

CNM Ingenuity, Inc.

GENERAL TERMS AND CONDITIONS

1. **Agreement.** When CNM Ingenuity, Inc. issues a purchase order to a Vendor, a binding contract is created. This purchase order is the sole and entire agreement between the parties; any documents incorporated into this agreement are listed explicitly on the front side of this purchase order, or are incorporated by implication by the terms of this purchase order. Any terms inconsistent with or in addition to this purchase order proposed by Seller are deemed rejected unless agreed to in writing by CNM Ingenuity, Inc.
2. **Assignment.** This order is assignable by CNM Ingenuity, Inc. Except as to any payment due hereunder, this order is not assignable by Vendor without written approval of CNM Ingenuity, Inc.
3. **Changes.** CNM Ingenuity, Inc. may make changes to this order by giving notice to Vendor and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this order, an appropriate equitable adjustment shall be made. No change by the Vendor shall be recognized without written approval of CNM Ingenuity, Inc. Any claim by Vendor for an adjustment under this paragraph must be made in writing within thirty (30) days from the date of receipt of Vendor of notification of such change, unless CNM Ingenuity, Inc. waives this condition. Nothing in this paragraph shall excuse Vendor from proceeding with performance of the order as changed hereunder.
4. **FOB.** Unless stated otherwise, the price for goods is F.O.B. the place of destination, and the place of destination is CNM Ingenuity, Inc.'s designated campus address.
5. **Termination and Delays.**
 - a. CNM Ingenuity, Inc. may terminate this order for convenience in whole or in part at any time. CNM Ingenuity, Inc. shall pay Vendor as full compensation for performance until such termination based upon the unit or pro-rata order price for the delivered and accepted portion, provided however, compensation hereunder shall in no event exceed the total order price. Such amount will be limited to Vendor's actual cost and shall not include anticipated profits.
 - b. CNM Ingenuity, Inc. may terminate this order at any time in whole or in part for Vendor's default if Vendor refuses or fails to comply with the provisions of this order or fails to make progress so as to endanger performance and does not cure such failure within what CNM Ingenuity, Inc. considers to be a reasonable period of time.
6. **Inspection.** CNM Ingenuity, Inc. may inspect, at any reasonable time, any part of Seller's plant or place of business, which is related to performance of this purchase order. Final inspection will be made at the destination upon completion of delivery of goods and services. Acceptance of delivery shall not be considered acceptance of the goods and/or services furnished. Final inspection shall include any testing or inspection procedures required by the specifications.
7. **Acceptance and Rejection.** All items are to be NEW and most current production, unless otherwise specified. If prior to final acceptance any goods or services are found to be defective or not as specified, or if CNM Ingenuity, Inc. is entitled to revoke acceptance of them, CNM Ingenuity, Inc. may reject or revoke acceptance, require Seller to correct without charge within a reasonable time, or require delivery at an equitable reduction in price, at CNM Ingenuity, Inc.'s option. Seller shall reimburse CNM Ingenuity, Inc. for all incidental and consequential costs related to unaccepted goods or service. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud, or such gross mistakes as amount to fraud. Acceptance of goods or services shall not waive the right to claim damages for breach of contract.
8. **Title and Delivery.** Title to the materials and supplies passed hereunder shall pass to CNM Ingenuity, Inc. upon acceptance at the FOB point specified, subject to the right of CNM Ingenuity, Inc. to reject. For any exception to the delivery date specified, Seller shall give prior notification and obtain approval thereto from CNM Ingenuity, Inc. Time is of the essence and the purchase order is subject to termination for failure to deliver on time.
9. **Warranties.** Seller warrants the good and/or services furnished to be exactly as specified in this purchase order, free from defects in Seller's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with samples furnished by Seller. All applicable UCC warranties express and implied are incorporated herein.
10. **Packing, Shipping and Invoicing.**
 - a. CNM Ingenuity, Inc.'s purchase order number and the Vendor's name shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipment. CNM Ingenuity, Inc.'s count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packaging ticket.
 - b. The Vendor's invoice shall be submitted, duly certified and shall contain the following information: purchase order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices shall be rendered for each and every complete shipment.
 - c. Invoices must be submitted via email to cnm_invoices@cnm.edu.
11. **Instrumentalities.** Vendor shall supply all equipment, tools, materials and supplies to accomplish the designated tasks except as set forth in this purchase order, its attachments or any Agreement/Contract relating to this order.
12. **Foreign Payments.** Payment for services performed by a foreign individual or a foreign corporation while in the United States may be subject to 30% tax withholding per IRS Publication 515.
13. **Discounts.** If prompt payment discounts apply to this order, any discount time will not begin until the materials, supplies or services have been received and accepted and a correct invoice is received by CNM Ingenuity, Inc. In the event testing is required, the discount time shall begin upon the completion of the tests.
