UNIVERSITY OF DELAWARE PURCHASE ORDER TERMS & CONDITIONS:

This purchase order ("Purchase Order" or "Order") is subject to the following terms and conditions; Additional Definitions: "We," "our," "us" and the "University" shall mean the University of Delaware and its agents and employees. "You," "your" and the "Vendor" shall mean the person or entity supplying the goods and/or services under this Purchase Order, including your agents, employees and suppliers.

1. This Purchase Order may be accepted only on the terms set forth herein. Terms in any acceptance by the Vendor which are in addition to or not identical with the terms hereof will not become a part of any Purchase Order unless the University expressly agrees in writing that such other terms are accepted. We reserve the right: (a) To reject and return at your expense, materials in excess of quantity ordered or defective material; (b) To reject delivery and/or cancel this Order or any or all installment delivery(ies) under it upon failure to ship the Order or any installment of it within the time or times specified, or to ship the quantity or quality ordered; and/or (c) To suspend or cancel deliveries during the existence of strikes, labor disturbances, boycotts, fires, floods, natural disasters, a state of emergency, official university closings or other situations arising from causes not within our practicable control.

2. We shall have a reasonable time, but not less than thirty (30) days, after receipt to inspect the goods and services tendered by you before such good and services are deemed accepted by the University. You guarantee that all goods, services and articles furnished hereunder (a) are free from defects in material and workmanship and conform to the specifications included or referred to herein; (b) are of merchantable quality; (c) are fit for the particular needs and purposes for which they are purchased; (d) comply with all applicable laws, codes and regulations; and (e) are not restricted in any way by patents, copyrights, trade secrets or any other rights of third parties.

3. In performance of this Order you will comply with the provisions of the Fair Labor Standards Act and of any other applicable Federal, State or local laws and regulations, and you agree that any provisions required by such laws and regulations to be included herein shall be deemed to be incorporated by reference. This Order or contract and the performance thereof shall be construed and governed in accordance with the laws of the State of Delaware, excluding its choice of law rules. Time is of the essence in your acceptance and performance of this Order.

4. Each package must contain a packing slip showing contents and our Purchase Order number.

5. The Vendor agrees to protect, defend, indemnify and hold the University and its officers, trustees, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this Order and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any intellectual property right or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule, regulation, or court order, shall be included in your indemnity obligations hereunder. The Vendor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at its sole expense and agrees to bear all other costs and expenses related thereto, even if such claims, etc. are groundless, false or fraudulent.

6. Authorization to use the registered trade and service marks of the University for this Order is limited to products for sale to units of the University. Products for distribution to any customer other than the University must be approved and licensed by the Office of University Administrative Services, 122 Huliihen Hall, Newark, Delaware 19716. Purchases hereunder are not to be considered an endorsement of a product.

7. All art work, photographs, mechanicals, negatives and color separations are the sole property of the University and, upon request are to be returned without charge to the University upon delivery of publication samples.

8. The University’s payment terms shall be Net 45 days from the date of delivery or the date of receipt of a correct invoice, whichever is later, unless stated differently in order of delivery. Until the goods and/or services under this Order are delivered and accepted by the University as provided above, Vendor shall bear the risk of loss and damage. Prices are considered “F.O.B. Delivered” with transportation, delivery and installation charges prepaid by Vendor on all orders to the University, unless otherwise agreed. University does not accept deliveries on University holidays or scheduled closings.

9. Change and Termination for Convenience: We may, by written notice to you, terminate this Order or any part thereof, at our discretion and for any or no reason. Upon notice of termination, you shall immediately stop all work and cause your suppliers and/or subcontractors to stop all work in connection with this Order. If we terminate this Order for our convenience and without default on your part, then we shall pay you for the goods and services accepted as of the date of termination, and, subject to Section 10 below, we shall pay for your actual, reasonable out of pocket costs incurred directly as a result of stopping your work by reason of such termination. We are not obligated to pay for services not performed or goods not shipped after your receipt of notice of termination, or for lost profits or other similar incidental or consequential damages. We reserve the right to change or modify this Order. If a change or modification causes an increase or decrease in the cost or time required for performance by Vendor, then both parties shall mutually negotiate an adjustment and this Order shall be amended accordingly, in writing. No changes or modifications to this Order shall be commenced until a Change Order is received by Vendor from our Procurement office.

10. Limitation of Liability: IN NO EVENT SHALL VENDOR BE ENTITLED TO ANY PAYMENT ON ACCOUNT OF LOST PROFITS, INCIDENTAL DAMAGES OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH ANY TERMINATION OF THIS ORDER OR OTHERWISE IN CONNECTION WITH THIS PURCHASE ORDER. The University’s liability for any claim arising directly or indirectly under this Order shall in no event exceed the cost of the goods or services giving rise to the claim.

11. Assignment: Vendor shall neither assign any right nor delegate any duty hereunder without our prior written consent. Notwithstanding any notice of assignment, our tender of payment to the Vendor named herein shall fully satisfy the University’s obligation to pay.

12. Termination for Default: The University may, by written notice, terminate this Purchase Order, in whole or in part, if Vendor fails to comply with any provisions of this Order, including failure to deliver as and when specified, or if Vendor becomes insolvent or files for bankruptcy. If so terminated, Vendor shall be liable for all damages, including but not limited to: (a) the excess cost of re-procuring similar goods or services; (b) shipping charges for any items we may at our option return to you, including items already delivered; (c) amounts paid by the University for any items the University has received but returns to you; and (d) any loss, expense (including reasonable attorneys’ fees) or damages sustained by us as a result of your breach. If a court determines that our termination for default was wrongful or unjustified, then such termination shall be automatically considered a termination for convenience under Section 9 above and you shall have the rights under that provision, but no other rights or claims for damages.

13. At our sole option, you agree first to try to resolve any claim, dispute or other matter in question under this Purchase Order ("Claim") by mediation under the Commercial Mediation Procedures of the American Arbitration Association. If not so resolved, then, at our sole option, any such Claim shall be decided by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any award rendered by such arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. If we do not elect either mediation or arbitration, then any judicial proceedings to resolve a Claim shall be commenced only in a state court of competent subject matter jurisdiction located within New Castle County, Delaware or in the United States District Court for the District of Delaware. THE PARTIES, THEIR SUCCESSORS AND ASSIGNS WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDINGS HEREUNDER.

14. Vendor shall supply the good and/or services under all applicable federal, state and local laws, rules, regulations, ordinances and all University policies and procedures.

15. This Agreement, along with any exhibits, appendices, addendums, schedules, and amendments hereto, encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written.

Revised July 2013