

THIS ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS AS WELL AS THOSE WHICH APPEAR IN THE BODY THEREOF

1. **ACCEPTANCE** – This purchase order constitutes an offer by University to Vendor upon the terms and conditions stated herein and in the body of the order and shall become a binding contract upon acceptance thereof either by acceptance in writing or commencement of performance pursuant to this purchase order. No revisions to this order shall be valid unless in writing and signed by an authorized representative of University; and no condition stated by Vendor in the written acceptance of the purchase order shall be binding upon University unless expressly accepted in writing by University. University accepts liability only for purchases of goods and services made through the Purchasing Department and evidenced by a purchase order.
2. **CHANGES** – The University may from time to time, by written instructions issued to the Vendor by an authorized representative of the University's Purchasing Department make changes, issue additional instructions, require additional goods, work or services or direct the omission of goods, work or services, ordered herein. If any such change causes an increase or decrease in the cost or the time required for performance of this Purchase Order, an equitable adjustment shall be made in the price or delivery schedule or both, and this purchase order shall be modified in writing accordingly. No extra work, additions or alterations will be paid for by the University unless performed pursuant to the written instructions of an authorized representative of the University's Purchasing Department. Any claim by the Vendor for adjustment under this provision must be asserted within thirty days from the date of receipt by the Vendor of the notification of change. The terms and conditions of this agreement shall apply to all such written modifications.
3. **APPLICABLE LAW** – This agreement shall be construed and interpreted solely in accordance with the laws of the state of Indiana; provided, however, that any Purchase Order issued under a U.S. Government prime contract be construed and interpreted in accordance with Federal law relating to U.S. Government prime contracts.
4. **INVOICES** – Send all invoices on or after the date of final shipment through email, fax or mail. Invoices can be emailed to apinvoic@bsu.edu faxed to (765) 285-1947, or mailed to: Ball State University Office of Accounts Payable, Administration Building 301, Muncie, Indiana 47306-0720. Separate invoices shall be sent for each purchase order. Each invoice shall be itemized and show complete purchase order number.
5. **PAYMENT TERMS** – Unless otherwise noted, the University's standard payment terms will be Net 30 Days effective March 1, 2017. If you would be willing to accept a reduced fee in order to receive faster payment, please notify the Purchasing Services Office of your proposed terms in writing, via e-mail (procurement@bsu.edu), or by fax at (765)-285-5505. Cash discount period will commence from the date of the receipt of invoice. Ball State University requires that goods be received prior to payment. C.O.D. delivery will not be accepted.
6. **RISK OF LOSS** – Vendor shall be responsible for loss of goods purchased hereunder until such goods are all delivered to the address designated on the reverse side hereof, unloaded, inspected, and receipt acknowledged by an authorized representative of University.
7. **ASSIGNMENT** – Vendor shall not assign this purchase order, or any part thereof, or delegate any performance hereunder, without the prior written consent of University and Vendor shall not be relieved of any liability under this purchase order by reason of any such assignment or delegation.
8. **QUANTITIES** – Shipments must equal exact amounts ordered unless otherwise agreed by University. University reserves the right to reject any and all goods shipped in excess of those specified and to return such goods to Vendor at the risk and expense of Vendor, including transportation and handling costs.
9. **WARRANTY** – Vendor warrants all goods, materials and services to be free from defect in design or material or workmanship, to conform strictly to the specifications, drawings, sample specified or furnished or descriptions specified in this purchase order and will be fit for the use intended. This warranty shall survive any inspection, delivery, acceptance or payment by University of such goods, materials or services. If the goods covered by the purchase order fail to conform to this warranty, University may reject such goods and either may cancel this purchase order or may require Vendor, without delay, to replace such goods with conforming goods. In the event of rejection, Vendor agrees to pay all expenses incurred in return of the goods, including transportation and handling costs.
10. **TERMINATION**
 - 10.1 **Termination without Cause** – University may terminate this Agreement by giving the other party sixty (60) days written or FAX notice of termination. Upon notice of such termination, Seller shall immediately stop all work and/or shipment of goods hereunder and cause its suppliers and/or subcontractors to cease their work against the Purchase Order.
 - 10.2 **Termination for Cause** – The University may cancel this Order in whole or in part at any time for cause for breach by written or FAX notice to the Vendor. Unless the Vendor, within ten (10) working days of the receipt of the notice, has corrected or has taken reasonable steps toward correcting the breach ("opportunity to cure"), the University may terminate this purchase order in whole or in part by giving ten (10) working days written or FAX notice to the Vendor of its intention to terminate this Agreement. The University may terminate this purchase order for breach, as determined by the University, of any material terms or provisions, including but not limited to: (a) failure of the Vendor to comply with any term or condition of this purchase order including but not limited to delivery terms, insufficient insurance coverage or service unsatisfactory to the University; or (b) appoints a receiver, liquidator or trustee in bankruptcy or other similar officer over any or all of its property or assets; or (c) files a voluntary petition in bankruptcy; or (d) has had filed against it an involuntary petition in bankruptcy which remains in effect for thirty (30) days; or (e) voluntarily ceases trading; or (f) there is any substantial change in ownership or proprietorship of the Vendor which, in the opinion of the University, is not in its best interest; or (g) assigns any of its rights or obligations under the purchase order to a third party without the University's advance written consent; or (h) experiences any cessation or diminution of service including but not limited to failure to maintain adequate personnel whether arising from labor disputes or otherwise.
