

**1. General.** The purchase order to which these terms and conditions are attached is an offer by ModernaTX, Inc. or an affiliated entity of ModernaTX, Inc. (“Buyer”) to the seller listed on the face of the purchase order (“Seller”). The purchase order, these terms and conditions, and any other documents expressly referred to in the purchase order, including but not limited to Buyer’s drawings, specifications, other standards and requirements, and separate agreements, are collectively referred to as the “Purchase Order.” Buyer will not be responsible for any goods or services delivered that are not listed in Purchase Order.

**2. Acceptance.** This Purchase Order may be accepted by Seller by delivering the goods or services by the specified delivery date in accordance herewith, or its commencement of such performance, or acceptance of any payment hereunder. This Purchase Order is limited to the terms and conditions: (i) specified in these Terms & Conditions; (ii) specified on the face of the accompanying Purchase Order; and (iii) if applicable, specified in a separate written agreement that has been duly executed by both Buyer and Seller and that specifically covers the supply of the goods or services referenced in the Purchase Order (collectively, the “Terms”). Seller agrees to comply fully with all such Terms. Any purported acceptance of the Purchase Order containing terms and conditions inconsistent with or in addition to the Terms is hereby rejected and shall not be binding upon Buyer unless specifically accepted in writing. In the event of any ambiguities, express conflicts or discrepancies in the specifications, drawings or other documents which are a part of the Purchase Order, Buyer shall immediately submit the matter to Buyer for its determination and shall comply with the determination of Buyer in such matter. Buyer shall have the right, at its option, to reject or revoke acceptance of any goods and services which do not conform to these warranties or the requirements of the Purchase Order. In case of such rejection or revocation of acceptance, transportation of the rejected goods, both to and from the Buyer, shall be at the expense of Seller. Such rejected goods are not to be replaced except upon specific instruction from the Buyer, and the Buyer shall have the right at its option to cancel the remainder, if any, of the Purchase Order, by notice to Seller at the time notice is given of rejection or revocation of acceptance. Seller shall be liable to the Buyer for all damages proximately caused by breach of any of the foregoing warranties.

**3. Non-Conforming Goods.** Acceptance of all or part of the goods or services shall not: (i) waive Buyer’s right to cancel or return all or any portion of the goods or services that do not conform to the Terms; (ii) bind Buyer to accept future shipments of goods or services; or (iii) preclude Buyer from making any claim for damages or breach of warranty. All purchases are subject to inspection and rejection by Buyer notwithstanding prior payment. Rejected goods will be returned at Seller’s expense for transportation both ways and all related labor and packing costs. No goods returned as defective by Buyer shall be replaced by Seller without written permission of an authorized agent of Buyer. Buyer may, at any time, by written order, make changes within the general scope of this Purchase Order in any one or more of the following: (a) drawings, designs or specifications; (b) method of shipment or packing; and (c) place of delivery. If any such change causes an increase or decrease in

the cost of, or the time required for, the performance of this Purchase Order, Seller may request an adjustment in the price or delivery schedule, or both, and the Purchase Order shall be equitably modified in writing upon a agreement by the parties. *Time is of the essence of Seller’s obligations under this Purchase Order.*

**4. Substitution.** Goods or services not conforming to requirements of the Purchase Order will not be accepted unless approved in writing prior to shipment by Buyer. Buyer shall have no obligation to approve any substitutions.

**5. Pricing.** Unless otherwise expressly stated in the Purchase Order, all prices are firm, stated in US Dollars and include all sales or use taxes and import duties and export fees of any kind which either party is required to pay with respect to the sale of goods covered by the Purchase Order. If no price is set forth on the front of the Purchase Order, the goods or services will be billed at the lowest of (i) the price last quoted and (ii) the same price charged by Seller to its most favored customers at the time of shipment of goods or provision of services of the same kind and quality taking into account quantity discounts. Such price is full consideration for the provision of the goods or services, inclusive of all taxes, fees, and charges. If Seller reduces its prices for such goods or services during the term of this Purchase Order, Seller shall correspondingly reduce the prices of goods or services sold thereafter to Buyer. The Purchase Order price shall not be adjusted due to inflation or escalation in Seller’s costs or changes in the rate of exchange of currency between the United States and any foreign country. Seller shall only be compensated for performance delivered and accepted by Buyer in accordance with the specific terms and conditions of this Purchase Order. Overpayments shall be reimbursed by Seller immediately upon written demand by Buyer or may be offset by Buyer from future payments due in accordance this Purchase Order or another purchase order between Buyer and Seller.

