Acceptance-Agreement: The issuance of this Purchase Order (“Order”) constitutes an offer by Wellesley College (‘WC’ for acceptance by Vendor. Vendor’s notification to WC of Vendor’s acceptance of the Order within a reasonable time after receipt of the Order shall be deemed acceptance. WC may refuse any or all proposals made by Vendor if any goods, materials or other items related to this Order, whichever occurs first, shall be deemed an effective mode of acceptance by Vendor of WC’s offer as contained in this Order. Any acceptance of this offer is limited to the terms and conditions of the Order, without any additional terms or conditions except as may be agreed in writing by WC. If any additional terms are not specifically agreed upon by Vendor, any such terms and conditions or any attempt by Vendor to vary in any way the terms and conditions of this offer is hereby objected to and rejected. Such proposal or attempted variation by Vendor shall not operate as a rejection of WC’s offer or acceptance of WC’s offer as written herein, unless it is so stated in writing by WC. If WC receives a proposal or offer for such goods or services, WC may, at its discretion, accept or reject the proposal. If WC has accepted the proposal, WC shall furnish a written confirmation to the Vendor. If WC has rejected the proposal, WC shall notify Vendor in writing. If WC has received a proposal or offer for such goods or services, WC may, at its discretion, accept or reject the proposal. If WC has accepted the proposal, WC shall furnish a written confirmation to the Vendor. If WC has rejected the proposal, WC shall notify Vendor in writing.

Changes: WC may make changes to this Order at any time, and Vendor shall accept such changes. If a change causes an increase or decrease in work and/or time and/or expense for performance, an equitable adjustment shall be made and this Order shall be modified accordingly.

Termination for Convenience: WC may terminate this Order or any part hereof for its sole convenience. Upon notice of such termination, Vendor shall immediately stop all work and/or shipment of goods hereunder and cause its suppliers and/or subcontractors to cease their work or shipment against this Order. Vendor shall be paid a reasonable termination charge consisting of a pro-rata percentage of the Order price reflecting the percentage of work performed prior to notice of termination, plus actual direct costs resulting from termination. Vendor shall not be paid for work performed or costs incurred after receipt of notice of termination, or for costs incurred by Vendor’s suppliers or subcontractors, which Vendor could have reasonably avoided.

Change in Performance: If, to meet WC’s required delivery date, Vendor must ship goods by a more expensive medium than specified herein or anticipated by the parties, any resulting increased transportation cost shall be borne solely by Vendor unless such rerouting or expedited handling is caused by WC.

Force Majeure: WC may delay delivery, performance, or acceptance of the goods or services ordered hereunder in the event of causes beyond its control. Vendor shall hold such goods or refrain from performing such services at its own risk and account. Any increase or decrease in cost and/or time required for performance, an equitable adjustment shall be made and this Order shall be modified accordingly.

Liability Insurance: Vendor shall maintain at its own expense insurance to cover all liability risks, including defense costs in the amount of $2,000,000 unless otherwise requested by WC in writing. Vendor shall further purchase and maintain such additional insurances on these policies (where allowed by law) and shall furnish Wellesley College with current certificates of insurance that provide for written notice in case of cancellation or material change in the policy limits. WC is a Massachusetts nonprofit, tax-exempt corporation and is exempt from paying Massachusetts sales and use taxes (Certs. #042-103-673) and federal excise taxes (Exempt. #00-73-0139F). WC shall not charge WC for such taxes. Proof of insurance is available upon request.

TERMS AND CONDITIONS OF PURCHASE

UCU: The provisions of the Uniform Commercial Code ("UCC") covering the sale of goods are incorporated by reference if not otherwise provided herein. Unless stated to the contrary, the terms and conditions of this Order shall prevail over conflicting terms and conditions of the UCC. If this Order includes performance of services by Vendor, the parties acknowledge that the provisions of the UCC normally do not apply to performance of services as distinguished from the sale of goods. Notwithstanding, the parties expressly agree that the provisions of the UCC shall apply to such services, where applicable, and that any breach of any term or condition resulting from or out of or resulting from this Order shall be resolved according to the provisions contained herein and in the UCC.

Insurance: Vendor shall maintain at its own expense insurance to protect both Vendor and WC against all liabilities, losses, damages, claims, settlements, expenses, and legal fees arising out of or resulting from alleged or actual breach of any provision of this Order. Vendor shall indemnify, defend, and hold WC harmless from any and all liability, claim, loss, damage, injury, cost, or expense of every kind and nature, including reasonable attorneys’ fees, incurred by WC as a result of breaches of any of Vendor’s obligations to WC as specified herein and in the UCC. Vendor shall maintain all commercial insurance policies including, but not limited to: Commercial Auto, War Risks Coverage, Physical Damage, Comprehensive General Liability, Comprehensive General Liability, comprehensive General Liability, and Commercial Liability. Vendor agrees that it shall not cancel any insurance policy or make any material change to any insurance policy, unless WC has been notified in writing of such change at least 30 days prior to the cancellation or material change.

