

BOARD OF TRUSTEES OF SAUK VALLEY COMMUNITY COLLEGE DISTRICT NO. 506

PURCHASE ORDER TERMS AND CONDITIONS

Throughout these Purchase Order Terms and Conditions (“Terms and Conditions”), the Board of Trustees of Sauk Valley Community College District No. 506, Counties of Lee, Whiteside, Ogle, Bureau, Carroll, and Henry and State of Illinois and all of its members, officers, trustees, employees, volunteers and agents, shall be referred to as the “College” and the seller or service provider shall be referred to as the “Vendor.”

SECTION I: GENERAL TERMS AND CONDITIONS

A. APPLICABILITY. Section I of these Terms and Conditions shall apply to all purchases made by the College’s Business Office department or otherwise using a College purchase order, unless the provisions are superseded by terms in Sections II, as applicable, or another written agreement governing the relationship of the parties dictates otherwise.

B. CONTRACT DEFINED. The complete and exclusive agreement regarding the subject matter transaction (“Contract”) includes: any separately signed agreement; the purchase order and all change orders issued by the College; and these Terms and Conditions. To the extent there is a conflict between the terms in any separately signed agreement and any of these Terms and Conditions, these Terms and Conditions shall govern. Any additional or conflicting terms contained in any document issued by the Vendor in connection with this Contract shall not be binding on the College unless the College expressly agrees in writing.

C. INDEPENDENT CONTRACTOR. The Vendor shall perform the services as an independent contractor and shall not be considered an employee or agent of the College for any purpose.

D. VENDOR PERFORMANCE. The Vendor represents and warrants that (i) it and its employees, agents and subcontractors have the qualifications and skills necessary to perform the specified services under this Contract in a competent and professional manner; (ii) it has the full right and power to enter into and fully perform this Contract in accordance with its terms; (iii) the execution, delivery, and performance of this Contract will not infringe upon the rights of any third party or violate the provisions of any agreement to which it is a party; (iv) it and its employees, agents and subcontractors will comply with all applicable federal, state and local laws, rules and regulations in providing or performing the services, as such laws, rules and regulations may be amended from time to time, including, but not limited to, the Family Educational Rights and Privacy Act (20 U.S.C. §1232(g)) and the Illinois Personal Information Protection Act (815 Ill. Comp. Stat. 530); (v) it will comply with all financial and administrative requirements prescribed by Illinois law and College policy; and (vi) the services will conform to the standards applicable in the field or industry.

E. WARRANTIES. The Vendor warrants that (i) it has free and clear title to all products provided hereunder; and (ii) such products (a) comply with the College’s specifications, (b) have been manufactured in compliance with and conform to all applicable laws, (c) are free from defects in design, materials and workmanship, and (d) do not infringe on any patent, copyright, trademark, trade name, service mark or any other proprietary right of any third party. If any product breaches any of the

warranties in this Section, the Vendor shall promptly replace such product with a substitute product that conforms to the requirements set forth in this Contract and the College's specifications at no additional cost to College, delivered to the same destination as the original shipment. In the event that the Vendor is unable to replace the product as required in this Section within a commercially reasonable time, the College shall be entitled to recover its damages, including the reasonable cost of purchasing substitute product. The College's rights and remedies set forth herein shall be cumulative and in addition to all other rights and remedies available to the College in law or equity.

F. INSPECTION AND ACCEPTANCE. The College shall have five (5) business days to accept or reject the services and/or deliverables in writing. No deemed acceptance will apply. The College may reject the services and/or deliverables at its sole discretion. If rejected, the College will provide written comments as to requested changes and the applicable services and/or deliverables will be re-performed by the Vendor within a time period to be determined by the College. If the services and/or deliverables are subsequently rejected by the College, the College may, at its sole discretion, require re-performance by the Vendor, or may utilize an alternate service provider to complete the services and/or deliverables, and will be reimbursed for such costs by the Vendor.

