



## TERMS AND CONDITIONS OF PURCHASE

- 1.0 Identification of Parties:** Phillips Exeter Academy will hereinafter be referred to as the "Academy." The individual or organization providing Goods and/or Services to Phillips Exeter Academy shall be referred to as "Supplier."
- 2.0 Identification of Terms:** If a separate contract is not written or in effect, the Terms and Conditions of this Purchase Order will preside as the governing document. All conflicting, different or additional Supplier terms are expressly rejected and acceptance of this Purchase Order is expressly limited to the terms stated in the Purchase Order.
- 3.0 Communication:** It is the responsibility of the Supplier to inquire about any requirement of this Purchase Order that is not understood or correctly submitted. Purchase Order changes and revisions will be forwarded to the Supplier for clarification and correction. The Academy will not be bound by oral responses or communication pertaining to the details of the Purchase Order.
- 4.0 Confirmation/Acknowledgement:** Except as otherwise explicitly agreed by the Academy in writing, within two business days of the issuance of this Purchase Order, the Supplier shall provide written confirmation/acknowledgement of this Purchase Order; otherwise, the Supplier is deemed to have received, read and accepted all terms in the Purchase Order.
- 5.0 Purchase Order Acceptance:** Supplier's acceptance of this Purchase Order constitutes agreement to these Terms and Conditions and assurance that the product(s) procured by the Academy meet specifications and quality requirements. Acceptance by the Academy of any shipment from Supplier shall not constitute acceptance of any different or additional terms and conditions.
- 6.0 Quantities:** The specific quantity ordered must be delivered in full and not be changed without the Academy's prior written consent. Any different quantity delivered without such consent is subject to the Academy's rejection and return at Supplier's expense.
- 7.0 Price:** The price for each Good and/or Service shall be the price as shown for such Good and/or Service indicated on the face of this Purchase Order. Any change in price without the Academy's prior written consent will not be accepted. No additional charges of any kind, including charges for shipping or other extras will be allowed except with the Academy's prior written consent. Shipping charges should be communicated by Supplier at time of Purchase Order Confirmation/Acknowledgement.
- 8.0 Scope:** The Academy reserves the right to add, revise, or reduce the scope of Services or make changes to the Goods being procured at any time. The Supplier will be notified in writing of any changes and/or revisions to the Purchase Order, scope of work, or Goods to be procured.
- 9.0 Payment:** Unless agreed discount payment terms have been determined, payment terms shall be Net 30 days from the date of delivery, or from the date of receipt of correct invoice, whichever date is later.
- 10.0 Invoicing:** All packages, packing slips and invoices must be plainly marked with the Purchase Order number shown on the face of this Purchase Order. All invoices should be emailed to [invoices@exeter.edu](mailto:invoices@exeter.edu)
- 11.0 Inspection:** The Academy is entitled to inspect the Goods and/or Services (including the performance of tests) before or after receipt and reject them for failure to conform to this Purchase Order, regardless of whether any payment has been made by the Academy. If Goods tendered pursuant to this Purchase Order are nonconforming, the Academy may return all of the Goods to Supplier, at Supplier's expense, for repair, replacement or refund. Supplier shall promptly correct Goods and/or Services that have failed to conform to the requirements of the Purchase Order.
- 12.0 Warranty Specifications:** Supplier warrants that the Goods and/or Services will be in accordance with the specifications, drawings and other instructions attached to this Purchase Order. In the case where the specifications, drawings and other instructions are not attached to the Purchase Order, it is the Supplier's responsibility to acquire the required documents. Further, Supplier warrants that the Goods and/or Services will be free from defects in materials, workmanship and design.
- 13.0 Electronic Data Interchange:** As used in this Purchase Order, the term "Electronic Data Interchange" or "EDI" shall include and encompass internet-based and traditional EDI systems. Supplier and the Academy agree that communication utilizing EDI shall be permitted under this Purchase Order and shall be legally effective and enforceable.
- 14.0 Cancellation/Termination:** The Academy reserves the right to cancel this Purchase Order in part or in full at any time if Supplier cannot meet the requirements or obligations of the Purchase Order. If the Purchase Order is for Services and either party breaches any of its obligations under this Purchase Order (including any Work Statement), then the non-breaching party may, at any time terminate this Purchase Order and all then uncompleted Work Statements by written notice to the breaching party. Except as otherwise mutually agreed as to certain Services and set forth in the applicable Work Statement, Services to be performed by Supplier under a particular Work Statement may be terminated by the Academy at any time without prior written notice. Except as otherwise mutually agreed as to certain Services and set forth in the applicable Work Statement,



Services to be performed by Supplier under a particular Work Statement may be terminated by Supplier at any time with thirty (30) days' prior written notice.

