

**VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (VIRGINIA TECH)
TERMS AND CONDITIONS AND INSTRUCTIONS TO SUPPLIERS**

1. This Purchase Order includes the Purchase Order form and these Terms and Conditions and Instructions to Suppliers, and any exhibits thereto. This Purchase Order as executed by Virginia Tech constitutes the entire agreement between the parties. Virginia Tech's acceptance of goods or services from the supplier shall be upon the terms and conditions contained herein, notwithstanding any terms or conditions contained in any acknowledgment, invoice, correspondence, quotations, specifications, discussions or other document or communication from the supplier and notwithstanding the university's acceptance, payment or performance. Commencing performance of or accepting this Purchase Order shall indicate supplier's intent to be bound, and acceptance of, each of the Purchase Order terms, and shall form a contract under the laws of the Commonwealth of Virginia. These terms can only be changed by a written instrument signed by an authorized agent of the university. In the event Virginia Tech agrees in writing to the terms of supplier's contract form/license agreement ("Contractor's Contract Form"), the attached Virginia Tech Supplier's Contract Form Addendum shall apply.
2. This contractual agreement is subject to the terms and conditions of the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and Their Vendors and any written agreement(s) between the parties regarding the purchase of goods and/or services subject to a Purchase Order.
3. In the event a Virginia Tech employee or other end user enters into terms of use agreements or other agreements or understanding, whether electronic, click-through, verbal or in writing, with the supplier, such agreements shall be null and void and without effect, and the terms of this order shall apply.
4. Goods or Services delivered must be strictly in accordance with Bid/RFP or other specification referred to and shall not deviate in any way from terms, conditions or specifications of the bid/RFP or other information provided. Equipment, materials and/or supplies delivered on this order shall be subject to inspection and test upon receipt. If rejected, same shall remain the property of the supplier.
5. Purchase Order number shall be shown by supplier on all related invoices, delivery memoranda, bills of lading, packages and/or correspondence.
6. A separate invoice for this purchase order or for each shipment thereon shall be rendered immediately following shipment. All copies shall be forwarded direct to Virginia Tech at invoice address shown.
7. Virginia Tech is exempt from the payment of sales tax. State sales and use tax certificate of exemption Form ST-12 will be issued upon request, if you do not have same on file.
8. Deliveries against this order must be free of excise or transportation taxes. Excise tax exemption registration no. 54-73-0076k may be used when required.
9. In the absence of other contractual terms, payment shall be due 30 days after receipt of proper invoice, or material/service, whichever is later.
10. If discount for prompt payment is allowed, the discount period will begin on the date of receipt of proper invoice, or material/service, whichever is later.
11. In case of default by the supplier, or failure to deliver the supplies or services ordered by the time specified, Virginia Tech, after due notice (oral or in writing), may procure them from other sources and hold supplier responsible for any excess cost occasioned thereby.
12. No substitution, change or deviation shall be made without written authority from Virginia Tech by Purchase Order Change.
13. Suppliers providing goods/services to Virginia Tech under this order herewith assure Virginia Tech that they are conforming to the provisions of the Civil Rights Act of 1964 as amended, as well as the Virginia Fair Employment Contracting Act of 1975 as amended, where applicable.
14. This Purchase Order/Contract shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise by the laws of the Commonwealth of Virginia. By accepting and fulfilling this purchase order/contract, the supplier certifies that it does not violate the provisions of the State and Local Government Conflict of Interests Act.
15. All prices unless otherwise specified are F.O.B. Destination, Freight Prepaid and Allowed.
16. If shipment is made by freight or express and charges added to invoice, the original bill of lading properly receipted shall accompany invoice.
17. Suppliers providing goods to Virginia Tech under this Order assure Virginia Tech that the items furnished comply with the applicable standards established by the following acts, agencies, or certifying organizations, for normal use in industrial applications: Occupational Health and Safety Agency (OSHA), Food and Drug Administration (FDA), Consumer Products Safety Agency (CPSA), Nuclear Regulatory Commission (NRC), Virginia Bureau of Radiological Health (VBRH), Underwriters Laboratory (UL), Building Officials Code Administration (BOCA), National Fire Prevention Association (NFPA), National Electrical Code (NEC), Compressed Gas Association (CGA), American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), American Welding Society (AWS), and the American Petroleum Institute (API).
18. If this Purchase Order is issued under a Federal Government grant or contract/subcontract, it shall be subject to the clauses and conditions of that grant or contract/subcontract and all applicable Federal Regulations.
19. **INSURANCE:**
By accepting this Purchase Order, the supplier certifies that it will have the following insurance coverages at the time the work commences. Additionally, it will maintain these during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.
During the period of the Contract, Virginia Tech reserves the right to require the Supplier to furnish certificates of insurance for the coverage required.
INSURANCE COVERAGES AND LIMITS REQUIRED:
 - I. Worker's Compensation - statutory requirements and benefits.
 - II. Employers Liability - \$100,000.
 - III. General Liability - \$500,000 combined single limit, Virginia Tech and the Commonwealth of Virginia shall be named as an additional insured with respect to goods/services being procured.
 - IV. Garagekeeper's Liability and Garagekeeper's Legal Liability - \$500,000. These are needed when automobile or unlicensed motor vehicle maintenance contracts are procured.
 - V. Automobile Liability - \$500,000.
 - VI. Builders Risk - For all renovation and new construction projects under \$100,000 Virginia Tech will provide All Risk - Builders Risk Insurance. For all renovation contracts, and new construction from \$100,000 up to \$500,000 the supplier will be required to provide All Risk - Builders Risk Insurance in the amount of the contract and name Virginia Tech as additional insured. All insurance verifications of insurance will be through a valid insurance certificate.Coverage III. and IV. shall include Premises/Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability and Personal Injury Liability (libel, slander, defamation of character, etc.)
NOTE: In addition, various Professional Liability/Errors and Omissions coverages may be required when Virginia Tech is purchasing services that require this coverage.
20. The supplier agrees to be responsible for, indemnify, defend and hold harmless Virginia Tech, its officers, agents and employees from the payment of all sums of money by reason of any claim against them arising out of any and all occurrences resulting in bodily or mental injury or property damage that may happen to occur in connection with and during the performance of the contract, including but not limited to claims under the Worker's Compensation Act. The supplier agrees that it will, at all times, after the completion of the work, be responsible for, indemnify, defend and hold harmless Virginia Tech, its officers, agents and employees from all liabilities resulting from bodily or mental injury or property damage directly or indirectly arising out of the performance or nonperformance of the contract.
21. **If this contract is a covered government contract or subcontract, suppliers and subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime suppliers and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.**
22. **CLAIMS:** Contractual claims, whether for money or other relief, shall be submitted in writing to the Director of Procurement Department, Virginia Tech Procurement Department (MC 0333), Ste. 2100, Virginia Tech, 300 Turner Street, NW, Blacksburg, Virginia 24061, no later than sixty (60) days after final payment; however, written notice of the supplier's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pending claims shall not delay payment of amounts agreed due in the final payment (*Code of Virginia*, Section 2.2-4363). A supplier may not institute legal action prior to receipt of the Director of Procurement Department's decision on the claim, unless that office fails to render such decision within thirty (30) days. The decision of the Director of Procurement Department's shall be final and conclusive unless the supplier, within six (6) months of the date of the final decision on the claim, institutes legal action as provided in the *Code of Virginia*, Section 2.2-4364.
23. **DRUG-FREE WORKPLACE:** In every contract over \$10,000 the following provisions apply: During the performance of this contract, the Supplier agrees to (i) provide a drug-free workplace for the Supplier's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Supplier's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Supplier that the Supplier maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or supplier.
For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a Supplier the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana

