, mask work, trade secret right or any other intellectual property right of any third party, (c) any allegation that any Deliverable infringes or violates any United States or foreign copyright or trade secret right of any third party or (d) any breach of Provider's other obligations under this Agreement.

15 COMPLIANCE WITH LAWS

Provider shall, at all times, comply with all applicable laws and ordinances relating to performance of the Services and the Products and represents and covenants that the Services will be performed and the Products will be produced and provided in compliance with all applicable laws, including without limitation requirements of the Fair Labor Standards Act as amended, and of regulations and orders of the United States Department of Labor issued thereunder, and the regulations and clauses noted in Section 19, hereof, when applicable.

16 TERMINATION

(a) These terms and conditions will become effective on the date the PO is issued by Covaris and will continue in effect through the completion of the Services or Covaris' acceptance of the Products. In the event of any termination of this Agreement, Sections 7, 11, 12, 13 and 15 hereof shall survive and continue in effect.

(b) Covaris may terminate the PO, in whole or in part, at any time for its convenience, by written or telegraphic notice or by facsimile. Such notice shall state the extent and effective date of such termination; and upon the receipt thereof, the Provider shall, as and to the extent directed by Covaris, terminate its performance of the Services or production of the Products.

(c) In the event of termination of the Services for Covaris' convenience, Provider shall be entitled to payment for all Services performed through the effective date of termination specified by Covaris in the notice provided under subparagraph (b).

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(d) In the event of termination of production of Products for Covaris' convenience, Covaris shall have no liability to Provider with respect to any Products covered by such termination that (i) are scheduled herein for shipment by Provider more than 30 days from the date that notice of termination is sent by Covaris, or (ii) are standard items in Provider's catalogs or inventory or not custom-made for Covaris, or (iii) constitute the balance of an order as to which Covaris' inspection of Products previously received thereunder has disclosed any substantial noncompliance of such Products with applicable specifications.

(e) With respect to termination of a portion of this order to which the provisions of subparagraph (g) does not apply, Covaris will, if applicable, pay the following cancellation charges: (i) the charge, if any specified on the face of this PO: (ii) if no such charge is specified, the agreed price of all Products which have been accepted as of the date of notice of termination, and the actual supportable costs incurred by Provider for any work-in-process hereunder that are properly allocable or apportionable thereto under recognized commercial accounting practices and standards.

(f) With the prior written consent of Covaris, Provider may retain at an agreed price or sell at an approved price any accepted Products or work-in-process the cost of which is allocable or apportionable to this order under sub-paragraph (e) (ii) above and will credit or pay the amounts so agreed or received as Covaris directs. As directed by Covaris, Provider will transfer proper legal title to, and make delivery of, any such Product and work-in-process not so retained or sold.

(g) Without prejudice to any other right or remedy available to Covaris at law or in equity and in addition to and not in limitation of the rights of Covaris under any other section of this Agreement, Covaris may terminate the PO in the event of a material breach by Provider of this Agreement. Such termination shall be effective upon Provider's receipt of notice of termination. Covaris shall not be obligated to pay Provider for Products, Services or work-in-process that relate to such breach.

17 BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Provider or in the event of the appointment, with or without Provider's consent, of an assignee for the benefit of creditors or of a receiver, Covaris shall be entitled to cancel any unfilled part of the PO without any liability whatsoever.

18 GOVERNING LAW

This Agreement shall be governed by and construed according to the laws of the Commonwealth of Massachusetts. Provider consents to the exclusive jurisdiction of the state and federal courts sitting in Massachusetts over all disputes hereunder. Provider waives all defenses of lack of personal jurisdiction and forum non conveniens.

19 GENERAL

Provider may not assign, delegate or subcontract its rights, duties or obligations under this PO without the prior written consent of Covaris. Covaris' rights and remedies hereunder are cumulative and are in addition to any rights and remedies provided at law or in equity. In no event will Covaris be liable for consequential, special, indirect, incidental or punitive damages, or lost profits on account of termination or an alleged breach by Covaris. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect.

20 GOVERNMENT FAR CLAUSES

If the Products or Deliverables, or any part thereof, purchased or provided under this order are for United States Government End Use, then, in addition to the required mandatory Government flow-down clauses, the following clauses in effect on the date of this order also apply:

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FAR TITLE

52.219-8	Utilization of Small Business Concerns
52.222-26	Equal Opportunity
52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
52.222-36	Affirmative Action for Workers with Disabilities

21 COMPLIANCE WITH LAWS AND REGULATIONS

Provider certifies that it complies with all applicable federal, state, and local laws, statutes, regulations, directives, and legal requirements related to the performance of this Agreement, including, but not limited to, those concerning anti-corruption and anti-bribery; labor, health, safety, environmental, and welfare regulations; product safety; and the production, storage, handling, and delivery of Products and Services. This includes, but is not limited to, compliance with REACH, RoHS, Conflict Minerals regulations, the Fair Labor Standards Act of 1938 as amended (including the October 26, 1949 amendment), the Custom Trade Partnership Against Terrorism (CTPAT), and any relevant medical device regulations applicable in the country of operation or distribution.

Provider further certifies compliance with Executive Orders 11246, 11375, 11625, 11701, and 11758 and with all rules and regulations of the Secretary of Labor, including but not limited to 41 CFR §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a), which prohibit discrimination against individuals on the basis of race, color, religion, sex, national origin, age, veteran status, or disability, and require affirmative action to employ and advance in employment such individuals.

Provider warrants that all goods and services delivered shall comply with the Williams-Steiger Occupational Safety and Health Act of 1970 and any regulations issued thereunder.

Provider shall not make or authorize any offer, payment, or gift, whether directly or indirectly, with the intent to improperly influence a decision, obtain an unfair advantage, or benefit improperly Covaris or itself. Covaris' Supplier Code of Conduct is hereby incorporated by reference, and Provider agrees to comply with its terms. Upon request, Provider shall furnish a current certificate of compliance and all necessary information and documentation required to support Covaris or Covaris' customers in meeting applicable legal and regulatory obligations, including Material Safety Data Sheets. Provider shall ensure that all subcontractors comply with the provisions of this Section.