

THE UNIVERSITY OF WYOMING
PURCHASE ORDER TERMS AND CONDITIONS

Section I. General Terms and Conditions

This purchase order is limited to the terms and conditions contained on its face and those expressly incorporated by reference. Any and all additional or different terms or conditions included in vendor's acknowledgment, invoice, quote, or any other vendor document ("Additional or Different Terms") will be deemed to be material alterations, or a proposal to add terms to, or change terms of, this purchase order, and notice of objection to them is hereby given. Any such Additional or Different Terms shall be void. The University of Wyoming hereby unequivocally rejects any and all Additional or Different Terms, unless the University expressly accepts such Additional or Different Terms in writing signed by an authorized representative of the University's Procurement Services and made a part of this purchase order.

1. **ACCEPTANCE OF ORDER.** This purchase order is an ACCEPTANCE of your OFFER as summarized in your quotation or bid. When this purchase order is an OFFER to buy, please give the university any available educational discounts.
2. **APPLICABLE LAWS.** Any provisions to be included in a contract of this type by any applicable and valid Executive order, federal, Wyoming or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.
3. **ASSIGNMENT AND SUBCONTRACTING.** This order is assignable by UW. Except as to any payment due hereunder, this order is not assignable by Seller without written approval of UW. Similarly, Seller shall not subcontract to a third party any part of this Purchase Order or any rights arising hereunder without first obtaining the express, written approval of UW.
4. **CHANGES.** UW may make changes within the general scope of this order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by Seller shall be recognized without written approval of UW. Any claim of Seller for an adjustment under this Article must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such changes unless UW waives this condition. Nothing in this Article shall excuse Seller from proceeding with performance of the order as changed hereunder.
5. **D.A.P. Incoterms@2010** - Shipments must be D.A.P. Incoterms@ 2010, University of Wyoming, Laramie, Wyoming unless otherwise specified on this order.
6. **DISBARMENT OR OTHER RESTRICTION.** Acceptance of this Purchase Order constitutes certification that the Seller a) is not presently debarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency, and b) is not presently on any prohibited parties lists of the Department of Commerce, State and Treasury. These lists include:
 - Denied Persons List - A list of individuals and entities that have been denied export privileges by the Department of Commerce.
 - Unverified List - A list of parties where the Department of Commerce has been unable to verify the end-user in prior transactions.
 - Entity List - A list of parties whose presence in a transaction can trigger a license requirement under the Department of Commerce Export Administration Regulations.
 - Specially Designated Nationals List - A list compiled by the Treasury Department, Office of Foreign Assets Control (OFAC).
 - Debarred List - A list compiled by the State Department of parties who are barred by §127.7 of the International Traffic in Arms Regulations (ITAR) (22 CFR §127.7) from participating directly or indirectly in the export of defense articles, including technical data or in the furnishing of defense services for which a license or approval is required by the ITAR.
 - Nonproliferation Sanctions Lists - Several lists compiled by the State Department of parties that have been sanctioned under various statutes. These include:
 - Executive Order 13382
 - Iran and Syria Nonproliferation Act
 - Executive Order 12938, as amended
 - Iran-Iraq Arms Nonproliferation Act of 1992
 - Missile Sanctions Laws
 - Chemical and Biological Weapons Sanctions Laws
 - Sanctions for the Transfer of Lethal Military Equipment
 - Iran, North Korea, and Syria Nonproliferation Act Sanctions (INKSNA)
 - Iran Nonproliferation Act of 2000

Seller agrees to notify the University of Wyoming Procurement Services Office immediately of any change of status in the above.

7. **DISCOUNTS.** Discount time will not begin until receipt of equipment or merchandise and/or the invoice whichever is later.
8. **EQUAL EMPLOYMENT OPPORTUNITY/DIVERSITY (Affirmative Action) Program.**

Both parties shall fully adhere to all applicable local, state and federal law, including equal employment opportunity and including but not limited to compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and the American with Disabilities Act of 1990. The University is committed to equal opportunity for all persons in all facets of the University's operations and is an Equal Opportunity/Affirmative Action employer. The University will provide all applicants for admissions, employment and all University employees with equal opportunity without regard to race, gender, religion, color, national origin, disability, age, protected veteran status, sexual orientation, genetic information, gender identity, creed, ancestry, political belief, any other applicable protected category, or participation in any protected activity. The University ensures non-discriminatory practices in all matters relating to its education programs and activities and extends the same non-discriminatory practices to recruiting, hiring, training, compensation, benefits, promotions, demotions, transfers, and all other terms and conditions of employment.

