

## PURCHASE ORDER TERMS & CONDITIONS

NWFSC Terms and Conditions apply to this Purchase Order (PO), are incorporated in it, and, by accepting payment under the PO, the Vendor accepts all terms and conditions.

### General Terms and Conditions

1. **Definitions:** The legal name of the corporate body of Northwest Florida State College is The District Board of Trustees of Northwest Florida State College, Florida. Northwest Florida State College is referred to through these terms and conditions as "College," and any reference to the College includes the board, trustees, all divisions, employees, agents, officers, successors, assignees, and representatives of the College, however they may be constituted. The other party to the PO, which is providing goods or services to the College, is referred to as the Vendor, Contractor, or Supplier throughout, and those terms are used interchangeably. Any references to the other party to the PO include the other party to the PO, suppliers, employees, agents, representatives, subcontractors, assignees, successors, and any individual or entity providing goods or services to the College under this PO. The "parties," whether lowercase or capitalized, are the College and the Vendor; no third party is nor will be construed as a third-party beneficiary to this PO.
2. **Acceptance:** This PO constitutes acceptance of Vendor's offer to sell the goods or services as quoted. If Vendor refuses to fulfill this order as written, return the PO to the Purchasing Department immediately with a written explanation.
3. **College Issues Contract:** When an authorized College signer enters a fully executed contract with the Vendor (issued through a competitive solicitation or otherwise), the terms and conditions included in the contract shall prevail over the terms of the PO where they differ, and the PO is issued solely to encumber funds, for payment purposes, and to include any provisions mandated by federal or Florida law as they relate to the purchase.
4. **Proposal and Acknowledgement:** The terms and conditions stated in this PO govern in the event of conflict with any terms of the Vendor's proposal or quote and are not subject to change by reason of any written or verbal statements made by the Vendor or by any statement in Vendor's acknowledgement, unless the College has attached to the PO a fully signed contract stating other terms.
5. **Entire Agreement:** Except as provided in these terms and conditions, this PO states the entire understanding and agreement between the parties and no course or prior dealing, usage of the trade, or extrinsic or parol evidence shall be relevant to supplement, vary, or explain any term used with respect to this PO. The acceptance or acquiescence of any course of performance rendered under this PO shall not be construed as a waiver nor shall it be relevant to define or vary any term stated in the PO. This PO shall inure to the benefit of and shall be binding upon the parties.
6. **Payment:** Submit a separate invoice for each PO. Multiple invoices may be submitted against a single PO, as provided for by the PO. Invoices must be mailed to the address stated on the PO. No extra charges will be allowed for packaging, handling, boxing, insurance, delivery, transportation, assembling, in-place installation, etc., unless otherwise specified on the PO. No payment may be made prior to issuance PO. The Vendor shall deliver an invoice and supporting documentation for services rendered. The College shall pay the Vendor within 30 business days after receipt of an acceptable invoice and supporting documentation under the terms of this PO. Supporting documentation includes at least written evidence of goods or services provided. The Vendor shall submit invoices in detail sufficient for proper pre-audit and post-audit reviews. The College may request more documentation at its discretion. In the case of an error on the part of the Vendor, the 30-day period for payment shall begin upon receipt by the College of a corrected invoice or other remedy of the error. If the College is no longer able to accept ongoing goods and services under the PO, the College will provide the Vendor with prompt notification, and the Vendor will provide the College a final accounting of any fees associated with the account within 10 business days of that notification.
7. **Funding:** The Vendor, by executing this PO, certifies to truth-in-negotiation, specifically, that wage rates and other factual unit costs supporting the consideration are accurate, complete, and current at the time of contracting. The College's performance and obligation to pay are contingent upon an annual appropriation by the Florida Legislature and approval of the College's annually adopted budget. Should funding become unlawful or be discontinued or reduced, the order will be terminated or amended, as appropriate, at the sole discretion of the College. In such an event, to the extent permitted by law, the Vendor shall be compensated for work or services satisfactorily completed prior to termination or amendment of the PO, to the extent of remaining budgeted funds. If the total consideration for this PO is spread across multi-year funding allocations, funding for each applicable fiscal year of this PO is subject to the subsequent budget appropriation and approval. If the College does not approve funding for any subsequent fiscal year, this PO shall terminate upon expenditure of the current funding, notwithstanding other provisions in this PO to the contrary. The College will notify the Vendor in writing after the adoption of the final College budget for each subsequent fiscal year if funding is not approved for this PO.
8. **Change Orders:** Changes to this order are not authorized unless a written Change Order is issued by the Purchasing Department in compliance with law and College policy.
9. **Prices Quoted:** The Vendor's price will be the lowest prevailing market price and under no circumstances will the price be higher than specified in the PO without express written authorization of the College, through the Purchasing Department, in compliance with College policy.
10. **Pricing – Standing POs:** If Vendor's unit price is omitted on the order, the Vendor's price will be the lowest prevailing market

price, except where the PO is issued in acceptance of quoted prices. In no event will this order be filled at higher prices than previously quoted or charged, without the College's prior written consent.

