

TERMS AND CONDITIONS OF PURCHASE

Please read these terms and conditions carefully. They materially affect the parties' obligations. Lakeshore College ("Buyer") will do business only on the terms and conditions below.

1. **ACCEPTANCE OF PURCHASE ORDER:** Contrary Terms; Entire Agreement. Buyer's Purchase Order is an offer to purchase the goods and/or services ("Articles") described on the Purchase Order upon the following terms and conditions (the "Terms"). Commencement of delivery or other indications of acceptance by Seller will result in a firm contract containing all the Terms. THEREFORE, THE ONLY EFFECT OF ANY SELLER FORM CONTAINING CONTRARY TERMS IS ACCEPTANCE OF THE PURCHASE ORDER STRICTLY ACCORDING TO THE TERMS. ANY PROVISION OF ANY FORM OR OTHER WRITING INCONSISTENT WITH THE TERMS WILL NOT CONSTITUTE A PART OF THE CONTRACT OF SALE. Buyer's performance is conditioned upon Seller's assent to these terms and conditions. If any of the Terms are not acceptable to Seller, Buyer must be notified in a separate writing immediately.
2. **SHIPPING INSTRUCTIONS:** All Articles are to be shipped freight prepaid F.O.B. destination, unless otherwise stated. Where the Buyer has so authorized in writing, Articles may be shipped F.O.B. shipping point, but Seller shall prepay all shipping charges, route the Articles by the most economical common carrier, or the carrier specified, and list those charges as separate from the Articles on Seller's invoice. Risk of loss or damage to the Articles shall pass from Seller to Buyer upon delivery of the Articles to the Buyer at Buyer's dock. Title to the Articles shall transfer upon Buyer's acceptance of the Articles. The Buyer reserves the right to reject C.O.D. shipments. Seller shall not insure the Articles for the Buyer's account during shipment except upon the Buyer's written request, or where the shipping mode is parcel post.
3. No extra charges will be allowed for packing and shipping unless specified on the Purchase Order.
4. **IDENTIFICATION:** All invoices, packages, shipping notices, instruction manuals and other written documents affecting the Purchase Order shall contain the applicable Purchase Order number. Packing lists shall be enclosed in each box or package shipped pursuant to the Purchase Order, indicating the contents therein. Invoices will not be processed for payment until all Articles invoiced are received.
5. **DELIVERIES; TIME:** Time is of the essence with respect to the performance of the Purchase Order. If the Articles are not made and/or completed at the time agreed upon, in writing, Buyer reserves the right to: (i) cancel all or any part of the Purchase Order for any Articles not delivered, or services not rendered as specified, and hold the Seller accountable for any damages resulting therefrom, or (ii) extend the time for delivery (for such time as the Buyer may determine).
6. **INSPECTION/REJECTION:** All Articles purchased hereunder are subject to Buyer's count, inspection and approval, notwithstanding prior payment by the Buyer. Articles rightfully rejected by the Buyer shall be held, transported, and/or stored at Seller's expense. Seller shall promptly reimburse the Buyer for any such expenses and expenses incurred by the Buyer to inspect defective or otherwise nonconforming Articles. Articles rejected by Buyer that are not picked up by Seller within 30 days of rejection by Buyer may be disposed of by Buyer with no liability to Seller, the expenses of holding and disposing of the Articles to be irrefutably presumed to equal the costs of the Articles rejected.
7. **LIENS AND ENCUMBRANCES:** Seller warrants and represents that all the Articles will, when delivered hereunder, be free and clear of all liens, claims and/or encumbrances of every kind.
8. **TAXES:** Buyer is exempt from federal and state sales, excise, or transportation taxes. In any case, unless otherwise expressly stated in the Purchase Order, Seller shall be liable for all taxes payable or collectible with respect to the Articles pursuant to this Purchase Order.
9. **INTEREST:** Notwithstanding any provision in any invoice or other document issued by Seller, under no circumstances shall Buyer be liable to pay interest exceeding the rate of 10% per annum on any delinquent payment or account.
10. **PAYMENT:** Buyer will pay properly submitted Seller invoices within thirty (30) days of receipt, provided Buyer has received and accepted the Articles without reservations. Buyer shall have no obligation to pay any charges that are subject to a good faith dispute. Invoices presented for payment must be submitted in accordance with instructions contained on this Purchase Order including reference to purchase order number and submitted to the correct address for processing. Invoices shall be emailed to accountspayable@gotolc.edu.