Contractors are notified that they may be subject to the provisions of 41 CFR Section 60-300.5(a); 41 CFR Section 60-741.5(a); 41 CFR Section 60-1.4(a) and (c); 41 CFR Section 60-1.7(a); 48 CFR Section 52.222-54(d); and 29 CFR Part 471, Appendix A to Subpart A with respect to affirmative action and posting requirements. **This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and**

subcontractors to employ and advance in employment qualified protected veterans. This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

9. **EXPORT COMPLIANCE.** UW, its employees and its agents are subject to U.S. export control laws that prohibit or restrict a) transactions with certain parties, and b) the type and level of technologies and services that may be exported. These laws include, without limitation, the Arms Export Control Act, the Export Administration Act, and the International Economic Emergency Powers Act, and regulations issued pursuant to these, including the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR).

Acceptance of this Purchase Order constitutes Seller's certification that Seller a) shall comply with U.S. export controls in all dealings with UW, and b) shall provide information to UW on the product(s) being purchased to enable UW to determine the export controls applicable to the product and related technology. Specifically, Seller shall identify the jurisdiction (ITAR or EAR) and classification of its product(s) prior to delivery of such products to UW. The suggested format for this information is set out in Exhibit 1 below.

10. **INDEMNIFICATION.** The Seller agrees that it will be responsible to, and indemnify and hold harmless, UW, its board, officers, and employees, from any loss, cost damage, expense or liability by reason of property damages or personal injury of whatsoever kind or character, arising out of, as a result of, or in connection with the performance of its obligations under this Purchase Order. This indemnity obligation will survive the expiration or termination of this Purchase Order by either party.
11. **INSPECTION.** The equipment, supplies or services furnished shall be exactly as specified in this order, free from all defects in Seller's design, workmanship and materials, and, except as otherwise provided in this order, shall be subject to inspection and test by The University of Wyoming (UW) at all times and places. If prior to final acceptance, any equipment, supplies or services are found to be defective or not as specified, UW may reject them, require Seller to correct them without charge, or require delivery of such equipment, supplies or services at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such items within a time deemed reasonable by UW, UW may terminate the order in whole or in part. Seller shall bear all risks as to rejected equipment, supplies and services and, in addition to any costs for which Seller may become liable to UW under other provisions of this order, shall reimburse UW for all transportation cost, other related costs incurred, or payments to Seller in accordance with the terms of this order for unaccepted equipment, supplies and services. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud. Any test programs and procedures required by the specifications are in addition to, and do not limit, UW's rights provided in this Article.
12. **INSURANCE.** Seller agrees that it and its subcontractors will maintain, throughout the term of the agreement and for a reasonable period after the agreement, general liability insurance including property damage, bodily injury, contractual liability, errors and omissions and products completed operations, in reasonable limits covering the obligations set forth above, and will maintain all workers' compensation coverage (either by insurance or, if qualified pursuant to law, through a self-insurance program) and employer's stop gap liability coverage required by law.
13. **INTERPRETATION.** The laws of the State of Wyoming shall govern in connection with formation, performance and the legal enforcement of this purchase order.
14. **LABOR DISPUTES.** Seller shall give prompt notice to UW of any actual or potential labor dispute which delays or may delay timely performance of this order.
15. **PATENT AND COPYRIGHTS.** Any discovery or invention or copyrightable materials develop in the course of or resulting from work carried on under this order shall be the property of UW. If the source of the funds for this order is federal, any applicable federal patent and copyright rules also apply, take precedence and supersede this provision.
16. **PATENT INDEMNITY.** Seller shall pay all royalty and license fees relating to the items covered hereby. In the event any third party shall claim that the manufacture, use and sale of these goods covered hereby, infringes on any copyright, trade mark or patent, the Seller shall indemnify UW and hold UW harmless from any cost, expenses, damage or loss incurred in any manner by UW on account of any such alleged infringement.
17. **PAYMENTS.** To insure prompt payment, mail invoice to address shown on front of purchase order. Invoices not mailed as directed will delay payment, or may become lost. Do not send invoice to the Purchasing Department.
18. **PURCHASE ORDER NUMBER.** The purchase order number must appear on all correspondence, shipping documents and packages.
19. **RISK OF LOSS.** Seller assumes all risk of loss of or damage to all goods ordered and all work in process, materials, and other items related to this Purchase Order until the same are finally accepted by the University. Seller also assumes all risk of loss of or damage to any goods, works in progress, materials and other items rejected by UW until the same are accepted by UW.
20. **SOVEREIGN IMMUNITY.** The university does not waive its sovereign or governmental immunity by entering into this agreement and fully retains all immunities and defenses provided by law with regard to any action based on this agreement. Any actions or claims against the University must be in accordance with and are controlled by the Wyoming Governmental Claims Act, W.S. 1-39-101 et seq. (1977) as amended.
21. **TAX EXEMPT.** The University of Wyoming is an agency of the State of Wyoming and may be tax exempt depending on the laws and regulations of the merchant's/seller's/vendor's jurisdiction. Our Federal ID # is 83-6000331.
22. **TERMINATION AND DELAYS.** UW may by written notice stating the extent and effective date, terminate this order for convenience in whole or in part, at any time. UW shall pay Seller as full compensation for performance until such termination: (1) the unit or pro rata order price for the delivered and accepted portion; and (2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by UW with respect to the undelivered or unaccepted portion of this order, provided compensation hereunder shall in no event exceed the total order price. UW will pay only for goods delivered or services rendered prior to the date of termination. UW may by written notice terminate this order for Seller's default, in whole or in part, at any time, if Seller refuses or fails to comply with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to make deliveries of the item or services or to perform the services within the time specified or any written extension thereof. In such event, UW may purchase or otherwise secure items or services and, except as otherwise provided herein, Seller shall be liable to UW for any excess costs occasioned UW thereby.