11. **Tax Exemption:** The College is a tax-exempt institution and does not pay federal excise or Florida sales taxes on the direct purchases of tangible personal property. The College's tax exemption certificate is available upon request. The Vendor is responsible and liable for all taxes applicable to, resulting from, or related to this PO (including but not limited to payroll taxes such as FICA/Social Security). The Vendor shall not use the College's tax exemption certificate number issued under Chapter 212 (Tax on Sales, Use, and Other Transactions), Florida Statutes, when purchasing materials used to fulfill its obligations.
12. **Vendor Not to Limit Warranty:** The Vendor shall not limit or exclude any express or implied warranties and any attempt to do so shall render this PO cancellable at the College's option. The Vendor warrants that the goods and services furnished will conform to the specifications, drawings, and descriptions listed in the offering document, Statement of Work, to sample(s) furnished.
13. **Severability:** If any provision of this PO is held invalid or unenforceable by any court of competent jurisdiction or by an administrative hearing officer in accordance with Chapter 120, Florida Statutes, such holding shall not invalidate or render unenforceable any other provision of this PO. However, where a breach of the PO goes to the whole of the PO, the PO is unenforceable.
14. **Termination for Convenience:** The College may terminate this PO with or without cause at any time for convenience upon thirty (30) calendar days' prior written notice to the Vendor. If the College terminates for convenience, the College shall compensate the Vendor for all authorized and accepted goods or services completed through the date of termination. The College shall be relieved of all future obligations, including but not limited to, lost profits and consequential damages under this PO. The College may withhold all payments to the Vendor for such work until such time as the College determines the exact amount due to the Vendor.
15. **Termination for Default:** A "material breach" of this PO is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the PO. If the Vendor materially fails to fulfill its obligations under this PO, the College will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The Vendor shall have 30 calendar days to cure the breach. If the Vendor fails to cure the breach within the 30-day period, the College shall issue a Termination for Default Notice. The College may pursue whatever legal and equitable remedies it chooses.
16. **Force Majeure:** No default, delay, or failure to perform on the part of Vendor or the College shall be considered a default, delay, or failure to perform otherwise chargeable under this PO, if such default, delay, or failure to perform is due to causes beyond either party's reasonable control including, but not limited to strikes, lockouts, or inactions of governmental authorities, epidemics or pandemics applicable to the service area, war, embargoes, fire, earthquake, acts of God, or default of common carrier. If such default, delay, or failure to perform occurs, any date or times by which either party is otherwise scheduled to perform shall be extended automatically for a period equal in duration to the time lost by reason of the excused default, delay, or failure to perform or for a different period mutually agreeable to the parties.
17. **Violation:** Vendor represents and warrants that no federal, state, or local statute, regulation, or municipal ordinance has been or will be violated in the manufacturing, sale, or delivery of any good or service sold and delivered under this PO. If such violation has or does occur, Vendor will indemnify, defend, and hold harmless the College from all loss, claims, penalties, or the payment of any sums of money on account of such violation.
18. **Indemnification:** For value received, the Vendor shall indemnify, defend, and hold harmless the College from claims, liabilities, damages, losses, and costs, including but not limited to attorneys' fees, to the extent caused by the action, omission, negligence, recklessness, or intentionally wrongful conduct of the Vendor in the performance of the PO. The Vendor further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its suppliers, employees, agents, representatives, subcontractors, assignees, successors, and any individual or entity providing goods or services to the College under this PO. This paragraph shall survive the expiration or termination of this PO.
19. **Intellectual Property, Trademark, Copyright, Patents:** By accepting payment under this PO, Vendor agrees to indemnify, defend, and hold harmless the College against any liability for infringement upon any third party's intellectual property rights or rights in trademark or copyright, or patent infringement that may arise from the use of good or services covered by this PO.
20. **Sovereign Immunity:** Nothing in this PO shall be construed or interpreted to be a waiver of the College's sovereign immunity or of the application of § 768.28, Florida Statutes, as amended, or of any other constitutional, statutory, or other protections afforded to the College. Nothing in this PO shall be construed as consent by the College to be sued by third parties in any matter arising out of or related to this or any other agreement.
21. **Attorneys' Fees and Costs:** Unless otherwise provided in this PO, each party shall be responsible for its own attorneys' fees and costs in the event of a dispute arising from this PO except if a court or other judicial body awards fees or costs in accordance with § 57.105, Florida Statutes (sanctions for raising unsupported claims or defenses).
22. **Strict Compliance:** The College may at any time insist upon strict compliance with these terms, notwithstanding any previous custom, practice, or course of dealing to the contrary.
23. **Cost of Investigation:** Contractor shall reimburse the College for the reasonable costs of investigation incurred by the College, Florida Auditor General, or any other authorized federal or Florida official for investigations of Vendor's compliance with these terms or the terms of any other agreement between Vendor and the College which results in

