

Purchase Order (PO) Terms & Conditions (2021)

1. **ORDER.** Prices and/or quantities are not to exceed those shown without the approval of the Purchasing Director. If the dollar amount shown on the PO is just an estimate, prior approval of the Purchasing Director is required before exceeding that estimate. WSSU will not be responsible for any costs in excess of our estimate without such prior approval.
2. **FREIGHT.** Deliveries shall not be shipped collect or C.O.D. Shipper must show WSSU PO number on all shipping cartons and manifests to insure prompt identification and payment of invoices. Any freight or postage charges shown on invoices are subject to authentication, and overcharges are refundable to WSSU or deductible from the invoice.
3. **CONDITION & PACKAGING.** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage, or shipment.
4. **INSPECTION & ACCEPTANCE.** All products, supplies and materials ordered are subject to WSSU inspection. If defective or not as ordered, they shall be subject to return shipment at our discretion, and the vendor shall be fully responsible for any applicable postage, freight, and restocking charges. Invoices shall not be paid until the WSSU recipient verifies that the items ordered were received and were acceptable.
5. **INVOICE & PAYMENT.** Invoices showing the PO number, terms of payment, and routing must be mailed to Disbursement Services upon completion of delivery. If the PO terms are "As Invoiced," WSSU will pay the terms stated on the invoice. If no terms are specified on the invoice, our payment system defaults to Net 30 days. On all invoices subject to a prompt payment discount, the discount period will be calculated from the date a correct invoice is received or the date service is received, whichever is later. Payment is all-inclusive and WSSU is not responsible for any additional or out of pocket expenses unless specified in this PO. Contractor shall submit documentation as requested by WSSU to support any reimbursement(s) explicitly stated in this PO. Any payments by WSSU under this PO that are due beyond the current fiscal year are conditioned on appropriation from the State of North Carolina of sufficient funds to cover the purposes set forth in this PO.
6. **ACCESS TO PERSONS & RECORDS.** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by the University in accordance with General Statute 147-64.7. The Contractor shall retain all records associated with the performance of this contract for a period of three years following completion or termination of the contract.
7. **FORCE MAJEURE.** Both Parties will be relieved of their obligations under this Agreement if either is prevented from performing its obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, mandatory governmental action, earthquake, hurricane, tornado, decisions of public or University authorities (including, but not limited to, quarantines), or other catastrophic natural or supernatural events beyond the reasonable control of either party.
8. **ADVERTISING.** The Contractor agrees not to use the existence of this contract, the name of WSSU, or the name of the State of North Carolina as part of any commercial advertising without prior approval.
9. **AMENDMENTS.** This PO may be amended only by written change order issued by the Purchasing Director or their designee.
10. **ASSIGNMENT.** Contractor shall neither assign nor transfer any rights or obligations associated with this contract/purchase order. However, upon written request approved by the Purchasing Director, the University may forward the contractor's payment directly to a contractor designee, or include any person or entity designated by Contractor as a joint payee on contractor's check(s). In no event shall such action give rise to any privity between such third parties and WSSU.
11. **CARE OF PROPERTY.** Contractor shall be responsible for the proper care and custody of any property furnished by WSSU or purchased for contractor use in connection with the performance of this contract. Contractor shall reimburse the University for any loss or damage to such property.
12. **CONTRACT.** Together with and subject to contractor proposal, any written amendments or clarifications thereto signed by WSSU and Contractor, the Purchase Order, and these Terms and Conditions, all documents shall constitute the Contract between contractor and WSSU.
13. **COVENANT AGAINST CONTINGENT FEES.** Contractor warrants that no person or agent has been employed or retained to solicit or secure this contract upon agreement or understanding for a commission or payment of fees, except a bona fide employee or firm established for such legitimate commercial purpose. In the event of contractor breach of this warranty, WSSU shall have the right to annul this contract without any further obligation to contractor. WSSU may also refer the matter for further investigation or prosecution.
14. **DISPUTES.** Contractor expressly agrees as a condition precedent to the pursuit of any claim or dispute in a judicial or quasi-judicial action arising from the performance of this contract, contractor shall first be required to submit its complaints in writing to the Director of Purchasing for resolution. The Office of Legal Affairs shall issue a written decision to contractor. If the contractor disagrees with this final decision, it may then pursue judicial or other legal recourse.
15. **INDEMNITY & REIMBURSEMENT.** Contractor shall indemnify WSSU, its Trustees, officers, agents, and employees from any claims, suits, damages, liabilities, injuries, expenses (including, without limitation, reasonable attorney's fees), or losses arising out of or resulting from the negligent acts or omissions of Contractor, Contractor's agents, or Contractor's employees during the performance of this PO.
16. **INDEPENDENT CONTRACTOR.** Nothing contained herein shall be construed to create or give rise to an agency relationship. The Contractor is an independent contractor and as such shall remain responsible for the work to be performed and for the control and supervision of its employees or subcontractors.
17. **INSURANCE COVERAGE.** Contractor, at its sole cost and expense, shall be responsible for securing any and all insurance of such type and with such terms and limits as may be reasonably associated with its line of business, including but not limited to commercial general liability, automobile, professional liability, or errors and omissions coverage.
18. **CHOICE OF LAW.** This Agreement, and all claims arising under and related to this Agreement, will be governed by, construed, and interpreted in accordance with the laws of North Carolina in court of competent jurisdiction in Forsyth County, North Carolina.
19. **AVAILABILITY OF FUNDS.** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the university for the purpose set forth in this agreement. Contractor expressly acknowledges and agrees that in the event funds are not appropriated or allocated by state or university for this purpose, WSSU may terminate the order at any time during the period of performance without further obligation to contractor and without contractor recourse of any kind, in law or equity.
