

Eastern Washington University Purchase Order Terms and Conditions

THIS PURCHASE ORDER CONTRACT INCORPORATES THE FOLLOWING TERMS AND CONDITIONS AND INCLUDES, BUT IS NOT LIMITED TO, THE INVITATION TO BID, REQUEST FOR QUOTATIONS, SPECIFICATIONS, PLANS AND PUBLISHED RULES AND REGULATIONS OF EASTERN WASHINGTON UNIVERSITY AND THE LAWS OF THE STATE OF WASHINGTON, WHICH ARE HEREBY INCORPORATED BY REFERENCE.

1. DEFINITIONS:
 - a. Purchaser shall mean Eastern Washington University.
 - b. Vendor shall mean the vendor or contractor identified as "Vendor" on the Purchase Order.
2. DEBARMENT CERTIFICATION: VENDOR, BY ACCEPTING THE TERMS OF THIS PURCHASE ORDER CERTIFIES THAT THE VENDOR AND VENDOR'S PRINCIPALS, ARE NOT PRESENTLY, NOR HAVE EVER BEEN, DEBARRED, SUSPENDED, PROPOSED FOR DEBARMENT, DECLARED INELIGIBLE, OR VOLUNTARILY EXCLUDED FROM CONTRACTING WITH ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY WITHIN THE UNITED STATES (COLLECTIVELY "DEBARRED"). SHOULD VENDOR OR ITS PRINCIPALS BECOME DEBARRED, VENDOR SHALL INFORM PURCHASER IN WRITING TO THE DIRECTOR OF PROCUREMENT AND CONTRACTS WITHIN A REASONABLE AMOUNT OF TIME, BUT NO LATER THAN 5 CALENDAR DAYS AFTER SUCH DEBARMENT.
3. ACCEPTANCE: THIS ORDER EXPRESSLY LIMITS ACCEPTANCE TO THE TERMS AND CONDITIONS STATED HEREIN. ALL ADDITIONAL OR DIFFERENT TERMS PROPOSED BY VENDOR ARE OBJECTED TO AND ARE HEREBY REJECTED, UNLESS OTHERWISE PROVIDED IN WRITING BY THE DIRECTOR OF PROCUREMENT AND CONTRACTS, OR THEIR DESIGNEE.
4. CHANGES: No alteration in any of the terms, conditions, delivery, price, quality, quantities, or specifications of this order will be effective without the written consent of the Director of Procurement and Contracts, or their designee.
5. HANDLING: No charges will be allowed for handling, which includes, but is not limited to, packing, wrapping, bags, containers, or reels, unless otherwise stated herein.
6. DELIVERY: For any exception to the delivery date as specified on this order, Vendor shall give prior notification and obtain written approval thereto from the Director of Procurement and Contracts, or their designee. With respect to delivery under this order, time is of the essence and the order is subject to termination for failure to deliver on time. The acceptance by Purchaser of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Vendor.
7. SHIPPING INSTRUCTIONS: Unless otherwise specified, all goods are to be shipped prepaid, FOB Destination. Where shipping addresses indicate room numbers, it will be up to Vendor to make delivery to that location at no additional charge. Where specific authorization is granted to ship goods FOB Shipping Point, Vendor agrees to prepay all shipping charges, route cheapest common carrier, and to bill Purchaser as a separate item on the invoice for said charges, if routing instructions are not included on Purchase Order. Each invoice for shipping charges shall contain the original or a copy of the bill indicating that the payment for shipping has been made. It is also agreed that Purchaser reserves the right to refuse COD Shipments.
8. INSPECTION AND REJECTION: The Purchaser's inspection of all materials and equipment upon delivery is for the sole purpose of identification. Such inspection shall not be construed as final acceptance, or as acceptance of the materials or equipment, if materials or equipment does not conform to contractual requirements. If there are any apparent defects in the materials or equipment at the time of delivery, the Purchaser will promptly notify the Vendor thereof. Without limiting any other rights, the Purchaser and/or the state at its option, may require the Vendor to:
 - a. Repair or replace, at Vendor's expense, any or all of the damaged goods;
 - b. Refund the price of any or all of the damaged goods; or
 - c. Accept the return of any or all of the damaged goods.