the suspension or debarment of the Vendor. Such costs shall include, but shall not be limited to salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. Contractor shall not be responsible for any costs of investigations that do not result in Contractor's suspension or debarment. Contractor understands and shall comply with the requirements of § 20.055(5), F.S., including but not necessarily limited to, the duty of Contractor and any of Contractor's subcontractors to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to § 20.055, F.S.

24. **Public Records:** To the extent that the Vendor meets the definition of "contractor" under § 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Contractor must comply with public records laws, including the following provisions of § 119.0701, Florida Statutes:

- (a) Keep and maintain public records required by the College to perform the service.
- (b) Upon request from the College's custodian of public records, provide the College with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the PO terms and following completion of the order if the Contractor does not transfer the records to the College.
- (d) Upon completion of the order, transfer, at no cost, to the College all public records in possession of the Contractor or keep and maintain public records required by the College to perform the service. If the Contractor transfers all public records to the College upon completion of the order, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the order, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the College, upon request from the College's custodian of public records, in a format that is compatible with the information technology systems of the College.
- (e) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 729-5253, public.records@nwfsc.edu, 100 E COLLEGE BOULEVARD, NICEVILLE, FLORIDA 32578.**

**(f) THE CONTRACTOR ACKNOWLEDGES THAT NORTHWEST FLORIDA STATE COLLEGE CANNOT AND WILL NOT PROVIDE LEGAL ADVICE OR BUSINESS ADVICE TO CONTRACTOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. THE CONTRACTOR FURTHER ACKNOWLEDGES THAT IT WILL NOT RELY ON NORTHWEST FLORIDA STATE COLLEGE OR ITS COUNSEL TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE, AND THAT IT HAS BEEN ADVISED TO SEEK PROFESSIONAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS PO. THE CONTRACTOR ACKNOWLEDGES THAT ITS FAILURE TO COMPLY WITH FLORIDA LAW AND THIS PO WITH RESPECT TO PUBLIC RECORDS SHALL CONSTITUTE A MATERIAL BREACH AND SHALL BE GROUNDS FOR IMMEDIATE TERMINATION.**

In addition, the College may unilaterally cancel this PO for refusal by Contractor to allow public access to all documents, papers, letters, or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by Contractor in conjunction with this PO. Moreover, all written records received by the College in connection with the transaction of official business may be deemed public records and are subject to the provisions of Chapter 119, Florida Statutes.

- 25. **Public Records Continued:** This PO and all records associated with it are public records subject to public disclosure, unless specifically made exempt by relevant federal or Florida law, and Vendor remains responsible for all confidential or exempt information of Vendor.
- 26. **Gramm-Leach-Bliley Act:** If Vendor is a financial institution for the purposes of the Gramm-Leach-Bliley Act, the Vendor will implement and maintain appropriate safeguards for any customer or student information that comes into its possession because of its business relationship with the College as described in this PO.
- 27. **FERPA:** The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g et seq., 34 CFR Part 99, and Florida Statutes § 1002.225 protect the privacy of students' education records. If Vendor is considered a school official for purposes of this PO, and Vendor gains possession of records subject to FERPA in the process of performing services under this PO, Vendor will not use, share, or further disclose such records, and Vendor will promptly return those records to the College.
- 28. **Red Flag Rules.** If Vendor is a "Business Associate" for the purposes of this provision, and Vendor provides services with respect to covered accounts of the College, Business Associate shall implement and follow appropriate procedures to detect, prevent, and mitigate the risk of identity theft or "Red Flags" in accordance with the "Red Flag Rules" as set forth in 16 C.F.R. § 681, et seq. (the "Red Flag Rules"), and any other applicable law, rule or regulation relating to identity theft, including § 501.171, Florida Statutes. Upon discovery of a Red Flag, Business Associate shall promptly notify the College of same and take appropriate steps to prevent or mitigate identity theft.
- 29. **Audit.** The Vendor shall maintain all records, books, and documents pertinent to the performance of this PO in accordance with generally accepted accounting principles. The Vendor shall make such records, books, and documents

available to the College upon request from the College to inspect or audit such records for a period of 3 years from final payment under this PO. Records relating to any legal disputes arising from performance under this PO shall be made available until final disposition of the legal dispute. If an audit reveals that the Vendor owes the College any funds, Vendor shall pay for the audit and return all funds to the College immediately.

