

STANDARD TERMS AND CONDITIONS
Everett Community College

INVITATION TO BID, REQUESTS FOR QUOTATION, FIELD ORDER CONTRACTS

THE FIELD ORDER CONTRACT INCLUDES THE FOLLOWING TERMS AND CONDITIONS AND INCLUDES, BUT IS NOT LIMITED TO, THE INVITATION TO BID, REQUEST FOR QUOTATIONS SPECIFICATIONS, PLANS AND PUBLISHED RULES AND REGULATIONS OF THE DEPARTMENT OF ENTERPRISE SERVICES AND EVERETT COMMUNITY COLLEGE, AND THE LAWS OF THE STATE OF WASHINGTON, WHICH ARE HEREBY INCORPORATED BY REFERENCE.

CHANGES: No alteration in any of the terms, conditions, delivery, price, quality, quantities, or specifications of the order will be effective without written consent of the College Director of Logistics Operations or his designee.

PACKING: No charges will be allowed for handling, packing, wrapping, bags, reels, etc., unless otherwise stated herein.

DELIVERY: With respect to delivery under this contract, time is of the essence and the order is subject to termination for failure to deliver on time. The acceptance by Purchaser of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Vendor. Orders must arrive, and be unloaded, after 7:30 a.m. and before 4:00 p.m., Monday-Friday, except public holidays and as noted below. Exceptions are at the sole discretion of the Receiving staff. Orders requiring a forklift to unload will, under no circumstances, be unloaded in snowy or icy conditions. The College is closed on Fridays during the Summer months, and may be closed for approximately one week near Christmas. It is the responsibility of the Vendor and the Shipper to be aware of College receiving hours and College closures. The College website (www.everettcc.edu) is the best source of information about closures. The Purchaser will not pay any penalties if any order is refused until the next business day because it is delivered outside of regular receiving hours, or if the order cannot be delivered or received due to snow, ice, other inclement weather, or any College closure.

PAYMENTS, CASH DISCOUNT, LATE PAYMENT CHARGES: Invoices will not be processed for payment, nor will the period of computation for cash discount or late fees commence until

receipt of a properly completed invoice or invoiced items are received, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the cash discount and late fee period shall commence on the date final approval for payment is authorized. If Purchaser fails to make timely payment, Vendor may invoice for a minimum of one dollar or one percent per month on the amount overdue. Payment shall not be considered late if a check or warrant is available or mailed within the time specified, or, in the event that terms are not specified, within 30 days. Payments to vendors will typically be remitted by mail. The Purchaser shall not honor drafts, nor accept goods on a sight draft basis.

SHIPPING INSTRUCTIONS: All goods are to be shipped prepaid, FOB destination; vendor owns all goods, and bears all costs and liabilities, until goods are delivered to (or, if unloading is necessary, unloaded by) Purchaser. Vendor agrees to prepay all shipping charges, route cheapest common carrier, and to bill Purchaser as a separate item on the invoice for said charges, if routing instructions are not included on the Field Order. Each invoice for shipping charges shall contain the original or a copy of the bill indicating that the payment for shipping has been made. It is also agreed that Purchaser reserves the right to refuse COD shipments.

REJECTION: All goods or materials purchased herein are subject to approval by Purchaser. Any rejection of goods or material resulting due to nonconformity to the terms and specifications of this order, whether held by Purchaser or returned, will be at Vendor's risk and expense.

IDENTIFICATION: All invoices, packing lists, packages, shipping notices, instruction manuals, and other written documents affecting this order shall contain the applicable purchase order number. A packing list shall be enclosed with every shipment pursuant to this order, indicating the contents therein.

INFRINGEMENTS: Vendor agrees to protect and save harmless purchaser against all claims, suits or proceedings for patent, trademark, copyright, or franchise infringement arising from the purchasing, installation, or use of goods and material ordered hereunder, and to assume all expenses and damages arising for such claims, suits or proceedings.

NON WAIVER BY ACCEPTANCE OF VARIATION: No provision of this order, or the right to receive reasonable performance of any act called for by the terms, shall be deemed waived by a waiver by Purchaser of a breach thereof as to any particular transaction or occurrence.

