

ACCEPTANCE OF THIS PURCHASE ORDER BINDS CONTRACTOR TO ALL THESE TERMS AND CONDITIONS AND ALL THE TERMS, CONDITIONS, AND PROVISIONS INCLUDED IN THE SOLICITATION WEBER STATE UNIVERSITY PURCHASING OFFERED RELATING TO THIS PURCHASE ORDER.

PURCHASE ORDER TERMS AND CONDITIONS FOR GOODS AND SERVICES

This is for a purchase order for goods, meaning all things (including specially manufactured goods) which are tangible and usually movable.

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:

- a) **"Confidential Information"** means all information or data furnished by the Disclosing Party to the Receiving Party, which the Receiving Party should reasonably understand to be considered confidential information by the Disclosing Party including, but not limited to any information which is classified as protected, private, and/or confidential pursuant to the Governmental Records Access and Management Act (GRAMA) U.C.A § 63G-2-101 including information protected pursuant to GRAMA § 63G-2-305(1) and 63G-2-305(2) as trade secrets and commercial information and/or non-individual financial information so long as the Disclosing Party provides a written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality pursuant to U.C.A § 63G-2-309, any education records protected under the Family Educational and Privacy Act (FERPA) (see 20 U.S.C. § 1232g; 34 CFR Part 99) or any other information deemed confidential under any other state or federal laws. Notwithstanding the foregoing, the term "Confidential Information" does not include information which: (i) is published or is otherwise in or subsequently becomes part of the public domain, through no fault of the Receiving Party; (ii) prior to disclosure hereunder is within the legitimate possession of the Receiving Party; (iii) is disclosed to the Receiving Party from a source other than the Disclosing Party, and the Receiving Party has no knowledge or reason to know of any violation of law or breach of any confidentiality obligation to the Disclosing Party by such source; or (iv) is independently developed by the Receiving Party without using Proprietary Information of the Disclosing Party.
- b) **"Contractor"** means the individual or entity delivering the Goods identified in this Purchase Order. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
- c) **"Goods"** means all types of tangible personal property (commodities), including but not limited to materials supplies and equipment that Contractor is required to deliver to Weber State University under this Purchase Order. To the extent this Purchase Order entails delivery or performance of services, such services will be deemed "Goods" within the meaning of the Utah Uniform Commercial Code when reasonable to do so.
- d) **"Proposal"** means Contractor's response to University's Solicitation.
- e) **"Purchase Order"** means Purchase Order including these terms and conditions.
- f) **"Security Sensitive Positions"** means any of the Contractor and/or Subcontractor's agents, officers, employees, and partners who as part of the performance under this Agreement include one or more of the following characteristics: access to children, including those in a child care center, or to diminished capacity adults; significant contact with persons under the age of 21; relationships with students where exceptional trust and responsibility are involved, such as counselors, health care providers, coaches, and residence hall personnel; responsibility for providing direct medical care, treatment, or counseling and/or access to pharmaceuticals, toxins, hazardous or controlled substances; direct access to laboratory materials and other property that have the potential of being diverted from their proper use either for financial gain or for harmful, dangerous or illegal purposes; decision making authority for committing university funds or financial resources through contracts and commitments and/or direct access to or responsibility for handling cash, checks, credit/debit cards or cash equivalents, university property, disbursements or receipts; access to building and residence hall master control and key systems; access to confidential information or sensitive personal information such as employment, health, donor, financial and other records, including data that could facilitate identity theft; access to and responsibility for the maintenance, upgrading, and repair of the university's computer networks and/or information technology systems; responsibility for police, security, guard forces, or other significant health or safety issues; and work with a particular department which may be subject to additional restrictions, requirements, laws or regulations.
- g) **"Solicitation"** means the documents used by University to obtain Contractor's Proposal.
- h) **"Subcontractors"** means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Purchase Order, including Contractor's manufacturers, distributors, and suppliers.
- i) **"University"** means Weber State University and its duly authorized agents.

2. **GOVERNING LAW AND VENUE:** This Purchase shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Purchase Order shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Weber County, Utah.

3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements and any applicable University policy which is available online at

<http://www.weber.edu/ppm> including, but not limited to policies related to drugs, alcohol, discrimination, harassment and technology on campus. If this Agreement is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding will supersede this Agreement.

