



force majeure event lasts more than thirty (30) days, Buyer may cancel this PO and Supplier agrees to provide to Buyer the assistance and information necessary for Buyer to procure replacement products and services.

**INSPECTION** All products and/or services, including deliverables, are subject to final review, inspection and acceptance by Buyer notwithstanding any payment or initial inspection.

**NON-CONFORMING PRODUCTS OR SERVICES; LATE DELIVERY.** Buyer reserves the right to refuse any products or services and to cancel all or any part of this PO if Supplier does not, or products or services provided by Supplier to Buyer do not, conform to any applicable industry standards or practices, any applicable specifications, drawings, samples, descriptions or any other similar criteria in this PO or otherwise provided to Supplier by Buyer (the "**Specifications**") or any terms and conditions set forth on the face of this PO and herein. Acceptance of any part of the shipment of products or any part of the services shall not bind Buyer to accept, or waive any rights hereunder with respect to, any non-conforming products or non-conforming services provided by Supplier, nor deprive Buyer of the right to reject any previous or future non-conforming products or services. Buyer's failure to refuse products and services and payment by Buyer shall not constitute final acceptance nor a waiver of Buyer's rights to inspect or reject any products or services and Buyer shall continue to be able to exercise any rights hereunder or under applicable law with respect to any non-conforming products or services for which the non-conformity is discovered thereafter. Buyer may, if it rejects any non-conforming products, return such products to Supplier at Supplier's expense for transportation both ways, and Supplier shall not deliver to Buyer any replacement or substitution products for such rejected products unless so authorized in writing by Buyer.

**NONCONFORMANCES DISCOVERED BY SUPPLIER** In the event Supplier discovers a non-conformance that affects Products already shipped or services performed, Supplier shall promptly notify Buyer in writing. Supplier shall fully cooperate with all investigation and containment actions. Supplier shall reimburse Buyer for the nonconforming products and all reasonable costs and expenses incurred by Buyer in connection with use of nonconforming product. Buyer may return all nonconforming products to Supplier, at Supplier's expenses.

**CHANGE CONTROL** Supplier shall have a written procedure for changes and shall notify Buyer a minimum of (30) days in advance and in writing of any of the following changes, in the case of products: (a) specifications, (b) raw materials or source thereof, (c) manufacturing procedures or processes, (d) equipment used to manufacture, or (e) location of manufacture; and, in the case of services, (x) specifications and (y) persons providing such services. All notices shall be sent to [changerequest@atexttechnologies.com](mailto:changerequest@atexttechnologies.com). Only Buyer's written and executed change orders may modify this PO. See section below entitled "Other Agreements" for reference to and priority

of terms and conditions set forth in other Agreements, including Agreements that address quality requirements.

**BUYER AUDITS** Supplier agrees that Buyer may, upon reasonable prior notice and during normal business hours, audit Supplier's facilities utilized in the manufacture, testing, supply and storage of product to review Supplier's quality system procedures, purchasing controls, manufacturing controls, and documentation and records for the manufacture and supply of product. Buyer shall have the right to conduct such audit directly or through its authorized representatives.

**GOVERNMENT AUDITS/INSPECTIONS** Supplier agrees that Buyer and any government agency, notified body, court or other instrumentality having any jurisdiction over aspects of the design, manufacturing and distribution of the products ("**Authority**"), shall have access to and the right to inspect or audit any pertinent product manufacturing or quality processes, and associated documentation or records. Supplier shall notify Buyer promptly, but in any event within 24 hours, in writing of any such inspection or audit. Supplier recognizes government and notified body audits may be unannounced and may specifically be subject to scheduled or unannounced audits (per EU Recommendation 2013/473/EU). During unannounced audits, the Supplier must allow the Authority to witness the testing of product samples, and/or if requested, provide samples of product for independent testing by the Authority. If issues or findings are identified during an audit that potentially impact product or service quality, performance or availability, Supplier shall promptly notify Buyer in writing and agrees to cooperate with Buyer regarding communications with the Authority.

