

Revised March 26, 2022

The following are the terms and conditions ("Terms") upon which the Rochester Institute of Technology ("RIT") will purchase from the identified vendor ("Vendor") and Vendor will sell to RIT the goods or perform for RIT the services identified on the face of a properly-executed purchase order ("P.O."). In addition, if RIT has provided Vendor with any supplementary terms, conditions, or requirements in a request for proposal, bid specification, or other writing concerning the subject matter of this P.O., those terms, conditions, or requirements shall also apply, and are incorporated herein by reference. If the P.O. is for construction services, the additional terms found on the [Facilities website](#) shall also apply, and are incorporated herein by reference. Vendor's performance of service or provision of goods under P.O. constitutes Vendor's acceptance of the Terms without exception. No deletion, addition, or amendment of the terms and conditions of this P.O. whether contained in Vendor's acknowledgment, invoice, packing list, or delivery slip is binding without RIT's express written approval.

1. Purchase Orders

RIT will not be responsible for goods supplied or services performed by Vendor without a written P.O. RIT may terminate a P.O. or any portion thereof for its sole convenience, subject to an equitable adjustment between Vendor and RIT as to any services or goods then in progress (excluding standard stock). All claims for money due or to become due from RIT shall be subject to deduction or set-off by RIT by reason of any counterclaim arising out of this or any other transaction with Vendor.

2. Delivery

If the P.O. sets a date or time for the delivery or performance of goods and services, time is of the essence, and Vendor's failure to deliver or perform in a timely manner will constitute a material breach of these Terms. RIT may, at its option, and without limiting its other rights, cancel all or any unfilled part of the P.O. if deliveries are not made within the time specified. RIT reserves the right to charge Vendor for any loss or expense incurred as the result of Vendor's failure to make timely delivery.

3. Invoices

Send all invoices to "Bill To" address shown on the front of the P.O. Send all bills of lading and express receipts to "Ship To" address on the front of the P.O. Invoice (one copy) for each P.O. per shipment and do not invoice prior to making shipment. Invoices which do not bear RIT'S P.O. number shall not receive consideration for payment.

4. Packaging

RIT'S P.O. number must appear on the outside of each package and on all packing slips, invoices, and related papers. A packing slip must be included with each shipment.

5. Extra Charges

No charges of any kind including, but not limited to, charges for shipping, handling, packaging, or insurance will be allowed unless specifically stated on the P.O.

6. New York Sales Tax Exemption

RIT is exempt from payment of all sales tax, whether state or local, imposed under Articles 28 and 29 of the New York Tax Law. Copies of the exemption certificates will be furnished if requested. The exemption certificate number is 119421.

7. Federal Excise Tax Exemption

RIT is a nonprofit educational institution and may be exempt from payment of certain Retailer's and Manufacturer's Federal Excise Taxes under the Internal Revenue Code. The University's registration number issued by the IRS Buffalo District Director is 16-0743140.

8. Inspection and Rejection

In addition to all remedies permitted by law, RIT reserves the right to reject and return to Vendor, for full refund and at Vendor's sole expense, all shipments in excess of quantities ordered and all goods that do not conform to RIT's exact specifications or requirements. All goods and materials furnished under this P.O. shall be subject to RIT's inspection, test, and approval or rejection prior to or after delivery due to nonconformance. Payment by RIT shall not constitute an acceptance or approval of any nonconforming or defective goods or workmanship, nor shall it affect the right of RIT to later reject the goods or services. Any goods returned by RIT pursuant to this paragraph or any other paragraph of this P.O. shall be returned to Vendor at its own risk and expense.

9. Risk of Loss; Warehousing

Risk of loss and transfer of title shall not pass to RIT until goods are delivered to and accepted by RIT. If Vendor is warehousing goods which have been ordered under this P.O., regardless of warehouse location or whether title has been passed to RIT, Vendor is responsible for any injury, loss, damage, or destruction to the goods until delivered to and accepted by RIT.

10. Warranties

Vendor warrants and represents that all material, work, or goods supplied under this P.O. will conform to specifications, drawings, samples, or other descriptions furnished by RIT, and shall be fit and serviceable for the purpose intended, of good quality and workmanship, and free from

defect. All material, work, or goods shall be subject to rejection if use reveals defects not apparent upon receipt and, if rejected, will be held at Vendor's risk and expense for storage and other charges until Vendor authorizes disposal or return. Vendor also warrants and represents that it (and each person or entity, if any, acting for or on its behalf) is not debarred from participation in any program of the government of the United States, has all licenses, certificates, and other professional credentials required by law to perform under the terms of this P.O. Furthermore, Vendor warrants and represents that it shall immediately notify RIT if it (and each person or entity, if any, acting for or on its behalf) become subject to such debarment during the performance of this P.O.