11. **REFUNDS AND CREDITS:** Refunds and credits pertaining to this Purchase Order must be credited or refunded against invoices pertaining to this Purchase Order. Any refund or credit owed after this Purchase Order is completed must be paid within 30 days of application of the refund or credit.
12. **INSURANCE:** To the extent Seller performs any work upon Buyer's premises in relation to this Purchase Order, Seller shall maintain worker's compensation insurance as required by Wisconsin Statutes for all employees engaged in such work, as well as commercial liability, bodily injury and property damage insurance against any claim(s) occurring in carrying out this Purchase Order, with minimum coverage limits of \$1,000,000 for liability, per occurrence, and \$3,000,000 aggregate for bodily injury and property damage including products liability and completed operations. Buyer reserves the right to require higher or lower limits where warranted. Buyer shall be named as an additional insured on such policies of insurance. Seller shall **email a copy of a certificate of insurance demonstrating compliance with these insurance requirements to po@gotolc.edu prior to work commencing.**
13. **WARRANTY OF ARTICLES THAT ARE GOODS:** SELLER WARRANTS THAT FOR THE LONGER OF ONE YEAR FROM THE DATE OF ACCEPTANCE OF THE ARTICLES BY BUYER OR SELLER'S WARRANTY PERIOD, THE ARTICLES, TO THE EXTENT THEY CONSTITUTE GOODS SUPPLIED UNDER THIS PURCHASE ORDER, CONFORM TO THE SPECIFICATIONS CONTAINED IN THE PURCHASE ORDER, ARE MERCHANTABLE AND FIT FOR THE PARTICULAR PURPOSES FOR WHICH THE ARTICLES ARE INTENDED AND/OR ORDINARILY EMPLOYED, AND THAT ALL SUCH ARTICLES HAVE BEEN PRODUCED IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. SELLER FURTHER WARRANTS TO THE BUYER, THAT ALL ARTICLES DELIVERED UNDER THE PURCHASE ORDER WILL BE FREE FROM DEFECTS IN DESIGN, MATERIALS AND WORKMANSHIP AND WILL CONFORM TO APPLICABLE SPECIFICATIONS, DRAWINGS, SAMPLES AND DESCRIPTIONS. IF SELLER IS RESPONSIBLE FOR DESIGN OF THE ARTICLES, SELLER WARRANTS THAT ALL ARTICLES WILL BE SUITABLE FOR USE BY THE BUYER. THE BUYER'S WRITTEN APPROVAL OF DESIGNS FURNISHED BY SELLER SHALL NOT RELIEVE SELLER OF ITS OBLIGATIONS UNDER THIS WARRANTY. THE FORGOING EXPRESS WARRANTIES SHALL BE IN ADDITION TO ANY WARRANTY CUSTOMARILY MADE BY SELLER OF ITS GOODS AND ANY IMPLIED WARRANTIES AND SHALL BE CONSTRUED AS CONDITIONS AS WELL AS WARRANTIES. THESE WARRANTIES SHALL SURVIVE THE DELIVERY OF ARTICLES AND SHALL BE FULLY ENFORCEABLE THEREAFTER. SELLER'S WARRANTY HEREUNDER IS PART OF THE CONSIDERATION FOR THIS PURCHASE ORDER, AND ANY PAYMENT BY THE BUYER HEREUNDER IS CONDITIONAL UPON THIS WARRANTY REMAINING IN EFFECT. NO MODIFICATION OR OTHER CHANGE OF THIS WARRANTY SHALL BE VALID UNLESS EVIDENCED BY THE BUYER'S WRITTEN CONSENT. BUYER REJECTS ANY ATTEMPT TO LIMIT DAMAGES BY SELLER.
14. **WARRANTY OF ARTICLES THAT ARE SERVICES:** TO THE EXTENT THE ARTICLES CONSTITUTE SERVICES, SELLER WARRANTS THE SERVICES WILL BE PERFORMED IN STRICT COMPLIANCE WITH THE TERMS OF THIS PURCHASE ORDER AND WILL CONFORM TO THE STANDARD IN THE INDUSTRY IN BUYER'S LOCATION FOR SERVICES OF THE TYPE PROVIDED PURSUANT TO THIS PURCHASE ORDER.
