

COLUMBUS STATE COMMUNITY COLLEGE
Blanket Purchase Order and Purchase Order Terms and Conditions
October 23, 2018

NON-DISCRIMINATION IN EMPLOYMENT - Seller represents that in the hiring of employees for the performance of work under this Agreement, or any subcontract under this Agreement, neither Seller, nor its agents acting on its behalf, shall, by reason of race, color, creed, national origin, ancestry, religion, sex, age, military status or disability, discriminate against any citizen of the state in the employment of a person qualified and available to perform the work to which the agreement relates. Seller further represents that neither Seller nor any person on its behalf shall, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this agreement, or any subcontract under this agreement, on account of race, color, creed, national origin, ancestry, religion, sex, age, military status or disability. Seller further represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons as defined in Section 122.71 of the Ohio Revised Code.

ACCEPTANCE OF PURCHASE ORDER - Acknowledgment of Purchase Order, shipment of any goods or commencement of work pursuant to the Purchase Order or Agreement shall be deemed an acceptance of these Terms and Conditions. No modification of or release from this Purchase Order shall be binding unless agreed to in writing by the Columbus State Community College, hereafter identified as the Buyer, and Seller and specifically labeled as a modification or release. Unless specifically agreed to otherwise by the Buyer and Seller, these Terms and Conditions supersede any others submitted by Seller in any proposal or acknowledgment.

PACKING AND SHIPPING - All goods will be shipped to the Buyer's designated destinations as F.O.B. Destination. No charge for packing or cartage will be allowed except as approved in writing by the Buyer's Purchasing Department prior to shipment. International INCOTERMS, if applicable, are DDP (delivered duty paid). As such, Seller should include all applicable storage, labor, packing, freight/cartage/delivery, insurance, duty, taxes and custom related documentation charges necessary, as the Buyer will not be responsible for any additional fees or activities associated with goods or commencement of work listed on the Buyer's Purchase Order. All packages, shipping units, bills of lading or shipping memorandums must clearly be marked with the **College Purchase Order number**.

DELIVERY - Deliveries shall be strictly in accordance with the schedule set out or referred to in the order and in exact quantities ordered. Changes, substitutions or partial delivery of the purchase order must be submitted to accountspayable@csc.edu and approval received prior to shipment of goods.

CHARGES/PRICE CHANGES - Charges to the Buyer identified in this Agreement are complete and no additional charges or price changes of any type will be accepted without the Buyer's express written consent. Change requests must be submitted to accountspayable@csc.edu

INVOICES AND PAYMENT - The Buyer's standard payment terms are NET30 days and will be calculated by the date goods are received, the date the invoice is received, or the date of installation or acceptance, whichever is later. Unless otherwise provided in this order no invoices shall be issued nor payments made prior to delivery. Unless freight and other charges are itemized any discount will be taken on full amount of invoice. All payments are subject to adjustment for shortage or rejection. Hard copy invoices are to be mailed to Columbus State Community College, Accounts Payable, 550 East Spring St., Box 1609, Columbus, Ohio 43216. Invoices may also be sent electronically to accountspayable@csc.edu referencing "email processing" in the subject line with name of Seller and invoice number. Invoices must reference Purchase Order number and match Purchase Order on a line by line basis to ensure prompt payment. The Buyer shall have the option of using any method of payment including credit card, ACH, or check. Any cash discounts offered will be accepted.