11. Independent Contractor

Vendor shall be an independent contractor with no authority to bind RIT and shall have no other relationship to RIT. Vendor will determine the means and methods of performing its services and will supply all equipment, tools, materials, parts, supplies and labor required to perform under the terms of this P.O. RIT shall have no responsibility for the loss, theft, mysterious disappearance of, or damage to, equipment, tools, materials, supplies, and other personal property of Vendor or its agents or employees, which may be brought onto RIT premises or stored at RIT.

12. Insurance

It is Vendor's responsibility to maintain adequate insurance coverage and to submit a certificate of insurance to RIT, as specified in the [RIT Insurance Specifications for Vendors](#), which provides for RIT to receive 30 days' notice of cancellation.

13. Indemnification

To the fullest extent permitted by law, Vendor shall defend with competent counsel, indemnify and hold harmless RIT, its employees, officers, trustees, and/or agents from and against all liabilities, claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the goods supplied or services performed by Vendor under this P.O., or by reason of Vendor's use of RIT's premises, provided that any such liability, claim, damage, loss or expense (1) is attributable to loss, damage or destruction of property, or to personal or bodily injury, sickness, disease or death (including any liability, claim, damage, loss or expense incurred under any workers' compensation law or regulation), and (2) is caused in whole or in part by any act or omission by Vendor or any subcontractor to Vendor, or by anyone directly or indirectly employed by Vendor, or by anyone for whose acts or omissions Vendor may be liable, regardless of whether or not it is caused in part by an act or omission of RIT; but such indemnification shall not extend to any injury or damage to the extent it is attributable to the sole negligence of RIT. In addition, Vendor shall hold and save RIT and, if applicable, the U.S. Government, and their trustees, officers, agents, and employees, harmless from patent liability of any nature or kind, including costs and expenses, for or on account of any patented or unpatented invention or discovery made or used in the performance of this P.O., including the use or disposal thereof by or on behalf of RIT or the U.S. Government, provided, however, that

as to RIT, this indemnification is not and shall not be applicable to any infringement of a U.S. patent to the extent resulting from Vendor's compliance with specific written instructions, plans, or specifications furnished by RIT. The foregoing obligations shall survive the termination, completion or expiration of this P.O. Acceptance by RIT of any other terms and conditions proposed by Vendor shall not abrogate or reduce the indemnification obligations specified herein.

14. Advertising

It is unlawful to, and Vendor shall not, use the name, logos, or symbols of RIT for purpose of advertising, promotion, or trade without the RIT's prior written approval.

15. Hazardous Chemicals

If the goods or materials shipped to RIT pursuant to this P.O. contain a "hazardous chemical," as that term is defined in 29 CFR §1910.1200(c), Vendor must provide to RIT a Material Safety Data Sheet and any other information required by the Federal Hazard Communication Standard (29 CFR §1910.1200), and any other federal or state environmental law, rule or regulation, prior to or at the time of shipment to the following address.

16. Equal Employment Opportunity/ Affirmative Action Compliance

RIT neither affiliates with nor grants recognition to any individual, contractor or organization, on or off campus, having policies that discriminate on the basis of age, citizenship, color, creed, culture, including deaf culture, disabilities, gender, marital status, national origin, political affiliation or preference, race, sexual orientation, gender identity or gender expression as defined by applicable laws and regulations. Provider agrees that it will comply with all Federal, State and Local regulations.

Contractor and/or subcontractor shall abide by the requirements of [41 CFR 60-741.5\(a\)](#). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

Contractor and/or 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.

17. Compliance With Laws

Vendor warrants that all goods or services furnished hereunder will comply with all applicable federal and state laws (and the rules, regulations, guidelines, orders, and standards there under)

including, where applicable, but not limited to, the Fair Labor Standards Act, the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Occupational Safety and Health Act of 1970, and the Toxic Substances Control Act, and any amendments thereto. Vendor shall also give to RIT all notices and reports and label all goods and services supplied under this P.O., as required by applicable laws, rules, regulations, guidelines, orders, or standards.

