The Board of Trustees of Northern Illinois University
Purchase Order Terms and Conditions

1. **Contract Defined.** The parties’ complete and exclusive agreement regarding the subject matter (“Contract”) includes: any separately signed contract; the Purchase Order and all change orders issued by the university; and the Purchase Order Terms and Conditions. In the event of a conflict between the terms of a separately signed two-party contract and the Purchase Order Terms and Conditions, the terms of the signed contract two party agreement) shall control. Additional or conflicting terms contained in any document issued by Vendor in connection with this Contract shall not be binding on the university unless the university expressly agrees in writing.

2. **Choice of Law.** The university is a public body, corporate and politic of the State of Illinois, U.S.A. By entering into this Contract, the university does not waive any defenses or immunities afforded by law. This Contract and all claims arising or related to this Contract shall be interpreted by application of Illinois law without regard to its conflicts of law provisions.

3. **Vendor Performance.** Vendor agrees to comply with all applicable laws in performing this Contract and will obtain at Vendor’s expense all necessary licenses and permissions necessary for Vendor’s performance.

4. **Title/Risk of Loss.** Unless otherwise stated on the face of this Purchase Order: Title to supplies and risk of loss shall pass to the university upon delivery at final destination and acceptance by the university; all shipments must be fully insured by Vendor unless otherwise stated; and Vendor shall select the carrier and bear freight costs.

5. **Inspection and Acceptance.** All services and supplies delivered under this Contract must comply with applicable specifications and are subject to final inspection by the university, notwithstanding any prior payments or inspections by the university. The university’s acceptance after final inspection shall be conclusive, except with respect to latent defects or fraud. The university may, at its option and without invalidating the remainder of the Contract, direct Vendor to (a) promptly remove defective supplies and issue a credit for the full value of the defective supplies; (b) repair or replace defective supplies; or (c) re-perform non-conforming services at Vendor’s expense and risk.

6. **Use of Name.** Vendor shall not use the university’s name or protected marks for any commercial purpose without the university’s advance written consent.

7. **Billing And Payment.** Total fees and expenses under the Contract shall not exceed the university’s prior written approval and the amount of its purchase order or change order covering such payments. Vendor shall send invoices to: Northern Illinois University, Accounts Payable Services, Lowden Hall 204, DeKalb, Illinois 60115 via email accountspayablesrvs@niu.edu or fax at (815)753-2007, and submit invoices in accordance with any instructions provided by the university, including any instructions set forth on the university’s purchase order. The university shall make payment to Vendor within thirty (30) days of receipt of proper invoice that includes the information necessary for processing the payment: The university’s purchase order number, itemized detail, a unique invoice number, invoice date, invoice amount, and remittance address or as specified by the university. Payment for all or part of the services, products or deliverables shall not constitute acceptance. Interest on late payment(s) shall be paid in accordance with the State Prompt Payment Act (30 ILCS 540).

7.1 If applicable, any actual travel costs and expenses (i.e., without mark-up), must be pre-approved in writing by the university and in compliance with the rules of the Higher Education Travel Control Board. Vendor shall provide the university with appropriate and complete documentation (e.g., receipts, invoices marked “Paid in Full”) upon the university’s request in connection with any expense reimbursement sought by Vendor in connection with this Agreement. The university has the right to audit all invoices presented.

7.2 **Taxes.** The university is exempt (unless otherwise stated) from payment of state and local Retailers’ Occupation Tax, state and local Service Occupation Tax, state Use Tax, and state Service Use Tax. The university’s tax exemption identification number issued by the Illinois Department of Revenue is E99909601. Certificates of exemption will be provided upon written request.

7.3 **Taxes, Licenses, Assessments and Royalties.** The Vendor shall pay all current and applicable city, county, State and federal taxes, licenses or assessments, including federal excise taxes, due on the performance of any contract, including, without limiting the foregoing, those required by the Federal Insurance Contribution Act (26 USC 3101 et seq.), the Federal Unemployment Tax Act (26 USC 3301 et seq.) and the State Unemployment Insurance Act [820 ILCS 405], together with all royalties due for any proprietary items. The Vendor is exclusively liable for the payment of taxes to the respective governments. In the event the taxes, license, assessment or royalties, or any part thereof, are in the first instance charged

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to the university, the vendor shall, upon timely demand of the university, pay the university the amount of the tax, license, assessment or royalty due, plus all penalties that may have accrued.

