

**HACC, CENTRAL PENNSYLVANIA'S COMMUNITY COLLEGE  
TERMS AND CONDITIONS  
FOR  
HACC PURCHASE ORDERS FOR TANGIBLE GOODS**

**Acceptance:** By reference, this purchase order, which incorporates any prior specifications, samples, or descriptions of the goods and all express and implied warranties, becomes the entire and exclusive agreement between the purchasing entity identified on this order (hereinafter "Buyer") and Seller when acknowledged by Seller in writing or, if earlier, when Seller commences performance by accepting this purchase order or by commencing performance and/or shipping goods in response to it. Seller agrees that Buyer is not to be bound by any term or condition of Seller in any written acknowledgment, invoice, or otherwise which is inconsistent with or in addition to the terms and conditions herein and that any such inconsistent or additional terms are rejected by Buyer unless specifically agreed to in writing by Buyer. Buyer shall only be bound to commitments which are expressly authorized in writing by an authorized purchasing representative of the Buyer or a senior officer of Buyer's company.

**Warranty:** Seller warrants that all goods furnished hereunder shall be merchantable, and free from any defects in workmanship or material. If Seller has been informed of the use of the products, Seller also warrants that the items furnished hereunder are suitable and appropriate for such use. Seller shall indemnify and save the Buyer harmless from any breach of this warranty, and no limitations on Buyer's remedy in Seller's documents shall operate to reduce this indemnification. Seller shall extend all warranties it receives from its vendors to Buyer. This warranty is in addition to all warranties contained under the law. All warranties will survive acceptance of and payment for any goods under this purchase order.

**Changes:** Buyer shall have the right at any time to make changes in drawing, designs, specifications, materials, packaging, time and place of delivery, quantity and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this purchase order shall be modified in writing accordingly. Seller agrees to accept any such changes subject to this paragraph.

**Inspection:** All goods ordered hereunder will be subject to inspection and testing by Buyer at all reasonable times and places, and in any event, prior to acceptance. It is expressly agreed that inspections and/or payments will not constitute final acceptance and that all goods will be subject to final inspection after delivery to Buyer. If the goods delivered do not meet the specifications or otherwise do not conform to the requirements of this purchase order, Buyer will have the right to reject them. Goods which have been delivered and rejected in whole or in part may, at Buyer's option, be returned to Seller for reimbursement, credit or replacement, or may be held for disposition at Seller's expense and risk and/or Buyer, at its option, may obtain replacement goods from another source.

**Delivery, Title & Risk of Loss:** Title shall pass to Buyer on delivery of the conforming goods to Buyer's designated location. Notwithstanding any agreement to pay freight, express or other transportation charges, the risk of loss or damage in transit shall be upon the Seller. Delivery shall not be complete until the goods have been actually received, inspected and accepted by the Buyer. If cost of freight and delivery is not to be borne by Seller, the most economical means and route of shipment shall be employed in transporting and delivering the merchandise. If any other means or route is used, any unauthorized additional expense incurred will be charged to Seller.

**Invoice / Payment:** A separate original invoice is required for each shipment under this order, and no invoice will cover material on more than one order. Buyer's purchase order number must appear on all correspondence. Discount period and net payment period will be calculated from date of receipt of invoice. Payment of invoice does not constitute inspection and acceptance of material covered by this purchase order. All invoicing must be sent to One HACC Drive, Harrisburg, PA 17110, Attention: Accounts Payable.

**Quantity / Substitution:** Buyer accepts no responsibility for goods or materials shipped in excess of the quantities specified herein, and any such excess may at Buyer's option be returned to Seller at Seller's expense. Substitution of material will not be permitted unless authorized in writing by Buyer.

**Tax Exemption:** HACC is tax exempt as an instrumentality of the Commonwealth of Pennsylvania.

**Statutory Compliance:** Seller shall comply with all applicable federal, state, and local laws and ordinances and all lawful orders, rules and regulations thereunder.

**Equal Opportunity and Non-Discrimination:** Buyer is committed to providing opportunities for woman and minority owned businesses ("WMBE"). Buyer encourages WMBE's to participate in the bidding process but does not grant special status to WMBE's when making procurement decisions. Buyer is committed to non-discrimination and equal employment opportunity. Buyer will not knowingly contract with any firm that is not an equal opportunity employer.