30. **Insurance:** Vendor shall procure and always maintain insurance deemed adequate by the College. The Vendor shall comply with the College's general insurance standards available on the [College's Purchasing webpage](#), as amended from time to time, unless the College directs the Vendor to supply different (whether more, less, or no) insurance under the PO. The Vendor's insurance shall provide that loss, if any, shall be payable to Vendor and the College.
31. **Compliance and Licenses:** The Vendor shall obtain, at its own expense, all licenses, permits, and other authorizations necessary to comply with all applicable federal, state, and local laws and regulations relating to the performance of this PO. The Vendor is responsible for compliance with all federal, state, and local laws and regulations regarding labor and employment laws, anti-discrimination, and tax laws. No employee, agent, subcontractor, or any other person performing services for Vendor or the College under this PO shall be considered or deemed employees of the College.
32. **Verifying Eligibility:** If Vendor meets the definition of a "Contractor" under § 448.095(1)(c), F.S., Contractor and its subcontractors, if any, will register with and use the E-Verify system to verify the work authorization status of all newly hired employees. Contractor will provide appropriate evidence of enrollment to the College. Contractor will require subcontractors, if any, to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor will maintain a copy of such affidavits for the duration of its PO with the College. The College, Contractor, and subcontractors who have a good faith belief that a person or entity with which it is contracting has knowingly violated § 448.09(1), Florida Statutes, shall terminate the contract with that person or entity. This termination is not a breach of contract and may not be considered as such. Contractor will be liable for any additional cost or expense incurred by the College because of such termination of a contract. If the College has a good faith belief that a subcontractor knowingly violated this section, but the Contractor otherwise complied with the relevant law, the College will promptly notify the Contractor and direct the Contractor to immediately terminate the contract with the subcontractor. This termination is not a breach of contract and may not be considered as such. Contractor will be liable for any additional costs or expenses incurred by the College because of such termination of a contract.

Additionally, the Vendor shall be responsible for verifying employee authorization to work in the U.S. and make a good faith effort to properly identify employees by timely reviewing and completing appropriate documentation,

including but not limited to, USCIS Form I-9. Written verification shall be kept by the Vendor and made available for inspection on demand by the College. The hourly rate of pay for each employee shall comply with federal and Florida law and industry standards for similar work performed under this PO. Failure to comply with these provisions shall be a material breach of this PO and cause for termination of the Vendor.

33. **Public Entity Crimes/SDN List:** The Vendor, by its execution of this PO, acknowledges and attests that neither it, nor any of its suppliers, subcontractors, affiliates, or consultants who shall perform services which are intended to benefit the College, is a State of Florida convicted vendor or is included on the State of Florida's discriminatory vendor list. The Vendor further understands and accepts that this PO shall be either void or subject to immediate termination by the College if the Vendor in any way misrepresents or fails to comply with §§ 287.133, 287.134, or 287.135, F.S. If the College terminates this PO under this clause, the College shall not incur any liability to the Vendor for any work or materials furnished.
34. **Website Exclusion:** The College will not be bound by any content on the Vendor's website, even if the Vendor's documentation specifically references that content and attempts to incorporate it into any other communications, unless the Vendor has delivered such content to the College in writing (not through a website link), and the Purchasing and Legal Departments of the College have actual knowledge of such content and the College, through an authorized signer, has expressly agreed to be bound by it in writing.
35. **No Construction against Drafter:** Through College issuance and Vendor acceptance of payment, this PO is to be construed as if the College and Vendor drafted it jointly, as opposed to being construed against either party for drafting one or more provisions of this PO.
36. **Disputes:** If a dispute arises which the Vendor and the College cannot resolve between themselves, the College may submit the dispute to nonbinding mediation. The mediator or mediators shall be impartial, shall be selected by mutual agreement of the parties, and the cost of the mediation shall be borne equally by the parties.
37. **Applicable Law and Venue:** The parties agree to comply with federal, state, and local law as applicable to this PO. Vendor shall comply with all applicable policies and procedures of the College, which are located on the College's website together with all other laws and regulations generally applicable to the College's operations, including but not limited to those regarding conditions of work, access to and use of the facilities, Non-Discrimination and Equal Opportunity, and Whistleblower Protection. This PO is governed by and construed in accordance with the laws of the State of Florida, without reference to conflicts of law principles, and the rules and regulations of the Florida Department of Education and College, and any provisions in this PO in conflict with the foregoing shall be void and of no effect. If any legal proceedings are commenced with respect to any matter arising under or related to this PO, the parties agree that the courts of the State of Florida or federal courts located in the State of Florida will have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings and that the venue of any such action will be in Okaloosa County, Florida, or the United States District

Court for the Northern District of Florida.