8. **Warranties.** Unless otherwise agreed in writing by the parties, Vendor warrants that all supplies furnished under this Contract will be free of defects in material and workmanship, without liens or encumbrances of title, and will conform to applicable written drawings, specifications, and other data and, if not of the university’s specified design, will be free of design defects and will be fit and sufficient for the purpose intended. All warranties shall run to the university and survive acceptance and payment. All services performed under this Contract shall be of the highest quality and performed in a professional and workmanlike manner consistent with industry standards and practices. All warranties, whether express or prescribed by law, shall extend for the longer of: (a) 180 days from delivery; (b) the warranty period expressly provided by Vendor; or (c) the period set forth by law.

9. **Indemnification and Insurance.** Vendor shall indemnify the university, its officers, employees, trustees, students, and agents against all demands, claims, damages, liabilities, expenses, and reasonable attorney fees and costs arising out of the performance of this Contract by Vendor, its employees, subcontractors, and agents. This indemnification obligation shall survive the termination or expiration of this Contract. Vendor shall maintain for the duration of this Contract a policy or policies of insurance with coverage and limits adequate to satisfy all liabilities relating to Vendor’s performance of the Contract, whether arising under applicable law or specifically assumed under this Contract, including but not limited to indemnification obligations. The insurance shall be commensurate with usual and customary industry practices for similarly situated businesses. Vendor shall comply with applicable laws governing workers’ compensation and mandatory insurance for vehicles. The university may request a certificate of insurance at any time.

10. **Confidentiality.** Vendor must treat all information relating to this Contract (“University Information”) as confidential. Unless required by law or authorized by the university in writing, Vendor shall not disclose University Information to third parties or use University Information for any purpose other than in performing the services or providing the supplies that are the subject of this Contract.

11. **Termination.**

   11.1. **For Non-Appropriation.** This Contract is subject to termination by the university in any year for which the General Assembly fails to make an appropriation sufficient to make payments under the Contract.

   11.2. **For Cause.** A party that defaults in performance or commits a material breach of this Contract (“Defaulting Party”) shall have 10 days to cure the default or breach after receiving notice from the other party. The non-defaulting party may terminate this Contract without further notice and pursue other available legal remedies if the Defaulting Party fails to cure the breach within the prescribed period, or within such other period of time that is agreed by the parties in writing.

   11.3. **For Convenience.** The university may terminate this Contract for convenience by providing not less than 30 days’ advance written notice to Vendor.

   11.4. **Effect.** In the event of early termination, Vendor shall stop performance in accordance with the notice of termination and shall submit to the university a final bill for supplies delivered or services performed up to the date of termination. The university is not obligated to pay Vendor for supplies or services until Vendor provides all work product that is in progress or completed as of the date of termination. Vendor must comply with the university’s instructions to either destroy or return to the university all University Information previously furnished to Vendor.

12. **Amendments.** No modification of this Contract shall be effective unless made by a written change order issued by the university or an amendment signed by each party’s authorized signatory.

13. **Assignment.** Vendor cannot assign its obligations under this Contract without the prior written consent of the university, subject to approval and compliance with the Illinois Procurement Code.

14. **Contract Enforcement and Interpretation.** The failure of either party to enforce any provision of this Contract shall not waive the party’s right to later enforce the provision or the Contract. If any provision of this Contract is held by a court of competent jurisdiction to be unenforceable, the provision shall be severed from this Contract so long as severance does not affect the enforceability or essential purpose of the remainder of this Contract. Any rule of construction that would resolve ambiguities against university as drafter shall not apply in interpreting this Contract.
15. **Delivery of Notices.** To be enforceable, all notices must be in writing, reference the Purchase Order number, and be delivered to the postal address of Vendor or Procurement Services and Contract Management Department or as stated elsewhere. Notices are effective upon receipt by the intended recipient. A party may change its representative at any time by written notice to the other party.

