

STANDARD TERMS AND CONDITIONS NORTHEAST WISCONSIN TECHNICAL COLLEGE

Corporate Training & Economic Development

- 1. GUARANTEE** – NWTC guarantees that the course, including instructional services and instructional materials, will be delivered in a manner satisfactory to the Purchaser. If the delivery of instructional services or materials provided by NWTC does not satisfy Purchaser in any material respect, and Purchaser provides NWTC with prompt written notice describing the reasons for its dissatisfaction, NWTC will repeat the course (or affected portions thereof) and/or reproduce associated instructional materials as soon as reasonably practicable at no additional cost to Purchaser and without re-registration, for the registrants originally provided for by this Agreement. NWTC's guarantee herein shall be Purchaser's sole remedy, and NWTC shall not be required to refund all or any portion of the purchase price paid by Purchaser under this Agreement. The remedy set forth in this paragraph shall be Purchaser's sole and exclusive remedy and is made expressly in lieu of all other warranties and remedies whatsoever, including but not limited to (i) implied warranties of merchantability and/or fitness for a particular purpose and (ii) any and all legal or equitable remedies, including those provided by the Uniform Commercial Code. NWTC shall not be subject to any other obligations or liabilities for services provided or goods sold by or through NWTC, including any obligations or liability arising out of NWTC's, its employee's or agent's negligence.
- 2. LIMITED LIABILITY** – In no event shall NWTC be liable to Purchaser or any third party for loss of profits, indirect, special, consequential, or other similar damages arising from or out of any breach of this Agreement or NWTC's obligations under the Agreement. NWTC shall not be liable for any damages arising from or out of any delay in providing instructional services, or shipment of instructional materials, under this Agreement. Unless otherwise provided in writing, any delivery dates for instructional materials specified or quoted by NWTC are estimates only based on the anticipated production schedules. NWTC will make a good faith effort to meet the estimated delivery dates, but NWTC shall not be responsible for any failure to do so, and in no event shall it be liable for any loss, cost, damage or expense whatsoever incurred by Purchaser or third parties that may result therefrom. NWTC will notify Purchaser as soon as practicable of the commencement of conditions delaying or preventing delivery of instructional materials and will provide Purchaser with NWTC's best estimate of the rescheduled delivery.
- 3. Limited Liability - Technical Assistance** – Notwithstanding any other provision of this agreement, neither NWTC nor the faculty shall be liable to client for any special, indirect, incidental, exemplary, or consequential damages, loss or profits, or loss of goodwill resulting from, or relating to the services provided under this agreement and/or the negligence of NWTC or faculty. The sole and exclusive remedy available to the client for a breach of this agreement or any other claim or cause of action related to the provision of services pursuant to this contract shall be limited to the recovery of actual damages, which in no event shall exceed the amounts paid to NWTC or faculty under this agreement.
- 4. Instructional Services and Materials** – Subject to the terms and conditions of this Agreement, NWTC agrees to provide Purchaser with the instructional services and/or instructional materials more fully described in the attached Training/Technical Assistance Agreement, on those dates and times and at the places designated, and in those amounts and for the number of registrants designated.

5. **Payment** – Purchaser hereby agrees to pay NWTC the total fee for instructional services and/or materials within thirty (30) days of receipt of NWTC’s invoice for same; and NWTC may charge Purchaser one and one-half percent (1.50%) per month interest on all outstanding amounts due under this Agreement. All reasonable fees and costs of collection by NWTC, including attorney’s fees, required by Purchaser’s failure to pay amounts due thereunder shall be recoverable by NWTC in any collection action.
6. **Minimum Fees** – This contract will be billed at the standard rate assigned to business and industry or government per our pricing guidelines, as appropriate, multiplied by the total number of hours for instruction, preparation, visitation and travel time if applicable, plus actual other expenses as specifically detailed in the contract. The minimum charge for all instructional contracts is the amount necessary to cover course fees. Out-of-state contracts are required by Wis. Stats. 38.14(3) to charge at least the amount necessary to cover all direct and indirect costs. Charges are intended to comply with these requirements but may be increased when necessary.
7. **Termination by Purchaser** – If Purchaser terminates this agreement (or per verbal commitment) for any reason without advance written consent, within 10 business days prior to scheduled services, NWTC shall be entitled to collect or retain (i) an administrative fee equal to ten percent (10%) of the total contract price charged to Purchaser under the agreement, plus (ii) a pro rata amount of the total contract price charged to Purchaser under the agreement (based on the actual direct and indirect costs actually incurred by NWTC, including, without limitation, contractual obligations or commitments for staff, facilities, or materials as of the date NWTC receives written notice from Purchaser of cancellation, in relation to the total contract price). In the event a refund of fees is due Purchaser, NWTC will make said refund within sixty (60) days following receipt of written notice of cancellation by Purchaser.
8. **Instructional Staff** – NWTC retains the right to substitute instructional or other staff at any time, with the consent of the Purchaser (which shall not be unreasonably withheld), whether before or during scheduled instructional sessions, in its sole discretion and for any reason, including but not limited to staff illness, disability, unavailability or circumstances beyond NWTC’s reasonable control, provided that any substitute staff person shall be fully qualified to provide the required services.
9. **Proprietary Rights Retained** – NWTC retains all right, title and proprietary interests (including without limitation copyrights) in and to all original materials provided by NWTC to Purchaser under this Agreement which are written, compiled, prepared or developed by NWTC. No part of the materials provided to Purchaser may be reproduced or transmitted in any form or by any means, electronic or mechanical (including photocopying, recording, or other methods of information storage/retrieval) without the express written permission of NWTC.
10. **Inspection of Instructional Materials** – Purchaser shall have five (5) business days following delivery by NWTC of any instructional materials or other goods pursuant to this Agreement to inspect same and provide written notice to NWTC of any defects or nonconformities. If Purchaser does not so notify NWTC during this period, the goods shall be deemed accepted by Purchaser.
11. **Force Majeure** – NWTC shall have no liability for any delay in or failure of performance caused by circumstances beyond its control, including but not limited to acts of God, fire, flood, war, governmental action, accident, strikes, labor disputes, or shortage or inability to obtain materials, equipment, power or transportation.

12. **Entire Agreement** – These standard terms and conditions, together with the attached accepted Training/Technical Assistance Proposal, constitute the entire agreement between NWTC and Purchaser. NWTC objects to, and shall not be bound by, any terms or conditions of Purchaser’s purchase order(s), confirmation forms or other documents, which contain terms and/or conditions at variance with NWTC’s standard terms and conditions of sale set forth herein, and shipment or other performance by NWTC shall not constitute assent to any such inconsistent terms. Purchaser’s full or partial payment or acceptance of delivery shall constitute acceptance of all these terms and conditions.

13. **Miscellaneous** – This Agreement shall be interpreted under and governed by Wisconsin law. It may not be amended, modified, extended, or otherwise changed except in writing signed by both parties. Each of the parties to this Agreement represents and warrants to the other that they have the power and authority to contractually bind NWTC and Purchaser, respectively, thereunder. No waiver by either party of any term or condition of this Agreement shall be deemed to constitute a waiver of such terms and conditions in the future. A determination by a court of competent jurisdiction that any term or provision of this Agreement is invalid shall not affect the other terms and conditions of this Agreement, which shall remain in full force and effect.