

SSM Health Purchase Order Terms and Conditions

1. Complete Agreement. This Purchase Order (“PO”) does not govern the sale of goods and/or services between Vendor and SSM Health Care Corporation, a Missouri nonprofit corporation, d/b/a SSM Health, on behalf of itself and its subsidiary entities (“SSM Health”) that are the subject of a written agreement to which the duly authorized representatives of both Vendor and SSM Health have affixed (including electronically) their signature (a “Signed Contract”). In such cases, the Signed Contract shall apply and this PO serves only to describe the goods, services and, to the extent not greater than the prices in the Signed Contract, the prices at which SSM Health offers to acquire such goods and services pursuant to the Signed Contract. This PO does not supersede or modify the Signed Contract. In the event Vendor and SSM Health have not executed a Signed Contract for the goods and/or services contemplated by this PO, this PO constitutes SSM Health’s offer to Vendor and shall become binding unless Vendor gives SSM Health written notice of objection within five (5) days following Vendor’s receipt hereof. Additionally, Vendor’s commencement of work or shipment of goods subject to this PO shall be deemed Vendor’s acceptance of this PO without modification of, or addition to, its terms. The specifications on the face of this PO, these terms and conditions, any other special conditions in a schedule attached hereto, and any specifications or other documents referenced in such schedule or on the face of this PO constitute the entire agreement between SSM Health and Vendor and supersede all previous communications and agreements (except a Signed Contract, if any), either written or oral, with respect to the subject matter of this PO. This PO expressly limits acceptance to the terms and conditions stated herein, which terms and conditions may not be varied except by a writing referencing the number of this PO and signed by SSM Health’s duly authorized representative. Any reference on the face of this PO to Vendor’s proposal or any other document published by Vendor shall be deemed to incorporate only the description of the goods, services, and prices offered by Vendor and not any standard printed terms or conditions of Vendor’s documents. All terms and conditions not expressly included in this PO, to include, but not be limited to “shrink wrap” or “click wrap” terms that may be included with the goods (including a license) or services, are hereby rejected by SSM Health. Vendor’s acceptance of payment for goods shipped and/or services performed in response to this PO constitutes (i) Vendor’s revocation of any related terms and conditions sent by Vendor, and (ii) Vendor’s acceptance of the terms of this PO without modification of, or addition to, its terms.

2. No Waiver. Failure of SSM Health to object to or to take affirmative action with respect to any conduct of the other that is in violation of the provisions of this PO shall not be construed as a waiver of such violation or any prior or future violations of the provisions of this PO, and shall not affect the right of SSM Health thereafter to enforce each and every term, condition or requirement.

3. Governing Law. This PO shall be governed by and interpreted in accordance with the substantive laws of the State of Missouri, without application of choice of laws rules.

4. Time of Essence and Force Majeure. Shipment and delivery date(s) specified are of the essence of this PO. However, Vendor shall not be liable for delays in manufacture or delivery of goods and performance of services to the extent such delays are due to causes beyond Vendor’s reasonable control and provided Vendor uses its best efforts to remedy the situation and first allocates all available production and deliveries to SSM Health, and provided further that Vendor has notified SSM Health promptly (but in any event within seven (7) days) of the occurrence which causes such delay. Causes deemed beyond a party’s reasonable control include acts of God, acts of civil or military authorities, fires, epidemics, war or riot. Whenever Vendor has knowledge of a condition or event that may delay or lead to a delay in the timely performance of this PO, Vendor shall immediately give notice thereof, including all relevant information with respect thereto, to SSM Health. Vendor agrees to insert the substance of this clause in any subcontract hereunder, with appropriate changes as to the identity of the parties. SSM Health shall not be liable to accept any part of such goods and services which are delayed and may, at its option, cancel the PO. SSM Health may delay delivery or acceptance of goods or services, or this PO may be canceled by SSM Health at any time prior to delivery if its business is interrupted by causes beyond SSM Health’s reasonable control, provided that SSM Health shall give prompt notice to Vendor. Vendor shall hold goods at the direction of SSM Health and shall deliver them when the cause of the delay has been removed.