SPECIFICATIONS AND WARRANTIES - Seller warrants that the work performed and/or goods supplied hereunder will be of first quality, in full compliance with the requirements of the Agreement, and free from defects in material, workmanship and design for one year from initial operations. Seller agrees and expressly warrants that all articles, material and work covered by this order will conform to the Buyer's specifications and to any drawings, designs, samples or other description given to Seller, or, if not ordered to specifications, will be fit and sufficient for the purpose intended and that all articles will be merchantable, of good material and workmanship and free from defect. Seller's warranties shall run to the Buyer without limitation of any rights which the Buyer may have at law by reason of any breach of warranty; goods which are not as warranted may be returned at Seller's expense or held for Seller's instructions at Seller's risk, and credit therefore shall be given or the goods replaced as the Buyer may direct. If any aspect of the above warranty will be breached, Seller shall, upon receipt of notice thereof from the Buyer and at Seller's sole cost and expense, promptly repair or replace the defective materials, workmanship, or design or pay the Buyer the costs and expenses incurred by the Buyer in conducting such repair and replacement. Goods shall be delivered free from any security interest or other lien, encumbrance or claim of any third party. These warranties shall survive inspection, acceptance, passage of title and payment by the BUYER.

RIGHT OF INSPECTION/REJECTION - All goods shall be received subject to the Buyer's right of inspection and rejection on non-conforming or defective goods. Those goods rejected as a result of inspection will be held for Seller's inspection at Seller's risk and, if Seller directs, will be returned at Seller's expense. Freight to and from original destination for excess goods, except for customary quantity variations recognized by trade practice, will be paid by Seller. Payment for goods on an order prior to inspection shall not constitute acceptance.

CHANGES – The Buyer may, with written notice make changes within the general scope of this order to drawings and specifications, shipping instructions, quantities, and delivery schedules. Should any such change increase or decrease the cost of, or the time required for performance of the order, an equitable adjustment in the price and/or delivery schedule will be negotiable. Any claims for adjustment by Seller must be made within thirty (30) days from the date the change is ordered or within such additional period of times as may be agreed upon. No substitutions, alterations or additions are authorized to this Purchase Order without the written consent of the Buyer. The Buyer reserves the right to return goods at Seller's expense if the order is billed at a higher price than specified or the goods are non-conforming, unless prior written approval for the modification has been obtained by the Seller from the Buyer.

RIGHTS IN DATA, PATENTS AND COPYRIGHTS, PUBLIC USE:

- a. If applicable, the Seller will deliver and assign to the Buyer all rights, title and interest to: documents, data, materials, information, processes, studies; reports, surveys, proposals, plans, codes; scientific information, technology information, regulations; maps, equipment, charts, schedules, photographs, exhibits; software, software source code, documentation and other materials and property prepared or developed or created or discovered under or in connection with this Agreement (the "Deliverables").
- b. If applicable, the Deliverables provided by the Seller in rendering the Services will become the property of the Buyer. The Buyer, and any person, agency or instrumentality providing financial assistance for the Services performed will have the unrestricted right to reproduce, distribute, modify, maintain and use the Deliverables.
- c. The Seller will not obtain copyright, patent or other proprietary protection for the Deliverables, provided, however, that the Seller will reserve its rights in all methods, pre-existing work, software and data used to prepare such Deliverables.
- d. The Seller will not include in any Deliverable any copyrighted matter, unless the copyright owner and any person, agency or instrumentality providing financial assistance for the Services under this Agreement gives prior written approval to use such copyrighted matter in the manner provided herein.
- e. Neither the Seller nor any of its employees, agents, sub-sellers or assigns will make a disclosure for securing a patent in the United States or any other country for any of the Deliverables unless the Buyer approves this disclosure in writing prior to application for the patent.
- f. In the event that the Seller does obtain this patent, the Seller will, at the request of the Buyer, provide the Buyer written authorizations for the Buyer and any other person, agency or instrumentality contributing financial support to the Services contemplated under this Agreement to make use of the subject of the said patent disclosure without any payment.
- g. The Seller agrees that all Deliverables will be freely available to the public to the extent required by law.

Seller agrees to indemnify and hold harmless Columbus State Community College, their officers, trustees, agents, employees successors, and assigns against loss, damage or liability, including costs and expenses on account of any suit, claim, judgment or demand involving the alleged infringement of any patent rights in the manufacture, delivery, use or disposition of any article or material supplied hereunder.

