

Pensacola Christian College, Inc. and its Affiliates

Standard Terms and Conditions of Purchase

Definitions

“Seller”: Supplier, Contractor or Subcontractor

“Buyer”: Pensacola Christian College, Inc. and its Affiliates

“Purchase Order”: The medium by which buyer enters into a contractually binding relationship with Seller; including but not limited to: Formal written Purchase Order, Electronic Purchase Order, Purchasing Card transaction.

1. **Acceptance of Purchase Order** These terms and conditions are incorporated into and expressly made a part of the Purchase Order. Agreement by Seller to furnish the materials, products, or services hereby ordered, or its commencement of such performance, or acceptance of any payment, shall constitute acceptance by Seller of this Purchase Order subject to these terms and conditions. Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions of purchase herein contained shall be void and of no effect unless specifically agreed to by Buyer in writing.
2. **Transportation and Delivery.** Seller shall be responsible for ensuring the proper packaging of materials hereunder. Seller shall at all times comply with **Buyer’s written General Inbound Routing and Shipping instructions.** Unless otherwise directed, all shipments are to be FOB Destination. Seller shall submit all required shipping papers to Buyer prior to final payment, and shall be subject to Buyer’s approval. Purchase Order number(s) must appear on all correspondence, shipping labels, and shipping documents, including all packing sheets, bills of lading, air bills, and invoices.
3. **Acceptance/Inspection/Testing:** Final acceptance of goods and services shall not occur until after reasonable inspection of goods in accordance with UCC 2-5133. Payment for the goods and services delivered under this purchase order shall not constitute acceptance thereof. Initial inspection performed by buyer on receipt of goods constitutes a conditional acceptance, and shall not waive the right of buyer to return goods to Seller which later exhibit or develop defects due to latent causes during or after inspection, installation or testing.
4. **Payment** Unless otherwise noted, payment terms shall be Net 30 days from the date of the receipt of the invoice. Pensacola Christian College and its Affiliates will consider earlier payment terms in conjunction with discounts offered.
5. **Delivery; Notice of Delay** Time is of the essence and failure to deliver in accordance with the delivery schedule under this Purchase Order, if unexcused, shall be considered a material breach of this Purchase Order. No acts of Buyer, including without limitation modifications of this Purchase Order or acceptance of late deliveries, shall constitute waiver of this provision.

Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Purchase Order. Such notice shall include a proposed revised schedule but such notice and proposal or Buyer’s receipt or acceptance thereof shall not constitute a waiver of Buyer’s rights and remedies hereunder.
6. **Indemnification.** To the fullest extent permitted by law, the Seller shall and does hereby agree to indemnify, protect, defend with counsel approved by Buyer, and hold harmless Buyer and its respective regents, officers, directors, attorneys, employees, representatives and agents (collectively “Indemnitees”) from and against all damages, liabilities, losses, liens, actions, causes of action, suits, judgments, expenses (including reasonable attorneys fees), and other claims of any nature, kind, or description (collectively “claims”) by any person or entity, arising out of, caused by, or resulting from the Seller’s performance under this agreement and which are caused in whole or in part by any negligent act, negligent omission or willful misconduct of the Seller, anyone directly or indirectly employed by the Seller, or anyone for whose acts the Seller may be liable.
7. **Set Offs against Liabilities** Buyer may, in addition to other remedies available to them at law or equity and upon notice to the Seller, retain such monies from amounts due Seller as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. Buyer may set off any liability or other obligation of the Seller or its affiliates against any payments due the Seller under any Purchase Order with Buyer.
8. **Force Majeure, Notice of Delay, and No Damages for Delay** Neither party hereto shall be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character.
9. **Changes** The Buyer may unilaterally require, by written order, changes altering, adding to, or deducting from the Purchase Order specifications, provided that such changes are within the general scope of the Purchase Order. The Buyer may make an equitable adjustment in the Purchase Order price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Seller, which shall not be unreasonably withheld.
10. **Advertising** The Seller shall not publicly disseminate any information concerning the Purchase Order without prior written approval from the Buyer, including, but not limited to mentioning the Purchase Order in a press release or other promotional material, identifying Buyer by logo or trademark for the purpose of advertising, making a news release, business reference, creating a website content or for products or service endorsement without prior written approval of Buyer, which may be withheld in Buyer’s sole discretion.
11. **Assignment** The Seller shall not sell, assign, subcontract or transfer any of its rights, duties or obligations under the Purchase Order, without the prior written consent of the Buyer. In the event of any such assignment, the Seller shall remain secondarily liable for performance of the Purchase Order, unless the Buyer expressly waives such secondary liability. The Buyer may assign the Purchase Order to any affiliate or related entity.
12. **Warranty of Authority** Each person signing the Purchase Order warrants that he or she is duly authorized to do so and to bind the respective party to these Purchase Order terms.
13. **Warranty** Seller warrants the materials delivered under this Purchase Order, unless specifically stated otherwise in this Purchase Order, shall be new and be free from defects in workmanship, materials, and design and be in accordance with all the requirements of this Purchase Order. Seller further warrants that the performance of work and services shall conform with the requirements of this Purchase Order and to high professional standards. These warranties shall survive final acceptance and payment. This warranty entitlement shall inure to the benefit of both the Buyer and Buyer’s customers.
14. **Modification of Terms.** The Purchase Order contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Buyer and the Seller. The Purchase Order may only be modified or amended upon mutual written agreement of the Buyer and the Seller. No oral agreements or representations shall be valid or binding upon the Buyer or the Seller.
15. **Execution in Counterparts.** The Purchase Order may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
16. **Severability.** If a court deems any provision of the Purchase Order void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.
17. **Disputes** Any controversy or claim that may arise out of or in connection with this Purchase Order that after good faith negotiations cannot be resolved to both parties’ satisfaction may be resolved by submitting the dispute to mediation. The parties agree that their participation in mediation is a condition precedent to either party pursuing any other available remedy in relation to the dispute. Either party to the dispute may give written notice to the other party of its desire to commence mediation, which will commence within thirty (30) days of such notice. The parties shall jointly appoint a mutually acceptable mediator. The parties shall share equally in the costs of the mediation (not to include costs incurred for representation by counsel at the mediation). Mediation shall occur in Escambia County Florida. In the event legal action is necessary the venue of such action shall be in the State or Federal Court situated in Escambia County, Florida, and Florida law shall apply.