5. Shipping Instructions. Packing slips must accompany each shipment and should clearly identify the SSM Health PO number. SSM Health’s count will be accepted as final and conclusive on all shipments not accompanied by packing slips. All articles are to be suitably packed or otherwise prepared for shipment. No charges will be allowed for drayage, boxing or packing unless specifically stated on the PO. Goods must be shipped as provided for in this PO, or additional shipping and handling costs will be back charged (i.e. reduced from the amounts SSM Health otherwise owes to Vendor) to Vendor. In the absence of such instructions, shipments shall be routed via the most economical mode of commercially reasonable transportation available consistent with the time requirements established for the PO and risk of loss on the goods shall be borne by Vendor until delivery at the facility or destination designated by SSM Health.

6. Right to Reject; Specifications. All goods and/or services furnished will be subject to inspection and testing upon arrival or performance, and such goods and/or services found by SSM Health in its sole discretion to be not in accordance with the specifications, drawings, plans, instructions, samples or otherwise not in conformance with the terms of this PO shall be subject to rejection, return and back charge as appropriate, together with the necessary costs of handling and shipping. SSM Health’s payment of all or any part of the purchase price prior to such inspection, testing and non- acceptance of the goods and/or services involved shall not constitute a waiver of any of SSM Health’s rights hereunder. If Vendor fails to promptly correct defects in or replace nonconforming goods or services, SSM Health may make such corrections or replace such goods and services, and charge Vendor any cost incurred. Goods supplied in excess of quantities stated in this PO may be returned to Vendor at Vendor’s expense.

7. Representations and Warranties. Vendor represents and warrants the following:

(a) All goods and services covered by this PO are unencumbered and will conform to the design and performance specifications, drawings, plans, instructions, samples or other description furnished or adopted by SSM Health; will be well made, of good materials, merchantable, fit and sufficient for the purpose intended, including any special requirements of SSM Health which have been disclosed to Vendor; shall be free from defects, whether latent or patent, in material and workmanship; and, in the case of edibles, shall be wholesome and fit for human consumption. Vendor shall immediately replace or repair free of charge, f.o.b. SSM Health’s location, any goods supplied hereunder which prove to be defective in workmanship or material; and

(b) Vendor shall comply with all applicable local, state and federal laws, rules, regulations and ordinances, including without limitation the Occupational Safety and Health Act of 1970 and the standards and regulations issued thereunder, and all goods and services furnished

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hereunder will comply with said laws, rules, ordinances, standards and regulations; and

(c) Vendor shall consider all information furnished by SSM Health to be confidential and shall not use or disclose SSM Health's confidential information to others. This includes information which Vendor may come within the knowledge of or which may be developed by Vendor or its employees in performance under this PO. Vendor agrees that all drawings, specifications, data, memoranda, calculations, notes and other material provided by SSM Health or produced by Vendor under this PO or any copies thereof are the property of SSM Health and shall be delivered to SSM Health at the completion or termination of the work or at any time upon request of SSM Health; and

(d) Vendor's owners, employees, agents and any subcontractors (collectively "Personnel") are not: (i) listed on the System for Award Management website ("sam.gov") with an active exclusion; (ii) listed on the Office of the Inspector General's website ("oig.hhs.gov"); (iii) suspended or excluded from participation in any federal health care programs as defined under 42 U.S.C. § 1320a-7b(f); or (iv) suspended or excluded from participation in any form of state Medicaid program ((i)-(iv) collectively, "Government Payor Programs"). Vendor also represents and warrants to the best of its knowledge there are no pending or threatened governmental investigations that may lead to suspension or exclusion of its Personnel from Government Payor Programs or may be cause for listing on sam.gov or oig.hhs.gov

(collectively, an "Investigation"). Vendor shall notify SSM Health of the commencement of any Investigation, suspension or exclusion from Government Payor Programs within three (3) business days of its first learning of it. SSM Health shall have the right to immediately terminate this PO upon learning of any such Investigation, suspension or exclusion. Vendor shall be kept SSM Health apprised in a timely manner of the status of any such Investigation. Vendor shall indemnify, defend and hold SSM Health harmless from any claims, liabilities, fines and expenses (including reasonable attorneys' fees) incurred as a result of Vendor's breach of this paragraph.