BUYER'S DATA - To the extent Seller shall have access to, use of, disclosure of the Buyer's Data, it agrees to the provisions of this Section. "Data" means any and all electronic or other information that is in the Buyer's possession and control, and any and all such Data that has been disclosed to Seller. Data may include but is not limited to, information that is: (i) identified with a specific individual (e.g., "personally identifiable information" or "PII"); (ii) subject to proprietary rights under patent, copyright, trademark, or trade secret law; (iii) privileged against disclosure in a civil lawsuit (e.g., data subject to attorney-client or doctor-patient privileges); (iv) subject to laws, regulations, rules, or standards that prohibit or limit disclosure (e.g., the Family Educational Rights and Privacy Act (FERPA), the Export Administration Act (EAA), the International Traffic in Arms Regulations (ITAR), the Health Insurance Portability and Accountability Act (HIPAA), or the Genetic Information Nondiscrimination Act (GINA)); or (v) ought in good faith to be treated as sensitive, proprietary, or confidential.

- a. Prohibition of Unauthorized Use of Data. Seller agrees to hold Data in strict confidence. Seller shall not use or disclose Data received from or on behalf of the Buyer except as required by law, or as otherwise authorized in writing by the Buyer.
- b. Similarly, Seller agrees that any and all Data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units or affiliates of Seller, or passed to other sellers

or interested parties except on a case-by-case basis as specifically agreed to in writing by the Buyer.

- c. **Security Standards.** Seller agrees that it shall protect the Data it receives from or on behalf of the Buyer at all times under the following standards:
- i. **Network Security.** Seller shall at all times maintain network security that includes, at a minimum: network firewall provisioning, intrusion detection, and regular third party penetration testing of the network and all relevant computer/data storage devices. Upon the Buyer's request, Seller agrees to provide the Buyer access to its penetration test results and documentation of its network standards. Seller shall also maintain network security that conforms to current standards set forth and maintained by the National Institute of Standards and Technology, at: <http://web.nvd.nist.gov/view/ncp/repository>.
 - ii. **Data Security.** Seller shall protect and maintain the security of Data with protection that is at least good as or better than that maintained by the Buyer. These security measures include maintaining secure environments that are patched and up to date with all appropriate security updates as designated, for example, by Microsoft notification.
 - iii. **Data Transmission.** Seller shall ensure that any and all transmission or exchange of Data with the BUYER and/or any other parties expressly designated by the Buyer shall take place via secure means, e.g. HTTPS or FTPS.
 - iv. **Data Storage.** Seller shall ensure that any and all Data will be stored, processed, and maintained solely on designated target servers and that no Data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Seller's designated backup and recovery processes.
 - v. **Data Encryption.** Seller shall store all backup Data as part of the its designated backup and recovery processes in encrypted form, using no less than 128 bit key.
 - vi. **Return or Destruction of Data.** Upon cancellation, termination, expiration, or other conclusion of the Agreement, Seller shall erase, destroy, and render unreadable all Data, including copies, in possession of Seller, its subcontractors and agents and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of the Buyer, whichever shall come first.
 - vii. **Notification of Network or Data Breach.** Seller shall immediately report in writing to the Buyer any network breach and/or use or disclosure of Data not authorized by the Agreement, including any reasonable belief that unauthorized access to the Data has occurred. Seller shall make the report to the Buyer not less than two (2) business days after Seller reasonably believes there has been such unauthorized use or disclosure. Seller's report shall identify: (i) the nature of the unauthorized use or disclosure; (ii) the network element(s) and/or Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what Seller has done, or shall do, to mitigate any negative effect of the unauthorized disclosure; and, (v) what corrective action Seller has taken, or shall take, to prevent future unauthorized use or disclosure.
- d. Seller shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally-identifiable information, or any other event requiring such notification ("Notification Event"). The Buyer may, in its sole discretion, choose to provide notice to any or all parties affected by a Seller's Network or Data Breach, but the Seller shall reimburse the Buyer for the cost of providing such notification. Seller further agrees to provide, or to reimburse the Buyer for its costs in providing, any credit monitoring or similar services that are necessary as a result of any Network or Data Breach.

