

TERMS OF PURCHASE

1. This order may not be accepted only upon the terms and conditions set forth herein. Buyer's bid specifications and Seller's bid proposal, if any, are incorporated into this order by this reference. When accepted, this order and any such bid specifications and bid proposal constitute the complete and final agreement and understanding of the Buyer and Seller respecting the goods and services specified, notwithstanding any contrary or different provisions contained in any other document submitted by Seller, provided, however, that, in the event of any conflict, ambiguity or inconsistency among or between any terms or conditions of this order, the bid specifications and/or the bid proposal, the interpretation resulting in the greater quality shall govern and the Seller shall provide such greater quality; and provided, further, however, by way of specification and not limitation, that any term or condition contained in any bid proposal, estimate, confirmation, invoice or other document submitted by Seller that is lesser quality than, or otherwise is less than what is required by, any term or condition on the front of this order or specified in Buyer's bid specifications, shall not be or become a part of this order unless specifically, separately and expressly agreed to in a writing signed by Buyer and Seller, and such term or condition proposed by Seller is hereby objected to and any acceptance of Seller containing any such term or condition or any additional or different term or condition is hereby rejected. Any term or condition of this order that required any continuing or ongoing obligations or performance of Seller beyond delivery of goods or services shall survive and continue after delivery.
2. It is understood that time is of essence under this order. Buyer, in addition to other rights and remedies it may have, shall have the option to, by written notice, terminate this order in whole or in part if Seller fails to make delivery of the goods or services with the time specified herein (or any extension thereof by written amendment to this agreement). Seller shall make no partial deliveries hereunder unless Buyer shall consent thereto in writing.
3. All shipments are to be made F.O.B. destination, freight prepaid by Seller at its sole cost and expense, to receiving point at the Metropolitan Community College, Omaha, Nebraska, unless otherwise indicated on the front of this form. Seller shall have title and risk of loss until goods and services are delivered by Seller and inspected and accepted by Buyer. Payment shall be made no later than 45 days after the date of delivery, which payment shall be contingent on Seller providing such documentation or other information as Buyer deems necessary or appropriate. The purchase price shall be full and final consideration for all goods and services delivered hereunder, and Buyer shall not be liable for any additional charges or amounts. Delivery shall occur when all manufacture, assembly, training and testing are completed in accordance with the bid specifications, and title and possession are given, without any shortage, defect or nonconformance, to the satisfaction of Buyer, and Buyer accepts the same; provided, however that Buyer shall have the option to accept delivery, notwithstanding any shortage, defect or nonconformance, and offset an appropriate amount against the purchase price for Seller to correct the same.
4. All goods and services purchased hereunder shall be subject to inspection by the Buyer at all times and places, including, but not limited to, the periods of manufacture. Notwithstanding any prior or partial inspection or payments hereunder, items shall also be subject to final inspection prior to acceptance. No inspection or test shall relieve the Seller from responsibility for defects or other failure to meet the requirements of this order unless otherwise agreed to in a written document signed by Buyer.
5. Seller warrants that all goods and services delivered hereunder shall be of good quality and new, in good and working condition, free from any defects in workmanship, material, design or manufacture, and shall comply with the requirements of this order, including all drawings and specifications incorporated herein and all samples furnished by the Seller. Seller further warrants that all items purchased hereunder shall be of merchantable quality and shall be fit and suitable for the purposes intended. The foregoing warranties are conditions to this order and are in addition to all other warranties expressed or implied, and shall survive any delivery, inspection, acceptance or

payment by the Buyer. Seller further warrants that normal warranties of manufactures shall fully apply to all materials and equipment and shall inure to and be enforceable by the Buyer, which warranties shall be cumulative to, and not in lieu of, any separate warranty or guarantee provided hereunder or in the bid proposal, or required by the bid specifications. If any warranties specified herein or otherwise applicable are breached by the Seller, Buyer may at its election: (1) require the Seller to correct at Seller's sole expense any defect or nonconformance by repair or replacement; or (2) return any defective or nonconforming goods to the Seller at the Seller's expense and recover from the Seller the price thereof. The foregoing remedies are in addition to all other remedies at law or equity or as contained in this order and shall not be deemed to be exclusive. In the event of any discrepancy, ambiguity, inconsistency or conflict in or among any warranty terms herein or in any bid specifications or any bid proposal, the interpretation that results in the greater warranty protection to the Buyer shall prevail and Seller shall provide such greater warranty protection.

6. The failure of the Buyer to enforce at any time any of the provisions of this order shall in no way be construed a waiver of such provisions and shall not in any way affect the right of the Buyer thereafter to enforce each and every provision of this order.
7. Buyer, may, by written notice, terminate this order in whole or in part if the Seller fails to perform any of the provisions of this order or so fails to make progress as to endanger performance in accordance with its terms. In the event of termination pursuant to this clause, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, goods and services similar or substantially similar to those so terminated; and the Seller shall be liable to Buyer for any excess costs occasioned Buyer thereby; provided that the Seller shall continue the performance of this order to the extent not terminated. The rights and remedies of the Buyer under this paragraph shall not be exclusive and are in addition to any other rights or remedies provided by law or equity of this order.
8. If litigation arises out of or under this agreement, the Seller agrees to submit to the jurisdiction of the State of Nebraska and agrees that the Laws of Nebraska will control this order.
9. Seller guarantees that the design and production of goods and services purchased hereunder conform to NFPA, UL, ANSI, OSHA, and any other applicable safety standards in effect at the time of shipment.
10. Seller shall indemnify and save Buyer harmless from and against any and all loss, damage or expense whatsoever (including attorneys fees and court costs) resulting to Buyer arising out of claims (i) infringement of patent or copyright or misappropriation of trade secrets (ii) defective design, workmanship or material of any good or service hereunder or (iii) Seller's violation of any federal, state or local law, rule or regulation related to the design, manufacture, delivery or sale of any such good or service. In addition to, and not in limitation of, the foregoing, Seller shall maintain insurance in an amount equal to the maximum potential liability of Buyer under the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time. Said insurance shall be maintained in continuous effect for the maximum periods of limitations and repose for instituting suit in Nebraska under any products liability or tort law, and Buyer shall be an additional named insured on any such policy.
11. Each party to this Agreement, and all subcontractors of the parties, represent and agree that (i) it is complying with, and will continue to comply with, fair labor standards in its business and performance under this Agreement, (ii) it will comply with section 503 of the Rehabilitation Act of 1973, section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, and implementing regulations in 41 CFR Parts 60-1 through 60-741, (iii) **this contractor and subcontractor (all parties to this Agreement) 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, (v) it will comply with all other applicable federal, state and local laws, rules, orders, and regulations; and (vii) the foregoing requirements shall apply to, and a similar provision will be incorporated into, any agreement with a subcontractor resulting from this Agreement.

12. Company and its subcontractor shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska pursuant to Neb.Rev.Stat. '4-108 to 4-114 as amended.