

## STANDARD TERMS AND CONDITIONS

“Seller” shall mean the vendor supplying products and/or services to Vidant Health or any affiliated corporation or related entities. “Buyer” shall mean Vidant Health and all corporations and related entities. “Vidant Health” shall mean University Health Systems of Eastern Carolina, Inc. d/b/a Vidant Health and its affiliated corporations and related entities, which shall include: Vidant Medical Center, Vidant Medical Group, HealthAccess, SurgiCenter, Vidant Community Hospitals, Vidant Beaufort Hospital, Vidant Bertie Hospital, Vidant Chowan Hospital, Vidant Duplin Hospital, Vidant Edgecombe Hospital, Vidant Pungo Hospital, Vidant Roanoke-Chowan Hospital, and The Outer Banks Hospital. “Vidant Medical Center” shall mean Pitt County Memorial Hospital, Inc. d/b/a Vidant Medical Center. “Vidant Medical Group” shall mean UHS Physicians, LLC d/b/a Vidant Medical Group. “HealthAccess” shall mean HealthAccess, Inc. “SurgiCenter” shall mean SurgiCenter of Easter Carolina, LLC. “Vidant Community Hospitals” shall mean East Carolina Health d/b/a Vidant Community Hospitals. “Vidant Beaufort Hospital” shall mean East Carolina Health-Beaufort, Inc. d/b/a Vidant Beaufort Hospital. “Vidant Bertie Hospital” shall mean East Carolina Health-Bertie d/b/a Vidant Bertie Hospital. “Vidant Chowan Hospital” shall mean East Carolina Health-Chowan, Inc. d/b/a Vidant Chowan Hospital. “Vidant Duplin Hospital” shall mean Duplin General Hospital, Inc. d/b/a Vidant Duplin Hospital. “Vidant Edgecombe Hospital” shall mean East Carolina Health-Heritage, Inc. d/b/a Vidant Edgecombe Hospital. “Vidant Pungo Hospital” shall mean Pungo District Hospital Corporation d/b/a Vidant Pungo Hospital. “Vidant Roanoke-Chowan Hospital” shall mean East Carolina Health d/b/a Vidant Roanoke-Chowan Hospital. “The Outer Banks Hospital” shall mean The Outer Banks Hospital, Inc.