4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by University to Contractor under this Purchase Order. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, State of Utah and federal auditors, and University staff, access to all such records.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This "Status Verification System" requirement, also referred to as "E-Verify", only applies to Purchase Orders issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 2. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 3. Contractor's failure to comply with this section will be considered a material breach of this Purchase Order.
6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of University, unless disclosure has been made to University.
7. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the University or the State of Utah.
8. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless University and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Purchase Order caused by any intentional act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of University. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property of the University. Contractor acknowledges and agrees that University is an institution of higher education in the State of Utah and is bound by the provisions of the Utah Governmental Immunity Act (Title 63G, Chapter 7, Utah Code Annotated, 1953, as amended) and does not waive any procedural or substantive defense or benefit provided or to be provided by the Governmental Immunity Act or comparable legislative enactment, including without limitation, the provisions of Section 63G-7-604 regarding limitation of judgments. Any indemnity and insurance obligations incurred by University under this Contract are expressly limited to the amounts identified in the Act.
9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the workplace; and (vi) any applicable University policy including Weber State University Policy and Procedure Manual 3-32 (see http://www.weber.edu/ppm/Policies/3-32_DiscriminationHarassment.html) which prohibits hostile workplaces, harassment and discrimination based on race, color, national origin, pregnancy, genetics, age (over 40), disability, religion, sex, sexual orientation, gender identity/expression, veteran, active military status, and other classifications protected by law. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees. Contractor agrees that while interacting with University employees and students it will comply with Title IX of the Education Amendments of 1972 (20 USC 1681) which prohibits discrimination on the basis of sex in any federally funded education program or activity. Contractor must include this provision in every subcontract or purchase order relating to purchases by University to ensure that the Subcontractors and vendors are bound by this provision. Contractor additionally agrees that it will cooperate with any investigation by University of a claimed violation of the above, to abide by any interim measures imposed during the course of an investigation and/or final measures imposed as a result of an investigation, and that the Contract may be terminated without further recourse in the event of a finding of a violation by Contractor or its employees, Subcontractors and related parties.
10. **AMENDMENTS:** This Purchase Order may only be amended by the mutual written agreement of the party's, which amendment will be attached to this Purchase Order. Automatic renewals will not apply to this Purchase Order, even if identified elsewhere on the purchase order.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, or declared ineligible by any governmental department or agency, whether international, national, state, or local. Contractor must notify University within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Purchase Order.