**CONFIDENTIALITY** Supplier shall not disclose to any third party (other than a government or judiciary body, as required by law and only with prior written notice to Buyer of any such disclosure), or use for itself any Buyer Confidential Information for purposes other than fulfilling this PO. "**Buyer Confidential Information**" means any information, including personal data, which Supplier receives or learns about Buyer or its affiliates in connection with or as a result of this PO, which is not generally publicly available, including without limitation, the existence or details of this PO or any agreement or arrangement with Buyer. Buyer Confidential Information shall not include information to the extent that it: (i) is or becomes part of the public domain through no act or omission of the Supplier or its employees, agents or representatives; or (ii) was in the Supplier's lawful possession prior to its disclosure to Supplier by or on behalf of Buyer, as shown by written records in existence prior to such disclosure, and was not otherwise subject to a duty or contractual requirement of confidentiality. This provision shall survive any expiration or termination of these Terms and Conditions. Supplier agrees that monetary damages may not be an adequate remedy for Buyer in the event of a breach or threatened breach of this provision by Supplier and therefore agrees that Buyer may seek equitable relief, including without

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limitation, injunctive relief, in the event of any breach or threatened breach of this provision by Supplier.

**COMPLIANCE WITH LAWS** Each party shall be responsible for ensuring that the performance of its respective obligations under this PO complies with all applicable U.S. and foreign federal, state and municipal statutes, laws, ordinances and regulations.

**GOVERNING LAW** The laws of the State of North Carolina, United States of America, without regard to principles of conflict of laws or Buyer's place of residence, will govern these Terms and Conditions and this PO.

**ANTI-CORRUPTION** Supplier shall not perform any actions that are prohibited by local and other anti-corruption laws (collectively "**Anti-Corruption Laws**") that may be applicable to Supplier and/or Buyer. Without limiting the foregoing, Supplier shall not, directly or indirectly, make any payments, offer or transfer anything of value, agree or promise to make any payment or offer to transfer anything of value, to any government official or government employee, to any political party official or candidate for political office or to any other third party related to the transaction to influence official action, to obtain, retain or direct business, to secure an improper advantage or in a manner that would violate Anti-Corruption Laws.

**DEBARMENT** Supplier represents and warrants to Buyer that Supplier, its personnel, and agents assisting Supplier in providing products or services are not subject to exclusion from a federal health care program as outlined in Sections 1128 and 1156 of the Social Security Act or debarment by the U.S. Food and Drug Administration under 21 U.S.C. 335a or any other federal or state program or law which would preclude Supplier, its personnel, or agents from providing good or services or Supplier from contracting for good or services. If Supplier, its personnel or agents assisting Supplier in providing products or services fail to satisfy any term herein while providing products or services, Supplier shall notify Buyer in writing within ten (10) days of any such change in status.

**WARRANTY** Supplier represents and warrants the following: (i) the products and services supplied pursuant to this PO will be of merchantable quality, free from defects in design, material and workmanship and are supplied to Buyer in accordance with the Specifications; (ii) all services provided by Supplier shall be provided by qualified personnel reasonably skilled and trained in the performance of the services and in a workmanlike and professional manner; (iii) Supplier, the products and services provided to Buyer and the use thereof by Buyer shall not infringe on any party's intellectual property rights, including any party's confidential information, trade secrets, copyrights or patents; (iv) Supplier is currently under no obligation to any party, nor will Supplier enter into any obligation with any party, that could interfere with Supplier delivering the products or services in this

PO; and (v) Supplier shall comply with, and the products and services provided by Supplier shall be in compliance with, all applicable U.S. and foreign federal, state and municipal statutes, laws, ordinances and regulations, including those relating to the environment, occupational safety and health, labor standards, assembly and supply of the products, and shall acquire and maintain any permits, licenses and certifications Supplier is required to have.

**INSURANCE** Supplier shall, at its own expense, maintain with a reputable insurer (and provide written certificate(s) of insurance to Buyer if and when requested) reasonable and customary insurance coverage, including, but not limited to, (a) workers' compensation statutory coverage as required by the laws of the applicable jurisdiction, and (b) commercial general liability insurance including coverage for product liability in the minimum amount of \$1 million per occurrence in respect of claims for any losses, costs and expenses arising out of or relating to Supplier furnishing the products, deliverables and/or services under this PO. The commercial general liability insurance shall include worldwide coverage and include Buyer and its affiliates, and their respective owners, directors, officers, employees and agents, as Additional Named Insureds.

