

ADDENDUM NO. 1

TO AGREEMENT BY AND BETWEEN COUNTY OF MONTEREY AND BRUKER SCIENTIFIC, LLC.

This Addendum No. 1 amends and modifies the County of Monterey Standard Agreement (hereinafter "Agreement") by and between the County of Monterey, on behalf of the Health Department, Public Health Bureau (hereinafter "COUNTY") and Bruker Scientific, LLC (hereinafter "CONTRACTOR").

This Addendum No. 1 has the full force and effect as if set forth within the Terms. To the extent that any of the terms or conditions contained in this Addendum No. 1 may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum No. 1 shall take precedence and supersede the Agreement

NOW, THEREFORE, County and CONTRACTOR agree that the Agreement terms and conditions shall be amended, modified, and supplemented as follows:

1. Section 8.0 of the Agreement, INDEMNIFICATION, shall amended by deleting in its entirety and restating to read as follows:

8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of the CONTRACTOR's officers, employees, agents and subcontractors.

8.0 INDEMNIFICATION: "In case of a conflict, inconsistency or addition not expressly accepted in writing by Seller, the terms and conditions of sale provided herein (Exhibit A Attachment One) shall be considered as superseding the conflicting, inconsistent, or additional terms stated in Buyers purchase order, order form, contract or otherwise. The acceptance of an order will supersede all prior communications and constitute a complete and binding contract between the party purchasing equipment hereunder (Buyer*) and Seller, which contract cannot be modified or canceled without the written agreement of both parties".

8.01 ATTACHMENT ONE 9. PATENTS "If a third party claims that the purchase equipment infringes that partys patent or copyright, Seller will defend Buyer against

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that claim and will pay all costs, damages and attorneys fees that a court finally awards, provided that Buyer: (a) promptly notifies Seller in writing of the claim, and (b) allows Seller to control, and cooperates with Seller in, the defense and any related settlement negotiations. If such a claim is made or appears likely, Seller, at its option, may obtain a license to enable Buyer to continue to use the product, may modify the product or may replace it with one that is functionally equivalent. If Seller determines that none of these alternatives is reasonably available, Buyer will return the product to Seller upon Sellers written request, in which case Seller will credit Buyer with an amount equal to the price paid for such product less a reasonable amount for depreciation. Sellers liability is limited to repair, replace or adjustments as determined by Seller. Seller shall not be liable for any claim based on (i) anything Buyer provides which is the incorporated into a product, (ii) Buyers modification of a product or use thereof other than in its specified operating environment, or (iii) the combination, operation or use of a products with products provided by other manufacturers or other products not provided by Seller as a system. This is the exclusive warranty and liability of Seller with respect to intellectual property matters and is in lieu of all other warranties and remedies, express or implied. Sale of products or parts thereof does not confer on Buyer any license relating to (a) the structure of any device to which the products or parts may be applied or (b) a process or machine in connection with which they may be used”.

8.02 ATTACHMENT ONE 14. NO CONSEQUENTIAL DAMAGES: LIMITATION OF LIABILITY “Seller shall not be liable for consequential damages, for anticipated or lost profits, incidental, indirect, special or punitive damages, loss of time, loss of use, or other losses, even if advised of the possibility of such damages, incurred by Buyer or any third party in connection with the equipment or services provided by Seller. In no event will Sellers liability in connection with the equipment or services provided by Seller exceed the amounts paid to Seller by Buyer hereunder”.

2. **Section 16.10 of the Agreement, Governing Law, shall be modified and restated by removing, This Agreement shall be governed by and interpreted under the laws of “The State of California” venue shall be “Monterey County.” and by adding, “the State and Federal courts of the State of Delaware”.**

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IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 1, by the authority as follows:

CONTRACTOR – Bruker Scientific, LLC

Approved Signed by:

By: Stefan Ruge
90BDD686F0E64C8...

Stefan Ruge SVP Finance

Name and Title

22-10-2022

Date: _____

Approved Signed by:

By: Paul Speir
911F7394C6B543C...

Paul Speir SVP, Commercial Operations - Americas

Name and Title

25-10-2022

Date: _____

COUNTY OF MONTEREY

Approved as to Form:

By: _____

Deputy County Counsel

Date: _____

Approved:

By: _____

Auditor/Controller

Date: _____

Approved:

By: _____

Director of Health