

RENSELAER GENERAL TERMS AND CONDITIONS

1. ORDER AND CONTRACT: This purchase order shall not be valid unless it has been processed by Rensselaer's Procurement Services Department and authorized by Rensselaer. The proper purchase order number and coding will be assigned and authorized. In case of invalid purchase order, Rensselaer shall not be responsible for payment. **PURCHASE ORDER NUMBER MUST APPEAR ON ALL CORRESPONDENCE.**

2. RISK OF LOSS: Risk of loss shall not pass to Rensselaer until all goods, products and/or systems covered by this purchase order shall have been actually received and accepted by Rensselaer at the destination specified herein. Supplier assumes full responsibility for packing, crating, marking and transportation of all goods, products and/or systems covered by this purchase order, and full liability for loss or damage of any goods, products and/or systems in transit, notwithstanding (i) any specification herein of the method of such packing, crating, marking and/or transportation and/or (ii) any agreement by Rensselaer to pay freight, express, or other transportation charges.

3. TIME OF DELIVERY: Delivery hereunder must be made on or before the date specified in this purchase order (or, if no delivery date is specified elsewhere in this purchase order, delivery shall be made within a reasonable time, and in any event within one hundred twenty [120] days from the date of this purchase order). Time of delivery is of the essence. If any delivery date(s) cannot be met, Supplier must inform Rensselaer immediately. Such notification shall not, however, constitute a change to the delivery terms of this purchase order, unless agreed to by Rensselaer.

4. IMPROPER DELIVERY OR PERFORMANCE: In addition to other rights and remedies provided under other provisions of this purchase order, or by applicable law, Rensselaer shall have the right to refuse any goods, products, systems, services and/or work covered by this purchase order, and to cancel all or any part of this purchase order, if Supplier fails to deliver or perform with regard to all or any part of such goods, products, systems, services and/or work in accordance with the terms and conditions of this purchase order. Rensselaer's acceptance of and/or payment for any part of the goods, products, systems, services and/or work covered by this purchase order shall not bind Rensselaer to accept, or to pay for, any future goods, products, systems, services and/or work, and shall not deprive Rensselaer of the right to return any goods, products, systems, services and/or work already accepted and/or paid for by Rensselaer and shall not constitute a waiver of any rights of Rensselaer.

5. WARRANTIES: In addition to all other warranties made in other parts of this purchase order, or pursuant to applicable law, Supplier expressly warrants all goods, products, systems, services and/or work covered by this purchase order to be merchantable, to be fit for the purpose intended by Rensselaer, to be free from defects in material and workmanship, and to be of the quality, size and dimensions represented and/or ordered. Supplier's services hereunder shall be performed in a diligent, workmanlike and professional manner consistent with good practices and all services and equipment furnished or developed hereunder shall be as represented by Supplier to Rensselaer and shall conform to the specifications of Rensselaer. No warranty shall be deemed waived by reason of Rensselaer's acceptance of, or payment for, any goods, products, systems, services and/or work.

6. SAFE AND LAWFUL PERFORMANCE: All goods, products, systems, services and/or work covered by this purchase order must comply with all applicable governmental laws, rules, regulations, codes and ordinances, including but not limited to OSHA, ANSI, EPA and ENCON. Supplier certifies to this requirement and Supplier hereby warrants that the goods, products, systems, services and/or work covered by this purchase order comply (and will comply) with this requirement. In the event of any violation by Supplier of this requirement, then in addition to all other rights and remedies available to Rensselaer by reason of such violation, Rensselaer shall have the right, at its sole option, to order cessation of performance of all or any part of this purchase order, and Rensselaer shall have no liability whatsoever to Supplier, or to any other person or entity, by reason of any such interruption. Nothing in this paragraph shall be construed as making Rensselaer responsible for monitoring Supplier's compliance with this requirement, nor as imposing any obligation upon Rensselaer to see to Supplier's compliance with this requirement, nor as imposing any liability upon Rensselaer for any damages resulting from any failure by Supplier to comply with this requirement.