12. **TERMINATION:** Unless otherwise stated in this Purchase Order, this Purchase Order may be terminated for convenience, in advance of the specified expiration date, upon ten (10) day written notice given by the other party. If a written notice is delivered under this section, University will reimburse Contractor for the Goods properly ordered and delivered until the effective date of said notice. University will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice. Such compensation will be Contractor's exclusive remedy in the case of termination for convenience and will be available to Contractor only after Contractor has submitted a proper invoice. On termination of this Purchase Order, all accounts and payments will be processed according to the financial arrangements set forth herein for approved Goods ordered and delivered prior to date of termination.
13. **SALES TAX EXEMPTION:** The Goods under this Purchase Order will be paid for from University's funds and used in the exercise of University's essential functions as a State of Utah entity. Upon request, University will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request University's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Purchase Order.
14. **WARRANTY:** Contractor warrants, represents and conveys full ownership and clear title, free of all liens and encumbrances to the Goods delivered to University under this Purchase Order. Contractor warrants for a period of one (1) year that: (i) the Goods perform according to all specific claims that Contractor made in its Proposal to the Solicitation; (ii) the Goods are suitable for the ordinary purposes for which such Goods are used; (iii) the Goods are suitable for any special purposes identified in the Proposal and the Solicitation; (iv) the Goods are designed and manufactured in a commercially reasonable manner; (v) the Goods are manufactured and in all other respects create no harm to persons or property; and (vi) the Goods are free of defects. Unless otherwise specified in this Contract, all Goods provided shall be new and unused of the latest model or design.
- Remedies available to University under this section include, but are not limited to, the following: Contractor will repair or replace Goods at no charge to University within ten (10) days of any written notification informing Contractor of the Goods not performing as required under this Purchase Order. If the repaired and/or replaced Goods prove to be inadequate, or fail its essential purpose, Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies University may otherwise have under this Purchase Order.
15. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents, and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives University the express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the Weber State Purchasing, all of which must be in accordance with GRAMA, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. University and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
16. **INSURANCE:** Contractor shall at all times during the term of this contract, without interruption, carry and maintain commercial general liability insurance from an insurance company authorized to do business in the State of Utah. The limits of this insurance will be no less than one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) aggregate. Contractor also agrees to maintain any other insurance policies required in the Solicitation. Contractor shall provide proof of the general liability insurance policy and other required insurance policies to the University within thirty (30) days of contract award. Contractor must add Weber State University as an additional insured with notice of cancellation. Failure to provide proof of insurance as required will be deemed a material breach of this contract. Contractor's failure to maintain this insurance requirement for the term of this contract will be grounds for immediate termination of this contract.
17. **WORKERS' COMPENSATION INSURANCE:** Contractor shall maintain workers' compensation insurance during the term of this Agreement for all its employees and any Subcontractor employees related to this contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction. Contractor acknowledges that within thirty (30) days of contract award, Contractor must submit proof of certificate of insurance that meets the above requirements.
18. **DELIVERY:** All deliveries under this Agreement will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the University, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in the Proposal to the Solicitation or on the Purchase Order. Contractor shall be responsible for the customary industry standard in packing and shipping the goods.
19. **ACCEPTANCE AND REJECTION:** University shall have thirty (30) days after delivery of the Goods to perform an inspection of the Goods to determine whether the Goods conform to the standards specified in the Solicitation and this Purchase Order prior to acceptance of the Goods by University.
- If Contractor delivers nonconforming Goods, University may, at its option and at Contractor's expense: (i) return the Goods for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Goods; or (iii) obtain replacement Goods from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Goods without: first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of University to redeliver the corrected Goods. Repair, replacement, and other correction and redelivery shall be subject to the terms of this Purchase Order.
20. **INVOICING:** Contractor will submit invoices within thirty (30) days after the delivery date of the Goods to University, Purchasing Department, 3850 Dixon Parkway, Dept. 1013, Ogden, UT 84408-1013. The Purchase Order number shall be listed on all invoices,

freight tickets, and correspondence relating to this Purchase Order. The prices paid by University will be those prices listed in this Purchase Order, unless Contractor offers a prompt payment discount within its Proposal or on its invoice. University has the right to adjust or return any invoice reflecting incorrect pricing.

21. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the Weber State University's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by University, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with University within ten (10) business days of receipt of final payment, shall release University from all claims and all liability to the Contractor. University's payment for the Goods shall not be deemed an acceptance of the Goods and is without prejudice to any and all claims that University or the State of Utah may have against Contractor. University will not allow the Contractor to charge end users electronic payment fees of any kind.
22. **LICENSE:** The University grants Contractor and its Subcontractors, as applicable, a limited nontransferable license to access University property only to the extent necessary to provide the Goods under this Agreement. Contractor and Subcontractors agree to not exceed the scope of this license and agree to abide by applicable University policies, which are available online at <http://www.weber.edu/ppm/>, and govern any activity involving access to University property including, but not limited to policies related to drugs, alcohol, discrimination, harassment, and technology usage, violation of which may be deemed a material breach of this Agreement. Contractor and its Subcontractors agree to submit their agents, officers, employees, and partners to Criminal Background Checks who in the performance of this Agreement are in Security Sensitive Positions and promptly provide these Criminal Background Checks to University upon University's request. Contractor and its Subcontractors shall notify University prior to accessing University property except in situations where there is imminent risk of damage to persons or property. Contractor and its Subcontractors shall bear the cost of all damages consistent with Provision 8 caused directly or indirectly by Contractor and its Subcontractors when accessing University property. University may notify Contractor and/or Subcontractors of any concerns that University has with any of their agents, officers, employees, and partners. Contractor and/or Subcontractors will promptly take reasonable actions to resolve any such concerns. With no penalties, additional fees, risk of breach of the Agreement, or without assuming any duty of care, University may revoke this license without notice and immediately escort off and/or eliminate access to University property and/or provide notice of termination for cause pursuant to Section 12 when the Contractor or its Subcontractors: (i) exceed the scope of the license of this Provision; (ii) violate any applicable University policy; (iii) violate federal or state law; (iv) fail to reasonably and promptly resolve University concerns with their agents, officers, employees and partners; (v) materially breach this Agreement; (vi) or create risk of damage to persons or University property. Contractor must include this provision in every subcontract or purchase order relating to purchases by University to ensure that the Subcontractors are bound by this provision.
23. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold University harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against University for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.
24. **OWNERSHIP IN INTELLECTUAL PROPERTY:** University and Contractor agree that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All Goods, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Purchase Order, but specifically manufactured under this Purchase Order shall be considered work made for hire, and Contractor shall transfer any ownership claim to University.
25. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Purchase Order, in whole or in part, without the prior written approval of University.
26. **REMEDIES:** Any of the following events will constitute cause for University to declare Contractor in breach of this Purchase Order: (i) Contractor's non-performance of its contractual requirements and obligations under this Purchase Order; or (ii) Contractor's material breach of any term or condition of this Purchase Order. If the Contractor is in breach of this Purchase Order, University may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Purchase Order; (iii) impose liquidated damages, if liquidated damages are listed in this Purchase Order; (iv) debar/suspend Contractor from receiving future contracts from University; or (v) demand a full refund of any payment that University has made to Contractor under this Purchase Order for Goods that do not conform to this Purchase Order.
27. **FORCE MAJEURE:** "Force Majeure" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation: an act of god; war (declared or undeclared); sabotage; vandalism; theft; cyberattacks; riot; insurrection; civil unrest or disturbance; person-made catastrophe; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