PCI COMPLIANCE - Seller represents and warrants that for the life of the agreement, the software and services used for processing transactions shall be compliant with standards established by the PCI Security Standards Council (<https://www.pcisecuritystandards.org/index.shtml>). Seller agrees to indemnify and hold Buyer, its officers, trustees, employees, and agents, harmless for, from and against any and all claims, causes of action, suits, judgments, assessments, costs (including reasonable attorneys' fees) and expenses arising out of or relating to any loss of Buyer customer credit card or identity information managed, retained or maintained by Seller, including but not limited to fraudulent or unapproved use of such credit card or identity information.

RIGHT TO AUDIT - The Seller agrees that the Buyer or any agents designated by the Buyer have access to and the right to audit and the right to copy (in whatever form they may be kept, whether written, electronic or other) at the

Buyer's cost all of the Seller's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work for a period of not less than 4 years following completion of this contract or agreement, including any and all renewals thereof.

ASSIGNMENT - Seller may not assign this order or any monies due or to become due hereunder without the prior written consent of Buyer, and any assignment made without such consent shall be void as to the Buyer.

STATUTORY CONFORMITY - Goods and services provided pursuant to the Purchase Order, and their production and transportation shall conform to all applicable laws, including but not limited to the Occupational Health and Safety Act, the Federal Transportation Act and the Fair Labor Standards Act, as well as any law or regulation noted on the face of the Purchase Order.

INDEMNIFICATION - Seller shall indemnify and hold harmless the Buyer, its officers, trustees, employees and agents from any and all demands, causes of action, losses, liabilities, judgments, damages, claims (including but not limited to claims of negligence), costs and expenses (including but not limited to attorney's fees, and costs related to Data breaches and Notification events as noted in Section d. under Buyer's Data above), arising from, caused by or related to the injury or death of any person (including, but not limited to, employees and agents of Seller in the performance of their duties or otherwise), or damage to property (including property of the Buyer or other persons), which arise out of or are incident to the goods and services to be provided hereunder. Nothing herein shall require indemnification as to any claims against the Buyer arising from under the Ohio Worker's Compensation law, unless the claim arises out of services performed by Seller's employees on the Buyer's property. Seller's defense of any claim shall be subject to the Ohio Attorney General's right to appoint counsel and approve settlements.

TITLE AND RISK OF LOSS - Unless otherwise provided in this order. Seller shall have to bear the risk of any loss of or damage to the items purchased hereunder until they are delivered in conformity with this order at the F.O.B. destination point specified and upon such delivery title shall pass from Seller and Seller's responsibility for loss or damage shall cease except for loss of damage resulting from Seller's negligence or failure to comply with this order. Passing of title upon such delivery shall not constitute acceptance of the items by the Buyer.

SAFETY DEVICES - It is the responsibility of the Seller to furnish appropriate guards for machinery parts in compliance with OSHA standards as well as any other safety devices required by law.

DAMAGES - In the event of breach of this agreement by the Seller, the Buyer's damages will include, but not be limited to the cost required to cover this order by obtaining similar goods or services. Seller shall also be liable for any and all consequential damages incurred by the Buyer as a result of Seller's breach.

CANCELLATION – The Buyer may cancel this order, without liability for damages or otherwise, in the event that Seller becomes insolvent or makes an assignment for the benefit of creditors, or a petition is filed to declare Sellers bankrupt, or notwithstanding the provision hereof headed "Delivery", if delivery is not made within the time specified or within a reasonable time if no time is specified, or if the quantity or quality of the articles delivered hereunder is not as specified herein.

