

FERRIS STATE UNIVERSITY
TERMS AND CONDITIONS OF PURCHASE

- 1. Contract Formation:** Any outstanding prior offers which may have been made by Seller to Buyer with respect to the subject matter of this order are hereby rejected by Buyer. This order is an offer by Buyer and may be revoked or changed at any time before acceptance. No different or additional terms included by Seller in accepting or acknowledging this order shall be effective unless agreed to in writing by Buyer. Neither acceptance of delivery of the goods nor payment therefore shall constitute acceptance by Buyer of any such different or additional terms even if Seller states that its acceptance is conditioned on Buyer's assent to such terms. The commencement of any work or delivery of any goods shall be acceptance by Seller of all the terms of this purchase order, whether or not Seller has assented in writing to all of such terms.
- 2. Terms:** As stated on purchase order, but Invoice not payable until shipment inspected and accepted by Buyer. In the event Buyer makes payment of invoice within the period allowed for the purpose of obtaining any cash discount offered, such payment shall not prejudice the right of the Buyer to return goods found defective or which fail inspection and receive credit or reimbursement from Seller.
- 3. Delivery and Performance:** Time is hereby expressly declared to be of the essence, and Seller is notified that failure to deliver the goods or perform the services on time may result in substantial damage to Buyer. If Seller shall fail to make timely delivery or performance of any part of the goods or services, or if timely delivery or performance is endangered for any reason, Buyer shall have the right, at its option, to terminate any part or the whole of this order, reject untimely deliveries, purchase substitute goods elsewhere, and charge Seller with any loss incurred.
- 4. Warranties:** All specifications, drawings, and other data submitted by Buyer, including performance data, are incorporated by reference into this order, and Seller expressly warrants that the goods or services shall conform to such data. In addition, goods delivered are expressly warranted by Seller to be merchantable, of good material and workmanship, free from any defect in material, labor or fabrication, and fit for the particular purposes of Buyer. Seller further warrants that all work and services performed hereunder will be free from defect in workmanship. All warranties shall extend to future performance of goods, shall survive inspection, tests, acceptance and payment for goods, and shall run to Buyer, its employees, successors, assigns, and other users.
- 5. Indemnity:** Seller shall indemnify and hold harmless and, at Buyer's option, shall defend Buyer and its employees and agents from any claims, losses or damages arising out of or alleged arise out of any breach by Seller of any warranty or agreement of Seller contained herein. Except to the extent that the goods supplied hereunder are manufactured to design supplied by Buyer, Seller also agrees to indemnify and at Buyer's option, defend Buyer, its agents and employees, and students, from any claims, losses or damages based on any actual or alleged unfair competition or infringement of any patent, trademark, copyright or other proprietary rights relating to the goods.
- 6. Buyer's Remedies:** In the event of Seller's breach of any warranty or agreement of Seller contained herein, buyer shall have all the rights and remedies provided to buyers by all applicable statutes, or by common law, including but not limited to the right to recover consequential or incidental damages.
- 7. Packaging:** All items shall be packed by Seller in suitable containers for protection to permit safe transportation and handling and shipped to secure the lowest transportation costs. No charge shall be made by Seller for packaging unless provided for on reverse side.
- 8. Changes:** Buyer may, at any time and from time to time, by purchase order amendment issued to Seller: (a) increase or decrease the quantity of products orders; (b) change the drawings or specifications; (c) issue a suspension of work order; (d) make changes in the delivery schedule. If such changes cause an increase or decrease in the amount of work hereunder, or in the cost of performance, an equitable adjustment shall be made in the contract price and/or the delivery schedule and the purchase order shall be amended in writing accordingly. Any claims for adjustment under this clause not asserted within thirty (30) days from the date of the purchase order amendment shall be deemed waived.

