1. This purchase order is valid only when an order number and signature of Buyer appear. The purchase order number must appear on all invoices, packages, delivery tickets, and correspondences.

2. The party to which this purchase order is issued (“Seller”) is an independent contractor and under no circumstances will Seller be considered or construed to be an employee, agent or representative of Buyer. Seller agrees that it is an equal opportunity employer and will comply with all applicable federal, state and local laws and regulations regarding contracting and employment practices.

3. As an institution of higher education and a political subdivision of the State of Texas, in accordance with the State of Texas and Federal Tax Codes, Buyer hereby certifies it is exempt from the payment of property, sales, use, franchise, excise or other taxes (Exempt No. 1-741690850-1). In the event it is determined that Buyer is legally liable for payment of taxes for which an exemption is claimed, Buyer will remit such taxes to the applicable taxing authority.

4. No substitution of goods, change of services, delivery dates, F.O.B. points, or price increases of any nature shall be made unless expressly assured by prior written approval of the Buyer. No modification of this purchase order shall bind Buyer unless Buyer agrees to the modification in writing.

5. Seller shall be responsible for the industry-standard packing of goods which conforms to requirements of the carrier’s tariffs and ICC regulations. Containers must be clearly marked with lot number, destination, address and purchase order number. Seller shall bear the cost of packaging unless otherwise provided. Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of the goods.

6. Goods to be provided and/or services to be performed shall be in accordance with the terms, prices, delivery time and specifications as required under this purchase order. Unless shown otherwise on this purchase order, the price(s) shown include(s) the cost for: (a) freight, delivery, unloading and placement of the goods in the designated location within a building; and (b) for equipment and furniture: uncrating, complete assembly, adjustment, testing and removal of all debris. Time is of the essence in the delivery of the goods and/or providing of the services.

7. All shipments are to be made “F.O.B. destination” and risk of loss and/or title to the goods will not pass to Buyer until the goods are accepted at the delivery destination. Buyer shall have the right to count and inspect the goods at delivery before acceptance is final. Notwithstanding the F.O.B. point specified in this purchase order, Seller shall be liable for handling claims for, and the replacement of goods lost or damaged prior to acceptance by Buyer.

8. In addition to the warranties provided by law, Seller expressly warrants that it has the right to sell the goods and/or services provided under this purchase order and they: (a) will be in full conformity with the specifications, plans and samples approved by Buyer and will be new, of good quality, material and workmanship, merchantable, fit for the use and purpose for which they were intended and free from defects; (b) will be manufactured, sold, delivered and installed in compliance with the provisions of all applicable federal, state and local laws, ordinances rules and regulations; and (c) will not infringe on any valid patent, trademark, trade name, or copyright. Any and all warranties made by the manufacturer or supplier of goods delivered by Seller are hereby assigned to Buyer and nothing contained herein shall exclude or affect the operation of any implied warranties otherwise arising in favor of Buyer. Seller will bear the cost of inspecting, testing and/or replacement of rejected goods and/or services. Warranties granted herein shall survive inspection, testing, acceptance and payment and shall accrue to Buyer.

9. In addition to other rights provided for herein and by law, Buyer reserves the right to: (a) inspect goods delivered and reject/return those which are damaged, incomplete, do not meet specifications or reasonable standards of quality; (b) reject goods shipped contrary to instructions or in containers which do not meet recognized standards; and (c) cancel the order if not filled within the time specified. Buyer may return rejected goods or excess shipments on this order, or may hold goods subject to Seller’s directions, at Seller’s sole risk and expense, and may in either event charge Seller with the cost of shipping, unloading, inspecting, reshipping and other like expense, or offset such costs against amounts otherwise payable by Buyer to Seller. If the product, or any part thereof, is held to constitute an infringement and/or the use of the product, or any part thereof, is enjoined, Seller shall, at its own expense, either procure for Buyer the right to continue using the product or replace same with an equivalent non-infringing product or modify the product so that it becomes non-infringing, and, if the foregoing options are not possible, refund to Buyer the sums paid to Seller for the purchase, or right to use said product.

10. Where Seller or its agent(s) have personnel making deliveries to or performing services at Buyer’s premises, Seller or its agent(s) must carry public liability, property damage and workers’ compensation insurance with carriers authorized to provide such insurance under the laws of the State of Texas as outlined in the District’s General Conditions, which can be accessed on the District’s website at www.epcc.edu/purchasing. A hard copy of these conditions can be requested from the buyer’s representative whose name appears on the front of this document.

11. Invoices are to be submitted only for the goods that have been shipped or services that have been provided. Invoices will not be paid and will be returned to the Seller for correction if they: (a) do not reference this purchase order number; (b) are for a higher cost than shown on this order; (c) list goods or services other than those shown on this order; or (d) are damaged or incomplete. Invoices must show the quantity, description and unit cost of items. Neither this purchase order nor payments to be made may be assigned without the express written consent of Buyer. Any attempted assignment or delegation by Seller shall be wholly void.

12. Within thirty (30) days from receipt of a properly executed and undisputed invoice, or date of receipt of goods or services, whichever is most current, payment will be processed for goods or services provided hereunder. Any discounts will be calculated from the date of receipt of the invoice or receipt of the goods or services, whichever is most current. Payment for any goods or services does not constitute final acceptance.

13. This purchase order will automatically terminate at the end of the applicable budget period. Buyer reserves the right to cancel this Purchase Order at any time. Cancellation of this Purchase Order shall be automatic upon the occurrence of the following conditions, unless expressly assented to in writing: (a) incomplete order, where merchandise is not received on the “Delivery Date” shown herein; or (b) outstanding orders that are not received by or before the end of the District’s fiscal year (August 31).

14. To the fullest extent of the law, Seller agrees to indemnify, defend, and hold whole and harmless Buyer, its trustees, officers, employees, and agents from and against all claims, demands, causes of action, losses, and expenses, including without limitation reasonable attorneys’ fees and costs of defense arising out of or incident to (a) a Seller’s performance hereunder, (b) the presence of the Seller, its employees, agents, or invitees on Buyer’s premises, (c) any breach of warranty of Seller contained herein, and (d) any claim of patent, trademark, copyright, franchise, or other intellectual property infringement by goods and/or services provided by Seller hereunder, provided that Seller shall not be liable for Losses to the extent caused by negligence or willful misconduct of any indemnified party.

15. All contracts valued at $50,000 or more require approval by the Board of Trustees under Board Policy 4.10.04, such approval having been obtained in a duly called public meeting.

16. This purchase order shall be governed by, and any disputes shall be settled pursuant to, the laws of the State of Texas, with venue in El Paso, Texas.