

TERMS AND CONDITIONS

1. **ACCEPTANCE:** Vendor shall be bound by this Order and its terms and conditions upon receipt of this Order. This Order expressly limits acceptance to the terms and conditions stated herein. Additional or different terms proposed by the Vendor are objected to and are hereby rejected, unless otherwise provided for in writing by the Institution and approved by the Attorney General.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the Procedural Rules of the Higher Education Policy Commission, Council for Community and Technical Education or Governing Board, whichever has jurisdiction pursuant to W. Va. Code, shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder, may be assigned by the Vendor without the Institution's consent.
4. **INSTITUTION:** For the purposes of these Terms and Conditions, the "Institution" means the institution purchasing goods and services for which a Purchase Order has been lawfully issued to the Vendor.
5. **CANCELLATION:** The Institution may cancel any Purchase Order/Contract upon 30 days written notice to the Vendor.
6. **COMPLIANCE:** Vendor shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the W. Va. Division of Labor, if applicable.
7. **DELIVERY:** For exceptions to the delivery date as specified in the Order, the Vendor shall give prior notification and obtain the approval of the Institution. Time is of the essence of this Order and it is subject to termination by the Institution for failure to deliver on time.
8. **DISPUTES:** Disputes arising out of the agreement shall be submitted to the West Virginia Court of Claims.
9. **HOLD HARMLESS:** The Institution will not agree to hold the Vendor or any other party harmless because such agreement is not consistent with state law.
10. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this Order shall be binding unless agreed to in writing by the Institution.
11. **NON-FUNDING:** All services performed or goods delivered under this Purchase Order/Contract are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
12. **ORDER NUMBERS:** Contract Order numbers or Purchase Order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices and correspondence.
13. **PAYMENTS AND INTEREST ON LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the West Virginia Code.
14. **RENEWAL:** The Contract may be renewed only upon mutual written agreement of the parties.
15. **REJECTION:** All goods or materials purchased herein are subject to approval of the Institution. Rejection of goods or materials due to nonconformity with the terms, conditions or specifications of this Order, whether held by the Institution or returned to the Vendor, will be at the Vendor's risk and expense.
16. **VENDOR:** For the purposes of these Terms and Conditions, the "Vendor" means the vendor whose quotation, bid, proposal or expression of interest has been accepted and has received a lawfully issued Purchase Order from the Institution.
17. **SHIPPING, PACKING, BILLING & PRICING:** Unless otherwise stated, all goods are to be shipped prepaid, FOB destination. No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified. All goods or services shall be shipped on or before the date specified in this Order. Prices are those that are stated in this Order. No price increase will be accepted without written authority from the Institution.
18. **TAXES:** The State of West Virginia (the Institution) is exempt from Federal and State taxes and will not pay or reimburse such taxes.
19. **TERMINATION:** In the event of a breach by the Vendor of any of the provisions of this contract, the Institution reserves the right to cancel and terminate this contract forthwith upon giving written notice to the Vendor. The Vendor shall be liable for damages suffered by the Institution resulting from the Vendor's breach of contract.
20. **WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Institution; (b) be merchantable and fit for the purpose intended; (c) be free and clear of all liens, claims and encumbrances of any kind; and/or (d) be free from defect in material and workmanship.