18. Termination

RIT may terminate this P.O. in whole or in part at any time for cause if Vendor fails to comply with any of the Terms, including without limitation, by making late delivery or performance, or by delivering defective or non-conforming goods or services. If this P.O. is terminated for cause, RIT shall not be liable to Vendor for any amount, and Vendor shall be liable to RIT for any and all damages sustained by reason of the default which gave rise to the termination. RIT may terminate this P.O. in whole or in part at any time for its sole convenience without cause. If this P.O. is terminated for convenience, RIT shall make an equitable adjustment between Vendor and RIT as to any services or goods then in progress (excluding standard stock). All claims for money due or to become due from RIT for a termination for convenience shall be subject to deduction or set off by RIT by reason of any counterclaim arising out of this or any other transaction with Vendor. Upon termination of the P.O., any right or obligation of RIT or the Vendor which by its express terms or nature and context is intended to survive termination of the P.O., shall survive any such termination.

19. Patents, Copyrights, Trademarks and Warranties

VENDOR EXPRESSLY WARRANTS THAT ALL MERCHANDISE IS IN ACCORDANCE WITH THE SPECIFICATIONS; IS FIT FOR THE PURPOSE FOR WHICH SIMILAR MATERIALS AND ARTICLES ARE ORDINARILY EMPLOYED, FIT FOR THE PARTICULAR PURPOSE FOR WHICH THE MERCHANDISE HAS BEEN PURCHASED, FREE FROM DEFECTS IN MATERIALS AND/OR WORKMANSHIP, AND MERCHANTABILITY, and was not manufactured and is not being priced or sold in violation of any federal, state or local law, including without limitation those relating to health and safety and those identified in the National Defense Authorization Act of 2019, or its applicable regulations, relating to the use or transfer, directly or indirectly, of Covered Communications Equipment or Services.

Vendor further warrants that the goods and services do not infringe or violate any patents, copyrights, trademarks or the like, and does not unlawfully disclose or make use of any trade secrets and covenants and agrees to hold harmless, defend and indemnify RIT, and its agents, servants, employees, successors, assigns, customers and users, against any and all claims, demands or suits and related damages, liabilities, costs and expenses (including attorney's fees) arising out of any breach of the warranties identified in this section 19, including but not limited to, infringement or violation or unlawful use or disclosure of trade secrets without limitation. Such warranties shall survive and shall not be deemed waived by delivery or acceptance of, or payment for the goods and services.

20. Force Majeure

This P.O. is subject to cancellation or change on written notice to the Vendor in the event of causes beyond RIT's reasonable control, including without limitation acts of God or war, fires, earthquakes, floods, strikes, labor troubles, riots, curtailment or operations due to governmental orders or rulings, and the like.

21. Cancellation for Conflict of Interest

This order may be subject to cancellation if there is found to be a Conflict of Interest between an RIT employee and Vendor. A Conflict of Interest is deemed present for many reasons, including, but not limited to: (1) an RIT employee and/or his or her spouse or emancipated and/or minor children own 10% or more of the assets of an unincorporated organization or 10% or more of outstanding stock of a corporation; (2) an RIT employee receiving any personal financial advantage or compensation with any transaction in which RIT might have an interest; or (3) any transaction which would cause an RIT employee to violate the provisions of RIT's Individual Conflict of Interest and Commitment Policy, as it may be amended from time to throughout the term of this P.O.

22. Required Government Clauses

All Federal Grant and/or subcontract purchases are subject to the terms and conditions defined in Public Law 87-653 (Truth in Negotiations) the Copeland "Anti-Kickback" Act, the BYRD Anti-Lobbying Amendment (31 U.S.C. 1352), Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements (37 CFR Part 401) and Resource Conservation and Recovery Act (42 U.S.C. 6901). Vendors who have been debarred, suspended, or excluded from receiving federal grants and/or awards shall not be allowed to supply goods or perform services for RIT. In addition the following clauses are incorporated herein by reference according to the amount of this order, and references to Government (or United States) and Contract shall be interpreted as necessary to apply to the U.S. Government or the Buyer and Seller, respectively.