during the performance of the contract.

24. Virginia Tech does not discriminate against faith-based organizations.
25. **PARKING PERMITS:** Virginia Tech Parking Services will require the purchase and display of a parking permit for all supplier's vehicles, privately and company owned, that park on campus. The cost of the permit is listed on the Parking and Transportation website under vendor/business/contractor. Permit options include one year, six months, three months, summer, or day. Permits are available through application at Virginia Tech Parking Services, 605 Research Center Drive, Blacksburg, Virginia 24061. Additional information is available at <http://www.parking.vt.edu> or by calling Parking Services at (540) 231-3200.
26. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for suppliers to conduct business with state agencies and public bodies. All suppliers desiring to provide goods and/or services to Virginia Tech should participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. Failure to register may result in purchase order cancellation.
27. If the supplier will receive, create, or come into non-incidental contact with University Data (as defined in the [Data Protection and Incident Response Addendum](#), the supplier agrees to abide by the terms and conditions of the Data Protection and Incident Response Addendum.
28. In the event that a contract allows for reimbursement to the supplier for out-of-pocket expenses, travel, meals, lodging, etc., travel shall be pre-approved by Virginia Tech and expenses must be in accordance with [Virginia Tech travel policies](#) for lodging, meals, and incidental expenses in effect at the time of travel.
29. Supplier's pricing increases from term-to-term may not increase by more than 3% over the previous term's contract unit price.
30. **FEDERAL FUNDS:** If goods and/or services under this procurement are funded by Federal grants or awards, the terms and conditions governing 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (effective 12/26/14) shall also apply.
[APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS](#)
31. **SUSTAINABILITY COMMITMENT:** To become a Leader in Campus Sustainability, Virginia Tech developed a unique Climate Action Commitment and Sustainability Plan (VTCAC&SP) https://www.facilities.vt.edu/content/dam/facilities_vt_edu/sustainability/climate-action-commitment.pdf. The Supplier agrees to use its best efforts to support Virginia Tech's environmental sustainability efforts and promote sustainable business practices within its own organization. Virginia Tech may from time-to-time request information from the Supplier to ensure that it is demonstrating commitment to environmental sustainability. The Supplier agrees to provide information as requested. In addition, the Supplier will consider any commercially reasonable requests that Virginia Tech puts forth to promote environmentally sustainable business practices. The Supplier's response to these requests may inform Virginia Tech's decision when purchasing those goods or services in the future.
32. **COUNTERFEIT PARTS:** This purchase shall be governed by and in accordance with DFARS Sections 246.870 and 252.246-7007. Any electronic parts must have a Certificate of Origin and the total quantity of any individual part must be from a single manufacturing lot or date code.
33. **Tariffs:** In instances where Contractor is being impacted by any unforeseen direct or indirect new or modified taxes, duties, tariffs or equivalent measures imposed by any U.S. or foreign government authority that are applicable to the Contractor's offerings, including any materials, equipment, hardware, software or service components contained therein, the Contractor shall produce sufficient evidence demonstrating: (i) the unit price paid by contractor as of the date of contract award or date of Purchase Order issuance (whichever comes earlier) for the good or raw material used to furnish the goods to the University under this Agreement, (ii) the applicability of the tariff to the specific good or raw material being impacted, and (iii) contractor's payment of the increased import duty or tariff (either directly or through an increase to the cost paid for the good or raw material). The evidence submitted shall be sufficient in detail and content to allow the University to verify that the tariff is the cause of the price change. The Contractor shall make every effort possible to notify the University before any such taxes, duties, tariffs, or equivalent measures impact the goods or services being provided. If the impact of the any such increase is material in nature, the University at its sole discretion may cancel the order with no penalties or cancellation fees.