38. **Assignment/Guarantor:** This PO is not transferable or assignable by the Vendor unless such Vendor notifies the College of intent to transfer or assign the PO and the College agrees to such assignment in writing prior to such transfer or assignment. The Vendor shall not pledge the College's credit or make the College a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. Pledging the College's credit shall also be construed to include the use of "factoring agents" or the practice of selling business accounts receivables to a third party at a discount for the purpose of obtaining funding which is also expressly prohibited.
  39. **Conflict of Interest:** Vendor certifies that it and its directors and principal officers are not employed by or affiliated with the College.
  40. **Nondiscrimination:** Northwest Florida State College does not discriminate based on age, color, ethnicity, race, national origin, disability, marital status, pregnancy, religion, genetic information, sex, gender, or any other legally protected classification in its purchasing or employment practices or its educational programs or activities. The Vendor shall not discriminate against any person based on age, color, ethnicity, race, national origin, disability, marital status, pregnancy, religion, genetic information, sex, gender, or any other legally protected classification in its fulfillment of this PO. The nondiscrimination clause contained in Section 202, Executive Order 11246, as amended, stating that the Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor, is incorporated in this PO.
  41. **Prohibited Expenditures.** Under § 1004.06, F.S., the College is prohibited from expending any funds, regardless of source, to purchase membership in, or goods and services from, any organization that discriminates on the basis of race, national origin, gender, or religion. Vendor shall not deliver any goods or service to the College in violation of this provision, and, if the College determines any goods or services purchased under this PO violate § 1004.06, F.S., the College shall terminate the contract with the Vendor. This termination is not a breach of contract and may not be considered as such.
  42. **College Property:** All tangible or intangible property, materials, drawings, or other goods or items provided by the College to the Vendor remain the property of the College and will be returned to the College upon demand.
  43. **Independent Contractor:** It is understood and agreed that nothing contained in this PO is intended or should be construed as in any way creating or establishing the relationship of partners between the parties, or in any way making Vendor the agent or representative of the College for any purposes in any manner whatsoever. Vendor is, and shall remain, an independent contractor with respect to all services performed under this PO. The Vendor expressly understands and agrees that Vendor, its officers, agents, and employees, are not entitled to any employment benefits from the College.
  44. **Survival of Terms:** Termination or expiration of this PO shall not extinguish or prejudice the College's right to enforce this PO with respect to any default of this PO or defect in the Services that have not been cured.
  45. **Grant Administration:** To the extent that this PO is funded or may become funded by state or federal grant funds, the Vendor shall comply with all terms and conditions of grant administration under the applicable federal or state grant.
  46. **Social, Political, or Ideological Interests:** The College has not considered in issuing this PO the vendor's social, political, or ideological interests nor given a vendor a preference based on the foregoing. This PO is made in compliance with § 287.05701, Florida Statutes.
  47. **Prohibited Expenditures:** Under § 1004.06, F.S., the College is prohibited from expending any funds, regardless of source, to purchase membership in, or goods and services from, any organization that discriminates on the basis of race, color, national origin, sex, disability gender, or religion. The College is also prohibited from expanding any state or federal funds to promote, support, or maintain any programs or campus activities that: (a) Violate s. 1000.05; or (b) advocate for diversity, equity, and inclusion, or promote or engage in political or social activism, as defined by rules of the State Board of Education. Vendor shall not deliver any goods or service to the College in violation of this provision, and, if the College determines any goods or services purchased under this PO violate § 1004.06, F.S., the College shall terminate the contract with the Vendor. This termination is not a breach of contract and may not be considered as such.
  48. **Anti-Coercion Affidavit:** Section 787.06(13), F.S., requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative of the nongovernmental entity under penalty of perjury that the nongovernmental entity does not use coercion for labor or services as defined in that statute. The District Board of Trustees of Northwest Florida State College, Florida, is a governmental entity for purposes of this statute, and therefore Vendor agrees to comply with § 787.06(13), F.S., and provide all necessary documentation to the College.
  49. **Produced Iron and Steel in Public Works Projects:** This provision applies to POs for construction, alteration, or repair, including products goods used providing maintenance services. Vendor represents and warrants that all the iron and steel used in the project will be produced in the United States in accordance with § 255.093, F.S.
- Additional Terms for Goods/Commodities**
50. **Title to Materials, Documents, and Packaging:** All containers, reels, or pallets shipped with goods by the Vendor are the property of the College unless otherwise agreed to in writing.
  51. **Shipment under Reservation Prohibited:** Vendor shall not ship goods with any reservations, and no tender of a bill of lading will substitute as a tender of the goods.