FAR Number Title of Clause

Regardless of Amount

52.203.11 Certification & Disclosure Re: Payments to Influence Certain Federal Transactions

52.222.4 Contract Work Hours and Safety Standards Act

52.225.13 Restrictions on Certain Foreign Purchases

52.227.10 Filing of Patent Applications-Classified Subject Matter

52.227.11/12/13 Patent Rights

52.247.63 Preference for U.S. Flag Air Carriers

52.247.64 Preference for Privately Owned U.S. Flag Commercial Vessels

252.227.7034 DFAR Patents- Subcontracts DOD only
252.227.7039 DFAR Patents Reporting Subject Inventions DOD only
52.222.21 Prohibition of Segregated Facilities
52.222.26 Equal Opportunity
52.222.35 Affirmative Action for Disabled Veterans of the Vietnam Era
52.222.36 Affirmative Action for Workers with Disabilities
52.222.37 Employment Reports on Disabled Veterans of the Vietnam Era
Orders over \$100,000 all of the above clauses plus
52.203.6 Restrictions on Subcontractor Sales to the Government
52.203.7 Anti-Kickback Procedures
52.203.12 Limitation on Payments to Influence Certain Federal Transactions
52.215.2 Audit and Records- Negotiation, Alternative II
52.219.8 Utilization of Small Business Concerns
52.227.1 Authorization and Consent Alternative I
52.227.2 Notice and Assistance Regarding Patent and Copyright Infringement
42 U.S.C. 7401, et. seq Clean Air Act
33 U.S.C. 1251, et. seq Federal Water Pollution Control Act
Orders over \$500,000 all of the above clauses plus
52.219.9 Small Business Subcontracting Plan
Orders over \$550,000 all of the above clauses plus
52.215.12/13 Subcontractor Cost or Pricing Data- Modifications

23. Access to Records

Vendor shall preserve and permit RIT or any of RIT's duly-authorized representatives (including, if applicable, the representatives of a U.S. Government funding sponsor) to examine and audit all directly pertinent books, documents, papers and records of Vendor involving transactions related to this P.O. for the purpose of making audits, examinations, excerpts and transcripts for a period of six (6) years after final payment hereunder. Vendor shall refund to RIT any overpayments disclosed by any audit.

24. No Assignment

Vendor shall not assign this P.O. or any interest relating to this P.O. without RIT's written consent and any assignment made, with or without the knowledge of RIT, shall be rendered null and void.

25. Sale or bankruptcy of Vendor's Business

If, during the life of this P.O any proceedings by or against Vendor, voluntary or involuntary, in bankruptcy or insolvency, or under the provisions of the Federal Bankruptcy Act, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors of the property of Vendor, is commenced or threatened to be commenced, RIT shall have the right to cancel this P.O. without notice.

26. RIT's Property/Copyright Ownership

All equipment or material (including without limitation informational material) furnished by RIT and all goods and services created by Vendor specifically for RIT under the terms of this P.O. which is charged by the Vendor to RIT shall, unless otherwise agreed to in writing, be the property of RIT, shall be returned to RIT at its written request, and shall not be used by Vendor in any of its business except its business with RIT under this or other P.O.s. Copyright ownership rights to any works developed specifically for RIT under this P.O. is hereby transferred and assigned to RIT. Any use of the RIT name, logo, artwork or trademark must be authorized in writing by RIT.

27. Waiver

The failure of RIT to enforce any of the provisions of this P.O. shall not be construed to be a waiver of such provisions or limit the right of RIT thereafter to enforce each and every provision.

28. Governing Law

All matters concerning the validity and interpretation of the RIT's offer and Vendor's acceptance shall be governed by the laws of the State of New York. Jurisdiction of any litigation shall be in New York, with venue in a court of competent jurisdiction in Monroe County.

29. Factual Disputes

Except as otherwise provided in the P.O., any dispute concerning a question of fact arising under the P.O. which is not disposed of by good faith negotiations may, at the discretion of RIT, or the U.S. Government funding sponsor, be arbitrated, and/or decided by the U.S. Government funding sponsor. Any decision rendered by the U.S. Government shall be final and conclusive unless, within 30 days from the date of receipt of such copy, Vendor or RIT mails or otherwise furnishes to all parties a written appeal. The decision of the U.S. Government for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly

erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Vendor and RIT shall, to the extent agreed to by the U.S. Government funding sponsor, be afforded an opportunity to be heard and to offer evidence. Pending final decision of a dispute hereunder, Vendor shall proceed diligently with the performance of the P.O. in accordance with the decision. This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for above, and nothing herein shall be constituted as making final the decision of any administrative official, representative or board on a question of law.

30. Avoidable Firm Alarms

For any action by Contractor that causes an avoidable fire alarm activation, Contractor shall pay to Owner, or Owner may offset against amount otherwise payable to Contractor, the amount of \$500 per avoidable fire alarm activation.

31. Owner-provided keys

Should Contractor fail to return any Owner-provided keys, Contractor shall pay to Owner, or Owner may offset against amount otherwise payable to Contractor, the amount of \$500 per per unreturned key ring.

32. Workplace Safety

Contractors and sub-contractors will be responsible to follow the RIT guidelines found [here](#).