G. COMPENSATION AND EXPENSES. Total fees and expenses under the Contract shall not exceed the College's prior written approval and the amount of its purchase order or change order covering such payments. In order to be paid, the Vendor shall send invoices to: Sauk Valley Community College, Attn: Accounts Payable, Dixon, Illinois 61021 via email (invoices@svcc.edu) or fax (815.288.2038), and submit invoices in accordance with any instructions provided by the College, including any instructions set forth on College's purchase order. Each invoice must contain the vendor name and remittance address, approved PO#, order date, shipping date, payment terms, unique invoice #, itemized list of items, corresponding cost by UOM, total cost in U.S. dollars and any freight/shipping charges to be considered a proper invoice. The College shall make payment to the Vendor within thirty (30) days of approval of proper invoice that includes the information necessary for processing the payment as specified by the College. Payment for all or part of the services, products or deliverables shall not constitute acceptance. Interest on late payment(s) shall be paid in accordance with the Local Government Prompt Payment Act (50 ILCS 505/). If applicable, any actual travel costs and expenses (i.e., without mark-up), must be pre-approved in writing by the College. The Vendor shall provide the College with appropriate and complete documentation (e.g., receipts, invoices marked "Paid in Full") upon the College's request in connection with any expense reimbursement sought by the Vendor in connection with this Contract. The College has the right to audit all invoices presented.

H. TAXES. The College is generally exempt from the payment of taxes and shall not be obligated to pay any taxes from which it is exempt.

I. TERMINATION. The College may terminate the Contract, or any portion of products or services thereof, by giving the Vendor written notice of the termination date. If the College does not indicate a termination date in the notice, the Contract will terminate as soon as the Vendor receives the notice. The Vendor shall immediately cease services then in effect as directed by the College. The College shall pay the Vendor on a pro rata basis for services completed up to the effective date of termination. Any amounts prepaid to the Vendor by the College for services not completed as of the effective date of termination shall be refunded to the College by the Vendor.

J. TITLE/RISK OF LOSS. Title to supplies and risk of loss shall pass to the College upon delivery at final destination and acceptance by the College; all shipments must be fully insured by the Vendor unless otherwise stated; and the Vendor shall bear freight costs unless otherwise stated.

K. INTELLECTUAL PROPERTY. The Vendor agrees that immediately upon creation, the College owns all right, title and interest in and to the reports, designs, plans, specifications, drawings, inventions, processes, and other information, work product, deliverables or items produced by the Vendor, its employees, agents or subcontractors while performing services under the Contract (collectively, "Work Product") as "works made for hire" (as defined in the U.S. Copyright Act of 1976, as amended, and for purposes of all other copyright laws throughout the world), and any and all related copyrights, patents, trademarks and other intellectual property rights (collectively, "Proprietary Rights") in such Work Product. If, for any reason, any of the Work Product is not found to have been created as works made-for-hire, the Vendor hereby assigns immediately upon creation to the College Vendor's entire right, title and interest in all Work Product and all Proprietary Rights in Work Product. The Vendor shall execute any documents in connection with such assignment that the College may reasonably request. The Vendor shall enter into agreements with its employees, agents and subcontractors as necessary to establish the College's sole ownership in Work Product and Proprietary Rights, and upon request, the Vendor shall provide the College with copies of such agreements.

L. OTHER COLLEGE PROPERTY. All information, data and materials, including but not limited to, any written, printed, graphic, or electronically or magnetically recorded information furnished by the College for the Vendor's use are the sole property of the College.

M. CONFIDENTIALITY. The Vendor shall maintain all of the College's proprietary and/or confidential information in confidence, and shall not disclose it, by any means, to any person, unless disclosure is required in the performance of services under the Contract. Proprietary and/or confidential information includes information that is marked or otherwise identified as proprietary or confidential at the time of disclosure, or that by its nature would be understood by a reasonable person to be proprietary or confidential. In such case, such disclosure shall only be with the College's prior written approval and only to the extent necessary to perform services under the Contract. This prohibition also applies to the Vendor's employees, agents and subcontractors and the Vendor shall ensure and be responsible for compliance with this provision by its employees, agents and subcontractors. On termination of the Contract, the Vendor will return any proprietary and/or confidential information in its possession (including all confidential information in the possession of its employees, agents and subcontractors) to the College.

N. ASSIGNMENT. Neither the Contract nor any duties or obligations therein may be assigned by the Vendor without the prior written consent of the College.

O. INDEMNIFICATION. The Vendor agrees to indemnify, defend and hold the College free and harmless from all claims, demands, losses, costs, expenses, judgments, obligations, liabilities, damages, recoveries and deficiencies, including interest, penalties, attorneys' fees and costs, however caused, resulting from, arising out of or in any way connected with the Vendor's, its employees', agents' or subcontractors' performance of the Contract or breach of any representation, warranty or provision contained therein.

