

**THE DISTRICT BOARD OF TRUSTEES OF DAYTONA STATE COLLEGE, FLORIDA
PURCHASE ORDER TERMS AND CONDITIONS**

Daytona State College (DSC) (Buyer) prohibits the inclusion of any additional or different terms by Seller in Seller's acceptance or acknowledgement of this order. The inclusion of such terms by Seller will be void, such terms will not be conditions or additional terms to this order, and Buyer's acceptance of Seller's goods shall not be deemed as acceptance of such terms. The terms or conditions from a relevant invitation to bid, proposal or quote are incorporated herein by this reference. If Purchase Order does not have an authorized purchasing signature it is considered null and void, and no payment(s) will be made against it. These terms and conditions supersede any and all prior or other contracts, terms, conditions, or similar (collectively, "terms") regarding the matter described in the PO, including any such terms provided by Seller, and even if such terms were executed by Buyer. These terms and conditions are not subject to change by reason of any written or verbal statements made by Seller, or by any statement in Seller's acknowledgement unless accepted in writing by Buyer. Unless otherwise stated on the face of this order, the following terms and conditions shall apply.

1. **Acceptance:** This PO constitutes acceptance of your offer to sell the goods/services as quoted. If Seller refuses to accept this order exactly as written, they shall return it immediately with a written explanation. Delivery of goods shall indicate acknowledgement and acceptance of this order.
2. **Tax Exempt Status:** Seller acknowledges that Buyer is a tax-exempt institution and does not pay Federal Excise or Florida Sales taxes on the direct purchases of tangible personal property.
3. **Delivery:** Note PO number on all shipments and documents. Buyer will not be responsible for any goods delivered without reference to the PO number. Buyer assumes no liability for goods shipped to destinations other than those shown on the PO.
4. **Partial Deliveries:** Partial deliveries/payments shall not be made, per FS 672.307, unless otherwise specified on the PO or prior oral or written agreement has been made with the DSC Purchasing Department. If delivery to destination cannot be made on or before the specified date, Seller must notify the DSC Purchasing Department promptly.
5. **Payment:** Submit a separate invoice for each 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.
6. **Freight Charges:** If freight charges appear on the invoice, Buyer reserves the right to require receipted transportation invoices.
7. **Payment Terms:** Payment terms are Net Thirty (30) Days after receipt of a valid invoice. On any discount, time will be computed from date of satisfactory delivery of goods, or from date correct invoice received, whichever is the later date.
8. **Receiving:** Central Receiving is open to receive shipments from 8:00 a.m. to 5:00 p.m., Monday through Friday. Deliveries will not be accepted on holidays or other college closures.
9. **Inspections and Testing:** Buyer reserves the right to expedite, inspect and test any of the goods or work covered by this purchase order prior to shipment. All goods are also subject to Buyer's inspection and approval upon arrival. If rejected, pickup/return of the goods will be at Seller's expense. Such inspection, or the waiver thereof, however, shall not relieve Seller from full responsibility for furnishing goods and work conforming to the requirements of the order, not prejudice any claim, right or privilege Buyer may have because of the use of defective or unsatisfactory goods or work.
10. **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.
11. **Revisions:** Revisions to this order are not authorized unless a written Revision is issued by the DSC Purchasing Department.
12. **Pricing:** If unit price is omitted on the order, except where the PO is given in acceptance of quoted prices, it is agreed that Seller's price will be the lowest prevailing market price, and in no event is this order to be filled at higher prices than previously quoted or charged, without Buyer's written consent.
13. **Safety:** A Material Safety Data Sheet (MSDS) must accompany all chemical items delivered against this PO.
14. **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 thereof, without prejudice to its other rights. Seller's failure to adhere to any term or condition of this order may result in cancellation with 48 hours' notice. Seller agrees that Buyer may return part or all of any shipment made and may charge Seller for any loss or expense sustained as a result of such failure to deliver.
15. **Stop Work Order:** Buyer may, at any time, by written notice to Seller, stop all or any part of the work. Upon receipt of such notice, Seller shall take all reasonable steps to minimize the incurrence of costs during the period of work stoppage. Buyer may subsequently either cancel the stop work order resulting in an equitable adjustment in the delivery schedule and/or the price or terminate the work in accordance with the provisions of the order.
16. **Assignment and Subcontracting:** Seller shall not assign or subcontract any portion of this purchase order without the prior written approval of Buyer.
17. **E-Verify:** Seller warrants and certifies it has registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees and agrees to abide by Sections 448.09 and 448.095, Fla. Stat. Seller shall not subcontract as to the labor, supplies, or services described herein (if any) without prior approval from Buyer.
18. **Warranty:** By accepting this order, Seller warrants that the goods furnished hereunder shall be free from latent and patent defects and in full conformity with the specifications, drawings and/or samples. Seller also warrants that the goods are fit for Buyer's purpose if indicated hereon or in any documents attached or made a part hereof by reference or if known to Seller. These warranties shall survive acceptance of and payment for goods received. Failure of Buyer to reject said goods shall not constitute a waiver of any of these warranties. Seller shall hold harmless Buyer, its customers and any users, from any loss, damage and expense whatsoever, including attorney's fees and court costs which may be suffered by breach of any of these warranties.
19. **Violation:** Seller represents and warrants that no Federal or State Statute or regulation or municipal ordinance has been or will be violated in the manufacturing, sale, and/or delivery of any good or service sold and delivered hereunder. If such violation has or does occur, Seller will indemnify and render harmless Buyer from all loss, penalties, or the payment of all sums of money on account of such violation.
20. **Strict Compliance:** Buyer may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.
21. **Patents, Trademark, Copyright:** Seller agrees to indemnify and hold harmless Buyer, its officers, employees, agents or representatives using the goods specified herein from any loss, damage or injury arising out of claim or suit at law or equity for actual or alleged infringement of letters patent, copyright, trademark, or other intellectual property right by reason of