**OSHA and Safety:** All goods furnished by Seller shall comply with the requirements of the Occupational Safety and Health Act of 1970 and all subsequent revisions thereof that are in effect as of the date of this purchase order. Additionally, Seller shall comply with all applicable local, state and any additional federal safety and health laws in effect as of the date of this purchase order. Any required safety data sheets for goods referenced in this purchase order shall be promptly forwarded to the Buyer's attention.

**Arbitration:** All disputes between the parties to this Purchase Order arising out of or in connection with the contract documents shall be submitted for arbitration. If arbitration is selected by Buyer, and Buyer shall also select the number of arbitrators and the manner of arbitration, which shall be either: (1) arbitration according to the rules of the American Arbitration Association; or (2) referral to one or more arbitrators mutually agreed upon by the parties. When a written decision of Buyer states that (1) the decision is final but subject to arbitration and (2) a demand for arbitration of a claim covered by such decision must be made within thirty (30) days after the date on which the party making the demand received the final written decision, then failure to demand arbitration within said thirty (30) days' period shall result in Buyer's decision becoming final and binding upon Buyer and Seller. In responding to a claim brought by Seller, Buyer shall have a minimum of forty-five (45) days in which to respond to a revised claim prior to the arbitration hearing.

**Force Majeure:** Neither party to this Purchase Order will be liable to the other for any failure or delay in performance under this Purchase Order due circumstances beyond its reasonable control including, without limitation, Acts of God, accident, labor disruption, acts, omissions and defaults of third parties, and official governmental and judicial action not the fault of the party failing or delaying in performance. If an event of force majeure lasts for more than 90 days, Buyer shall be entitled, at its option, to terminate all outstanding orders without obligation or liability to Seller.

**Termination:** The occurrence of any one or more of the following events shall constitute an "Event of Default," which shall entitle Buyer to terminate the Purchase Order:

- A. Any failure by Seller to deliver, when and as required, any Goods; or
- B. Any failure by Seller to perform or comply with any obligation set forth herein and such failure shall continue unremedied for a period of ten (10) days or more following receipt by Seller of notice from Buyer specifying such failure; or
- C. (1) the suspension, dissolution or winding-up of Seller's business, (2) Seller's insolvency, or its inability to pay debts, or its nonpayment of debts, as they become due, (3) the institution of reorganization, liquidation or other such proceedings by or against Seller or the appointment of a custodian, trustee, receiver or similar Person for Seller's properties or business, (4) an assignment by Seller for the benefit of its creditors, or (5) any action of Seller for the purpose of effecting or facilitating any of the foregoing.

**Assignment and Subcontracting:** This contract may not be assigned or transferred in whole or in part, without the written permission of Buyer's Purchasing Department, nor may any rights to any monies due or to become due hereunder be assigned. The Contractor(s) is an independent contractor providing services for Buyer.

**Governing Law:** In the event that any term of this contract is the subject of litigation, it is hereby agreed that the parties in that litigation shall pay their own attorney's fees and court costs incurred including court costs and attorney's fees incurred in appellate proceedings. The terms and conditions herein constitute the sole and entire agreement among parties, and the laws of the Commonwealth of Pennsylvania shall govern any disputes. The Dauphin County Court of Common Pleas shall have exclusive jurisdiction over any and all litigation arising from the terms of this Purchase Order.

**Right-to-Know Law:** In compliance with Pennsylvania's "Right-to-Know Law", this purchase order and any associated contracts may be made available for posting on the internet for public access through the PA Treasury subject to provisions of the Law.

**Paragraph Headings:** All paragraph headings used are for the convenience of the parties only and shall not be considered a part of this Purchase Order nor used to interpret or construe the intent of the parties hereunder.

**Advertising or Publicity:** Neither Buyer nor Seller shall use the name of the other in publicity releases or advertising without securing the prior written consent of the other.

**Entire Agreement:** This Purchase Order and all resultant purchase orders, supplements, attachments, and incorporations constitute agreement between Buyer and Seller. No conversations, understandings, or agreements varying, extending, or affecting in any way the terms or provisions of this Purchase Order will be binding on either party unless reduced to writing and duly executed by an authorized representative of each party.