**6. Taxes.** All prices quoted by Seller shall include all national, state, and local taxes, including VAT and gross receipt taxes. Any tax, tariff or duty which is imposed upon Seller by any governmental authority and included by the Seller in the price shall be separately stated on Seller’s invoice(s). To the extent Buyer notifies Seller that Buyer is a tax-exempt entity and provides Seller with its exemption certificate, Buyer will exclude all taxes that are excludable under the Buyer’s tax-exempt status.

**7. Invoices.** Seller shall issue a separate invoice for each separate shipment or, in the case of services, once per month unless otherwise directed by Buyer. Each invoice shall include: (i) the Purchase Order number; (ii) item number, (iii) description of goods delivered or services rendered, (iv) quantities, (v) unit prices, (vi) date(s) rendered and (vii) total purchase price. Undisputed amounts shall be paid within 60 days of receipt and acceptance of goods or services and a correct and complete invoice unless otherwise agreed in writing by Buyer. Payment on Seller invoices will be made in United States Dollars. Delays in receipt of goods or services, delays in acceptance of goods or services, or a non-conforming invoice will be just cause for Buyer to withhold payment without losing discount privileges. Cash discounts, if any, shall be computed as commencing with receipt of the invoice or goods or services, whichever is later.

Invoices may be issued only for the good or services identified in the Purchase Order. In the event Seller's invoice with conflicting or additional terms is paid, such conflicting or additional terms shall be deemed void and unenforceable against Buyer and the Terms shall govern and control. Provision of an invoice with the same or differing or additional terms as compared to this Purchase Order shall be considered acceptance of the terms herein, provided that any differing or additional terms will not apply. All invoices must be sent electronically to the attention of "Accounts Payable" at the following address: [invoice@modernatx.com](mailto:invoice@modernatx.com) to be processed and released for payment.

**8. Remedies.** Buyer reserves the right to withhold payments to Seller in the approximate amount of the damages caused by Seller's failure to fulfill its obligations hereunder. The remedies herein reserved shall be cumulative and in addition to any other further remedies provided in law or equity.

**9. Packaging, Storage, and Shipping.** All shipping containers shall be packed and packaged to: (i) ensure safe arrival to final destination; (ii) secure the lowest transportation costs; (iii) comply with requirements of common carriers; (iv) meet Buyer's written instructions; and (v) meet the requirements of all Applicable Laws and manufacturer recommendations. All shipping documents must be available on the outside of the shipping container. All information regarding storage temperature conditions must have to be informed on air waybill/bill of lading. No separate or extra charge for packing, marking, or shipping will be allowed or paid by Buyer unless set forth in the Purchase Order. Seller shall not charge Buyer any fee or penalty for storage.

**10. Delivery Terms.** Unless designated otherwise: all deliveries are DDP (Incoterms 2020) to the location designated on this Purchase Order (the "Delivery Site"). Supplier will act as the importer of record, pay all export and import taxes, duties, and fees, and pay for and arrange all packaging, customs clearance, shipping, documentation, and transport of the Equipment to the Delivery Site for Buyer to offload. If, after execution of this Agreement, DDP term is not achievable despite Seller's best efforts, DAP (Incoterms 2020) Delivery Site will apply subject to execution of a mutually-acceptable modification to this Purchase Order by the Parties specifying an equitable adjustment in the Purchase Price reflecting Buyer's increased costs for DAP terms.