Northern Illinois University  
Procurement Services and Contract Management  
107 Lowden Hall  
DeKalb, Illinois 60115

16. **Independent Contractor.** The parties are independent contractors with respect to each other. Nothing in this Contract is intended to create any employment, association, partnership, joint venture, or agency relationship between them.

17. **Intellectual Property Rights.** Unless otherwise agreed in writing by the university, all works of authorship delivered by Vendor under this Contract (“Work Product”) shall be considered “works made for hire” under U.S. copyright laws and shall be the exclusive property of the university with all rights to make, use, sell, reproduce, distribute, publish, display, and prepare derivative works without further obligation to Vendor. Vendor will not place any restrictive markings upon Work Product. Any inventions, discoveries, or improvements, whether patentable or unpatentable, made by Vendor or its personnel in performing this Contract (“Inventions”), including all patent rights therein and any copyrights in materials related thereto, in all jurisdictions, shall belong to and are hereby assigned to the university. Vendor shall promptly and fully disclose all Inventions to the university and cooperate with the university and its agents as may be reasonably required to obtain patent protection for such Inventions, including the signing of assignments of Inventions and patent rights therein, and the signing of any applications or declarations or similar documents related to an application for patent.

The university shall not claim any interest in Vendor’s materials, products, inventions or know-how existing prior to formation of this Contract (“Preexisting Materials”). Vendor grants to the university a royalty-free, nonexclusive, irrevocable, worldwide license to make, use, sell, and to reproduce, distribute, prepare derivative works, and perform, as the case may be, any Preexisting Materials that are included by Vendor in all supplies, including Work Product and Inventions, provided to the university under this Contract.

Vendor represents and warrants that the Work Product and Inventions do not infringe on third-party intellectual property rights. Vendor must obtain for university a license at no cost to the university that will enable the university to use the Work Product and Inventions without restriction. Vendor shall indemnify the university, its officers, employees, trustees, students, and agents from all loss and liability, including reasonable attorney fees, costs, and expenses, resulting from any claim that the Work Product or Inventions infringe any third-party intellectual property rights.

18. **Export Control.** Vendor shall comply with all relevant laws, whether United States or foreign, governing the exports and re-exports of items and information made under this Contract. Prior to providing the university with any items subject to the International Traffic in Arms Regulations (ITAR), 22 C.F.R. §§ 120-130, the Export Administration Regulations (EAR), 15 C.F.R. §§ 730-774, or the Office of Foreign Assets Control (OFAC), vendor will notify the university and identify the items at issue and the applicable categories and subcategories of the United States Munitions List or the Export Control Classification Number (ECCN) of the EAR. The university may decline to accept any items or information controlled under U.S. export regulations.

19. **Federal Grant.** If applicable, this grant is awarded under 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

20. **Conflict of Interest.** Vendor is not legally prohibited from contracting with the State of Illinois and has disclosed all known conflicts of interest in connection with this Contract.

21. **Excluded Parties.** Vendor certifies that neither Vendor nor any of Vendor’s directors, officers, employees, agents, and subcontractors who may provide services pursuant to this Contract (each, an “Agent”) is presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from transactions with the U.S. government or by any federal government agency. Vendor shall provide the university immediate written notice if Vendor learns that this certification was erroneous when made or if Vendor or any Agent hereafter becomes debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from transactions with the U.S. government or by any federal government agency. Vendor further certifies that neither Vendor nor any Agent is presently subject to an investigation or proceeding to exclude either as a provider under Medicare or Medicaid or under any other federal or state health care program or under any third-party insurance program, nor is currently excluded or debarred from submitting claims to Medicare or Medicaid or to any other federal or state health care program or to any third-party insurer. The university may terminate this

23. **Audit/Retention of Records.** Vendor and its subcontractors shall maintain books and records relating to the performance of the resulting contract or subcontract and necessary to support amounts charged to the university. Books and records, including information stored electronically, shall be maintained by the Vendor for a period of three years from the later of the date of final payment under the contract or completion of the contract, and by the subcontractor for a period of three years from the later of final payment under the term or completion of the subcontract. If federal funds are used to pay contract costs, the Vendor and its subcontractors must retain its records for a minimum of five years after completion of work. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the university, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the university for the recovery of any funds paid by the university under the contract for which adequate books and records are not available to support the purported disbursement. The Vendor or subcontractors shall not impose a charge for audit or examination of the Vendor’s books and records (30 ILCS 500/20-65).