P. INSURANCE. The Vendor, at the Vendor's sole cost and expense, will insure its activities and the activities of its employees, agents and any individuals working on behalf of the Vendor in connection with the Contract.

Q. COLLEGE NAME AND LOGOS. The Vendor shall not issue any press release or other public announcement relating to the Contract or the activities contemplated by the Contract or use the College's name, logos, marks or any other trade designations (including, but not limited to, on its website, in printed materials or in any other manner) or any other College intellectual property without the prior written approval of the College, which approval may be withheld for any reason.

R. CONTRACT ENFORCEMENT. A party does not waive any right under the Contract by failing to insist on compliance with any of the terms of the Contract or by failing to exercise any right hereunder. Any waivers granted hereunder are effective only if recorded in a writing signed by the party granting such waiver. If any provision of the Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

S. CONFLICT OF INTEREST. The Vendor warrants that there exists no actual or potential conflict between the Vendor's family, business or financial interests and its services under the Contract. The Vendor shall notify the College in writing of any change in conditions that might create, give the appearance of or raise questions regarding a possible conflict of interest.

T. DELIVERY OF NOTICES. Service of all notices required or permitted under this Contract shall be sent to the postal address of Vendor and to Sauk Valley Community College, Attn: Business Office, Dixon, Illinois 61021, or to any other address which a party specifies by giving notice. Notices are effective upon receipt and the sender has the burden of proving receipt.

U. AMENDMENTS. No modification of the Contract is binding unless it is in writing and signed by the College and the Vendor. The Vendor agrees to waive any and all claims for payment(s) in regard to any services performed without prior receipt of an appropriate written amendment to the Contract and issuance of the College's purchase order or change order covering such payment(s).

V. GOVERNING LAW. This Contract shall be interpreted and construed according to the laws of the State of Illinois, without regard to its conflict of laws principles.

W. BUSINESS ENTERPRISE PROGRAM. The College recognizes the importance of increasing the participation of business owned by minorities, females, and persons with disabilities in public contracts. It is the policy of the College to promote the economic development of disadvantaged business enterprises by setting aspirational goals to award contracts to businesses owned by minorities, females, and persons with disabilities for certain services, to the extent provided by the Business Enterprise for Minorities, Females and Persons with Disabilities Act (the "Act") (30 ILCS 575/0.01 et seq.) and the Business Enterprise Council for Minorities, Females, and Persons with Disabilities which services to implement, monitor and enforce the goals of the Act.

SECTION II: ON-SITE VENDOR TERMS AND CONDITIONS

A. APPLICABILITY. Section II of these Terms and Conditions shall apply to any the Vendor who conducts work or services on the College premises or who represents the College at off-campus locations. These

terms shall be in addition to the terms listed above in Section I. If any of the terms in this Section II conflict with the terms in Section I, the Section II term(s) shall control, unless there is an agreement modifying these terms and their applicability to the Vendor.

B. BACKGROUND CHECKS. The Vendor shall ensure that background checks on all of its employees, agents and subcontractors assigned to the College pursuant to the Contract are obtained and documented, and shall not assign to the College any employees, agents or subcontractors with felony convictions without the prior approval of the College. All background checks shall be current within the last twelve (12) months as of the time when each individual is first assigned to the performance of services under the Contract. The College has the right to require evidence of compliance with this Section with two (2) business days advance notice. At all times the College has the right to request that any employee, agent or subcontractor assigned to the College be re-assigned and the Vendor shall comply with such request within twenty-four (24) hours.

C. CONDUCT. The Vendor and its employees, agents and subcontractors entering upon the College's premises shall take all proper and sufficient precautions and safeguards against the occurrence of any accidents, injuries (including death) or damage to any person or property. The Vendor, its employees, agents and subcontractors will adhere to all applicable federal, state, local and College policy, rules, regulations, policies and procedures, including, but not limited to: the Smoke Free Campus Act (110 ILCS 64) and the Drug Free Workplace Act (30 ILCS 580); data security rules and procedures; and the requirements of the Health Insurance Portability and Accountability Act ("HIPAA") (PL 104-191).