**11. Risk of Loss.** For both domestic and international orders, all risk of loss shall remain with Seller until goods and services have actually been received and accepted by Buyer at the applicable destination according to the Terms and ownership and full legal title to the deliverables are transferred to and accepted by Buyer.

**12. Time for Delivery.** The goods or services ordered must be received no later than, and no more than two business days prior to, the delivery date specified. The Seller or freight forwarder must schedule appointment for delivery and confirm number of pallets for all shipments of palletized materials prior to delivery. Deliveries of palletized materials without scheduled appointment are at risk to be rejected by the Buyer. If Seller for any reason anticipates difficulty in complying with the required

delivery date, Seller will promptly notify the Buyer in writing. Deliveries must be performed by properly trained, uniformed, and credentialed personnel. The original documents (with signature and stamp) should be delivered with the cargo to the freight forwarder. In case of wooden pallets, all must have a treatment stamp. Buyer may reject any deliveries, in whole or in part at Buyer's sole discretion, that do not strictly conform to the Terms.

**13. Warranties.** Seller warrants that the goods or services delivered, the packaging, storage, labeling and sorting thereof, any installation, repair, and maintenance of goods, and any other performance pursuant to this Purchase Order, will: (i) be free of infringement of property rights of third-parties, including without limitation, any patent, trademark, trade name, copyright or right of publicity, or misappropriate any trade secret or violate any license or any other rights; (ii) be free from defects in material and workmanship, be of even kind and quality and run without variation; (iii) be of merchantable quality; (iv) be fit for the intended use of the Buyer, Buyer's customers and any other intended uses of such goods and shall be new and not refurbished; (v) be delivered free and clear of any lien, security interest, claim or encumbrance, and (vi) be of grade and performance in conformity with all specifications, blueprints, designs, drawings, samples, models, descriptions, instructions, and other items referred to in this Purchase Order. Seller also warrants that the goods or services to be delivered hereunder were produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938 as amended, including specifically Sections 206, 207, 212 and 215, and all regulations and orders of the U.S. Department of Labor issued under Section 14 thereof.

**14. Independent Contractor.** Buyer and Seller are and shall be deemed to be independent contractors. Under no circumstances shall either Party be deemed an agent for the other Party.

**15. Third Party Beneficiaries.** This Purchase Order is intended solely for the benefit of the Parties and it is not the intention of the Parties to confer rights of any kind upon any third-party.

**16. Inspection.** Buyer shall have the right to inspect and test the goods or services ordered at any time, including during the manufacture and construction, or preparation, notwithstanding any prior payment or inspection. All goods and services furnished by Seller shall be subject to final inspection by Buyer or its authorized representative and acceptance at the final delivery destination specified. Nothing contained herein shall relieve Seller from its independent obligation to perform full and adequate testing and inspection of the goods and services provided under this Purchase Order. Defective goods or services not in compliance with the requirements of the Purchase Order may at any time be rejected even though such goods or services may have previously been inspected and accepted. Without limiting any rights it may have, Buyer at its sole option may require Seller, at Seller's expense to: (i) promptly repair, reperform, or replace any or all rejected goods and/or services or (ii) refund the fees paid for any or all rejected goods and/or services. All such rejected goods will be held for Seller's prompt

instruction and at Seller's risk. Rejected goods will be transported for return to Seller or destroyed at Seller's cost. Payment for goods or services prior to inspection shall not constitute acceptance thereof and is without prejudice to any claims or defenses Buyer may have against Seller or any other party.

**17. Right to Cover.** If Seller repudiates this Purchase Order or fails to make delivery within the time specified herein, (or, if no time of delivery has been specified, within a reasonable time after acceptance by Seller) or if Buyer rightfully rejects the goods or services or justifiably revokes acceptance thereof, then with respect to any and all goods or services involved, Buyer may pursue any remedy available including, without limitation, cancellation of this Purchase Order in whole or in part. In addition to recovering so much of the price as has been paid and irrespective of whether Buyer has cancelled this Purchase Order, Buyer may "cover" and be entitled to recover damages from Seller as to all goods and services affected. Buyer may "cover" by making, in good faith and without unreasonable delay, any reasonable purchase of or contract to purchase goods or services in substitution for those due from Seller. Buyer shall recover from Seller as damages the difference between the cost of covering goods or services and the Purchase Order price together with any incidental or consequential damages, including Buyer's reasonable attorneys' fees and expenses.