8. Limitation of Liability: SSM Health's aggregate liability arising from or relating to this PO is limited to the amount paid by SSM Health for the goods and/or services. IN NO EVENT SHALL SSM HEALTH BE LIABLE TO VENDOR FOR INDIRECT, EXEMPLARY, PUNITIVE, ENHANCED, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST REVENUES, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS PO, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE OR SSM HEALTH WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

9. Intellectual Property; Claims for Infringement: Vendor warrants that the services (including the products supplied hereunder) and Vendor's work product will not infringe on any copyright, patent, or trade secret. VENDOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SSM HEALTH AGAINST ALL CLAIMS, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEY FEES), ACTIONS AND/OR LIABILITIES FOR ANY COPYRIGHT OR PATENT INFRINGEMENT OR MISAPPROPRIATION OF A TRADE SECRET OR OTHER PROPRIETARY RIGHT, ARISING OUT OF OR RESULTING FROM VENDOR'S PERFORMANCE HEREUNDER, INCLUDING SSM HEALTH'S USE OF ANY DESIGNS OR OTHER WORK PRODUCT DEVELOPED BY VENDOR, AND VENDOR SHALL REIMBURSE SSM HEALTH FULLY FOR ANY ROYALTIES, DAMAGES OR OTHER PAYMENTS THAT SSM HEALTH SHALL BE OBLIGATED TO PAY. In the event SSM Health's use of any item provided by Vendor is interrupted as a result of such a claim, then Vendor shall either (i) procure for SSM Health, at no cost to SSM Health, the right to continue using the infringing item as though it were non-infringing, or (ii) replace or modify the infringing item with a functionally equivalent item that is non-infringing and that does not violate the property rights of others. SSM Health shall have the right to be present and represented by counsel, at their own expense, at all times during litigation or other discussions relating to claims under this provision. Neither Vendor nor SSM Health shall settle or compromise any such litigation without the consent of the other if such settlement or compromise obligates the other to make any payment or part with any property or assume any obligation or grant any license or other rights or be subject to any injunction by reason of such settlement or compromise.

10. Right to Change and Cancellation. At all times SSM Health will have the right to make changes to this PO, including changes to drawings, designs, configurations, specifications, quantities, methods of shipment or packing and delivery schedules or location of delivery. If any such changes cause an increase or decrease in the cost of or the time required for the performance of any work under this PO, an equitable adjustment will be made in the contract price or delivery schedule, or both, and this PO will be modified in writing accordingly. This PO may be terminated by SSM Health at any time if Vendor (a) is in default hereunder; (b) fails to use properly skilled personnel; (c) fails to make prompt payment to any subcontractors it may have; (d) fails to make prompt payment for any materials, labor or any other expenses it incurs in the development of the goods or the performance of any services; (e) fails to deliver the goods or services hereunder per the delivery schedule; (f) delivers goods or services which are defective or do not conform to this PO; or (g) is deemed insolvent or in the event of the institution of any proceeding by or against Vendor in bankruptcy or insolvency. SSM Health may require a financial statement from Vendor at any time during the term of this PO for the purpose of determining Vendor's financial responsibility and may request assurances of Vendor's future performance against the terms of this PO. Any termination pursuant to this Section 9 shall be deemed to be a termination for default. SSM Health may terminate any PO with Vendor at any time and from time to time for its sole convenience by giving Vendor at least thirty (30) days prior written notice to such effect. In the event of any such termination, Vendor shall immediately stop all services (including the shipment of goods) within the required (30) days and, unless notified by SSM Health to the contrary, shall immediately cancel orders and commitments to its subcontractors and cause all subcontractors to cease all work related to this PO. In the event of such termination for convenience, SSM Health shall pay Vendor as a termination charge that portion of the total consideration specified in the PO equal to the portion of the services completed to SSM Health's satisfaction prior to such termination, together with Vendor's actual, reasonable, verifiable direct costs, if any, incurred in closing-out such services, less any payments made prior to such termination. Vendor shall not be paid for any services performed or goods shipped after receipt of any notice of termination nor for any costs incurred by Vendor's subcontractors that Vendor could reasonably have avoided. Vendor shall have no further claim against SSM Health on account of such termination. SSM Health reserves the right to cancel all or any part of this PO without a cancellation cost if shipment is not made within the specified time.