52. **Delivery:** Delivery of goods is acknowledgement and acceptance of the PO. Note PO number on all shipments and documents. The College is not responsible for any goods delivered without reference to the PO number. The College assumes no liability for goods shipped to destinations other than those shown on the PO.
53. **Failure to Perform:** Failure to make delivery by or before the required delivery date stated on the PO shall constitute cause for cancellation of the order, or any part of it, without prejudice to the College's other rights. Vendor's failure to adhere to any term or condition of this order may result in cancellation with 48 hours' notice. Vendor agrees that the College may return part or all of any shipment made and may charge the Vendor for any loss or expense sustained because of the failure to deliver.
54. **Partial Deliveries:** Partial deliveries or payments shall not be made, unless otherwise specified on the PO, per § 672.307, F.S.
55. **Freight Charges:** If freight charges appear on the invoice, the College reserves the right to require receipted transportation invoices.
56. **Receiving:** The College's Central Receiving is open to receive shipments from 7:30 a.m. to 3:30 p.m., Central Time Zone, Monday through Thursday. Deliveries will not be accepted on days that the College is closed according to the College's Academic Calendar, which is published on its website. NWFSC Central Receiving: (850) 729-5381.
57. **Rejection:** The College reserves the right to reject any shipment that does not meet the terms of the PO. Vendor will be responsible for return freight.
58. **F.O.B.:** All shipments are F.O.B. Destination, unless otherwise stated on the PO. Transportation charges are included in the purchase price, unless otherwise specified. C.O.D. shipments will not be accepted.
59. **Safety:** All chemical items delivered against this PO must be accompanied by a Material Safety Data Sheet (MSDS).
60. **Vendor to Package Goods:** Vendor will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (1) Vendor's name and address; (2) consignee's name, address, and PO or Purchase Release number; (3) container number and total number of containers, e.g., box 1 of 4 boxes; and (4) the number of the container bearing the packing slip. Vendor shall bear the cost of packaging unless otherwise specified in the PO.
61. **Uniform Commercial Code:** In addition to all other Florida laws that are applicable to this PO, provisions of the Uniform Commercial Code, Chapters 671-679, Florida Statutes, shall apply to goods and commodities.
- penalties, damages, or third-party claims (e.g., another vendor's claim against the College), to the extent caused by its action or omission in fulfilling this PO, negligent or wrongful acts, errors, or omissions that do not meet the standard of care.
63. **Warranty:** Vendor warrants that any merchandise sold or provided by Vendor in the performance of services, shall be of merchantable quality; will conform to applicable specifications, drawings, or descriptions furnished by the College; will be free of defects in material and workmanship; and will be sufficient and fit for the purposes intended by the College. The approval of design furnished by the College shall not relieve Vendor of its obligations under this paragraph.
64. **Ownership:** The College shall retain exclusive title, copyright, and other proprietary rights in all work items, including, but not limited to, all documents, technical reports, research notes, scientific data, computer programs, including the source and object code, which are developed, created, or otherwise originated by the Vendor under this PO. The Vendor shall grant to the College a perpetual, non-transferable, exclusive right to use any proprietary software. Any equipment purchased by the Vendor with the College funding shall be returned and title transferred from the Vendor to the College upon expiration or termination of this PO.
65. **Travel Expenses:** Should the Vendor incur travel expenses, payment for travel will be in accordance with § 112.061, F.S. The Vendor shall supply the College with receipts and supporting documentation for reimbursable travel expenses.
66. **On Time:** The services shall be completed within the time stated on the PO. Vendor shall be liable for all damages to the College because of Vendor's failure to timely complete the Services required under this PO.
67. **Stop Work Order:** The College may order that all or part of the work stop if circumstances dictate that this action is in the College's best interest or if the College is otherwise required to stop work under applicable law or policy. Such circumstances may include, but are not limited to, change in applicable law; unexpected technical developments; direction given by the College's Board of Trustees; a condition of immediate danger to the College, the Vendor, or the public; or the possibility of damage to equipment or property. This provision shall not shift responsibility for loss or damage, including but not limited to, lost profits or consequential damages sustained because of such delay, from the Vendor to the College. If this provision is invoked, the College shall notify the Vendor in writing to stop work as of a certain date and specify the reasons for the action, which shall not be arbitrary or capricious. The Vendor shall then be obligated to suspend all work efforts as of the effective date of the notice and until further written direction from the College is received.
68. **Change in Personnel:** The College may at any time and at its sole discretion request that the Vendor replace any Vendor personnel provided by the Vendor to work on this PO if the College believes that it is in the best interest of the College to do so. The College may, but will not be required to, provide a reason for requesting the replacement of personnel. Such change in personnel shall be made immediately upon the College's written request for a change of personnel. The Vendor shall place the above language in any contract that it has with

#### **Additional Terms for Services**

62. **Standard of Care:** The Vendor shall perform its services in accordance with the standard of care exercised by licensed members of the respective profession having substantial experience providing similar services, including the type, magnitude, and complexity of the services. Vendor is liable to the College for claims, liabilities, additional burdens,

subcontractors. The Vendor will enforce the replacement of subcontractor personnel upon a request by the College.