7. ASSIGNMENT, SUBCONTRACTING: Neither party shall have any right to assign this purchase order or any benefits arising from this purchase order without prior written consent of the other party and, unless otherwise agreed upon by the non-assigning party in writing, the right of any assignee shall be subject to all setoffs, counterclaims, and other comparable rights arising hereunder.

8. INDEMNIFICATION: To the fullest extent permitted by law, Supplier agrees to indemnify Rensselaer, its trustees, officers, employees, students and agents, and to hold Rensselaer and each of the foregoing harmless from and against all claims, liability, causes of action, actions, judgments, loss, and damages of any and every kind and nature, hereinafter "Claims," and expenses (including but not limited to reasonable legal fees and expert fees) arising directly or indirectly from or due to any Claim(s) with respect to all or any part of the goods, products, systems, services and/or work covered by this purchase order. Upon the written request of Rensselaer, Supplier shall, at Supplier's sole cost and expense, defend any such Claim(s) or litigation brought against Rensselaer. Supplier's obligation under this paragraph shall survive Rensselaer's acceptance of, and payment for, the goods, products, systems, services and/or work.

9. CHANGES: Rensselaer may, at any time, by an authorized order, and without notice to the sureties, make changes to the general scope of this purchase order in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or in the time required for the delivery or performance of, any part of the goods, products, systems, services and/or work covered by this purchase order, an equitable adjustment shall be made in the price, or the delivery schedule, or both, specified in this purchase order, and this purchase order shall be modified in writing accordingly. Any claim by Supplier for adjustment under this clause must be asserted within 30 days from the date of receipt by Supplier of the notification of change. Where the cost of property made obsolete or excess as a result of a change is included in the Supplier's claim for adjustment, Rensselaer shall have the right to prescribe the manner of disposition of such property. However, nothing in this clause shall excuse Supplier from proceeding with this purchase order as changed.

10. INSPECTIONS: Supplier shall issue an Inspection Report on the performance of the equipment before equipment is shipped to Rensselaer. Rensselaer shall have the right (but not the obligation) to inspect the goods, products, systems, services and/or work covered by this purchase order and the activities of Supplier under this purchase order, in such manner and at such reasonable time(s) as Rensselaer may deem appropriate. Final inspection shall be at Rensselaer's premises unless otherwise agreed by Rensselaer in writing. Any goods, products, systems, services and/or work rejected as not conforming to this purchase order shall be returned at Supplier's expense, including transportation and handling charges, if any.

11. INSURANCE: Suppliers performing services for Rensselaer or providing transportation services for Rensselaer shall provide and maintain insurance to indemnify Rensselaer as provided below.

A. All Supplier-provided insurance must be considered to be primary for allegations of negligence arising from the acts or performance of the Supplier in fulfilling any work order. Such insurance shall be demonstrated by providing a copy of certificates of insurance and insurance policy endorsements naming Rensselaer as an additional insured with first-party rights and benefits without contribution by Rensselaer or its insurance carriers. These certificates and policies or endorsements must be electronically transmitted or mailed to: suppliers@lists.rpi.edu; Rensselaer Polytechnic Institute, Procurement Services, Proctor's Building, 5th Floor, 110 8th Street, Troy, New York 12180-3590.

B. Suppliers are not to commence work or services for Rensselaer prior to the submission of proof of adequate insurance.

C. Unless otherwise directed in writing, Rensselaer's minimum insurance requirements are as follows:

- 1. Comprehensive General Liability:** \$2,000,000.00 per occurrence, \$2,000,000 aggregate. High risk activities, including but not limited to: construction, transportation, or boat charters may, in the sole discretion of Rensselaer, require higher limits. Suppliers should consult Rensselaer Risk Management [riskmanagement@rpi.edu] if services being provided could be considered high risk.
- 2. Comprehensive Automobile Liability:** Supplier's owned, non-owned, and hired autos are subject to a combined single limit of \$1,000,000.00 for each occurrence for bodily injury and property damage. **Rensselaer requires limits of \$5,000,000.00 for any bus, charter, chauffeur or limousine services.**
- 3. Statutory Workers Compensation:** Insurance must be provided and maintained pursuant to the laws of the State of New York or the State of Connecticut [as appropriate to the Rensselaer campus ordering the service] and any other laws that may be applicable. This coverage is

required for all Suppliers providing services to Rensselaer. Insurance from other states may be substituted by individuals who are residents of other states but working for Rensselaer on a temporary basis in New York or Connecticut.