Supplier shall be entitled to be paid for any unpaid Services performed under this Purchase Order or any terminated Statement of Work through the termination date, in accordance with the compensation arrangements set forth in such Purchase Order or Statement of Work. The Academy shall be entitled to set-off amounts owed to the Academy by Supplier (including any damages or losses suffered or incurred by the Academy as a result of a breach by Supplier) against any amounts payable to Supplier under this Purchase Order, whether upon termination or otherwise.

- 15.0 Confidentiality:** Supplier understands and agrees that all Confidential Information is valuable and that the Supplier has no right, title, or interest in or to any of the Confidential Information related to this Purchase Order or the Academy. In the performance of Services, Supplier agrees to abide by such rules as may be adopted from time to time by the Academy to maintain the confidentiality of the Confidential Information. Supplier further agrees that, while performing Services and thereafter: (a) Supplier will always regard and preserve as confidential all Confidential Information, and (b) Except as may be required to perform Services, Supplier will not use, copy, or make notes or excerpts of any Confidential Information, nor will Supplier give, disclose, provide access to, or otherwise make available any Confidential Information to any person not employed by the Academy.
- 16.0 Debarment:** Acceptance of a Purchase Order is certification that Supplier's firm (or any subcontractor) is not currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal department or agency. Acceptance is also agreement that the Academy will be notified of any change in this status.
- 17.0 Background Checks:** For Purchase Orders providing a Service to the Academy, Supplier shall be responsible for performing background checks including federal and state criminal and sex offender (CORI) checks on all employees and subcontractors proposed for on-site work as part of this Purchase Order. Prior to directing or permitting any of Supplier's employees or subcontractors to work on the Academy's campus or the issuance of an identification T3badge, the Supplier must provide the Academy a certification letter that verifies each of the Supplier's employees and subcontractors have no reportable criminal convictions.
- 18.0 Insurance:** Supplier is required at all times to maintain insurance if providing on campus Services as per this Purchase Order. The Supplier's insurance which will be primary and noncontributory, and should include: general liability insurance, occurrence form, including operations, independent contractor's protective, products and completed operations, broad form property damage, contractual liability and personal and advertising injury, with the Academy named as additional insured, with coverages of not less than \$1,000,000.00 per occurrence for bodily injury and property damage, which liability insurance shall cover any and all tort claims which may arise out of Supplier's employees', and subcontractors' services provided to the Academy as well as coverage for damage to the Academy's property with a minimum limit of \$50,000 per occurrence. Supplier shall provide certificate(s) of such insurance to the Academy naming Phillips Exeter Academy as an additional, primary insured upon acceptance of this Purchase Order and confirming that the policies cannot be canceled without at least thirty (30) days written notice to the Academy.
- 19.0 Covid-19 Requirements:** Supplier will be responsible for ensuring that Covid-19 protocols, as issued by the Center for Disease Control (CDC), are followed for employees and subcontractors performing services on the Academy's Campus. The Academy will require the Supplier to complete the appropriate and necessary forms prior to completing any service on the Academy's Campus.
- 20.0 Indemnification:** Supplier shall defend, indemnify and hold harmless the Academy, its trustees, officers, and employees from all loss, expense, damage, judgment and cause(s) of action arising directly or indirectly in connection with the Goods and/or Services rendered by the Supplier pursuant to this Purchase Order and/or attached Statement of Work, except for damage, loss, or injury resulting from the Academy's sole negligence or willful misconduct.
- 21.0 Binding Effect:** This Purchase Order is binding on Supplier and Supplier's heirs, legal representatives, successors, and permitted assigns; provided, that Supplier may not assign or delegate any of Supplier's rights, duties, or responsibilities under this Purchase Order, nor any of the Goods and/or Services, without the prior written consent of the Academy. This Purchase Order is for the benefit of the Academy and its legal representatives, successors, and assigns. The Supplier shall cause Supplier's employees and permitted subcontractors to comply with Supplier's obligations under this Purchase Order and shall be responsible for any breach of such obligations caused by any act or omission of any such employee or subcontractor.
- 22.0 Governing Law; Jurisdiction:** This Purchase Order will be governed by the laws of the State of New Hampshire, without regard for its conflict of law provisions. In the event of any action for enforcement of or breach of this Purchase Order (excepting only actions for injunctive or other equitable relief), the Federal and State courts of the State of New Hampshire will have exclusive jurisdiction over the enforcement of this Purchase Order, and the parties specifically consent to, and agree that they are subject to, the jurisdiction of such courts.