11. Indemnity. Each party agrees to indemnify and hold harmless the other party, its directors, officers, affiliates, employees and agents from and against any and all claims, costs, expenses (including reasonable attorney fees), actions and/or liabilities which may be asserted against any one or

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more of them, arising out of any acts or omissions of its directors, officers, employees and agents.

12. Survival. The warranties, remedies and indemnities provided in this PO shall survive delivery, shall not be deemed waived either by reason of acceptance or payment and shall be in addition to those implied by or available at law.

13. No Assignment. Vendor may not assign its rights or delegate its duties under this PO without the prior written consent of SSM Health, and any attempted assignment or delegation without such consent shall be void. SSM Health may assign this Agreement to a subsidiary or to an affiliated entity under common control.

14. Pricing. Prices shall be firm and not subject to adjustment or variation unless specifically approved in writing by SSM Health. Except as otherwise provided herein, the prices herein include all costs and charges to be incurred by Vendor, including, without limitation, installation and other service charges, all fees for services and materials, all charges for transportation, packing, packaging, returnable containers, and the acceptance and processing of all financial transactions.

15. Transactions. By agreeing to supply to SSM Health, Vendor agrees to transact through either the Global Healthcare Exchange (GHX) or SAP Business Network, inclusive of the transmission/receiving of purchase orders, order confirmation, advance ship notices, and invoices.

16. Invoice Procedures. After delivery of goods and/or completion of services, Vendor shall submit an invoice through either GHX or SAP Business Network. Each individual invoice must include the correct PO number, and line item information.. SSM Health shall, after acceptance of such goods and/or services, pay such invoice in accordance with the terms noted on the front of this PO or if no such terms are noted, within 60 days after receipt of approved invoice. Vendor acknowledges that SSM Health requires the correct, applicable PO number to be included on all invoices and that each such invoice match the PO line data in order to authorize payment thereof. SSM Health shall have no obligation to pay invoices without reference to the correct PO number. Vendor shall neither charge SSM Health late fees relating to any payments due under this PO nor commence any formal action(s) for collections related to payments due hereunder, whether disputed or not. SSM Health shall make all payments to Vendor by their respective due dates unless SSM Health has a legitimate reason for not doing so, which shall be relayed to Vendor before the date on which such payment(s) is due. SSM Health reserves the right to make payments via any of the following methods: check, automated clearing house funds transfer (ACH), and/or electronic payment solution.