buying, selling or using the goods supplied under this order, and will assume the defense of any and all suits and will pay all costs and expenses incidental thereto.

22. **Insurance and Indemnification:** Seller agrees to indemnify and hold harmless Buyer, its officers, agents and employees from and against any and all claims and liabilities (including expenses) for injury or death of persons or damage to any property which may result, in whole or in part, from any act or omission on the part of Seller, its agents, employees or representatives, or arising from any Seller-furnished goods or services, except to the extent that such damage is due solely and directly to the negligence of Buyer. Seller shall carry comprehensive general liability insurance, including contractual and product liability coverage, with minimum limits acceptable to Buyer. Seller shall, at the request of Buyer, supply certificates evidencing such coverage.
23. **Risk of Loss:** Seller assumes all risk associated with or arising from the goods—including, without limitation, loss, damage or injury to goods, work in progress, materials, third parties or their property, or property received by Seller from or held by Seller or its supplier for Buyer—until delivery to Buyer at the location described herein. Seller assumes all risk associated with or arising from goods or parts thereof rejected by Buyer from the time of shipment thereof to Seller.
24. **Contract/ITB/RFP/RFQ/ITN:** If Buyer and Seller have previously entered into an formal written contract executed by both parties, the terms and conditions included in said contract shall have preference, and this PO is issued solely to encumber funds and for payment purposes. Whether a written agreement constitutes such a formal written contract is within the sole discretion of Buyer.
25. **Assignability:** This PO is not transferable or assignable by Seller to third parties, unless acknowledged and accepted by Buyer in writing.
26. **Public Records Law:** If and to the extent Seller meets the definition of the term “contractor” as set forth in Chapter 119, Fla. Stat., the terms of this section apply:
Pursuant to s. 119.0701(2)(a), Fla. Stat., DSC is required to provide Seller with this statement and establish the following requirements as contractual obligations under this Agreement:

**IF SELLER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO BUYER’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:
Rodnie Marquinez, General Counsel, Daytona State College, (386) 506-3130, Romualdo.Marquinez@daytonastate.edu, 1200 W. International Speedway Blvd., Daytona Beach, FL 32114.**