**INDEMNIFICATION** Supplier agrees to indemnify and hold harmless Buyer, its affiliates and subcontractors (and its and their respective officers, directors, officers, employees and agents) against any and all losses, claims, liabilities, damages and expenses, including without limitation reasonable attorney's fees, (collectively, "**Claims**") in connection with or arising out of the following: (a) any negligent or willful misconduct of Supplier, its employees, agents, consultants or subcontractors; (b) Supplier's (including its employees, agents, consultants or subcontractors) breach of any provision of this PO or these Terms and Conditions; or (c) the purchase or use of products or services hereunder. Supplier's obligation under this section shall survive termination, completion and/or fulfillment of this PO.

**LIMITATION OF LIABILITY** Except for the obligations of the Supplier to indemnify Buyer with respect to Claims made by third parties and except pursuant the section entitled "Delivery", IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR OTHER INDIRECT OR SPECIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SALES, LOST TIME, DAMAGE TO PROPERTY OF EITHER PARTY OR OF OTHER PERSONS OR FOR INJURY TO OR DEATH OF ANY PERSON, WHETHER SUCH CLAIM IS BASED IN CONTRACT, IN TORT OR IN ANY OTHER LEGAL THEORY. IN NO EVENT SHALL BUYER'S LIABILITY UNDER THIS PO EXCEED THE AMOUNT ACTUALLY PAID BY BUYER UNDER THIS PO.

**TERMINATION** Buyer may terminate this PO at any time without cause upon five (5) days written notice to Supplier. Either party may terminate this PO immediately if the other party materially breaches this PO which is not cured within ten (10) days of

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receipt of written notice of the non-breaching party's intent to terminate.

**ASSIGNMENT** This PO and the rights and duties under this PO and these Terms and Conditions shall not be assignable by either party without the prior written consent of the other party, which consent may be withheld in such other party's sole discretion; provided however, Buyer may assign its rights and obligations hereunder, without the need for consent of Supplier, to any one or more of Buyer's affiliates or in connection with the sale or other disposition of substantially all of the assets of Buyer to which this PO relates or by sale of all or substantially all of the capital stock of Buyer. This PO including these Terms and Conditions shall inure to the benefit of and be binding upon Buyer and Supplier and their respective successors and permitted assigns.

**RELATIONSHIP** The relationship of Buyer and Supplier is that of independent contractors, and nothing contained herein shall be construed to give either party any right or authority to create or assume any obligation of any kind on behalf of the other or constitute Buyer and Supplier as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking.


**GENERAL** No amendments or modifications of this PO and these Terms and Conditions will be binding on the parties unless in writing and signed by both parties. If any provision of this PO or these Terms and Conditions is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, that provision will be removed from this PO or these Terms and Conditions and the validity and enforceability of the enforceable portion of any such provision and/or the remaining provisions of this PO or the Terms and Conditions will not be affected. The waiver by any party of a breach of any provision of this PO or these Terms and Conditions will not be construed as a waiver of a subsequent breach of the same provision by that party or the breach of any other provision of this PO or these Terms and Conditions.

**OTHER AGREEMENTS** To the extent Buyer and Supplier are party to a valid, current, executed written agreement the scope of which includes the purchase of and/or quality of products and/or services that are the subject of this PO ("**Agreement**") then, such Agreement shall be incorporated by reference as if attached hereto, and to the extent of a conflict between such Agreement and this PO, the terms of such Agreement shall govern and control, unless otherwise agreed to in a signed writing.

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**Signatures:**

<b>Content Approval:</b>	I approve this document.		
Name:	<b>Tere' Bracco</b> tbracco <i>Tere' Bracco</i>	Title:	<b>Executive Assistant</b>
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Electronically Signed in		Timestamp	2020-02-11 14:34:02 (UTC+00:00)

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