If after notice or termination for default, UW determines that the Seller was not in default or that the failure to perform this order is due to causes beyond the control and without the fault or negligence of Seller (including, but not restricted to, acts of God or of the public enemy, acts of UW, acts of Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a subcontractor of supplier due to such causes and without the fault of negligence of the subcontractor or supplier), termination shall be deemed for the convenience of UW, unless UW determines that the items or services covered by this order were obtainable from other sources in sufficient time to meet the required delivery schedule.

If UW determines that Seller has been delayed in the work due to causes beyond the control and without the fault or negligence of the Seller, UW may extend the time for completion of the work called for by this order, when promptly applied for in writing by Seller, and if such delay is due to failure of UW, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of the order shall be subject to change under the Changes Article. Sole remedy of Seller in event of delay by failure of UW to perform shall, however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of delay. UW shall not be liable to Seller for any lost or anticipated profits or other incidental or consequential damages.

The rights and remedies of UW provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

As used in this Article, the word "Seller" includes Seller and his suppliers at any time.

23. **TRADEMARK.** Seller will not use the name, insignia, or symbols of UW, its faculties or departments or any variations or combinations thereof without UW's prior written consent.
24. **WARRANTIES.** Seller warrants that the goods and services set forth herein are (a) are of merchantable quality free from defects in labor, material and manufacture, (b) in compliance, with any drawings or specifications incorporated or referenced herein and with any samples furnished by the Seller (c) comply with all applicable laws, codes, and regulations (d) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties is breached, Seller agrees to correct all defects and nonconformities, to be liable for all direct, indirect, consequential and other damages suffered by UW, and to defend and indemnify UW from any claim asserted by any person resulting in whole or in part from such breach. Seller further warrants that all services hereunder shall be performed by personnel experienced and highly skilled in their profession and in accordance with the highest applicable standards of professionalism for comparable or similar services. Seller shall be responsible for the professional quality, timeliness, coordination and completeness of the services.