**18. Limitation of Liability.** Buyer's maximum liability to pay any amount to Seller for timely delivered and conforming goods and services, or for any other reason, shall not exceed the amount Buyer has agreed to pay Seller for the goods or services. BUYER SHALL NOT BE LIABLE TO SELLER FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES OR COMMERCIAL LOSSES OF ANY NAME OR NATURE ARISING FROM OR RELATING TO THIS PURCHASE ORDER REGARDLESS OF THE CAUSE OF ACTION OR THE FORM OF THE CLAIM FOR DAMAGES, AND EVEN IF BUYER IS INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

**19. Insurance.** Seller agrees to carry the following insurance during the term of this Purchase Order: (i) workmen's compensation and employer's liability insurance in compliance with statutory limits; (ii) comprehensive general liability insurance including products completed, contractual, property, and personal injury coverage with appropriate limits; (iii) automobile liability insurance including owned, non-owned, and hired automobiles with appropriate limits; (iv) excess liability coverage, umbrella form, with appropriate limits. Certificates of insurance shall be furnished to Buyer upon request. If Seller is required to render professional services under this Purchase Order, Seller will maintain professional liability insurance with sufficient limits. Seller's liability policies shall provide additional insured coverage to Buyer and all Indemnitees defined herein.

**20. Assignment.** Seller may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under this Purchase Order.

**21. Confidential Information.** Buyer's confidential and proprietary information includes, without limitation, its business

plans; business strategies; marketing plans; industry and competitive information; technology, product and proposed product information; pricing and cost arrangements and agreements with Buyer, distributors, customers, suppliers, licensors and licensees; information relating to its customer base; information concerning employees and financial information.

All such confidential and proprietary information shall: (a) remain the property of Buyer, (b) be carefully preserved and maintained by Seller at its expense, and (c) be promptly returned to Buyer or satisfactorily accounted for upon completion of this Purchase Order or upon Buyer's written demand. Seller may not make any public statement or release information concerning this Purchase Order or any contemplated future transactions or use Buyer's confidential and proprietary information in any form of advertising, promotion or publicity, without obtaining the prior written consent of Buyer.

**22. Force Majeure.** Failure of Buyer to take shipments of goods or receive services hereunder, if occasioned by fire, explosion, flood, war, accident, interruption of or delay in transportation, labor trouble, governmental regulation, or any other circumstances of like or different character beyond Buyer's reasonable control, or if occasioned by partial or complete suspension of operations at any of Buyer's offices or other business locations, shall not subject Buyer to any liability to Seller by reason thereof, but, at Buyer's option, the total quantity covered by this Purchase Order may be, at Buyer's sole discretion, either reduced by the extent of omitted shipments or services, or the specified delivery period may be extended by a time equal to that during which shipments or services shall be so omitted and such shipments shall then be made or services performed during the period of extension.

**23. Waiver.** No waiver of a breach of any provision of the Purchase Order shall constitute a waiver of any other breach of such provision, or other provisions.

**24. Entire Agreement; Conflicting or Additional Terms.** The printed language of this Purchase Order represents the entire understanding between Buyer and Seller, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may be amended only by written mutual agreement of the parties. In the event any proposal, offer, submittal, invoice, or other document presented by Seller to Buyer, or binding between Seller and any third-party, contains terms that conflict with or are in addition to the Terms, such conflicting or additional terms are rejected by Buyer and shall be void and unenforceable against Buyer in every respect. Notwithstanding the foregoing, the provisions of this Purchase Order will not supersede any provisions of any other previously written agreement(s) that are currently in effect between the parties that govern the provision of the goods or services that are the subject of this Purchase Order.