4. Professional Liability: For licensed professionals providing services to Rensselaer: \$2,000,000 per occurrence, \$4,000,000 aggregate. Rensselaer not to be named as additional insured.

D. These minimum requirements of Rensselaer shall not limit the liability or responsibility of the Supplier. Rensselaer's failure to enforce any contractual obligation of a Supplier shall not be considered to be a waiver of the requirement. Any changes to these requirements shall be enforceable only if made in writing by authorized signatories of both parties.

12. CANCELLATION: Upon Supplier's failure to perform any of its obligations hereunder, Rensselaer may cancel this purchase order in whole or in part. Upon notice of such termination, Supplier shall immediately stop all work, including shipment of goods under this purchase order and cause its suppliers and/or subcontractors to cease their work for this purchase order. In addition, but without limiting the foregoing, should this purchase order be unfilled, in whole or in part, as the delivery dates specified herein (or, if no delivery date is specified herein, within a reasonable time after the date of this purchase order, and in any event within ninety (90) days from the date of this purchase order), then in addition to all other rights and remedies available to Rensselaer by reason of such default, Rensselaer shall have the right to cancel this purchase order, either in whole or in part by giving Supplier notice of such cancellation. In the event of cancellation by Rensselaer, Rensselaer shall have no liability hereunder other than to pay for any usable portion of the goods, products, systems, services and /or other work delivered or performed by Supplier, and accepted by Rensselaer, prior to such cancellation. Without limiting the scope or generality of the preceding portions of this paragraph, it is understood and agreed that back orders not fully delivered or performed within ninety (90) days from the date of this purchase order are subject to cancellation by Rensselaer. Rensselaer may also terminate this purchase order in whole or in part upon seven (7) days written notice if Supplier fails to comply with any material term or condition of this purchase order or fails to comply in a material way with the requirements of this purchase order. Late delivery of goods or services or delivery of goods or services that are defective or do not conform to this purchase order shall be, without limitation, causes allowing Rensselaer to terminate. In this event, Rensselaer will not be liable for any amounts, but Supplier shall be liable to Rensselaer for all losses, damages and expenses, including, without limitation, the excess cost of re-procuring similar goods or services; shipping charges for any items Rensselaer may return to Supplier, including items already delivered, but for which Rensselaer no longer has any use because of Supplier's default; and amounts paid by Rensselaer for any items Rensselaer has received but returns to Supplier.

13. TAXES: Except as may be otherwise expressly provided in this purchase order, the price includes all applicable Federal, State, and local taxes and duties. Supplier warrants and represents that Supplier has any and all authorizations, licenses and/or permits required to collect such taxes and duties, and Supplier agrees that Supplier shall remit the appropriate taxes and duties to the appropriate taxing authorities on or before the date on which such taxes and duties shall be due. Supplier shall indemnify Rensselaer and hold Rensselaer harmless from any liability, loss, damage and expenses (including but not limited to legal fees) arising from or due to any default or breach by Supplier under this paragraph.

14. DISPUTES: This purchase order shall be construed and enforced in accordance with the laws of the State of New York; and any legal action or proceeding concerning this purchase order shall be brought in New York State (and venued in Rensselaer County, in the case of any New York State court action or proceeding, and in the Northern District of New York, Albany Division, in the case of any Federal Court action or proceeding).