9. RISK OF LOSS: Regardless of FOB point, Vendor agrees to bear all risks of loss, injury or destruction of goods and materials ordered herein which occur prior to delivery and acceptance by Purchaser as outlined in Paragraph 7; and such loss, injury or destruction shall not release Vendor from any obligation hereunder.
 - a. PAYMENTS: Invoices will not be processed for payment nor will the period of cash discount commence until receipt of a properly completed invoice and until all invoiced items are received and satisfactory performance of Vendor has been attained. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized. If no terms are specified, net 30 days will automatically apply. If Purchaser fails to make a payment within 30 days from the date of receipt of a proper invoice, Vendor may charge up to 1% per month in late fees. Payment will not be considered late if a check or warrant is mailed within the time specified. Payment(s) made in accordance with contract terms shall fully compensate the Vendor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Vendor.
10. ASSIGNMENT: No rights or obligations under this Purchase Order shall be permitted, and shall be considered void, without the prior written consent of the Director of Procurement and Contracts, or their designee.
11. PRICES: If price is not stated on this Purchase Order, it is agreed that the goods shall be billed at the price last quoted or paid, or the prevailing market price, whichever is lower.
12. IDENTIFICATION: All invoices, packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written documents affecting this contract shall be identified by the applicable purchase order or field order number. Packing lists shall be enclosed with each shipment, indicating the contents therein.
13. NON-WAIVER BY ACCEPTANCE OF VARIATION: No provision of this order, or the right to receive reasonable performance of any act called for by the terms shall be deemed waived by a waiver by Purchaser of a breach thereof as to any particular transaction or occurrence.
14. WARRANTIES: Vendor warrants that articles supplied under this order conform to specifications herein and are fit for the purpose for which such goods are ordinarily employed, unless stated otherwise in writing, the material must then fit that particular purpose.
15. TAXES: Unless otherwise indicated, Purchaser agrees to pay all State of Washington sales or use tax. No charge by Vendor shall be made for federal excise taxes, and Purchaser agrees to furnish Vendor, upon Vendor's request, with an exemption certificate.
16. LIENS, CLAIMS, AND ENCUMBRANCES: Vendor warrants and represents that all the goods and materials ordered herein are free and clear of all liens, claims, or encumbrances of any kind.
17. INDEMNIFICATION AND HOLD HARMLESS: Vendor shall indemnify, defend and hold harmless Purchaser, its trustees, employees and volunteers from and against any damage, cost or liability for any injuries to persons or property arising out of or resulting from the Vendor's performance or non-performance of this contract, including any goods, services, or products advertised, manufactured, sold, handled, distributed, or disposed of by or on behalf of Vendor, to the extent caused in whole or in part by the acts or omissions of Vendor, its agents, employees, representatives, or any subcontractor or its employees.
 - a. This provision shall also include, but not be limited to, Vendor agreeing to protect and save harmless Purchaser against all claims, suits, or proceedings for patent, trademark, copyright, franchise infringement, or other violations of intellectual property rights arising from the purchase, installation, or use of goods and materials ordered. Vendor also agrees to assume all expenses and damages arising from such claims, suits, or proceedings.
18. ANTI-TRUST: Vendor and Purchaser recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by Purchaser. Therefore, Vendor hereby assigns to Purchaser any and all claims for such overcharges.
19. BRANDS: When special brands are named it shall be construed solely for the purpose of indicating the standards of quality, performance or use desired. Brands of equal quality, performance and use shall be considered, provided vendor specifies the brand, model and submits descriptive literature, when available.

Any bid containing a brand which is not of equal quality, performance, or use specified must be represented as an alternate and not as an equal, and failure to do so shall be sufficient reason to disregard the bid.

20. **NON-DISCRIMINATION:** Vendor and Purchaser agree to comply at all times with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment, opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act. Neither party shall discriminate against any employee, applicant for employment, or against any student on the basis of a Protected Status. "Protected Status" refers to age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability. More specifically, Contractor shall not: (i) refuse to hire any person because of a Protected Status, unless based upon a bona fide occupational qualification, provided that the prohibition on discrimination because of a disability shall not apply if the particular disability prevents the proper performance of the particular worker involved; (ii) discharge or bar any person from employment because of a Protected Status; (iii) discriminate against any person in compensation or in other terms or conditions of employment because of a Protected Status, except it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the Washington State Human Rights Commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes; and, (iv) printing or circulating, or causing to be printed or circulated, any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to a person's Protected Status, unless based on a bona fide occupational qualification, except advertisements may be posted in a foreign language.
21. **SEVERABILITY:** If any provision of this Purchase Order is determined to be invalid, illegal, or unenforceable, all other provisions of this Purchase Order shall remain in full force and effect.
22. **CAPTIONS & HEADINGS:** The captions and headings in this Purchase Order are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Purchase Order nor the meaning of any provisions hereof.
23. **ELECTRONIC SIGNATURES:** Purchaser's purchase order may contain an electronic signature of approval. Such an electronic signature shall be legally binding and have the same legal effect as an original, signed purchase order.
24. **DEFAULT:** The Vendor covenants and agrees that in the event suit is instituted by Purchaser for any default on the part of the vendor, and Vendor is adjudged by a court of competent jurisdiction to be in default, Vendor shall pay to the buyer all costs, expenses expended or incurred by Purchaser in connection therewith and reasonable attorney's fees.
25. **TERMINATION:** In the event of a breach by Vendor of any of the provisions of this contract, Purchaser reserves the right to cancel and terminate this contract forthwith upon giving oral or written notice to Vendor. Vendor shall be liable for damages suffered by Purchaser resulting from Vendor's breach of contract.
26. **VENDOR CERTIFICATIONS:** Vendor certifies as follows:
 - a. Vendor is in good standing to conduct business in the State of Washington and has completed all necessary registrations with the Washington State Department of Revenue and the Washington Secretary of State and possess and shall keep current all required licenses and/or approvals to conduct business in the State of Washington.
 - b. Vendor has paid, or arranged payment for, all taxes owed to the State of Washington, other than those validly contested.