14. **Taxes.** The unit price shall exclude all applicable taxes. CNM Ingenuity, Inc. is tax exempt on supplies. Taxes shall apply to services only.
15. **Audit.** The Vendor shall maintain detailed time records which indicate the date, time and nature of any services rendered. Vendor shall maintain detailed records of all materials or supplies delivered to CNM Ingenuity, Inc. under this order, including serial numbers and other appropriate identifiers. These records shall be subject to internal and external audit. CNM Ingenuity, Inc. shall have the right to audit billings both before and after payment. Payment under any related Agreement/Contract shall not preclude CNM Ingenuity, Inc. from recovering excessive, erroneous or illegal payments previously made to the Vendor.
16. **Indemnification and Insurance.** Vendor assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the performance of any work performed by Vendor, its agents, employees, subcontractors or consultants, except to the extent of liability arising out of the negligent performance of the work by or willful misconduct of CNM Ingenuity, Inc. In any event, CNM Ingenuity, Inc.'s liability shall be subject to the limitations of the New Mexico Tort Claims Act. Vendor shall indemnify and hold harmless CNM Ingenuity, Inc., its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, and claims and shall defend any suit or action brought against any or all of them based on any actual or alleged personal injury or damage and shall pay any damage costs and expenses including attorneys' fees, in connection with or resulting from such suit or action. Vendor will also indemnify, defend and hold harmless CNM Ingenuity, Inc. against any joint and severable liabilities imposed against CNM Ingenuity, Inc. with respect to strict products liability claims attributable to the fault of the Vendor. Vendor agrees that it and its subcontractors will maintain public liability and property damage insurance in reasonable amounts covering all obligations under this order.
17. **Patent and Copyright Indemnity.** Vendor shall pay all royalty and license fees relating to deliverables and other items covered under this order, including in the event any third party shall claim that the reproduction, manufacture, use or sale of goods or items covered under this order infringes any copyright, trademark, patent, or other intellectual property rights.
18. **Workers Compensation.** No Workers Compensation Insurance has been or will be obtained by CNM Ingenuity, Inc. on account of Vendor or its employees or agents. Vendor shall comply with state laws and rules pertaining to Workers Compensation benefits for its employees.
19. **Equal Opportunity and Affirmative Action.** Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
20. **Independent Business.** Neither Vendor nor any of its agents shall be treated as an employee of CNM Ingenuity, Inc. for any purpose whatsoever. Vendor declares that Vendor is engaged in an independent business and has complied with all federal, state and local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the tasks to be performed under this order. Vendor further declares that it is engaged in the same or similar activities for other clients and that CNM Ingenuity, Inc. is not Vendor's sole or only client or customer.
21. **Seller's Employees and Agents.** Seller shall have complete charge and responsibility for persons employed by Seller and engaged in the performance of the specified work. The Seller, its agents and employees state that they are independent contractors and not employees of CNM Ingenuity, Inc.
22. **Payroll or Employment Taxes.** No federal, state, or local income, payroll or employment taxes of any kind shall be withheld or paid by CNM Ingenuity, Inc. with respect to payments to Seller or on behalf of Seller its agents or employees. Seller shall withhold and pay any such taxes on behalf of its employees as required by law. Seller may be liable for self-employment (social security) tax, to be paid by Seller according to law.
23. **Conflict of Interest.** Vendor shall disclose to CNM Ingenuity, Inc. the name(s) of any CNM Ingenuity, Inc. employee or member of CNM Ingenuity, Inc.'s Board of Directors who has a direct or indirect financial interest in the Vendor or in the proposed transaction. A CNM Ingenuity, Inc. employee (or CNM Ingenuity, Inc. Board of Directors member) has a direct or indirect financial interest in the Vendor or in the proposed transaction if presently or in the preceding twelve (12) months the employee/Board of Directors member or a close relative has an ownership interest in the Vendor (other than as owner of less than 1% of the stock of a publicly traded corporation); works for the Vendor, is a partner, officer, director, trustee or consultant to the Vendor, has received grant, travel, honoraria or other similar support from the Vendor, or has a right to receive royalties from the Vendor. Vendor shall immediately notify CNM Ingenuity, Inc. in regard to any conflict of interest.
24. **Penalties.** New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.
25. **Applicable Law.** Each party acknowledges that this order is subject to the laws of the State of New Mexico and those laws shall apply to every CNM Ingenuity, Inc. purchase or contract agreement for tangible personal property, services and construction, including participation made pursuant to this purchase order. Other applicable laws may include any provision required to be included in an Agreement/Contract by any applicable and valid Executive Order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.
26. **Campus Policy.** Vendor will comply with all applicable laws, College policies and industry standards in performing services under this purchase order, including but not limited to laws, policies, and regulations mandated during any government emergency or pandemic.