1. **MODIFICATIONS.** Seller shall make no changes or modifications to any order except upon Buyer’s written authority.
2. **PACKING AND CARTAGE.** No charge for packing or cartage will be allowed except as stated herein.
3. **SHIPMENT.** If the goods are not shipped in accordance with Buyer’s direction and the instructions set out in this order, Seller shall grant to the Buyer the right to setoff for any excess cost occasioned to Buyer as a result.
4. **PAYMENT.** Unless otherwise agreed to in writing, invoices shall be paid within 30 days after receipt of invoice.
5. **INTELLECTUAL PROPERTY / HOLDHARMLESS.** Seller shall defend, indemnify, hold and save Buyer and its affiliated corporations harmless from loss and/or liability of any nature or kind arising out, or existing because of the infringement or alleged infringement of any patent, trademark, or copyright or other intellectual property rights for or on account of the manufacturer, sale or use of any goods furnished hereunder, except in the case where compliance by Seller with specifications prescribed by and originating with Buyer constitutes the sole basis of the infringement. Buyer shall notify Seller in writing of any suit filed against it or its affiliated corporations on account of any such alleged infringement, and at Seller’s request shall give Seller control of the defense of such suit, insofar as Buyer has the authority to do so, and information and assistance for the same, all at Seller’s expense. Buyer and the party against whom suit is brought, at the Seller’s expense, may be represented by their own counsel in any such suit.
6. **EXCESS GOODS.** Except for customary quantity variations recognized by trade practice, goods in excess of those specified will not be accepted, and such goods will be held at Seller’s risk. Buyer may, and at Seller’s request shall, return such goods at Seller’s risk, and all transportation charges, both to and from the original destination shall be paid by Seller.
7. **FABRICATION AND MATERIAL COMMITMENTS.** Unless otherwise authorized in writing by Buyer, Seller shall not make commitments for materials nor fabricate in advance of time necessary to permit shipment on delivery dates.
8. **TERMINATION.** Buyer may terminate any purchase order for its convenience, in whole or in part, by written, electronic, or telegraphic notice at any time. If a purchase order is terminated for convenience, any claim of Seller shall be settled on the basis of reasonable costs it has incurred in the performance of the order.
9. **DELAYS.** Time is of the essence as it relates to this Agreement. If Seller shall fail or refuse to proceed with an order, or if Seller shall fail to make delivery, or Buyer to accept delivery, according to the delivery schedule, the other party may cancel the then remaining balance of any order unless the delay is an excusable delay as hereinafter defined. An excusable delay shall not constitute default hereunder. The term “excusable delay” shall mean any delay in making or accepting deliveries which result without fault or negligence on the part of the party who is in delay and which is due to causes beyond such parties control including, without limitation, acts of God or of public enemy, any priority order issued by the Government or any other act of Government, fires, floods, freight embargoes, unusually severe weather. Each party shall notify the other, in writing, of any such delay and cause thereof. When the nonperforming party is able to resume performance of its obligations in connections with an order, it shall immediately give written notice to that effect and shall resume performance under the order. Notwithstanding the existence of an excusable delay, Buyer may terminate any order without being held in breach if Seller is unable to continue performance within a reasonable time.
10. **WARRANTY.** Seller expressly warrants that it has free, clear title to any and all goods, articles, or materials sold. Further, Seller expressly warrants that all the services, goods, articles, material and work covered by a purchase order will conform to the specifications, drawings, samples or other descriptions, oral or written, furnished by Seller and will be of good material and workmanship, and free from defect. Seller further warrants that they will be merchantable and fit and sufficient for the purpose intended.
11. **INSPECTION AND ACCEPTANCE.** Inspection and test of goods by Buyer may at Buyer’s option be made at Seller’s place of business and/or the point of destination. Acceptance of goods by Buyer, shall not relieve Seller from any of its obligations and warranties hereunder. In no event shall payment be deemed to constitute acceptance.
12. **DEFECTIVE GOODS.** If any of the goods fail to meet the warranties contained in Paragraph 10, Seller, upon notice thereof from Buyer, shall promptly correct or replace the same at Seller’s expense. If Seller shall fail to cure such defective goods, Buyer may cancel the order as to all such goods, and in addition, may cancel the then remaining balance of the order. At Buyer’s option, Buyer shall be allowed to cover for defective goods. After notice to Seller, all such defective goods will be held at Seller’s risk. Buyer may, and at Seller’s discretion shall, return such goods to Seller at Seller’s risk, and all transportation charges, both to and from the original destination, shall be paid by Seller. Seller shall refund any payment for such goods unless Seller promptly corrects or replaces the same at its expense.
13. **APPLICABLE LAWS.** Seller, in the performance of any order, shall comply with the provisions of: the Fair Labor Standards Act of 1938, as amended; section 952 of the Omnibus Budget Reconciliation Act of 1980; the Health Insurance Portability and Accountability Act of 1996, Public Law 104-91 (HIPAA); and any and all other applicable federal, state and local laws, regulations, rules and ordinances, and agrees, upon request to furnish Buyer a certificate to such effect in such form as Buyer may from time to time require. The laws of the State of North Carolina govern all matters arising under or related to this Agreement and the parties consent to the exclusive jurisdiction of the North Carolina courts to resolve any controversy or claim arising out of or relating to this Agreement.
14. **DEFICIT REDUCTION ACT OF 2005.** As specified in 42 U.S.C. § 1396a(a)(68), Seller adopts, as it relates to the provision of services to Buyer as set forth herein, and acknowledges having received Buyer’s written policies regarding compliance with the federal False Claims Act, 31 U.S.C. 3729-3733, administrative remedies for false claims and statements, 31 U.S.C. Chapter 38, state laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such federal and state false claims laws, as well as detailed information regarding Buyer’s policies and procedures for detecting and preventing fraud, waste, and abuse.
15. **SPECIAL TOOLS.** Unless otherwise stated, all special tools, dies, jigs, patterns, machinery and equipment needed by Seller for the performance of any order shall be obtained by Seller at its own expense and shall be the property of the Seller.
16. **ASSIGNMENT.** Seller may not assign nor transfer any of its rights under an Agreement with Buyer including monies payable thereunder without the prior written consent of Buyer, any assignment made without such consent shall be null and void.
17. **TAXES.** Unless otherwise stated, the prices do not include sales, use, excise, and similar taxes applicable to the goods furnished hereunder or the materials used in the manufacture thereof. All such taxes and charges shall be shown separately on Seller’s invoice.
18. **INSURANCE.** Seller shall procure and maintain product and completed operations insurance in a minimum amount of \$1,000,000.00 or such other amount determined by Buyer to be adequate and shall provide sufficient evidence thereof to Buyer prior to Buyer’s acceptance of the products. Further, to the extent Seller’s employees are physically located on Buyer’s premises. Seller shall provide Workers Compensation insurance for such employees in the amounts required by North Carolina law.
19. **INDEMNITY.** Seller and/or its agents agrees to defend, indemnify and hold harmless Buyer from any and all claims, demands, damages, or any other financial demands that may be alleged or realized due to any actions or omissions of Seller and/or its agents relating to this Agreement, except that Seller does not agree to indemnify and hold harmless the Buyer from any claims which may have resulted solely from any error or omission by the Buyer.
20. **REMEDIES.** No remedy herein provided shall be deemed exclusive of any other remedy allowed by law.
21. **ACCEPTANCE.** This document will not be superceded by any documents from the Seller. Buyer will not be bound by any additional or different terms, whether printed or otherwise, in Seller’s quotation or in any other communication from Seller to Buyer unless specifically agreed in writing. No acceptance shall be effective which varies the terms hereof or proposed additional terms. Any such proposals are deemed rejected.
22. **INDEPENDENT CONTRACTORS.** The relationship between the parties under this Agreement shall be that of independent contractors and no party shall be construed to be the agent, partner, employee, or joint venturer of the other party to this Agreement. The parties shall not exercise control or direct the manner in which other parties perform their duties hereunder except to assure compliance with this Agreement.