9. **Termination:** Buyer may terminate work under this purchase order in whole or in part at any time by notice to Seller in writing. Seller will thereupon immediately stop work on this purchase order or the terminated portion thereof and notify its subcontractors to do likewise. Except where termination is caused by a default or delay of Seller, Seller shall be entitled to reimbursement for its actual costs incurred up to and including the date of termination, applicable to the termination and in accordance with recognized accounting practices. Seller shall also be entitled to a reasonable profit on the work done prior to such termination at the rate not exceeding the rate used in establishing the original purchase price. The total of such claim shall not exceed the cancelled commitment value of the purchase order.
10. **Law Governing:** This purchase order shall be governed by and construed according to the laws of the State of Michigan.
11. **General:** Any waiver of strict compliance with the terms hereof by Buyer shall not constitute a waiver of Buyer's right to insist upon strict compliance with the terms of this order hereafter.
12. **Taxes:** Buyer shall not be liable for any Federal, State or Local Taxes unless separately stated and billed.
13. **Compliance with Laws:** Seller warrants, certifies, and agrees that the goods or services have been or will be manufactured, distributed, shipped, packaged, delivered, and performed in compliance with all applicable federal, state, and local laws, regulations, standards, and orders, including the Occupational Safety and Health Act of 1970 and all regulations and stands in effect thereunder at time of sale. Seller agrees to furnish upon request further certifications of such compliance in form satisfactory to Buyer.
14. **Correspondence/Amendments:** All correspondence concerning this order must be direct to the Ferris State University Purchasing Department. No alteration, change, addition to or other modification of this purchase order or the terms thereof is valid and binding on Buyer unless in writing and signed by an authorized person.
15. **Assignment:** Performance of this purchase order is hereby declared to be particular to the Seller, and no right, duty or obligation arising under this purchase order may be assigned or otherwise transferred by Seller without the written consent of Buyer.
16. **Non-Discrimination Clause:** Seller covenants not to discriminate against an employee or applicant for employment with respect to interview, hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, creed or religion, color, national origin, sex, age, marital status, height, weight, sexual preference, Vietnam veteran or handicap, or other characteristics which cannot lawfully be the basis for an employment decision. Seller agrees to comply with all applicable federal and state civil rights statutes. Breach of this covenant may be regarded as a material breach of this contract.
17. If Seller, as a result of providing goods or services under this Order either: (a) receives Buyer credit card information; (b) processes credit card information for Buyer; (c) provides software, equipment, or systems that Buyer will use to process credit card information; or (d) stores credit card information electronically or otherwise for Buyer, then Seller represents, warrants, and covenants that Seller is in compliance, and will remain in compliance, with the current Payment Card Industry (PCI) Data Security Standard as specified at:
http://www.usa.visa.com/business/accepting_visa/ops_risk_management/cisp.html. In addition, if Seller is required to obtain a PCI audit as part of required PCI compliance, upon Buyer's request, Seller shall provide to Buyer a copy of its most current PCI audit. The provisions of this paragraph hereof shall survive the expiration or earlier termination of this Order.

INSTRUCTIONS

- a) Submit invoices in duplicate on your firm's invoice form. Mail to Accounts Payable Office at the "Bill To" address listed on the front.
- b) Purchase order numbers must be plainly shown on invoices, packages or cartons, packing lists and correspondence pertaining to this order. Serial number of equipment must be noted on all invoices, packing slips, and correspondence.
- c) Submit a separate invoice for each purchase order promptly upon shipment.
- d) All correspondence relating to this order should be addressed to the "Contact" person listed on the front. Address may be obtained by calling the "Contact" person.
- e) Packing list must be included with each shipment and showing number of cartons shipped.

- f) Deliveries will be accepted at "Ship To" address between 8:00 A.M. and 4:30 P.M., Monday thru Friday. Please notify your carrier.
- g) If shipment is made by another firm, all invoices, packing lists and cartons must be identified by Ferris State University's purchase order number.
- h) No vendor is to accept a telephone or verbal order unless a purchase order number is given.
- i) Freight must be prepaid and included on the purchase order unless otherwise agreed to by Buyer.
- j) No goods will be accepted C.O.D. except by previous written approval.
- k) If you have any questions regarding this order, call the "Contact" person listed on the front.
- l) Please notify the Purchasing Department at (231) 591-2165 if your company is minority or woman owned.