69. **Background Checks:** This clause applies to vendors working on site, including, but not limited to, childcare services, janitorial services, food services, constructional services, and security services, or to the extent that services include access to protected student or employee information, as defined in this PO. At Vendor's sole cost, Vendor shall conduct thorough background checks for all the Vendor's employees, contractors, or hired workers who will be working on any College site or have access to any protected information. The background checks shall consist of education verification, a national criminal check for state and federal felonies and misdemeanors, and employment eligibility verification. After reviewing the results of the background check, the Vendor shall determine whether the Vendor's employee, contractor, or hired worker meets the necessary criteria for the position sought to be filled by the College. The College will rely on the Vendor's assessment of its employees' or hired workers' suitability to be hired for the position(s) sought to be filled by the College, based on the background check conducted by the Vendor. Prior to allowing any employees or hired workers to work on-site at College facilities, the Vendor will provide written verification to the College that a complete background check, as described above, was conducted for any such employee, contractor, or hired worker. The Vendor will place the above language in any contract that it has with its subcontractors and is responsible for enforcement of this provision.

#### **Additional Terms if Purchase Made with Federal Funds**

70. **Flow-Through Requirements for Purchases Using Federal Funds:** For goods or services procured using federal funds, the College requires compliance with these additional provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), U.S. Code of Federal Regulations, Title 2 CFR Part 200. If this PO is or may become fully or partially federal grant funded, Vendor shall comply with this section of the PO to the extent that it is applicable to the goods or services that the Vendor will deliver to the College. Vendor shall adhere to all applicable federal statutes and regulations, including, but not limited to, those set forth below. This section is supplemental and in addition to all other provisions within the PO. If a conflict exists between the terms of this PO (or any fully executed contract attached to the PO) and this section, the terms and conditions of this section shall prevail. However, if any conflict exists between the terms and conditions of this section and the terms and conditions of any federal grant funding document provided specific to the funds being used to contract services or goods under this PO, the conflicting terms and conditions of that document shall prevail.

71. **Incorporated by Reference:** When a provision of federal law is cited in this section, that provision is incorporated by reference in this PO, including, but not limited to:

- (a) 2 CFR. 25.110

- (b) CFR Part 170 (including Appendix A), 180, 200 (including Appendixes), and 3000
- (c) Executive Orders 12549 and 12689
- (d) 41 CFR s. 60-1(a) and (d)
- (e) Consolidated Appropriations Act, 2021, Public Law 116-260 related to salary limitations

72. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352):** If the PO amount is for \$100,000 or more, Vendor (and, if required, any sub-contractors) shall file the certifications required by this law and related regulations, certifying that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Vendor (and, if required, any sub-contractors) shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

73. **Federal Agency Seals, Logos and Flags:** The Vendor shall not use any Federal Agency seal(s), logos, crests, or reproductions of flags or likenesses of any federal agency officials without specific federal agency pre-approval.

74. **Never Contract With The Enemy (2 CFR Part 183):** Contractor must exercise due diligence to ensure that none of the funds, including supplies and services, received are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR 180.300 prior to issuing a subcontract.

75. **Domestic Preference For Procurements (2 CFR § 200.322):** As appropriate and to the extent consistent with law, to the greatest extent practicable when using federal funds for the services provided in this PO, the Vendor shall provide a preference for the purchase, acquisition, or use of goods and products or materials produced in the United States.

76. **Buy American Act (41 U.S.C. 8301 – §8305) (ARRA Section 1605 & 2 CFR §300.322):** This provision applies to Pos for construction, alteration, or repair, including products goods used providing maintenance services. Vendor represents and warrants that all the iron, steel, aluminum, cement, and other manufactured goods used in the project will be produced in the United States in accordance with the Buy American Act. Vendor shall provide the College with reasonable back-up documentation evidencing compliance with the Buy American Act (i.e., records showing Buy American standards are met or a waiver was granted by the appropriate federal agency).