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18. **Remedies** Except as otherwise provided herein, the rights and remedies of both parties hereunder shall be in addition to their rights and remedies at law or in equity. Failure of either party to enforce any of its rights shall not constitute a waiver of such rights or of any other rights and shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.
19. **Termination for Convenience.** The Buyer may, by written notice to the Seller, terminate the Purchase Order in whole or in part for convenience when the Buyer determines in its sole discretion that it is in Buyer's interest to do so and such termination shall not constitute default. The Seller shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Purchase Order, if any. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order.
- In the event of termination for convenience by Buyer, Seller shall be reimbursed for actual, reasonable, substantiated and allocable costs, plus a reasonable profit for work performed to date of termination. Any termination settlement proposal shall be submitted to Buyer promptly, but no later than thirty (30) days from the effective date of the termination. In no event shall the amount of any settlement be in excess of the Purchase Order value.
20. **Termination for Cause.** The Buyer may, by written notice to the Seller, terminate this Purchase Order in whole or in part at any time for breach of any one or more of its terms, for failure to make progress so as to endanger performance of this Purchase Order, or failure to provide adequate assurance of future performance. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Purchase Order.
- In the event of Seller's default hereunder, Buyer may exercise any or all rights accruing to it, both at law, including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity.
21. **Additional Provisions for Work Performed On Site** Seller agrees to be bound by Buyer's SUBCONTRACTOR'S CONDUCT CODE. The Seller shall maintain on the Site at all times a sufficient work force to carry out its obligations under this Purchase Order in accordance with the schedule. All persons furnished by Seller shall be deemed Seller's employees or agents. Seller shall ensure that adequate criminal background checks have been conducted on all persons performing work under this Purchase Order at the site. Seller shall secure all materials as well as work site and shall leave all areas broom clean in a safe condition at the end of each work day and upon completion of the work.
- In the event of an emergency threatening health, life or property, the Seller shall take such action as may be necessary to save lives and protect persons from injury and, having accomplished this, to protect and preserve property. Seller shall notify Buyer of any such emergency as promptly as is practical under the circumstances.
- The Subcontractor shall comply with buyer's requirements for General Liability, Automobile Liability and Worker's Compensation Insurance with the buyer listed as additional insured as respects to General Liability and Automobile Liability. Waiver of Subrogation applies in favor of Pensacola Christian College as respects General Liability, Automobile Liability Insurance and Worker's Compensation.
22. **Installation.** Where installation is required, Seller shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Purchase Order. Seller's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Seller shall protect the site from damage and shall repair damages or injury caused during installation by Seller or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Seller shall promptly restore the structure or site to its original condition. Seller shall perform installation work so as to cause the least inconvenience and interference with Buyer and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.
23. **Entire Agreement** This Agreement constitutes the entire agreement between Buyer and Seller relating to articles or services purchased under this Purchase Order and supersedes all prior understandings, promises, and undertakings, if any, made orally or in writing with respect to the subject matter hereof. No modification, amendment, waiver, termination, or discharge of any portion of this Agreement shall be binding unless executed and confirmed in writing by Buyer. For General Construction Contracts, these Terms shall be in addition to those found in the American Institute of Architects (AIA) General Conditions of the Contract Terms A201-2007 which shall take precedence.
24. **Notice of Non-Solicitation** During the term of this contract and for a period of one (1) year immediately thereafter, you agree not to solicit any employee of the Company on behalf of any other business enterprise, nor shall you induce any employee associated with the Company to terminate or breach an employment, contractual or other relationship with the Company.