**25. Governing Law.** This Purchase Order shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, excluding any conflict of law rules. All terms used in this Purchase Order, which are defined in the Uniform Commercial Code as adopted in the Commonwealth of Massachusetts, shall have the same meaning herein as such code. The state and federal courts of the Commonwealth of Massachusetts are the exclusive venue for

any dispute related to or arising out of this Purchase Order, and Seller hereby submits to the exclusive jurisdiction of such courts. The Parties expressly reject any application to this Purchase Order of (a) the United Nations Convention on Contracts for the International Sale of Goods; and (b) the 1974 Convention on the Limitation Period in the International Sale of Goods, as amended by that certain Protocol, done at Vienna on April 11, 1980.

**26. Federal Acquisition Regulation Clauses Incorporated by Reference.** The following clauses from the Federal Acquisition Regulation (“FAR”), 48 C.F.R. Chapter 1, as applicable and as in effect on the date of this order, are incorporated by reference into this order. The full text of the below clauses is available at <http://www.acquisition.gov/far>. Unless the context requires otherwise, in the text of the below clauses the term “Contractor” means “Seller” and the terms “Contracting Officer” and “Government” mean “Buyer”: (a) Contractor Code of Business Ethics and Conduct (FAR 52.203-13); (b) Utilization of Small Business Concerns (FAR 52.219-8); (c) Equal Opportunity (FAR 52.222-26); (d) Equal Opportunity for Veterans (FAR 52.222-35); (e) Affirmative Action for Workers with Disabilities (FAR 52.222-36); (f) Notification of Employee Rights Under the National Labor Relations Act (FAR 52.222-40) (applies only if value of order exceeds \$10,000 and will be performed wholly or partially in the United States); and (g) Combating Trafficking in Persons (FAR 52.222-50).

**27. Country of Origin and Marking.** Supplier is responsible for determining the appropriate customs country of origin (“COO”) for the Equipment and for marking the Equipment in accordance with the requirements of any applicable regulations, such as Regulation (EU) No 1169/2011, US Customs Regulations, 19 CFR Part 177, etc., irrespective of the Incoterms under which the Equipment shipment is made. If Supplier is not an actual manufacturer of the Equipment, it will have necessary procedures in place to ensure customs country of origin is solicited from its own suppliers, is accurate, current, and periodically verified in writing.

**28. Global Trade Data Elements.** To enable the import clearance process by Buyer under DAP term, the following trade data elements must be available to be printed out for Buyer and be capable of being displayed on the commercial invoice for customs purposes, prior to shipment of the Equipment: model/party numbers, detailed description for customs purposes and sufficient enough to assign the importing country’s Customs Commodity code, Country of Origin; HS Commodity code of the exporting country; HS Commodity code of the importing country, if known; Export Classification Number (i.e., ECN/ECCN); Incoterm; and explanation of any offered discounts that may impact the customs value for duty and tax. Supplier will issue commercial invoices meeting destination country’s customs requirements as confirmed by Buyer, such as requirements outlined in 19 CFR § 141.86 – Contents of invoices and general requirements for shipping to the United States.

**29. Exporter of Record.** Under either term, DAP or DDP, Supplier shall be responsible for acting as exporter of record from origin country, filing export declarations and satisfying all regulatory and customs requirements in the country of

export. Supplier shall inform Buyer of possible approval obligations with (re-)exports of its Products according to the US, UK, Swiss, European, and export provisions of the country of origin of its Equipment.

**30. Trade Control.** Seller will comply with all export and import regulations, controls, sanctions, laws, orders, goods, services, technology, or technical data in all countries involved in transactions associated with this Purchase Order. Seller shall be responsible for obtaining all relevant official approvals, licenses, permits, supporting documentation and required authorizations as identified in the course of business and as appropriate based on jurisdiction.