17. Insurance. At all times during the term of this PO, Vendor shall procure and maintain commercial general liability (including products and completed operations) insurance covering itself and its employees and agents providing services pursuant to the PO on an occurrence basis in the minimum amounts of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate of all claims. If Vendor's employees are coming on-site at an SSM Health facility, Vendor shall maintain Worker's Compensation coverage equal to statutory limits and commercial auto liability in the minimum amount of One Million Dollars (\$1,000,000) combined single limit for its employees performing services pursuant to this PO. Vendor shall provide to SSM Health a certificate of insurance evidencing that such coverage is in effect during the term of this PO. If Vendor is providing professional services, it must procure and maintain Errors & Omissions (E&O) / Professional Liability covering the activities of the Vendor with a minimum of \$1,000,000 per claim and annual aggregate. If the Vendor has access to SSM Health's IT network or capturing or transmitting PI/PHI it must procure and maintain Cyber / Privacy Liability with a minimum of \$2,000,000 limit and in the annual aggregate that includes, but not limited to (1) computer or network systems attacks; (2) denial or loss of service; (3) introduction, implantation, or spread of malicious software code; (4) unauthorized Access and Use of computer systems; (5) privacy liability; (6) breach response coverage (of at least 50% of the liability limit). The insurance policies carried by Vendor (3rd party) is shall name SSM Health and its Affiliates and their respective officers, directors, trustees, sponsors, volunteers, and employees as additional insureds, with respect to claims arising out of Vendor's actions, products or services; and (ii) be primary as to the additional insureds and non-contributory with respect to any other insurance or self-insurance SSM Health or its Affiliates may maintain. Vendor hereby waives any right of recovery against SSM Health and its insurers for any loss or damage that is covered by any insurance policy maintained or required to be maintained herein. Vendor shall inform all its insurers of policies required by this Agreement about this Waiver of Subrogation and shall secure from the insurers amendments to the policies recognizing and providing for the waiver. (note: possible to accept mutual waiver of subrogation only to each party's sole negligence)

18. Taxes. SSM Health is a nonprofit corporation. SSM Health will not be required to pay any taxes normally levied against Vendor including but not limited to sales, excise, Vendor's income taxes and value added taxes. In the event any SSM Health affiliate or subsidiary participating under this PO is a taxable corporation, said affiliate or subsidiary shall pay applicable sales taxes. Vendor shall be fully responsible for all state and federal income taxes, pension benefits, social security taxes, employment, disability and other customary insurance and for any other taxes or payments which may be due and owing by Vendor or which are the result of fees or amounts paid by SSM Health to Vendor under this PO. VENDOR AGREES THAT IT IS LIABLE FOR AND SHALL, WITHOUT LIMIT AND AT ITS OWN COST, INDEMNIFY, DEFEND AND HOLD HARMLESS SSM HEALTH FROM AND AGAINST ALL CLAIMS RESULTING FROM VENDOR'S FAILURE TO PAY ANY TAXES THAT ARE VENDOR'S RESPONSIBILITY UNDER THIS SECTION.

19. Right to Audit. Vendor shall, and ensure that its subcontractors shall, maintain a true and correct set of records pertaining to all activities relating to the services and goods, and all transactions related thereto, in a manner which is commercially reasonable and in line with industry best practices as well as in automated or electronic form. Vendor further agrees, and shall ensure that its subcontractors agree, to retain all such records for a period of not less than three (3) years after the completion of a particular PO. Vendor agrees that all records pertaining to charges made to SSM Health under this PO will be subject to audit by SSM Health or representatives of SSM Health and that such audits will employ statistical sampling methods consistent with standard industry practice. SSM Health, or its representatives, shall have access to Vendor's facilities and shall be provided adequate and appropriate workspace in order to conduct audits. SSM Health shall have the right to interview current and former Vendor employees as part of any such audit. Should errors, overcharges or undercharges occur, reimbursement shall be made to the appropriate party.

20. HIPAA Compliance. If the parties to this PO qualify as a Covered Entity and Business Associate as defined within the Health Insurance Portability and Accountability Act and its accompanying regulations ("HIPAA"), then the parties agree to sign and return a copy of SSM Health's standard the HIPAA Business Associate Addendum. Vendor agrees that it will at all times comply with the requirements of the Standards for Privacy and Security of Individually Identifiable Health Information promulgated by the Secretary of the United States Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996 as amended.

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21. Medicare Access to Books and Records. In the event, and only in the event, that Section 952 of P.L. 96-499 (42 U.S.C. Section 1395x(v)(1)) is applicable to this PO, Vendor agrees as follows: (a) until the expiration of four (4) years after the furnishing of such services pursuant to this PO, Vendor shall make available, upon written request of the Secretary of the U.S. Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of his/her duly authorized representatives, this PO, and books, documents and records of Vendor that are necessary to certify the nature of the duties of this PO; and (b) if Vendor performs his/her services hereunder through a subcontract with a related organization, with a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve-month period, then any such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary of the U.S. Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of his/her duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of the cost of services provided pursuant to such subcontract.