15. RIGHT TO WITHHOLD PAYMENT: In the event that Rensselaer receives notification (oral or written, formal or informal) that a subcontractor of Supplier claims that such subcontractor is owed payment by Supplier for goods, products and/or systems provided, or services and/or work performed, in furtherance of this purchase order, then in addition to all other rights and remedies available to Rensselaer, Rensselaer shall have the right (but not the obligation) to withhold any payment due Supplier until settlement of the dispute between Supplier and such subcontractor. In no event shall Rensselaer be required to withhold any such payment, and in no event shall Rensselaer be liable to any subcontractor by reason of any failure or refusal by Rensselaer to withhold any such payment.

16. USE OF THE NAME OF RENSSELAER: The Supplier agrees not to use the name, logo, servicemark or trademark of Rensselaer, or the name, image or likeness of any Rensselaer-owned property or of any of Rensselaer's students or employees, in sales promotion work or advertising, or in any form of publicity, without the written permission of Rensselaer.

17. ACCESSIBILITY: Any website or online content and functionality that is developed or delivered by Supplier under this purchase order or any other agreement with Rensselaer for use or display by Rensselaer shall be accessible to persons with disabilities and adhere to the following standards (as modified or updated as of the time of delivery): the W3C Web Content Accessibility Guidelines (WCAG) 2.0 Level AA, and the Web Accessibility Initiative Accessible Rich Internet Application Suite (WAI-ARIA) for web content. These standards are incorporated into this purchase order or agreement by reference. In the event Rensselaer determines in good faith and notifies Supplier that any deliverables do not comply with such standards, Supplier shall take necessary and appropriate actions to remedy the deficiencies to comply with the standards, at no additional cost to Rensselaer. Supplier may not rely on any full or partial waiver of compliance with any such standards unless done so through an amendment to this purchase order or agreement signed by an authorized Rensselaer representative.

18. OWNERSHIP OF PROPRIETARY RIGHTS: All work performed by Supplier in the development of any works of authorship required by any Statement of Work incorporated into a Rensselaer purchase order or agreement (the "Work"), and any improvements, modifications, amendments and derivative works thereof (collectively, the "Work Product"), and all right, title and interest in and to the Work and the Work Product, and all copyrights (including all renewals, extensions, revivals, and resuscitations thereof), trademarks and patents, shall be the sole property of, and shall be credited to Rensselaer. To the extent possible or required under the applicable laws, including, without limitation, the U.S. Copyright Act, the Work Product and the results, products and proceeds of any and all services performed by the Supplier (collectively, "Results and Proceeds") created, produced or worked upon by Supplier shall be considered "Works Made For Hire," specially ordered and commissioned by Rensselaer for use, without limitation, as part of an audiovisual work, a contribution to a collective work, a supplementary work or a compilation. If such Results and Proceeds are not legally capable of being considered as Works Made For Hire, then, in such event, Supplier hereby irrevocably grants, transfers and assigns to Rensselaer in perpetuity throughout the universe in all languages all right, title and interest, including, without limitation, copyright, and all extensions, renewals, revivals and resuscitations thereof, that Supplier has or may have in or to such Results and Proceeds. Supplier will provide Rensselaer with reasonable assistance to further evidence Rensselaer's intellectual property rights in the Work and the Work Product, and the Contractor will make no claim inconsistent with Rensselaer's intellectual property rights. If under any current or future copyright law of any jurisdiction, any of the rights in or to the Results and Proceeds are subject to a right of termination or reversion, to the extent and as soon as legally permissible, Supplier shall accord Rensselaer rights of first negotiation for thirty (30) days and last refusal for fifteen (15) days to match any third-party offer in connection therewith. All value and goodwill accruing in connection with the Work will inure to the sole benefit of Rensselaer. With respect to any so-called "moral rights", Supplier hereby unconditionally waives such rights and the enforcement thereof. Supplier represents and warrants that it has not granted and shall not grant to any other person, firm or corporation any rights to the Work or the Work Product or any title thereof, and Supplier has not and will not do any act that conflicts with, derogates from, or impairs the full exercise of any of the rights granted to Rensselaer under this purchase order. **IF THE WORK INCLUDES SOFTWARE OR PROGRAMMING SERVICES,** Supplier additionally represents and warrants that, upon delivery, (i) the Work and the Work Product will not contain any viruses, bugs, back doors, worms, Trojan horses or other destructive devices; and (ii) will be, and shall remain free of defects or destructive devices of any kind for a period of one (1) year from the date of delivery.