**31. Compliance with Laws.** Seller shall maintain, solely at Seller’s cost and expense, all licenses, permits, approvals, and the like necessary to conduct its business and perform its obligations under this Purchase Order. Seller warrants to Buyer that the goods and services shall be provided, manufactured, shipped, stored, transported and otherwise handled in strict compliance with all applicable laws, codes, ordinances, regulations, executive orders, and industry standards (“Applicable Laws”), including but not limited to all Applicable Laws of Seller’s country and the Delivery Site country during the performance of this Purchase Order. Without limiting the generality of the foregoing, Seller (i) will not do business with individuals and organizations on (a) watch lists of parties debarred from participating in international and domestic trade or (b) or debarred by the USFDA or any other regulatory authority, (ii) will comply with Executive Order 11246, as amended, including regulations related to elimination of Segregated Facilities (33 FED. REG. 7804), The Rehabilitation Act of 1973, as amended; The Vietnam-Era Veterans Readjustment Assistance Act of 1974, as amended; Public law 95-507 pertaining to small business and small disadvantaged business; Executive Order 12138 pertaining to women-owned business; and Executive Order 13201 pertaining to employee rights concerning payment of Union dues or Fees, and (iii) represents that neither it nor any of its directors, officers, employees or, to Seller’s knowledge, agents or any other person acting on its behalf has, directly or indirectly made any bribes, rebates, payoffs, influence payments, kickbacks, illegal payments, illegal political contributions, or other payments, in the form of cash, gifts, or otherwise, or taken any other action, in violation of anti-bribery laws (including without limitation, the U.S. Foreign Corrupt Practices Act, 15 U.S.C. § 78 et seq, the UK Bribery Act 2010, and any other similar laws or regulations applicable in the Seller’s country and the Delivery Site country.

**32. Indemnification.** To the fullest extent permitted by law, Seller shall indemnify, defend, and hold Buyer, and each of its officers, directors, shareholders, affiliated entity, subsidiaries, parent companies, employees, agents, representatives, successors, and assigns (the “Indemnified Parties”) harmless from and against any and all claims, demands, losses, damages, injuries, liabilities, actions, causes of actions, costs and expenses (including reasonable attorneys’ fees) for or on account of any injuries to persons (including disease and death), damage to property, and any other financial loss to the extent caused by Seller, or the Seller’s breach of the Purchase Order, or any

**Purchase Order Terms & Conditions**

Purchase Order: \_\_\_\_\_

fraudulent, wrongful, negligent, or willful act, error, omission, breach of contract, or infringement of any patent or intellectual property right. Seller's indemnity under this paragraph shall survive delivery and acceptance of goods and services and termination or expiration of this Purchase Order.

**33. Termination.** Buyer may terminate all or any part of this Purchase Order for convenience at any time by written notice to Seller. Upon such termination, Buyer's liability will be limited to reasonable termination charges mutually agreed by Seller and Buyer, provided that Seller must specify any proposed charges in writing within fifteen (15) days after Buyer's notice of termination. This Purchase Order shall terminate automatically, without notice, if Seller becomes insolvent or the subject of any proceeding under the laws relating to bankruptcy or the relief of debtors. In the event of a breach of any agreement between the Buyer and Seller which cannot be cured (e.g., breach of confidentiality obligations, Buyer may terminate this or any agreement with immediate effect, at any time upon written notice to Seller.

**34. Interpretation; Severability.** All headings and

numbering in the Purchase Order are for convenience of reference only and shall in no way be used in interpretation of the Purchase Order. Any amendment or attachment to this Purchase Order that contains conflicting language or has the affect of adding, deleting, replacing or modifying any printed terms or conditions of this Purchase Order, as officially published by the Buyer, shall be interpreted as superseded by the official printed language. If any provision of this Purchase Order is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Purchase Order, or portions thereof, shall be enforced to the fullest extent permitted by law.

**35. English Language.** This Purchase Order is made in the English language and all correspondence between the Parties of a technical and non-technical nature shall be in the English language and shall employ the units of measure customarily used by Buyer in the United States of America, unless otherwise specified.

*End of Document*