24. **Withholding.** The university may withhold or may void any invoice to the extent the university deems necessary to protect the university from loss due to Vendor’s: (a) unsatisfactory performance; (b) damage to the university property; or (c) incomplete, inaccurate, or unauthorized billing. The university may withhold final payment until Vendor has performed all services or all supplies have been delivered to the university’s reasonable satisfaction in accordance with the specification and requirement.

25. **Litigation Hold Order.** Vendor shall, and shall cause Vendor’s employees and subcontractors to, fully comply with any litigation hold order issued by the university in anticipation of third-party litigation relating to this Contract. Vendor shall promptly retrieve, recover, preserve, and retain, and, subject to legal privileges, deliver all information and documents, in any format, covered by a litigation hold order.

26. **Equal Employment Opportunity.** The clause at Ill. Adm. Code tit. 44, § 750.10, Appx. A is incorporated into this Contract by reference. If this Contract is federally funded and exceeds $10,000, the following clause applies: Vendor shall abide by the requirements of 41 C.F.R. §§ 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, sexual orientation, gender identity or national origin. 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, sexual orientation, gender identity or national origin, disability or veteran status. Vendor will include this clause in every subcontract awarded under this Contract so that the provision is binding upon the subcontractor.

27. **Public Works Employment Discrimination Act.** Pursuant to the Public Works Employment Discrimination Act, 775 ILCS 10, Vendor shall not refuse or deny employment to any person in any capacity on the ground of unlawful discrimination as defined in the Illinois Human Rights Act, nor subject any person to unlawful discrimination in any manner, in connection with the performance of this Contract.

28. **Prevailing Wage.** If this Contract involves (a) a “public works” project within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130, or (b) printing, janitorial, cleaning, window cleaning, building and grounds, site technicians, natural resources, food, or security contracts of $2,000 or more (or $200 or more per month) within the meaning of the Illinois Procurement Code, 30 ILCS 500/25-60, all contractors and subcontractors must pay no less than the general prevailing rate of wages (hourly cash wages plus fringe benefits) in the locality in which the work is produced or performed and comply with all other requirements of the Act. Refer to the prevailing wage rates and reporting requirements on the [Illinois Department of Labor website](https://www.dol.state.il.us).  

29. **Employment Of Illinois Workers on Public Works Act.** Pursuant to the Employment of Illinois Workers on Public Works Act, 30 ILCS 570, Vendor shall employ at least 90% Illinois laborers on all public works projects or improvements or for the clean-up and on-site disposal of hazardous waste whenever there is a period of excessive unemployment in Illinois, except as
30. **Veterans Preference Act.** Pursuant to the Veterans Preference Act, 330 ILCS 55, Vendor shall give preference to veterans of United States military and naval service in appointments and employment on public works projects.

31. **Substance Abuse Prevention.** Pursuant to the Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265, Vendor certifies that it is in compliance with the Substance Abuse Prevention on Public Works Projects Act, including the requirement to file with the university a written program that meets or exceeds the requirements of the Act.

32. **Family Educational Rights And Privacy Act (FERPA), 20 U.S.C. § 1232g.** Unless authorized by law or by written permission of each affected student, Vendor shall not disclose to any third-party information concerning university students. Vendor shall protect all records containing student information in accordance with FERPA, its implementing regulations, and university policy. In addition to other remedies, the university may terminate this Contract immediately upon information that Vendor may have violated this provision.