11. **NONDISCRIMINATION** – The Vendor, or its subcontractor(s), if any, shall not discriminate against any qualified employee or applicant for employment in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, religion, color, sex, age, national origin or ancestry, disability or status as a disabled or Vietnam era veteran or any other basis prohibited by applicable law. The Vendor, or its subcontractor(s), if any, agrees to comply with all the provisions contained in Executive Orders No. 11246 and No. 11375, the Equal Employment Opportunity Clause requirements as set forth at 41 CFR 60-1.4, 41 CFR 60-250.22 and 41 CFR 60-741.5(a), which are hereby incorporated by reference and made a part hereof, and the nondiscrimination mandates of the Indiana Civil Rights Law as presently codified at Ind. Code § 22-9-1-1 et seq. As used therein the word "contractor" shall be deemed to mean "Vendor," and the word "contract" shall refer to this Agreement. In addition, the Vendor shall cause the Equal Opportunity Clauses references above to be included in their subcontracts or purchase orders hereunder unless exempted by rules, regulations and orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Orders No. 11246 and No. 11375 as amended.
12. **INSURANCE & WORKERS' COMPENSATION** – Vendor shall provide workers' compensation coverage for all employees engaged in the work as required by the appropriate state laws. Public liability insurance shall be carried in the amount of not less than one million dollars (\$1,000,000) for injuries, including accidental death, occurring in any one accident. Property damage insurance shall be carried in the amount of not less than one million dollars (\$1,000,000). Vendor shall furnish the University with a certificate of insurance to evidence the foregoing requirements at least seven (7) days prior to the commencement of the work. Ten (10) days notice in writing shall be given to the Owner of cancellation or material changes in the coverage required by this paragraph. If the Vendor in connection with this contract uses subcontractors/sub-vendors, such subcontractors/sub-vendors shall be subject to the same requirements as the Vendor. It is the Vendors responsibility to maintain compliance of subcontractor/sub-vendors. Ball State University is to be named as additionally insured.
13. **COMPLIANCE WITH GOVERNMENT STATUTES AND REGULATIONS** – The Vendor warrants and certifies that in the performance of this contract it has complied with or will comply with all applicable statutes, rules, regulations and orders of the United States, and any state or political subdivision thereof, including laws and regulations pertaining to labor, wages, hours and other conditions of employment, and applicable price ceilings, if any, and that the goods or services delivered hereunder shall be produced or performed in compliance with the Fair Labor Standards Act.
14. **PATENTS** – The Vendor warrants that the products/services hereby sold, either alone or in combination with other materials, do not infringe upon or violate any patent, copyright trade secret, or any other proprietary right of any third party existing under laws of the United States or any foreign country. The Vendor agrees to, at Vendor's own expense, to defend any and all actions or suits alleging such infringements and will save the University, its officers, agents, servants and employees harmless in cases of such infringement.
15. **ADVERTISING** – Vendor agrees not to make reference to the University in any advertising material of any kind without the express written permission of the University.
16. **HAZARDOUS MATERIALS** – The Vendor warrants that all materials ordered herein which have been classified by the Department of Transportation as hazardous materials for the purposes of transportation will be packaged, marked, labeled, and shipped in accordance with the provisions of Title 49, Code of Federal Regulations, Parts 100 through 199, as amended.
17. **REGISTRATION** – The Indiana General Corporation Act requires certain foreign corporations (i.e., corporations not incorporated under the Act) organized for profit, to procure a certificate of admission from the Indiana Secretary of State before transacting any business in Indiana. Information concerning this statute can be obtained from the Office of the Indiana Secretary of State.
18. **SALES TAX CLEARANCE** – Indiana state law requires the University to submit certain information about the Vendor, including but not limited to, Federal Employee Identification Number (FEIN) to the Indiana Department of Revenue (IDOR) for a sales tax clearance. If Vendor is not registered in Indiana as a retail merchant or is eloquent in the payment or reporting of Indiana sales tax, the University is required to suspend further procurements from Vendor until Vendor resolves the problem with IDOR and IDOR issues a clearance to the University.
19. **VENDOR STATEMENTS ON BEHALF OF UNIVERSITY** – Pursuant to University policy, a University vendor is prohibited from making a public statement in that vendor's official capacity on behalf of the University unless the statement: (1) relates to the business or operations of the University or to a University-sponsored event; or (2) has been approved by the Board of Trustees of Ball State University.
20. **DEBARMENT AND SUSPENSION (E.O.s 12549 and 12689)** - Vendor represents and warrants that it is not listed on the government wide Excluded Parties List System in the System for Award Management (SAM) in accordance with either OMB guidance at 2 CFR section 180 that implements E.O.s 12549 and 12689, "Debarment and Suspension. or Federal Acquisition Regulation (FAR) 52.209-6 Protecting the Government Interests when Subcontracting with Contractors Debarred, Suspended, Proposed for Debarment or Voluntarily Excluded.