15. **INDEMNIFICATION:** SELLER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS BUYER, ITS OFFICERS, DIRECTORS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, CUSTOMERS, AFFILIATES, SUCCESSORS AND ASSIGNS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, PENALTIES, FINES, LOSSES, COSTS OR OTHER LIABILITIES (INCLUDING WITHOUT LIMITATION, LOSS OF GOODS, DAMAGES TO PERSON OR PROPERTY, CLAIMS FOR WRONGFUL DEATH, WORKER'S COMPENSATION OR SIMILAR BENEFITS AND ATTORNEYS FEES AND EXPENSES, INCLUDING THOSE INCURRED TO ENFORCE THIS INDEMNIFICATION) (COLLECTIVELY, "LOSSES") ARISING OUT OF, RELATED TO, OR RESULTING FROM SELLER'S BREACH OF WARRANTY, BREACH, NONPERFORMANCE OR PERFORMANCE OF THIS CONTRACT OR ANY ACT OR OMISSION OF SELLER, WHETHER OCCURRING ON BUYER'S PREMISES OR

ELSEWHERE. HOWEVER, SELLER SHALL HAVE NO OBLIGATION TO BUYER TO THE EXTENT SUCH LOSSES ARE ATTRIBUTABLE TO THE NEGLIGENCE OR WILLFUL MISCONDUCT OF BUYER. SELLER'S OBLIGATIONS UNDER THIS PARAGRAPH 15 SHALL EXTEND TO THE ACTS AND OMISSIONS OF ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND AGENTS.

16. **INTELLECTUAL PROPERTY:** SELLER SHALL INDEMNIFY, DEFEND AND HOLD BUYER HARMLESS FROM ALL LOSSES (INCLUDING ATTORNEY FEES) AS DEFINED IN PARAGRAPH 15 HEREOF, AND EXPENSES FOR INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, OR COPYRIGHTS, MISAPPROPRIATION OF TRADE SECRETS, OR ANY OTHER INTELLECTUAL PROPERTY RIGHTS, OR ANY LITIGATION BASED ON OR RELATED IN ANY WAY TO THOSE THEORIES IN CONNECTION WITH THE SALE OR USE OF THE ARTICLES FURNISHED PURSUANT TO THIS PURCHASE ORDER. SELLER SHALL, IF REQUESTED BY BUYER, ASSUME AT ITS OWN EXPENSE THE DEFENSE OF ALL SUITS ALLEGING SUCH THEORIES.
17. **AMENDMENTS, CANCELLATION AND TERMINATION:** Buyer may make changes in quantities, specifications, delivery, schedules, and methods of shipping and packing. If such changes cause an increase or decrease in prices or in time required for performance, Seller will promptly notify Buyer thereof and an equitable adjustment will be made. Changes will not be binding on Buyer unless evidenced by a change order issued and signed by Buyer. Buyer may cancel this order in whole or in part, without liability to Buyer, in the event of any breach or failure of any other terms or conditions of this Purchase Order. Buyer may terminate this Purchase Order in whole or in part for convenience, by notice to Seller in writing. When Seller receives such notice, it will, to the extent specified therein, stop work and the placement of subcontracts under this order, terminate work under subcontracts outstanding hereunder, and take any necessary action to protect the property in Seller's possession in which Buyer has or may acquire an interest. Any Seller claim for actual expenses attributable to Buyer's termination for convenience must be submitted to Buyer within 60 days after the effective date of the termination. Buyer reserves the right to accept or reject any such claim in whole or in part. Under no circumstances shall Buyer be liable to pay Seller lost profits attributable for termination for convenience.
18. **COMPLIANCE WITH LAWS:** Seller will comply with all applicable federal, state, and local laws, regulations and orders relating to the Articles, including, without limitation the Articles' design, manufacturing, and shipping.
19. **APPLICABLE LAW:** The validity, construction, and enforcement of this Purchase Order and all rights and obligations contained herein will be governed by and interpreted under the internal laws of the State of Wisconsin, including, without limitations, its provisions of the Uniform Commercial Code, without regard for conflict of laws principles.
20. **EXCLUSIVE VENUE.** SELLER HEREBY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF WISCONSIN. THE EXCLUSIVE VENUE FOR ANY LEGAL PROCEEDING INVOLVING THE VALIDITY, CONSTRUCTION OR ENFORCEMENT OF THIS PURCHASE ORDER AND THE RIGHTS AND OBLIGATIONS CONTAINED HEREIN SHALL BE **EXCLUSIVELY VENUED IN THE CIRCUIT COURT FOR MANITOWOC COUNTY, WISCONSIN.** ALL OTHER VENUES AND ANY CONTENTION THE EXCLUSIVE VENUE IS INCONVENIENT BEING WAIVED.