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
(VIRGINIA TECH)

SUPPLIER'S CONTRACT FORM ADDENDUM

In the event Virginia Tech agrees in writing to the terms of Supplier's contract form/license agreement identified above ("Supplier's Contract Form"), the below Virginia Tech Supplier's Contract Form Addendum shall apply. (As used herein, the term "Agreement" means the Supplier's Contract Form, the Virginia Tech Purchase Order and this Addendum, together with any other addenda or exhibits constituting part of the written contract between the parties.) Notwithstanding any provisions appearing in the Supplier's Contract Form, none of the following shall have any effect or be enforceable against Virginia Tech:

1. Requiring or stating that the terms of the Supplier's Contract Form shall prevail over the terms of this Addendum;
2. Renewing or extending the Agreement beyond the initial term or automatically continuing the Agreement period from term to term;
3. Requiring Virginia Tech to maintain any type of insurance either for Virginia Tech's benefit or for the Supplier's benefit;
4. Requiring Virginia Tech to indemnify or to hold harmless the Supplier for any act or omission;
5. Imposing interest charges or payment terms contrary to that specified by the Code of Virginia, Section 2.2-4347 through 2.2-4355, Prompt Payment.
6. Requiring the application of the law of any state other than Virginia in interpreting or enforcing the Agreement or requiring that any dispute under the Agreement be resolved in the courts of any state other than Virginia;
7. Requiring any total or partial compensation or payment for lost profit or liquidated damages by Virginia Tech if the Agreement is terminated before its ordinary period;
8. Requiring that the Agreement be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of Virginia Tech before the Agreement is considered in effect;
9. Delaying the acceptance of the Agreement or its effective date beyond the date of execution;
10. Limiting or adding to the time period within which claims can be made or actions can be brought;
11. Limiting the liability of the Supplier for property damage or personal injury;
12. Providing that any breach or failure by Virginia Tech to comply with any provision of the Agreement is automatically considered a material or substantial breach or failure, or that any default, breach or failure to perform by Virginia Tech with respect to any other contract is a breach or default of the Agreement;
13. Permitting unilateral modification of the Agreement by the Supplier;
14. Requiring Virginia Tech to keep the terms of the Agreement or price paid by Virginia Tech confidential or designating the price paid by Virginia Tech as proprietary information (the Commonwealth and its agencies are required by law to act within the requirements of the Virginia Freedom Information Act);
15. Binding Virginia Tech to any arbitration or to the decision of any arbitration board, commission, panel or other entity;
16. Obligating Virginia Tech to pay costs of collection or attorney's fees;
17. Requiring the waiver of a jury trial;
18. Granting the Supplier a security interest in property of Virginia Tech;
19. Requiring Virginia Tech to assign ownership of any intellectual properties developed using Virginia Tech resources to Supplier;
20. Requiring Virginia Tech to be bound by any non-compete provisions or non-solicitation or non-hiring clause for Supplier's employees;
21. Imposing personal liability upon the officer or employee who signs the contract for Virginia Tech;
22. Requiring Virginia Tech to grant Supplier the use of Virginia Tech's name, logos, trademarks, or other service marks in any press release, marketing materials or other public announcement without Virginia Tech's prior written consent. The name Virginia Polytechnic Institute and State University, Virginia Tech, and its logos, are the exclusive property of Virginia Tech and may not be used in support of claims or advertisements made by any outside organization without prior written permission;
23. Granting Supplier or its agent the right to audit or examine, directly or indirectly, Virginia Tech's computers, networks, books, records, or accounts, whether stored electronically or on paper, for any end user;
24. Requiring the application of any supplemental click-through or electronic terms of use or agreements for end users; or
25. Requiring Virginia Tech to waive legal rights that by law may only be waived by the Attorney General of the Commonwealth of Virginia, or bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned agency representative to bestow or incur on behalf of Virginia Tech.