

University of the Sciences in Philadelphia

Terms and Conditions

1. **General Terms**

- a. If order cannot be filled at the prices shown herein. It must be reconfirmed with the issuing office below before merchandise is shipped.
- b. Seller warrants that the prices for the articles sold Purchaser hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. In the event Seller reduces its price for such article during the term of this order, Seller agrees to reduce the price herein correspondingly. Seller warrants that prices shown on this purchase order shall be complete, and no additional charges of any type shall be added without the Purchaser's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, storage, insurance, boxing and crating.
- c. The freight terms are F.O.B. Destination, Freight Prepaid, unless otherwise specified.
- d. Time of delivery is of the essence of this order.
- e. Any changes in specifications or other conditions of order must be authorized by Buyer in writing in advance.
- f. Buyer reserves the right to cancel this order or any part of thereof if not delivered within the time specified or if the quantity is not as specified.
- g. No delay or failure of the Buyer in exercising any rights under this order and no partial or single exercise thereof shall constitute a waiver of such rights and of any rights hereunder.

2. **Warranty**

- a. In addition to all warranties implied in fact or at law, Seller warrants that all merchandise delivered hereunder shall be of merchantable quality, suitable for the purpose intended, free from defects in material or workmanship and to conform strictly to all specifications and other requirements of this order.
- b. This warranty shall survive acceptance and subsequent use and/or resale of other disposition, as well as payment thereof. If within 12 months after the delivery any merchandise is found not to conform to the foregoing warranty, Buyer, in addition to the other rights it may have under warranty or otherwise, shall have the right to return such merchandise at Seller's expense including the cost of unpacking, examining, repacking and reshipping.

3. **Compliance with Law** - Seller shall comply, and shall cause all merchandise furnished hereunder to comply with all applicable federal, state and local laws, rules, regulations and standards including but not limited to health, safety and environmental standards and requirements.
4. **Patents** - Seller agrees, upon receipt of notification, to promptly assume full responsibility for defense of any claim, suit or proceeding which may be brought against Buyer, its agents or customers for alleged patent infringement as well as for any alleged unfair competition resulting from similarity in design, trademarks or appearance of merchandise furnished hereunder and Seller further agrees to indemnify and defend Buyer, its agents and customers against any and all expense, losses and damages, including court costs and attorney's fees resulting from any such claim, suit or proceeding, including any settlement.
5. **Invoices** - Sellers invoice must be submitted into the address specified on the purchase order. Invoices must indicate the purchase order number account number, buyer's name, date, description of services or items, sizes, quantities, unit prices, extended totals and place of delivery. Invoices will be vouchered for payment after acceptance of the goods and receipt of a complete and accurate invoice (whichever is later) within thirty calendar days.
6. **Taxes** - The University is generally exempt from Pennsylvania sales tax and transportation taxes. Exemption certificates will be completed upon request.
7. **Indemnification** - Each party agrees to defend, indemnify, and hold harmless the other (including the other's affiliated and parent corporations, trustees, directors, officers, staff, agents, and employees) from and against any and all damages, liabilities, losses, expenses, fines or other governmental assessments, settlements, and fees (including reasonable attorneys' fees) to the extent arising from its own breach of this Contract, or its own illegal, negligent, or willful acts or omissions, except to the extent arising from the other's breach of this contract or the other's illegal, negligent or willful acts or omissions. Any party requesting indemnification under this provision shall give the other prompt, written notice of any claim or action subject to indemnification. The terms of this Section shall survive the expiration or termination of this Agreement.
8. **Insurance** - Seller shall maintain at its own expense adequate insurance in any and all forms necessary to protect both seller and the University against liabilities, losses, damages, claims, settlements, expenses, and legal fees arising out of or resulting from performance of this agreement. Although evidence of certain minimum insurance coverage may be required of seller, nothing contained herein shall abridge, diminish or affect seller's responsibility for the consequence of any accidents, occurrences, damages, losses and associated costs arising out of or resulting from performance of this agreement.
9. **Assignment** - Seller shall not delegate any obligations nor assign any rights or claims hereunder without the prior written consent of Buyer, and any order with respect to any portion thereof not shipped.
10. **Force Majeure** - Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrence beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
11. **Risk of Loss** - Title and risk of loss of merchandise shall remain with Seller until receipt of order by Buyer at destination point designated for shipment.
12. **Authorized Signature**. Unauthorized or incomplete signatures do not constitute a legally enforceable agreement. Authorized signatures can be confirmed with the Purchasing Manager or Controllers Office of the University.
13. **Entire Agreement** - This purchase order constitutes the entire agreement between the parties.