(A) Seller acknowledges and agrees that any records maintained, generated, received, or kept in connection with, or related to the performance of services provided under, this PO are public records subject to the public records disclosure requirements of s. 119.07(1), Fla. Stat., and Article I, s. 24 of the Florida Constitution. Pursuant to s. 119.0701, Fla. Stat., any contractor entering a contract for services with DSC is required

to comply with all relevant public records laws of the State, including to:

- (i) Keep and maintain public records required by DSC to perform the service.
- (ii) Upon request from DSC’s custodian of public records, provide DSC 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 this chapter or as otherwise provided by law.
- (iii) 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 contract term and following completion of the contract if Seller does not transfer the records to DSC.
- (iv) Upon completion of the contract, transfer, at no cost, to DSC all public records in possession of Seller or keep and maintain public records required by DSC to perform the service. If Seller transfers all public records to DSC upon completion of the contract, Seller shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Seller keeps and maintains public records upon completion of the contract, Seller shall meet all applicable requirements for retaining public records.
- (B) A request to inspect or copy public records relating to DSC or this contract must be made directly to DSC. If DSC does not possess the requested records, DSC shall immediately notify Seller of the request, and Seller must provide the records to DSC or allow the records to be inspected or copied within a reasonable time.
- (C) Seller acknowledges that failure to provide the public records to DSC within a reasonable time may be subject to penalties under s. 119.10, Fla. Stat. Seller further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from DSC. Seller shall indemnify, defend, and hold DSC harmless for and against any and all claims, damage awards, and causes of action (including, but not limited to, any third-party claims or awards for attorney’s fees and costs arising therefrom) arising from Seller’s failure to comply with the public records disclosure requirements of s. 119.07(1), Fla. Stat., or by Seller’s failure to maintain as confidential or exempt public records that are exempt or confidential and exempt from the public records disclosure requirements.
27. **Conflict of Interest:** The purchase hereunder is subject to the provisions of Chapter 112, Fla. Stat. All sellers must disclose the name of any director or agent who is an employee of the college.
28. **Nondiscrimination:** The nondiscrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, regarding equal employment opportunity for all persons without regard to race, color, religion, gender or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor, are incorporated herein.
29. **Corrections/Changes:** Clerical errors are subject to correction by DSC Purchasing Department, but the purchase order may not otherwise be modified or rescinded without DSC Purchasing Department’s consent. Questions concerning this order may be made by writing to Daytona State College, Purchasing Department, PO Box 2811, Daytona Beach, FL 32120-2811; by phone (386) 506-3004; or email: Purchasing@daytonastate.edu.
30. **American-Made Iron or Steel:** If and to the extent this PO is for a "public works project" or supplies for same, as that term is defined in s. 255.0993, Fla. Stat., Seller warrants the goods comply with the aforementioned statute and any iron or steel in the goods is produced in the United States.
31. **Human Trafficking:** In accordance with s. 787.06, Fla. Stat., each time requested by Buyer, Seller will promptly provide to Buyer an affidavit (in a form acceptable to Buyer) duly executed by Seller’s authorized officer or a representative attesting under penalty of perjury Buyer does not use coercion for labor or services as those terms are defined in the aforesaid statute.

32. FLOW-THROUGH REQUIREMENTS FOR PURCHASES USING FEDERAL FUNDS:

- (a) For goods procured using federal funds, DSC requires compliance with these additional contractual 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. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352): if the Purchase Order amount is for \$100,000 or more, Seller (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 Federal 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.
- (b) Buy American Act (41 U.S.C. 8301 - §8305) (ARRA Section 1605 & 2 CFR §300.322) (Applies to purchase orders for construction, alteration, or repair, including products goods used providing maintenance services). Vendor represents and warrants that all of 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 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).
- (c) Clean Air Act and Federal Water Act: Procurement that exceeds \$150,000, the "Contractor" shall guarantee that all products purchased as a result of this procurement 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.).
- (d) Debarment and Suspension: The College will not award a Contract to parties listed on the government wide exclusions System for Award Management (SAM). In accordance with the OMB guidelines at 2 CFR 180 which implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension". SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion and that of its principal employees.
- (e) Equal Employment Opportunity - This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
- (f) Procurement of Recovered Materials: Procurement that exceeds \$10,000 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 –
- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.

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

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

- (g) 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.