WARRANTIES: Vendor warrants that articles supplied under this order conform to specifications herein and are fit for the purpose for which such goods are ordinarily employed; except if stated in a Special Condition, the material must then fit that particular purpose. Vendor and Purchaser agree that this contract does not exclude, or in any way limit, other warranties provided for this agreement by law.

ASSIGNMENTS: The provisions or monies due under this contract shall only be assignable with prior written consent of the College Director of Logistics Operations.

TAXES: Unless otherwise indicated, Purchaser agrees to pay State of Washington sales or use tax at the current Snohomish County rate. No charge by Vendor shall be made for federal excise taxes, and Purchaser agrees to furnish Vendor, upon acceptance of article supplied under this order, with an exemption certificate upon request.

TITLE: Vendor shall convey to purchaser good title to all goods supplied hereunder, free and clear of all liens, claims, or encumbrances of any kind.

SAVE HARMLESS: Vendor shall protect, indemnify, and save Purchaser harmless from and against any and all damages, costs or liabilities for any injuries to persons or property arising from acts or omissions of Vendor, his employees, agents or subcontractors, however caused.

TERMINATION: In the event of a breach by Vendor of any of the provisions of the contract, Purchaser reserves the right to cancel and terminate this contract forthwith upon giving oral or written notice to Vendor. Vendor shall be liable for damages suffered by Purchaser resulting from Vendor's breach of contract, including any and all attorneys' fees, mediation and court costs, if applicable.

NONDISCRIMINATION: The Vendor agrees not to discriminate against any client, employee or applicant for employment or for services on the basis of race, religion, creed, color, national origin, age, sex, sexual orientation, marital status, the presence of any physical, sensory or mental disability, genetic information or status as a disabled or Vietnam era veteran with regard to, but not limited to, the following: Employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs, or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any vendor who is in violation of this clause shall be barred forthwith from receiving awards of any

purchase order from the State unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

ANTI-TRUST ASSIGNMENT: Vendor and Purchaser recognize that in actual economic practice overcharges resulting from anti-trust violations are in fact borne by Purchaser. Therefore, Vendor hereby assigns to Purchaser any and all claims for such overcharges.

DEFAULT: The Vendor covenants and agrees that in the event suit is instituted by the Purchaser for any default on the part of the Vendor, and the Vendor is adjudged by a court of competent jurisdiction to be in default, he shall pay to the Purchaser all costs, expended or incurred by the Purchaser in connection therewith, and reasonable attorneys' fees, mediation and court costs.

BRANDS: Unless stated otherwise, when a special brand is named it shall be construed solely for the purpose of indicating the standard of quality, performance, or use desired. Brands of equal quality, performance, and use shall be considered, provided Vendor specifies the brand and model and submits descriptive literature, when available. Any bid containing a brand, which is not of equal quality, performance, or use specified must be represented as an alternate and not as an equal, and failure to do so shall be sufficient reason to disregard the bid and/or return the item for full refund, including all tax and freight charges.

ACCEPTANCE: THIS ORDER EXPRESSLY LIMITS ACCEPTANCE TO THE TERMS AND CONDITIONS STATED HEREIN. ALL ADDITIONAL OR DIFFERENT TERMS PROPOSED BY VENDOR ARE OBJECTED TO AND HEREBY REJECTED, UNLESS OTHERWISE PROVIDED IN WRITING BY THE COLLEGE PURCHASING OFFICE.

BIDS are subject to Revised Code of Washington 43.19.700 (and, beginning January 1, 2013, RCW 39.26.260) which penalizes those vendors who reside in states which grant an in-state preference to their vendors. The penalty will be equal to the in-state preference granted by the bidder's state.

GOVERNING LAW: The Laws of the State of Washington shall govern this order and the venue of any action brought hereunder shall be in the Superior Court of the State of Washington in Snohomish County.

SAFETY AND HEALTH REQUIREMENTS: Vendor agrees to comply with the Federal Occupational Safety and Health Act of 1970 (OSHA) and the Washington Industrial Safety and Health Act of 1973 (WISHA). Vendor agrees to indemnify and hold harmless Purchaser from all damages assessed against Purchaser as a result of Vendor's failure to comply with the Act and the standards issued thereunder and for failure of the items furnished under this order to so comply.