22. Affirmative Action Statement. SSM Health and all covered subcontractors shall abide by the requirements of 29 CFR § 471, Appendix A to Subpart A, 41 CFR § 60-1.4(a), 60-300.5(a) and 60-741.5(a). 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 and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

23. Referrals. The parties acknowledge that none of the benefits granted to either party hereunder are conditioned on any requirement that either party make referrals or be in a position to make or influence referrals to, or otherwise generate business for, the other party. The parties further acknowledge that neither party is restricted from referring any service to, or otherwise generating any business for any other entity of the other party's choosing.

24. Confidentiality. Notwithstanding any other provision of this PO to the contrary, SSM Health shall have the right to disclose pricing and other terms of this PO to SSM Health's affiliates, physicians on its medical staff, and its attorneys, accountants, group purchasing organization, and other third parties retained by SSM Health (collectively "SSM Consultants") provided any such SSM Consultants agree to the same level of confidentiality set forth in this PO.

25. Miscellaneous. Vendor further agrees to the following:

(a) Vendor is, and shall continue to be, an independent contractor, and any provisions of this PO which may appear to give SSM Health the right to direct Vendor as to details of performing any services, or to exercise a measure of control over Vendor's performance of the services, shall be interpreted to mean that Vendor will follow the instructions of SSM Health with respect to the results of the services achieved only and not in the means whereby the services are to be accomplished, and Vendor shall have complete and authoritative control as to the details of performing the services;

(b) This PO is a contractual relationship. This PO is not intended to create a partnership, joint venture or any other type of legal entity;

(c) Vendor has fully read, understands and accepts these terms and conditions in their entirety and without modification;

(d) All provisions of this PO pertaining to warranties, taxes, audits, intellectual property, confidentiality, indemnity, limitations of liability, choice of law, and jurisdiction are continuing obligations which shall survive completion and acceptance of any materials and/or services or the termination of this PO, howsoever brought about for an unlimited period of time, unless otherwise expressly provided for in this PO; (e) Any notice or communication required or permitted to be given to SSM Health under this PO shall be served personally, sent by United States certified mail or sent by email to SSM Health, Attn: Contracts, 12800 Corporate Hill Drive, St. Louis, MO 63131, Email: ContractNotices@ssmhealth.com. All notices to Vendor shall be sent to the address or email this Purchase Order was sent to, or those within the Signed Contract.

(f) The parties shall resolve their disputes informally to the maximum extent possible. The parties shall negotiate all matters of joint concern in good faith, with the intention of resolving issues between them in a mutually satisfactory manner. In the event of a dispute between the parties that cannot be resolved through informal discussions, the dissatisfied party will provide the other party with a plain, written statement of its position regarding the dispute and suggested resolution. Within seven (7) calendar days after receipt of that statement, the party receiving such statement will provide a short and plain written response with regard to the claim and a suggested resolution. For a period of thirty (30) calendar days thereafter, the parties agree to negotiate in an effort to resolve the controversy. Such period of negotiation will include no less than two (2) in-person meetings between representatives of the parties with authority to settle the matter. In the event the disagreement cannot be resolved through such in-person meetings, the dissatisfied party may then proceed with other remedies available under this PO or applicable law; and (g) SSM Health participates in group purchasing organization ("GPO") contracting programs from time to time. In SSM Health's sole discretion, SSM Health may elect to participate under Vendor's GPO agreement with Vizient Supply, LLC ("Vizient") by its purchases under this PO. If Vendor is not a party to a GPO agreement with Vizient for the goods and/or services, SSM Health may request Vendor to enter into a GPO agreement with Vizient and pay administrative fees to Vizient on SSM Health's purchases of goods and/or services as set forth in that agreement.