

Terms and Conditions of Purchase

Effective May 16, 2012 - July 1, 2013:

Dartmouth College Standard Purchase Terms and Conditions

1. **Acceptance of Order:** This Order may only be changed by the written or electronic agreement of Supplier and Dartmouth College. This Order is an acceptance of an offer by the Supplier. The acceptance is expressly conditioned on Supplier's assent to all terms and conditions contained herein and only these contained herein notwithstanding any different or additional terms or conditions submitted to Dartmouth College by Supplier must be incorporated in the order to be valid. Supplier shall be deemed to have accepted the terms and conditions of this Order upon the earlier to occur of (a) Supplier's commencement of performance hereunder or (b) Supplier's other acceptance of the terms hereof. The terms set forth in this Order take precedence over any alternative terms in any other document connected with this transaction unless such alternative terms are: i) part of a written supply or service agreement ("Supply Agreement"), which has been negotiated between the parties and which the parties have expressly agreed may override these terms in the event of a conflict and/or ii) set forth on the face of the Order to which these terms are attached. In the event these terms are part of a written Supply Agreement between the parties, the term "Order" used herein shall mean any purchase order issued under the Supply Agreement. **ANY ATTEMPTED ACKNOWLEDGMENT OF THIS ORDER CONTAINING TERMS INCONSISTENT WITH OR IN ADDITION TO THE TERMS OF THIS ORDER IS NOT BINDING UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING.**

2. **Order Confirmation:** If requested by Dartmouth College, a copy of the purchase order signed by the supplier may be requested. Order Confirmation to the party(s) at their address, electronic addresses or facsimile numbers shown on the face of this Order, or to such other address requested shall be provided by supplier if noted on the order.

3. **Price:** If price is not stated in this Order, the goods, materials, services shall be billed at the price last quoted or at the prevailing market price, whichever is lower. Supplier agrees that all quotations by Supplier will remain valid for at least 90 days.

4. If Supplier is unable to fulfill the requirements of this order as quoted and/or presented in the Order, it must indicate as such on this Order and return this Order promptly.

5. **Delivery:** Supplier will deliver the goods in a timely manner in accordance with Dartmouth College's instructions. If Supplier fails to do so, it will pay any resulting additional charges, including any extra handling charges. Supplier retains all risk of loss with respect to the goods until they are properly delivered to Dartmouth College. All goods will be shipped FOB destination, unless instructed otherwise by Dartmouth College. When freight is prepay and add goods will be shipped via least expensive mode of transportation. Freight charges must be stated separately with respect to each item shipped. Shipments are not to be sent COD or Shipper's Order.

6. Delivery: Supplier agrees to make deliveries as specified on the face of this Order and agrees that time is of the essence in the performance of this Order. If Supplier delivers the goods at a time other than that specified on this Order, Dartmouth College may cancel this Order without any cancellation charges or penalties or withhold payment for the goods until the original delivery date, and Supplier will pay all associated costs, including, but not limited to, expedited routing costs, return shipping charges, and storage expenses.

7. Inspection: Dartmouth College may inspect and test all goods delivered, and Supplier agrees to provide reasonable assistance for such inspections and tests, whether before or after payment is made. If any goods are defective or do not conform to this Order, Dartmouth College may cancel this Order as to those goods, accept the goods at a price reduction acceptable to Dartmouth College and Supplier, or reject the goods. Supplier agrees to pay the costs and to assume all risk associated with rejected goods, including but not limited to, costs of storage, transportation charges for return, and delivery of replacements.

8. Shipping documents: Supplier will provide to Dartmouth College all shipping papers, including without limitation the original bill of lading, express receipt, memorandum of shipment and packing slip (stating "Order Complete" if the last one in an order), to Dartmouth College prior to shipment arrival or included in the shipment.

9. Documents: All documents provided by Supplier will include the Purchase Order Number governing Supplier's sale to Dartmouth College of the goods or services subject to this Order.