Exhibit 1

<p><i>Are any of the products subject to the Export Administration Regulations (EAR)?</i></p> <p>Yes _____ No _____</p>	<p>If YES, indicate the ECCN No. of each product:</p> <p>_____</p>
<p><i>Are any of the products subject to the International Traffic in Arms Regulations (ITAR)?</i></p> <p>Yes _____ No _____</p>	<p>If YES, indicate the USML Category and Sub – Category of each product:</p>

Section 2 – Additional Terms and Conditions for Federal Contracts and Grants

When the University of Wyoming purchases goods or services, (a) through federal procurement “contracts” subject to the Federal Acquisition Regulations, (b) through federal “grants” subject to the OMB Uniform Guidance, and/or (c) through “cooperative agreements,” which may include items from the FAR and/or from the OMB Uniform Guidance, additional terms and conditions apply.

The following applicable provisions are hereby incorporated by reference into this agreement with the same force and effect as if set forth in the full text. Clauses to the Federal Acquisition Regulation are available at <http://www.acquisition.gov>. The clauses that govern a particular federal contract are those in effect at the time the federal contract is awarded to the University.

For purposes of this Purchase Order, in the following clauses the term “contract” shall mean “this order”; the term “Contractor” shall mean “Seller”; and the term “Government” and “Contracting Officer” shall mean “The University of Wyoming”.

Clause	Title
A. <u>Clauses Which Apply Regardless of Dollar Amount of Subcontract:</u>	
52.203.11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
52.203.7	Anti-Kickback Procedures

52.209.6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
52.215.14	Integrity of Unit Prices
52.222.1	Notice to the Government of Labor Disputes
52.222.21	Prohibition of Segregated Facilities
52.222.26	Equal Opportunity
52.222.35	Equal Opportunity for Veterans
52.222.36	Affirmative Action for Workers with Disabilities
52.222.37	Employment Reports on Veterans
52.222.4	Contracts Work Hours and Safety Standards - Overtime Compensation
52.222.41	Service Contract Labor Standards
52.225.13	Restrictions on certain Foreign Purchases
52.227.10	Filing of Patent Applications - Classified Subject Matter
52.227.11/13	Patent Rights
52.247.63	Preference for Privately Owned U.S. - Flag Air Carriers
52.247.64	Preference for Privately Owned U.S. - Flag Commercial Vessels
52.249.5	Termination for Convenience of the Government (Services)
B.	<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$10,000:</u>
52.219.8	Utilization of Small Business Concerns
52.222.54	Employment Eligibility Verification
C.	<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$25,000:</u>
52.227.1	Authorization and Consent
52.227.2	Notice and Assistance Regarding Patent and Copyright Infringement
52.227.3	Patent Indemnity
D.	<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$100,000:</u>
33 U.S.C. 1251 et. seq	Federal Water Pollution Control Act
42 U.S.C. 7401, et. seq	Clean Air Act
52.203.12	Limitation on Payments to Influence Certain Federal Transactions
52.203.6	Restrictions on Subcontractor Sales to Government
52.209.5	Certification Regarding Responsibility Matters
52.215.1	Instructions to Offerors - Competitive
52.215.2	Audit and Records - Negotiation
52.219.13	Notice of Set-Aside of Orders
E.	<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$500,000:</u>
52.219.9	Small Business Subcontracting Plan
F.	<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$550,000:</u>
52.215.12/13	Subcontractor Certified Costs or Pricing Data

G. Clauses Which Apply Under Other Specific Conditions:

52.204.2	Security Requirements
52.223.3	Hazardous Material Identification and Material Safety Data

H. The following apply in Subcontracts/Purchase Orders issued under Department of Defense prime contracts (DFARS)

252.203.7001	Special prohibition on employment
252.225.7001	Buy American and Balance of Payments Program
252.225.7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals
252.225.7026	Acquisition Restricted to Products or Services from Afghanistan
252.227.7013	Rights to Technical Data - Noncommercial Items
252.227.7018	Rights to Noncommercial Technical Data and Computer Software - Small Business Innovation Research (SBIR) Program
252.227.7034	Patents - subcontracts
252.227.7037	Validation of Restrictive Markings on Technical Data
252.227.7039	Patents - reporting of subject inventions