Entire Agreement: This Order (including any referenced and/or attached document), when accepted, is the entire agreement between the parties superseding any prior oral or written agreement between the parties. This order may be modified only by express approval of WC. This Order shall govern in the event of any conflict of terms or conditions between this Order and any referenced or attached document, unless such document explicitly incorporates, in writing, the terms of item description and prices for the goods or services. The face of this Order has been generated by computer, and the information contained on the face of this Order is accepted and incorporated into the terms of this Order and is executed by an authorized representative of WC. WC shall not be liable to Vendor, its employees, representatives, agents, suppliers, or subcontractors for any anticipated profits or incidental or consequential damages. WC’s liability on any claim for loss, damage, or expense arising in connection with this agreement shall not exceed the price of the goods or services, or the project of the work. In no event shall WC be responsible for indirect or consequential damages, including, but not limited to, loss of reputation, loss of business, or cost of substitute goods or services purchased by WC from another source. WC shall be responsible only for Vendor’s direct additional costs incurred by holding the goods or delaying the performance of the goods or services ordered hereunder in the event of causes beyond its control. WC may purchase substitute goods or services elsewhere and charge Vendor for any loss or additional expense incurred.

Assignments: No part of this Order may be assigned, transferred, or subcontracted by Vendor without WC’s prior written consent. Vendor shall not assign, transfer, or subcontract any of its rights or obligations hereunder, or any part thereof. Vendor shall not make any assignment or transfer of this Order, or any part thereof, to a third party, except to comply with any terms and conditions of this Order and is executed by an authorized representative of WC. WC’s failure to insist on performance of the terms and conditions herein or to exercise any right or privilege, or WC’s waiver of any breach hereunder, shall not thereafter waive the same or other terms, conditions, rights, or privileges, or affect any subsequent breach.

Equitable Employment Opportunity: WC is an affirmative action employer and complies with all laws relating to Equal Employment Opportunity and Civil Rights, including Executive Order 11246, as amended; section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended; Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972; the Age Discrimination in Employment Act of 1967, as amended; and the Americans with Disabilities Act of 1990, as amended; Title 38 U.S.C. sections 300.5(a), and 66-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all persons based on race, color, religion, sex, national origin, protected veteran status or disability. This order is made in accordance with all laws and regulations prohibiting discrimination.

Equal Employment Opportunity: WC is an affirmative action employer and complies with all laws relating to Equal Employment Opportunity and Civil Rights, including Executive Order 11246, as amended; section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended; Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972; the Age Discrimination in Employment Act of 1967, as amended; and the Americans with Disabilities Act of 1990, as amended; Title 38 U.S.C. sections 300.5(a), and 66-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all persons based on race, color, religion, sex, national origin, protected veteran status or disability. This order is made in accordance with all laws and regulations prohibiting discrimination.

Indemnification and Hgal Hardness: To the fullest extent permitted by law, the Vendor shall protect, defend, and hold WC harmless from and against all liability, claims, suits, or actions for or on account of any and all damages, losses, or expenses which may arise, be occasioned, or incurred by any of Vendor’s or its employees’ negligence or willful misconduct; for any breach of agreement, covenant, or condition; for any breach of any warranty or representation; for any wrongful act or omission; for any violation of any law, rule, or regulation, including the applicable laws of WC located in Massachusetts; or for any and all judicial, administrative, or arbitrative actions, claims, suits, or proceedings (including appeals and cross-claims) made against WC, whether by reason of contract, tort, or otherwise, or for any and all judgments, awards, or awards rendered against WC, or for any and all costs (including reasonable attorneys’ fees), or for any and all other losses, damages, or expenses of any kind or nature suffered or incurred by WC, including, without limitation, any and all expenses of design, engineering, or construction; and any and all claims by third parties for costs and damages, losses, damages, injuries, or expenses arising out of WC’s performance or non-performance of this agreement. Notwithstanding any other modification or changes, vendor shall provide for the purchase of goods or services with the exclusion of liability for indemnity or fault of WC or its agents or employees and shall provide for the purchase of goods or services with the exclusion of liability for indemnity or fault of WC or its agents or employees. Vendor will provide for the purchase of goods or services with the exclusion of liability for indemnity or fault of WC or its agents or employees.

Waiver: WC’s failure to insist on performance of the terms and conditions herein or to exercise any right or privilege, or WC’s waiver of any breach hereunder, shall not thereafter waive the same or other terms, conditions, rights, or privileges, or affect any subsequent breach.

Seal: Any claim by Vendor for money due or to become due from WC shall be subject to deduction or setoff by WC against any counterclaim of WC arising out of this or any other transaction with Vendor.

Applicable Law: This Order, and any agreement arising out of such, shall be constructed and governed by the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of law. The sole jurisdiction and venue for actions related to the subject matter hereof shall be Massachusetts and United States federal courts located within its jurisdiction in Massachusetts. This Order is made in accordance with all laws and regulations prohibiting discrimination.

U.S. Patent and Trademark Office: WC is a Massachusetts nonprofit, tax-exempt corporation and is exempt from paying Massachusetts sales and use taxes (Certs. #042-103-673) and federal excise taxes (Exempt. #00-73-0139F). WC shall not charge WC for such taxes. Proof of insurance is available upon request.

BY FURNISHING THE GOODS AND/OR SERVICES AS SET FORTH ON THE FACE OF THIS PURCHASE ORDER OR OTHER SUPPLEMENTAL SHEETS OR RIDERS, THE SELLER AGREES TO THESE TERMS AND CONDITIONS, WCPO(10/16 ed.)