Except as otherwise expressly provided to the contrary in this Purchase Order, if either Party is rendered wholly or partly unable to timely perform its obligations under this Purchase Order because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon

as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

Notwithstanding anything herein to the contrary, if the Force Majeure event is of a kind that impacts University's ability to make a payment, such as but not limited to a cyberattack on its accounting department or bank, such obligation shall not be excused, but University shall be excused any interest which would otherwise be payable under Section 22 for late payment resulting from the Force Majeure event.

The University may terminate this Purchase Order after determining a delay caused from a Force Majeure event will prevent successful performance of this Purchase Order. If terminated, University will pay any outstanding invoices only to the extent that University obtains value for the provided Goods.

28. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. In the event Contractor receives Confidential Information from students, staff or faculty, including student performance or use data and records, Contractor shall comply with the applicable provisions under FERPA, will not disclose educational performance or use data and records to any third party, will maintain such information as private and confidential, and shall not use such information except to the extent necessary to perform the terms of the Agreement. For any University Confidential Information which is subject to FERPA, the parties agree that Licensor shall be deemed a "school official" having a "legitimate educational interest" in such University Confidential Information as those terms are defined in FERPA. Contractor will promptly notify the University of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the University and the State of Utah, including anyone for whom the University or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Agreement, Contractor will return all copies of Confidential Information to the University or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

29. **PUBLICITY:** Contractor shall submit to University for written approval all advertising and publicity matters relating to this Purchase Order. It is within University's sole discretion whether to provide written approval.
30. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
31. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the University is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of University, or to any person in any official capacity who participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
32. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Purchase Order, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees, incurred in connection with such action.
33. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. University, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If University appoints such an expert or panel, University and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
34. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Purchase Order, the order of precedence shall be: (i) these Purchase Order Terms and Conditions for Goods; (ii) the University's additional terms and conditions, if any; and (iii) Contractor's terms and conditions that are attached to this Purchase Order, if any. Any provision attempting to limit the liability of Contractor or limit the rights of University or the State of Utah must be in writing and attached to this Purchase Order or it is rendered null and void.
35. **SURVIVAL OF TERMS:** Termination or expiration of this Purchase Order shall not extinguish or prejudice University's right to enforce this Purchase Order with respect to any default of this Purchase Order or defect in the Goods that has not been cured.
36. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Purchase Order shall not affect the validity or enforceability of any other provision, term, or condition of this Purchase Order, which shall remain in full force and effect.
37. **ENTIRE AGREEMENT:** This Purchase Order constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

Revised November 8, 2016