10. Invoice: Supplier will invoice each order and shipment for goods separately and send all invoices to the individual listed on the front of this Order. Supplier shall invoice Dartmouth College for any services performed under this Order on an order basis unless otherwise provided in this Order. Supplier's invoices will be accompanied by all documentation supporting its fees, including, without limitation, itemized time records. All invoices, whether for goods or services, will be paid 30 days after receipt of a correct invoice with necessary documentation for goods and services received by Dartmouth College.

11. Warranty: Supplier warrants that the goods are new, conform to the terms of this Order and any specifications provided by Dartmouth College, are free from defects in materials and workmanship, are free from liens and encumbrances, are suited for their intended use and are merchantable. Supplier warrants that any services performed pursuant to this Order will be free from defects in materials, workmanship and design, will be accurate and complete in all respects and that Supplier's personnel and contractors performing the services will have adequate education and training to perform the services. Supplier agrees, if so directed by Dartmouth College, to correct any defect or to replace any defective goods, as applicable, at its own expense, within ten days of receiving notice from Dartmouth College. If Supplier fails to do so, it will pay all costs incurred by Dartmouth College to cure the noticed defect.

12. Recalls: Supplier will be responsible for all costs and expenses in connection with any product recalls.

13. Changes: Dartmouth College reserves the right to make changes in specifications or delivery. If such a change causes an increase or decrease in the cost or time required for performance of this Order, adjustment may be made to the price and/or delivery terms as agreed upon by Supplier and Dartmouth College.

14. Cancellation: Dartmouth College reserves the right to terminate this Order, in whole or in part, at any time by written notice to Supplier. Upon receipt of such notice, Supplier will immediately stop work and cause its contractors and suppliers to stop work, preserve and protect materials, and conclude performance in accordance with Dartmouth College's instructions. Supplier agrees that it will not be entitled to any damages as the result of cancellation by Dartmouth College.

15. Services: If this Order is for services, Supplier will perform such services as an independent contractor of Dartmouth College.

16. While on Dartmouth College's premises, Supplier and its employees, agents and representatives shall comply with all safety and security regulations of Dartmouth College and take all necessary precautions to prevent injury or damage to persons or property. Supplier shall comply with all applicable laws, rules and regulations, including without limitation, those concerning employment discrimination, in its performance of this Order.

17. Insurance: Vendor/contractor agrees to maintain and provide evidence of current liability insurance coverages with limits that meet or exceed Dartmouth College's current minimum insurance requirements, including workers' compensation where applicable, and that lists the Trustees of Dartmouth College as additional insured with respect to vendor/contractor's general liability policy. The certificate of liability insurance should have the following as certificate holder: Trustees of Dartmouth College, 53 South Main Street, Suite 212, Hanover, NH 03755 and should be submitted to the Office Risk Management and Insurance at the same address. For information on the College's current minimum insurance requirements, or additional coverages that may be required, go to: <http://www.dartmouth.edu/~rmi/rmsinsurance/compliance.html> or contact Risk Management at (603) 646-2442.

18. Cost Reimbursement: Dartmouth College will reimburse Supplier in accordance with Dartmouth College's policies for all actual and reasonable travel, lodging, meal and other expenses which are approved by Dartmouth College and which are reasonably incurred by Supplier in connection with performing any services requested in this Order.

19. Assignment: Supplier may not assign this Order, in whole or in part, or delegate any of its obligations under this Order without the prior written consent of Dartmouth College.

20. Indemnity: Supplier will indemnify, hold harmless and defend Dartmouth College and its affiliates and their respective officers, directors, employees, representatives and agents from and against all claims, liabilities, damages, demands, causes of action, settlements, and judgments of every kind resulting from injury or death to any person or damage to any property, arising out of or relating to. any goods manufactured (in whole or in part) or sold by or otherwise attributable to Supplier, or the use of any such goods, or the conduct, negligence, willful misconduct,

misrepresentation, breach of warranty or other breach of this Agreement on the part of, or for a violation of any laws in connection with the performance of this Order by, Supplier or its employees, agents, representatives or contractors. Dartmouth College will only be liable to Supplier for actual damages and not for any incidental, consequential, or punitive damages.