20. **SUBCONTRACTING.** The work to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the Purchasing Officer.
21. **BACKGROUND CHECK.** Contractor is responsible for the performance of all individuals performing Services under this Agreement. Prior to commencing any Services, Contractor will at its expense (a) provide WSSU with a list ("List") of all individuals who may be assigned to perform Services, and (b) have an appropriate criminal background screening performed in line with WSSU standards for employment, concerning each individual. Contractor will not knowingly assign any individual to provide Services who has a history of unacceptable criminal conduct, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform Services. In addition, Contractor shall not tolerate any prohibited behavior on the jobsite and shall immediately remove from the jobsite any direct or indirect employee who is found to be engaging in any prohibited behavior.
22. **TAXES.** Effective July 1, 2004, WSSU became exempt from NC state sales tax in accordance with G.S. 105-164.13(52). Our tax exempt number is printed on the front of all Purchase Orders. The eight items below are NOT exempt and WSSU must pay the following taxes:
 - Prepared food and beverage taxes levied and administered by various local governments in the State.
 - Occupancy taxes levied and administered by various local governments in the State.
 - Highway use taxes paid on the purchase, lease, or rental of motor vehicles.
 - State sales taxes levied on electricity or local, private or toll telecommunications services.
 - Scrap tire disposal tax levied on new tires.
 - White goods disposal tax levied on new white goods.
 - Dry-Cleaning solvent tax levied on dry-cleaning solvent purchased by a dry-cleaning facility.
 - Excise tax on piped natural gas.
23. **All applicable North Carolina Sales & Use Tax must be shown as a separate item on the invoice.**
24. **TERMINATION FOR CAUSE & CANCELLATION.** WSSU may terminate this contract for cause without further obligation to contractor for any material breach of the terms and conditions governing contractor's performance. WSSU, in its sole discretion and without waiving its rights in law or equity, may grant contractor an equitable adjustment in light of contractor's time, efforts, damages associated with the breach, and prejudice to WSSU's schedule or activities. WSSU reserves the right to cancel this order if delivery is not provided by or before the date agreed upon. WSSU expressly reserves the right to pursue any and all remedies in law or equity due to contractor's breach of contract.
25. **TERMINATION FOR CONVENIENCE.** WSSU may terminate this contract for convenience upon written notice to contractor. At the University's discretion, the Contractor may be compensated pursuant to the PO on a pro-rata basis consistent with any partial deliveries or services completed by the contractor and accepted by the University prior to the date of termination.
26. **COPYRIGHT OWNERSHIP.** The copyright in all works of authorship ("Works") or portions of works of authorship ("Contributions") created by Contractor, or on Contractor's behalf, under this Agreement is governed by WSSU's Copyright Use and Ownership Policy and the Patent and Copyright Policies of The University of North Carolina Board of Governors. All Works and Contributions are "works made for hire" within the meaning of 17 U.S.C. §§ 101 & 201. Contractor shall, and hereby does, assign Contractor's entire right, title, and interest in the copyright to the Works or Contributions and all works, rights, and interests based upon, derived from, or incorporating the Works or Contributions.
27. **PERSONAL IDENTIFYING INFORMATION.** If the University provides the Contractor with personal identifiers as listed in §132-1.10 and in N.C.G.S. §14-133.20(b) or any other legally confidential information including "personally identifiable information" from student education records as defined by the Family Educational Rights and Privacy Act (FERPA), 34 CFR §99.3, Contractor hereby certifies that collection of this information from University is necessary for the performance of Contractor's duties and responsibilities on behalf of the University under this Contract. Contractor further certifies that it shall maintain the confidential and exempt status of any social security number information, as required by §132-1.10(c)(1), and that it shall not disclose personally identifiable information as directed by FERPA, 34 CFR §99.33, or other State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Contractor for a period of at least five (5) years from date of violation. If Contractor experiences a security breach, as defined in N.C.G.S. §75.61(14), relating to this information, in addition to the Contractor's responsibilities under the NC Identity Theft Protection Act, Contractor shall immediately notify the University with a minimum of information required under N.C.G.S. 75-65 and shall fully cooperate with the University.
28. **IRAN DIVESTMENT ACT-CERTIFICATION & ONGOING OBLIGATIONS.** The NC General Assembly recently enacted the Iran Divestment Act (S.L. 2015-118). This requirement applies to all units of State government and to all political subdivisions of the State. The [Iran Divestment Act List](#) is a list published by the North Carolina Department of State treasurer pursuant to the requirements of this Act that identifies persons engaged in investment activities in Iran. By accepting an order from the University, the Contractor certifies that, as of the date of acceptance, it is not on the then-current version of the Iran Divestment Act List. Contractor agrees to not contract with any person to perform a part of the contractual work, if, at the time the Contractor enters into a subcontract, that person is on the then-current version of the Iran Divestment Act List. Contractor further agrees to notify the Procurement Specialist if, at any time during the contract term, including any renewal terms, it is added to the Iran Divestment Act List.
29. **EQUAL OPPORTUNITY FOR VEVRAA PROTECTED VETERANS.** This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.
30. **EEO/DEI COMMITMENT.** This Contractor shall abide by WSSU policies on Equal Employment Opportunity & Non-Discrimination, Diversity, Equity, and Inclusion, and Unlawful Workplace Harassment. These policies prohibit discrimination against qualified individuals based on race, color, national origin, creed, religion, sex, sexual orientation, age, veteran status, disability, genetic information, or political affiliation, except where religion, sex, or age are bona fide job-related employment requirements. Moreover, the contractor is encouraged to take affirmative action to employ and advance in employment individuals without regard to race, color, national origin, creed, religion, sex, sexual orientation, age, veteran status, disability, genetic information, or political affiliation, except where religion, sex or age are bona fide job-related employment requirements.