77. **Utilization of Minority and Women Firms (M/WBE) (2 CFR § 200.321):** This provision applies to all federally grant funded Contracts or Contracts which may use federal grant funds. The Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used, when possible, in accordance with 2CFR 200.321. If subcontracts are applicable, prime contractor will require compliance by all sub-contractors. Prior



to contract award, the contractor shall document efforts to utilize M/WBE firms including what firms were solicited as suppliers and/or subcontractors as applicable and submit this information with their bid submittal. Information regarding certified M/WBE firms can be obtained from:

- (a) Florida Department of Management Services (Office of Supplier Diversity);
  - (b) Florida Department of Transportation;
  - (c) Minority Business Development Center in most large cities; and
  - (d) Local Government M/DBE programs in many large counties and cities.
78. **Trafficking Victims Protection Act (2 CFR Part 175):** Contractor will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits Contractor from (1) engaging in severe forms of trafficking in persons during the period of time that this PO is in effect; (2) procuring a commercial sex act during the period of time that this PO is in effect; or (3) using forced labor in the performance of the contracted services under this PO. This PO may be unilaterally terminated immediately by the College for Contractor's violating this provision, without penalty.
79. **Clean Air Act and Federal Water Act:** This provision applies to awards that exceed \$150,000. The "Contractor" shall guarantee that all products purchased because of this SOLICITATION comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et. seq.) and the Federal Water Pollution Act (33 U.S.C. 1251 et. seq.).
80. **Contract Hours and Safety Standards Act (Mechanics or Laborers):** This provision applies to awards that exceed \$100,000. The "Contractor" shall comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations.
81. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 – 3708):** This provision applies to POs more than \$100,000 for contracts that involve the employment of mechanics or laborers. Vendor shall comply with Sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3702 – 3704), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 3702 of the Act, Vendor shall be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work more than the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked more than 40 hours in the workweek. Section 3704 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies, materials, or

articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

82. **Prohibition on Utilization of Cost plus a Percentage of Cost Contracts (2 CFR Part 200):** The College will not award contracts containing federal funding on a cost-plus percentage of cost basis.
83. **Enhanced Whistleblower Protections (41 U.S.C. § 4712):** An employee of Contractor and/or its subcontractors may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in 42 U.S.C. § 4712(a)(2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.
84. **Federal Funding Accountability and Transparency Act (FFATA) (2 CFR § 200.300; 2 CFR Part 170):** In accordance with FFATA, the Contractor shall, upon request, provide the College the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.
85. **Federal Awardee Performance and Integrity Information System (FAPIS)(The Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417 and 2 CFR Part 200 Appendix XII)):** The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of this PO, by posting the required information in the System for Award Management via <https://www.sam.gov>.
86. **The Copeland "Anti-Kick Back" Act:** This provision applies to awards regarding construction work that exceeding \$2,000. The "Contractor" shall comply with the Copeland "Anti- Kick Back" Act (18 U.S.C. 874) as supplemented in the Department of Labor regulations (29 CFR Part 3).
87. **The Davis-Bacon Act:** This provision applies to awards including construction work. The successful "Contractor" shall comply with the Davis-Bacon Act (40 U.S.C. 276a-a7) and as supplemented by Department of Labor regulations (29 CFR Part 5). Vendor covenants and agrees that all laborers and mechanics employed by Vendor and its subcontractors on this project will be paid in compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, Vendor is required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, Vendor is required to pay wages not less than once a week.



88. **Procurement of Recovered Materials:** In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
- (a) Competitively within a timeframe providing for compliance with the contract performance schedule;
  - (b) Meeting contract performance requirements; or
  - (c) At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

89. **Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR §200.216):** Vendor represents and warrants that no part of the equipment, services or systems provided to the College hereunder uses or consists of covered telecommunications equipment or services (as defined by 2 CFR §200.216) as a substantial or essential component of any equipment, service or system provided, or as a critical technology as part of any system provided.
90. **Rights to Inventions made Under a Contract or Agreement (37 CFR Part 401):** If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 additional Standard patent rights clauses in accordance with 37 CFR § 401.14 shall apply. Requirement: Please contact the College Purchasing Department for further information related to the applicable standard patent rights clauses.
91. **Access to Records and Reports:** Contractor will make available to the College, the College's granting agency, the granting agency's Office of Inspector General, the Government Accountability Office, the Comptroller General of the United States, or any of their duly authorized representatives any books, documents, papers or other records, including electronic records, of the contractor that are pertinent to the College's grant award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. The right also includes timely and reasonable access to the contractor's personnel during normal business hours for the purpose of interview and discussion related to such documents. This right of access shall continue if records are retained.
92. **No Obligation by Federal Government:** The Federal Government is not a party to this PO and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the PO.