ALVERNA UNIVERSITY PURCHASE ORDER TERMS AND CONDITIONS

1. This Purchase Order, comprised of these terms and conditions as well as any additional written language on the front of this Purchase Order represents the entire agreement of the parties hereto and may not be modified or changed in any way without the written consent of the University and Seller. Any different or additional terms in Seller’s acceptance of this offer are hereby objected to. Shipment and/or delivery by Seller of any of the items covered in this Purchase Order shall in all cases constitute an unqualified acceptance of all the Purchase Order terms and conditions.

2. Unless otherwise agreed to, all prices stated herein shall be inclusive of packaging and freight costs to the delivery point stated on the front of this Purchase Order. Collect shipments will not be accepted. Freight costs are to be prepaid by Seller and added to the invoice as a separate line item. A copy of the bill of lading must accompany the invoice. Each invoice must reference the Purchase Order number, shall not include goods or services for more than one Purchase Order, and must indicate whether for a partial or complete shipment. All goods shall be shipped via the most economical method, unless otherwise specifically agreed upon by the University. The University is exempt from any sales taxes.

3. Payment shall be net 30 days from receipt of a properly documented invoice. If a cash discount is available for early payment, such cash discount period will be calculated from the date of receipt of a properly documented invoice or, for goods, from the date of receipt at the specified delivery point, and, for services, from the date of completion, whichever is later.

4. Time or times of delivery, in the quantity or number of units required to be delivered is of the essence of this Purchase Order and must be strictly complied with. In the event delivery of goods is delayed, University reserves the right to require Seller to ship the goods via express transportation at Seller’s expense.

5. All goods shall be packaged to protect them from damage during shipment. Damaged packages shall be refused by the University. All goods delivered or services performed shall comply with all federal, state and/or local laws relative thereto. Inspection of all goods shall be conducted at the place of delivery, or other place of inspection if so specified herein, and shall occur within a reasonable time after delivery. At University’s option, Seller shall either remove from the place of inspection, at Seller’s risk of loss and expense, any goods which the University, after inspection, rejects or revoke acceptance due to non-conformance or Seller’s non-compliance with any terms of this Agreement, or correct rejected goods within a reasonable time after notification of rejection.

6. In the case of default by the Seller in failing to supply and deliver conforming goods or to perform services pursuant to this Agreement, after providing notification to Seller, University may procure the same from other sources and charge the Seller for any excess cost or damages resulting therefrom, as liquidated damages. This paragraph shall not operate or bar the University from exercising any other rights or remedies to which it may be entitled under the Pennsylvania Uniform Commercial Code, Article 2, 13 Pa.C.S.A, Section 2101 et seq.

7. Seller shall defend all actions or claims brought and hold harmless the University from any and all loss, costs, damages or expenses including attorneys’ fees occasioned by reason of any actual or alleged infringement of patent or trademark. In the event the materials or services are in a suit or proceeding held to constitute infringement of any patent, copyright, or other proprietary right of any third party and the use thereof is enjoined, or the settlement made requires the use of the materials or services purchased under the Agreement to be discontinued, University at its sole discretion may require the Seller to either procure for University the right to continue using such materials or services, replace the same with non-infringing materials or services which conform to the applicable specifications, or modify such materials or services in a manner acceptable to University so they become non-infringing.

8. Seller warrants to University that the goods furnished under this Purchase Order, whether manufactured or fabricated by Seller or others, shall be (a) new (unless University has approved otherwise) and strictly conform to the specifications, drawings, samples or descriptions referred to herein or provided by University to Seller, and (b) free from defects in materials and workmanship. All work performed shall be done in a skilled manner and shall comply with industry standards. Seller shall promptly repair or replace goods and re-perform services, after receiving notification from University of defects or nonconformance. Goods manufactured or services provided by a third party and supplied by Seller shall carry all third party warranties. All warranties shall survive any inspection, delivery, acceptance, or payment.

9. Seller agrees to indemnify and hold harmless the University, its officers, employees and agents from all costs, losses, expenses, damages, claims, suits, and liability for injuries to, and/or death of, any and all persons and for loss of and/or damage to property of the University or others sustained or alleged to be sustained in connection with or to have arisen out of the performance of the work by the Seller, its subcontractors or its respective agents, servants or employees.

10. In the event Seller provides any services under this Purchase Order, Seller shall provide and maintain at its own expense, and require its subcontractors to maintain during progress of any work (1) Worker’s Compensation insurance in statutory limits mandated by the Commonwealth of Pennsylvania; and (2) bodily injury, liability, and property damage insurance in such amounts as are appropriate and commercially reasonable for parties engaging in the type of activities contemplated by the projects entered into hereunder, but in no event shall these amounts be less than $1,000,000. Upon request, Seller shall furnish certificates of insurance evidencing the required insurance coverage naming the University as an additional insured.

11. Before any payment hereunder shall become due, University, at its option, may require Seller to furnish reasonable evidence of the payment of all subcontractor accounts for labor and materials pertaining to Seller’s performance hereunder. Prior to payment, University reserves the right to require Seller to furnish University with a full and complete release of liens from all persons furnishing labor and materials toward the performance hereof, and in any event, Seller agrees to indemnify and save harmless University against any and all liens and encumbrances arising out of Seller’s performance of this Purchase Order.

12. In no event shall the University be liable for any indirect, incidental, special or consequential damages.

13. University shall have the right to make changes to this order. If such changes affect the price or the delivery date specified herein, Seller shall, before proceeding, secure approval, in writing, of any change in price or date of delivery. University shall also have the right to cancel all or any separable part of this Purchase Order by written notice.

(Rev. 5/09)
14. Neither Seller nor any tier subcontractor shall use the name Alvernia University, or quote the opinion of any University employee in any advertising, publicity, endorsement or testimonial, without the prior written approval of the University.

15. This Purchase Order may not be assigned nor any duties delegated by the Seller without the written consent of the University. This Purchase Order shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.