21. Supplier will not release any advertising or any other form of publicity mentioning Dartmouth College or its employees unless Dartmouth College approves such advertising or other form of publicity in writing prior to its release.

22. Performance: Supplier represents and warrants that it has undertaken an investigation of its systems and processes necessary to produce and deliver the goods or to perform its services hereunder, including an investigation of its sources of supply for materials and services from its own suppliers, agents and representatives, and that to the best of its knowledge, Supplier's ability to perform this Order will be unaffected by the passage of any date. Supplier agrees that any failure to perform this Order due to its system or equipment failures related to date-sensitive functions shall not constitute an event of force majeure of supplier.

23. FARS: If Dartmouth College requires the services or goods ordered pursuant to this Order in order to perform under a contract or subcontract with the federal government, Supplier will be subject to certain federal acquisition regulations, and Dartmouth College will provide Supplier with notice thereof. In that event, Supplier agrees to comply with, and to perform this Order in accordance with, such regulations.

24. Confidentiality: Supplier acknowledges that it may have access to confidential and proprietary information and trade secrets of Dartmouth College during the performance of this Order and agrees not to disclose such information or trade secrets to any person except as necessary in connection with its performance of this Agreement, and Supplier shall not use such information or trade secrets for any purpose other than to perform this Agreement. If Supplier has executed a separate Confidentiality Agreement with Dartmouth College, Supplier agrees that its use and disclosure of Dartmouth College's confidential and proprietary information and trade secrets shall be governed by, and be subject to, the terms and conditions of such Confidentiality Agreement. All information, equipment, materials and data of every kind and description that Supplier receives, directly or indirectly, from Dartmouth College or from a third party on behalf of Dartmouth College is and shall remain the property of Dartmouth College. Dartmouth works in conjunction with other Colleges and Universities to improve process, productivity and value and may discuss operating information to that end.

25. Waiver: The waiver by Dartmouth College of any term or condition will not constitute a waiver of any other term or condition or of the same term or condition at any time in the future. A waiver must be in writing and signed by Dartmouth College in order to be enforceable. If any term or condition is held to be unenforceable, the remaining terms and conditions will remain in effect, to be construed as if the unenforceable term or condition was originally deleted from this Order.

26. Survivability: The terms and conditions of this Order that are, by their nature, intended to survive the termination or expiration of this Order shall survive such termination or expiration.

27. Dispute: Supplier will continue to perform this Order during the pendency of any dispute or legal proceeding between or involving Supplier and Dartmouth College.

28. Remedies: Dartmouth College will have all rights and remedies available to it at law and in equity. Such remedies are cumulative and may be exercised concurrently or separately. The exercise of one remedy will not be an election to exclusion of other remedies.

29. Safety Data: Supplier will furnish Dartmouth College with all Material Safety Data Sheets for "qualifying material" upon the delivery of such material to Dartmouth College.

30. Compliance with Laws: Seller warrants and certifies that in performance of this contract and goods delivered hereunder will comply with all applicable statutes, laws, rules, regulations of Federal, State, or Local governments including but not limited to laws and regulations pertaining to labor, wages, hours and other conditions of employment, and current OSHA requirements. Supplier warrants that its performance under this Order will not be in violation of any existing obligation of Supplier or its personnel and will not violate or infringe upon the rights of any third party, including but not limited to property, contractual, employment, trademark, trade secrets, copyright, patent, proprietary information and non-disclosure rights.

31. All notices under this Order will be in writing or electronic data format and will be delivered electronically, by hand delivery, by certified mail, return receipt requested, or by facsimile transmission (transmission confirmed in writing when requested) to the parties at the addresses and facsimile numbers shown on the face of this Order, or to such other addresses or facsimile number as Dartmouth College or Supplier shall give the other notice of in writing.

32. This Order shall be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire, without regard to its conflicts of law principles.

33. By execution of this Purchase Order Agreement, the Contractor is deemed to have certified compliance regarding debarment, suspension, and other responsibility matters - primary covered transactions 32CFR CH. 1 (7-1-89 edition), where applicable.