33. **Illinois Personal Information Protection Act (PIPA), 815 ILCS 530.** If applicable, Vendor will cooperate in good faith with the university to maintain security and integrity of personal information in compliance with PIPA.

34. **Health Insurance Portability and Accountability Act (HIPAA) and HIPAA Administrative Simplification Regulations at 45 C.F.R. pts. 160, 162, and 164.** If Vendor is university’s business associate, as that term is defined by the HIPAA Privacy Rule at 45 C.F.R. §160.103, then Vendor and the university shall enter into a separate HIPAA Business Associate Agreement.

35. **Web Content Accessibility.** This provision applies only to Contracts for services that include web content. Vendor must ensure that services provided under this Contract conform to the W3C Web Content Accessibility Guidelines, version 2.1 (WCAG 2.1) at conformance levels A and AA. If the services do not fully conform to WCAG 2.1 A and AA, Vendor must notify the university of the nonconformance and provide detailed information regarding the plans to achieve conformance, including but not limited to an intended timeline. Vendor shall promptly respond to and resolve any university complaint regarding accessibility of its products or services. Vendor will hold the university harmless from all demands, claims, damages, liabilities, and expenses arising out of Vendor’s failure to comply with WCAG 2.1.

36. **Use of Soybean Oil- or Vegetable Oil-Based Ink for Offset Printing Services.** If this Contract is for offset printing services, Vendor shall use soybean oil- or vegetable oil-based ink unless a State Purchasing Officer determines in writing another ink is more appropriate to assure high quality and reasonable pricing. 30 ILCS 500/45-15.

37. **Criminal Background Checks.** If Vendor will be performing any services at a university owned, rented, or leased property, Vendor certifies that it has performed criminal background checks, including sex offender record information (SORI), on all of its employees, agents, and subcontractors who will be performing the services. The criminal background checks must include all jurisdictions where the employee/agent/subcontractor has resided within the past seven years. Vendor also certifies that it will not allow any of its employees, agents, and subcontractors with a criminal conviction for a violent felony or a sex offense (misdemeanor or felony) to perform services at a university owned, rented, or leased property. The university will not reimburse Vendor for the cost of criminal background checks.

38. **Conduct.** Vendor and its employees, agents and subcontractors entering upon the university’s premises shall take all proper and sufficient precautions and safeguards against the occurrence of any accidents, injuries (including death) or damage to any person or property. Vendor, its employees, agents and subcontractors will adhere to all applicable federal, state, local and university laws, rules, regulations, policies and procedures, including, but not limited to: the Smoke Free Campus Act (110 ILCS 64) and the Drug Free Workplace Act (30 ILCS 580); data security rules and procedures; and the requirements of the Health Insurance Portability and Accountability Act (“HIPAA”) (PL 104-191)

39. **University’s Policy Regarding Minority, Women, Persons with Disabilities and Veteran Business Enterprises/Small Businesses Opportunities (30 ILCS 575; 30 ILCS 500/45-45; AND 30 ILCS 500/45-57).** The university recognizes the importance of increasing access and opportunities in public contracts for small businesses and for businesses owned by minorities, women, persons with disabilities, and veterans. To the maximum extent practicable, the university expects its vendors to share in its commitment to supporting and promoting these businesses and encouraging the participation of these businesses. Learn more about the university’s Supplier Diversity Program.
40. **Prohibited And Authorized Cybersecurity Products.** State agencies are prohibited from purchasing any products that, due to cybersecurity risks, are prohibited for purchase by federal agencies pursuant to a United States Department of Homeland Security Binding Operational Directive. However, a State agency or public institution of higher education may purchase those offerings that are included in the Authorized Product List maintained by StateRAMP and that have been verified by StateRAMP as having an authorized security status. (30 ILCS 500/25-90).

41. **U.S. Foreign Corrupt Practices Act.** Vendor shall comply with their duties under the U.S. Foreign Corrupt Practices Act (15 U.S.C. § 78dd-1, et seq.) which makes it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Neither Vendor nor its employees and agents are or shall be named on the U.S. Treasury Department’s List of Specialty Designated Nationals and Blocked Persons or owned by anyone on such list.