

SAN JUAN COLLEGE
GENERAL TERMS AND CONDITIONS

1. **Agreement.** When the San Juan College (SJC) Purchasing Department issues a purchase order to a Supplier, a binding contract is created. This Purchase Order is the sole and entire agreement between the parties; any documents incorporated into this agreement are listed explicitly on the front side of this Purchase Order or are incorporated by implication by the terms of this Purchase Order. Any terms inconsistent with or in addition to this Purchase Order proposed by the Supplier are deemed rejected unless agreed to in writing by the SJC Purchasing Department.
2. **Assignment.** This order is assignable by SJC. Except as to any payment due hereunder, this order is not assignable by the Supplier without written approval of SJC.
3. **Changes.** SJC may make changes to this order by giving notice to the Supplier and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for the performance of this order, an appropriate equitable adjustment shall be made. No change by the Supplier shall be recognized without written approval of SJC. Any claim by the Supplier for an adjustment under this paragraph must be made in writing within thirty (30) days from the date of receipt of the Supplier of notification of such change unless SJC waives this condition. Nothing in this paragraph shall excuse the Supplier from proceeding with the performance of the order as changed hereunder.
4. **F.O.B.** Unless stated otherwise, the price for goods is F.O.B. the place of destination, and the place of destination is SJC's designated campus address.
5. **Termination and Delays.**
 - a. SJC may terminate this order for convenience in whole or in part at any time. SJC shall pay Supplier as full compensation for performance until such termination based upon the unit or pro-rata order price for the delivered and accepted portion, provided, however, compensation hereunder shall in no event exceed the total order price. Such an amount will be limited to the Supplier's actual cost and shall not include anticipated profits.
 - b. SJC may terminate this order at any time in whole or in part for Supplier's default if Supplier refuses or fails to comply with the provisions of this order or fails to make progress so as to endanger performance and does not cure such failure within what SJC considers to be a reasonable period of time.
6. **Inspection.** SJC may inspect, at any reasonable time, any part of the Supplier's plant or place of business, which is related to the performance of this Purchase Order. Final inspection will be made at the destination upon completion of delivery of goods and services. Acceptance of delivery shall not be considered acceptance of the goods and/or services furnished. The final inspection shall include any testing or inspection procedures required by the specifications.
7. **Acceptance and Rejection.** All items are to be NEW and most current production, unless otherwise specified. If prior to final acceptance, any goods or services are found to be defective or not as specified, or if SJC is entitled to revoke acceptance of them SJC may reject or revoke acceptance, require Supplier to correct without charge within a reasonable time, or require delivery at an equitable reduction in price, at SJC's option. Supplier shall reimburse SJC for all incidental and consequential costs related to unaccepted goods or services. Notwithstanding final acceptance and payment, the Supplier shall be liable for latent defects, fraud, or such gross mistakes as amount to fraud. Acceptance of goods or services shall not waive the right to claim damages for breach of contract.
8. **Title and Delivery.** Title to the materials and supplies passed hereunder shall pass to SJC upon acceptance at the F.O.B. point specified, subject to the right of SJC to reject. For any exception to the delivery date specified, the Supplier shall give prior notification and obtain approval thereto from the SJC Purchasing Department. Time is of the essence and the Purchase Order is subject to termination for failure to deliver on time.
9. **Warranties.** Supplier warrants the good and/or services furnished to be exactly as specified in this Purchase Order, free from defects in Supplier's design, labor, materials, and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with samples furnished by Supplier. All applicable UCC warranties express and implied are incorporated herein.
10. **Packing, Shipping and Invoicing.**
 - a. SJC's purchase order number and the Supplier's name shall be shown on each packing and delivery ticket, package, bill of lading, and other correspondence in connection with the shipment. SJC's count will be accepted by the Supplier as final and conclusive on all shipments not accompanied by a packaging ticket.
 - b. The Supplier's invoice shall be submitted, duly certified, and shall contain the following information: purchase order number, description of supplies or services, quantities, unit prices, and extended totals. Separate invoices shall be rendered for each and every complete shipment.
 - c. Invoices must be submitted to SJC's Business Office via email to accountspayable@sanjuancollege.edu and NOT to SJC's Purchasing Department.
11. **Instrumentalities.** Supplier shall supply all equipment, tools, materials, and supplies to accomplish the designated tasks except as set forth in this purchase order, its attachments or any Agreement/Contract relating to this order.
12. **Payment Terms.** Payments shall be issued within thirty (30) days of delivery of merchandise, completion of work, and receipt of Supplier invoicing, whichever is later. Late payment fees shall be paid in the amount and under the conditions stated in