COMPLIANCE WITH LAW

- a. Seller hereby covenants and agrees that in the course of Seller's performance of its duties hereunder, Seller will comply with all applicable federal, state and local government statutes, ordinances and regulations.
- b. If professional licensing or certification constitutes a qualification for Seller's performance under this Agreement, Seller will make immediately available, at the Buyer's request, a copy of said certification or licensure.
- c. The Seller warrants that it has complied with all federal, state and local laws regarding business permits and licenses of any kind.
- d. The Seller agrees to comply with all applicable state and federal laws regarding drug-free workplace and ensure that all its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

GOVERNING LAW - All questions relating to the validity, interpretation, performance or enforcement of this Agreement, and any claims arising from or related to this Agreement, will be governed by and construed in accordance with the laws of the State of Ohio, without regard to the principle of conflict of laws. Any litigation arising from or related to this Agreement may be brought only in the federal or state courts of Ohio with appropriate jurisdiction, and the parties irrevocably consent to the jurisdiction and venue of such courts.

USE OF DESIGNS, DATA, ETC - Seller agrees that it will keep confidential the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data or other technical or proprietary information furnished by the Buyer and use such items only in the production of items under this order or other orders from the Buyer and not otherwise, unless the Buyer's written consent is first obtained. Upon completion or termination of this order, Seller shall return all such items to the Buyer or make other disposition thereof as may be directed or approved by the Buyer.

NOTICE OF LABOR DISPUTE OR ANY CAUSE OF DELAY - Whenever Seller has knowledge that any actual or potential labor dispute or any other condition which is delaying or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof, including all relevant information with request thereto, to the Buyer.

MSDS - Sellers failing to provide Material Safety Data Sheets for hazardous materials will be considered as failing to meet contractual requirements.

Taxes - Goods and services procured subject to the Purchase Order are exempt from Ohio sales tax, (Ohio Revised Code Section 5739.02), and from federal excise tax.

CAMPAIGN CONTRIBUTIONS - By Seller's acceptance of this Purchase Order, Seller hereby certifies to the Buyer that all applicable parties listed in Division (I)(3) or (J)(3) of O.R.C. 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of O.R.C. 3517.13.

O. R. C. 9.24 - Seller warrants that it is not subject to an unresolved finding for recovery under O.R.C.-9.24. If the warranty is false, this contract is void ab initio and the Seller must immediately repay to the State any funds paid under this agreement.

CERTIFICATION OF FUNDS – None of the rights, duties and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, R.C. 126.07, have been complied with and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the College's Board of Trustees.

CONFLICT OF INTEREST COMPLIANCE – Seller represents, warrants, and certifies that it and any of its employees or subcontractors will comply with the ethics and conflict of interest provisions of O.R.C. Chapter 102 *et seq.*, and R.C. sections 2921.42 and .43.

BACKGROUND CHECK - Contractor will provide a list of names (first, last, middle initial and date of birth) of, and affirm that, all of its employees, subcontractors, agents, and assigns (collectively, "Contractor Employees") who under the terms of the RFP and/or this Agreement will have unaccompanied access to the College's facilities or systems will have undergone a criminal background check and Social Security Number verification. Contractor represents that none of the Employees sent to perform the work will have any of the following:

- Felony convictions and/or pending felony charges
- State misdemeanor convictions and/or pending charges for:
 - Sexually oriented crimes
 - Crimes involving violence or dishonesty

Contractor Employees must obtain, and visibly wear at all times, a valid Contractor ID card. Contractor ID cards must be obtained by Contractor's Employees with proof of valid state or government issued identification at:

- Columbus Campus: at Student Central in Madison Hall during regular hours of operation.
- Delaware Campus: in Moeller Hall during regular hours of operation.
- Or, if approved by Columbus State Project Manager, the Contractor may schedule an appointment with College's Facility Management Access Coordinator to have photos taken at Facility Management and, once ready, Contractor may pick up ID card from College Police Department

Lost or damaged cards will be replaced at Contractor's expense.

COMPLETE AGREEMENT - The foregoing constitutes the complete agreement between the Seller and the Buyer, and any additional or different terms are not binding upon the Buyer unless agreed to by the Buyer in writing. The failure of the Buyer to insist upon strict performance of any of the terms and conditions of sale shall not operate as a waiver of its rights to enforce compliance with any term or condition of sale