19. EXAMINATION: Supplier agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this purchase order, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Supplier involving transactions related to this purchase order. This paragraph applies only to federally funded purchase orders exceeding \$2,500 and does not apply to purchase orders for public utility services at rates established for uniform applicability to the general public.

20. EQUAL EMPLOYMENT OPPORTUNITY: This purchase order is subject to the requirements of Executive Order 11246, as amended by Executive Order 11375, and the rules, regulations, and orders of the Secretary of Labor in promoting equal employment opportunities.

21. AFFIRMATIVE ACTION FOR DISABLED VETERANS & VETERANS OF THE VIETNAM ERA: This purchase order is subject to the requirements of Public Laws 92-540 and 93-508, Executive Order 11701, and the regulations of the Secretary of Labor (41 CFR Part 60-250) in promoting employment opportunities for disabled and Vietnam veterans.

22. AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS: This purchase order is subject to the requirements of Section 503 of the Rehabilitation Act of 1973, Public Laws 93-112 and 93-516, Executive Order 11758, and the regulations of the Secretary of Labor (41 CFR Part 60-471) in promoting affirmative action in employment of the handicapped.

23. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION: This purchase order, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 USC 327-333), is subject to the provisions of the Act, including overtime requirements and penalties for violation thereof.

24. ANTI-KICKBACK: Rensselaer complies with all provisions of the Anti-Kickback Act of 1986 (41 USC 51-58) and all regulations published regarding the Act. Any violation must be reported to the Rensselaer immediately. Supplier agrees, by accepting this purchase order, to also comply with all provisions of the Act and all regulations regarding the Act and to reprint this paragraph in its subcontracts.

25. REQUIRED NOTICES TO SUPPLIER'S EMPLOYEES UNDER FEDERAL LAW: This purchase order is subject to the requirement of Executive Order 13201 and the rules and regulations promulgated thereunder at 29 CFR Part 470 which may require Supplier to provide required notices advising its employees of their rights under federal law pertaining to union membership.

26. SUBCONTRACTS: Supplier agrees to insert the provisions of paragraphs 19, 20, 21, 22, 23, 24, and 25 into all federally funded subcontracts.

27. ENTIRE AGREEMENT – ACCEPTANCE – CAPTIONS: This purchase order constitutes the entire agreement between Rensselaer and Supplier. Any and all prior offers by Rensselaer are withdrawn, and any and all prior offers by Supplier are rejected. Supplier represents and warrants that it has the full power to enter into and fully provide the goods, products, systems, services, Work or Work Products without conflict with any other purchase orders or agreements, and that the Work or Work Product will in no way infringe upon or violate any rights of any third person, including, without limitation, rights of patent, trade secret, trademark, trade dress or copyright. Without regard to any provision to the contrary which may be contained in any form or document provided or to be provided by Supplier, Supplier's acceptance of this offer (i) shall be evidenced by Supplier's written acknowledgment of this purchase order (including but not limited to, electronic acknowledgment), or by Supplier's full or partial performance of this purchase offer, and (ii) shall be deemed to be Supplier's unqualified and unconditional acceptance of this purchase order and of all terms and conditions of this purchase order, without addition, deletion or other modification of any kind. In the event of any conflict between any term or provision set forth in this purchase order and any term or provision set forth in any document provided or to be provided by Supplier in connection with this transaction, the term or provision set forth in this purchase order shall control. Captions in this purchase order are for convenience only, and do not define, limit or expand the meaning of the captioned provisions. Any modification of this purchase order shall only be effective only if made in writing and executed by the authorized signatories of both parties.

August, 2017