13. **Foreign Payments.** Payment for services performed by a foreign individual or a foreign corporation while in the U.S. may be subject to a 30% tax withholding per IRS Publication 515.
14. **Discounts.** If prompt payment discounts apply to this order, any discount time will not begin until the materials, supplies, or services have been received and accepted and a correct invoice is received by SJC's Business Office via email to accountspayable@sanjuancollege.edu and **NOT** to SJC's Purchasing Department. In the event testing is required, the discount time shall begin upon the completion of the tests.
15. **Taxes.** The unit price shall exclude all applicable taxes. SJC is tax-exempt on Supplies. Taxes shall apply to SJC Services only.
16. **Audit.** The Supplier shall maintain detailed time records which indicate the date, time, and nature of any services rendered. Supplier shall maintain detailed records of all materials or supplies delivered to SJC under this order, including serial numbers and other appropriate identifiers. These records shall be subject to internal and external audit. SJC shall have the right to audit billings both before and after payment. Payment under any related Agreement/Contract shall not preclude SJC from recovering excessive, erroneous or illegal payments previously made to the Supplier.
17. **Employees, Insurance, and Indemnification.**
 - a. In performing any services hereunder, Supplier is and undertakes performance thereof, as an independent contractor, with sole responsibility for all persons employed in connection therewith, including without limitation exclusive liability for the payment of all Federal, State, and local Unemployment and Disability Insurance and all Social Security and/or other taxes and contributions payable in respect of such persons, from and against which liability Supplier agrees to indemnify, exonerate and hold harmless Buyer.
 - b. Supplier shall provide to Buyer, prior to the commencement of any services hereunder, certificates of insurance evidence that Supplier has purchased the following insurance: Supplier's General Comprehensive Liability Insurance and Supplier's Comprehensive Automobile Liability Insurance minimum limits of coverage shall be the greater of liability established by the New Mexico Tort Claims Act or combined single limit coverage of \$1,000,000. Supplier's Workers Compensation coverage limits shall be those established by applicable statutes. Employee liability coverage shall be the greater of the limits of liability established by the New Mexico Tort Claims Act or \$1,000,000.
 - c. Supplier's protective liability subject to all applicable rules of such premises, including those for safety and fire protection.
 - d. If the Buyer or Supplier visits others premises such shall do so at own risk.
 - e. Supplier warrants that Supplier shall comply with all existing financial capability, responsibility, security or laws, regulations, and/or other requirements of local, state, provincial, and federal governments with respect to oil pollution or any other pollution damage whatsoever. Supplier agrees to protect, defend, indemnify, exonerate, and hold Buyer harmless from and against any and all suits, claims, liability, losses, liens and demands, fines, costs, criminal and civil penalties, causes of action, or any other obligations arising out of or in any manner connected with, incidents involving bodily injury, death, property damage or any violation or alleged violation of any federal, state, provincial or local law or regulation.
18. **Patent and Copyright Indemnity.** Supplier shall pay all royalty and license fees relating to deliverables and other items covered under this order. In the event, that any third party shall claim that the reproduction, manufacture, use, or sale of goods or items covered under this order infringes any copyright, trademark, patent, or other intellectual property rights.
19. **Workers Compensation.** No Workers' Compensation insurance has been or will be obtained by SJC on account of the Supplier or its employees or agents. Supplier shall comply with state laws and rules pertaining to workers' compensation benefits for its employees.
20. **Equal Opportunity and Affirmative Action.** Supplier will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Suppliers will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Supplier agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
21. **Independent Business.** Neither Supplier nor any of its agents shall be treated as an employee of SJC for any purpose whatsoever. Supplier declares that Supplier is engaged in an independent business and has complied with all federal, state, and local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the tasks to be performed under this order. Supplier further declares that it is engaged in the same or similar activities for other clients and that SJC is not Supplier's sole or only client or customer.
22. **Suppliers Employees and Agents.** Supplier shall have complete charge and responsibility for persons employed by Supplier and engaged in the performance of the specified work. The Supplier, its agents, and employees state that they are independent contractors and not employees of SJC.
23. **Payroll or Employment Taxes.** No federal, state, or local income, payroll or employment taxes of any kind shall be withheld or paid by SJC with respect to payments to Supplier or on behalf of Supplier its agents or employees. Supplier shall withhold and pay any such taxes on behalf of its employees as required by law. Supplier may be liable for self-employment (social security) tax, to be paid by Supplier according to law.
24. **Conflict of Interest.** Supplier shall disclose to SJC's Purchasing Department the name(s) of any SJC employee or member of

SJC's Governing Board who has a direct or indirect financial interest in the Supplier or in the proposed transaction. A SJC employee (or SJC Governing Board Member) has a direct or indirect financial interest in the Supplier or in the proposed transaction if presently or in the preceding twelve (12) months the employee/Board Member or a close relative has an ownership interest in the Supplier (other than as owner of less than 1% of the stock of a publicly traded corporation); works for the Supplier, is a partner, officer, director, trustee or consultant to the Supplier, has received grant, travel, honoraria or other similar support from the Supplier, or has a right to receive royalties from the Supplier. Supplier shall immediately notify SJC's Purchasing Department in regard to any conflict of interest.

25. **Penalties.** The Procurement Code, Section 13-1-28 et seq. NMSA 1978, as amended imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.
26. **Applicable Law.** Each party acknowledges that this order is subject to the laws of the State of New Mexico and the New Mexico Procurement Code, NMSA 1978 13-1-28 through - 199, as amended, all of which shall apply to every SJC purchase or Agreement/Contract for tangible personal property, services, and construction, including participation made pursuant to this order. Other Applicable Laws may include any provision required to be included in an Agreement/Contract by any applicable and valid Executive Order, federal, state, or local law, ordinance, rule, or regulation shall be deemed to be incorporated herein.
27. **Campus Policy.** The supplier will comply with all applicable laws, College policies, and industry standards in performing services under this purchase order, including but not limited to laws, policies, and regulations mandated during any government emergency or pandemic.