21. **PROTECTION OF DATA/INFORMATION:** Seller may have a need of access to certain of Buyer's computer and communications systems and networks for the purpose set forth in this Purchase Order. If any data pertaining to Buyer's business or financial affairs, or to Buyer's projects, transactions, clients or customers, is made available or accessible to Seller, its employees, agents or contractors, Seller will not store, copy, analyze, monitor or otherwise use that data except for the benefit of Buyer and for the purpose set forth in this Purchase Order. Seller will comply fully with all applicable laws, regulations, and government orders relating to personally identifiable information ("PII") and data privacy with respect to any such data Seller receives or has access to under this Purchase Order or in connection with performance of any services for Buyer. Seller will otherwise protect PII and will not use, disclose, or transfer across borders PII except as necessary to perform under this Purchase Order or as authorized by the data subject or in accordance with applicable law. To the extent that Seller receives PII related to the performance of this Purchase Order, Seller will protect the privacy and legal rights of Buyer's personnel, clients, customers, and contractors.
22. **NON-DISCRIMINATION:** Seller shall not discriminate with respect to on the basis of race, color, creed, national origin, ancestry, religion, sex, handicap, age, marital status, sexual orientation, or political affiliation and furthermore, agree to comply with Lakeshore's Prohibition of Sexual Harassment under Title IX Policy, including the Title IX of the Education Amendments Act of 1972 while performing services on Lakeshore's campuses. The terms of that Lakeshore's Prohibition of Sexual Harassment under Title IX Policy and Title IX of the Education Amendments Act of 1972 are incorporated into this Purchase Order by reference and may be found at the following link: [Lakeshore Policies](#)
23. **DRUG-FREE WORKPLACE/SCHOOLS/COMMUNITIES:** Seller shall comply with the Drug-free Workplace/Schools/Communities Policy, which is incorporated into this Purchase Order by reference and may be found at the following link: [Lakeshore Policies](#)
24. **FIREARMS, WEAPONS AND EXPLOSIVES / SAFETY:** Seller shall comply with the Firearms, Weapons and Explosives Policy and the College Safety Policy which is incorporated into this Purchase Order by reference and may be found at the following link: [Lakeshore Policies](#)
25. Seller guarantees the Articles being requested/purchased meet or exceed applicable OSHA standards and ANSI guidelines required for the Articles at the time of delivery and/or installation. In addition, Seller will serve as a resource to assist with interpretation of OSHA standards and ANSI guidelines applicable to the operation of the Articles.
26. **FERPA:** If Seller, its employees or agents are provided access to any Student Information, Seller will fully comply with the privacy regulations outlined in the Family Educational Rights and Policy Act, 20 U.S.C. § 1232g; 34 C.F.R. Part 99, as amended ("FERPA"), for the handling of such information. Seller will not disclose or use Student Information except to the extent necessary to carry out its obligations under this Agreement and as permitted by FERPA. "Student Information" means any student or alumni information of Buyer or its affiliates, including but not limited to student or alumni names, email addresses, identification code or other academic or financial records.
27. **WAIVER:** Buyer's failure to insist on the strict performance of any of the terms hereof, or to exercise any right or privilege hereunder, or Buyer's waiver of any breach by Seller hereof, shall not thereafter waive any such terms, conditions, rights, or privileges Buyer may have hereunder.
28. **ENTIRE AGREEMENT:** This Purchase Order, and any documents referred to on the face hereof, constitute the entire agreement between the parties regarding the subject matter hereof and supersede all prior agreements, understandings, and statements, whether oral or written, regarding such subject matter. No modification to, change in, or departure from, the provisions of this Purchase Order shall be valid or binding on Buyer, unless approved in writing by Buyer. No course of dealing or usage of trade shall be applicable unless expressly incorporated into this Purchase Order.
29. **FORCE MAJEURE:** Neither Seller nor Buyer shall be liable for delays occasioned by unforeseeable causes beyond their control and without their fault or negligence; provided, however, that if any such delay occurs, Buyer shall have the option to cancel all or any part of the Articles and shall also have the right to acquire Articles furnished, work in process and special raw materials set aside for the performance of the Purchase Order, upon payment of a reasonable proportion of the purchase price. Written notice of any such delay, including the anticipated duration of such delay, must be given by the nonperforming party within ten (10) days of the unforeseeable cause or event.
30. **ASSIGNMENT/DELEGATION:** Seller may not assign or delegate performance of its obligations hereunder without the prior written consent of Buyer, which Buyer may withhold in its sole and absolute discretion.