

Appendix- Electronic Commerce

This Electronic Commerce Appendix specifies the electronic commerce requirements applicable to Supplier in providing the Goods and/or Services.

**SECTION 1 - GENERAL TERMS**

Each UC Location offers an electronic web-based purchasing and catalog system to facilitate the purchase of Goods and/or Services from UC suppliers. UC Locations’ eProcurement systems currently are provided by multiple service providers. Eight of the ten UC campuses utilize the same platform but may require separate implementations, as will the remaining campuses and/or Medical Centers. This Appendix sets forth the terms and conditions that will govern Supplier’s sale of Goods and/or Services through UC’s eProcurement systems.

**SECTION 2 - DEFINITIONS**

**Catalog(s)** refers to the list of detailed product information, agreement pricing, manufacturer part numbers and/or service descriptions relating to the Goods and/or Services to be offered either as a Punch-out Catalog, a Hosted Catalog or in a combination. This may include the creation of multiple Hosted Catalogs.

**eProcurement and eCommerce** are used interchangeably to mean UC’s electronic web-based purchasing and catalog systems. Each UC location has a branded eProcurement site.

**Go Live Date** means the date on which a Catalog will be active.

**Hosted Catalog** means a Catalog that is a properly formatted computer file supplied to all UC Locations through the Locations’ respective eProcurement systems.

**Order** means a purchase order for Goods and/or Services placed by a User through an eProcurement system.

**Order Data** means all data and information relating to Orders, including, without limitation, the specifics of a given transaction.

**Punch-out Catalog** means a Catalog hosted by Supplier on Supplier’s Site. Users may access this Punch-out Catalog via an Internet link provided by Supplier to UC that redirects a User from the Location’s eProcurement system to Supplier Site.

**Supplier Mark** means Supplier’s name, trade name and/or trademarks, service mark, or any derivation thereof.

**Supplier Site** means an internet site operated and maintained by Supplier that has been made subject to this Appendix.

**UC Mark** means UC’s name, trade name and/or trademarks, service marks, or any derivation thereof.

**User** means an individual authorized by a UC location to use an eProcurement system.

**SECTION 3 – RIGHT TO USE**

UC grants to Supplier the right to sell Goods and/or Services to UC through the eProcurement systems, subject to the terms of this agreement. Supplier will be responsible for any cost of operation or dispute with regard to its interface with UC’s eProcurement systems.

**SECTION 4 – e-PROCUREMENT SYSTEM RESPONSIBILITIES; MAINTENANCE OF CATALOG(S); LICENSE**

(a) e-Procurement System Responsibilities.

Except as otherwise set forth herein, each party will be responsible, at its own expense, for: (i) developing, operating and maintaining its relevant system(s); (ii) acquiring and maintaining its server hardware and software (or obtaining third-party hosting services) for its relevant system(s); and (iii) maintaining Internet connectivity.

The supplier will enable its catalog with any UC location that requests one, as long as it is not out of the scope of the terms of the agreement or this appendix. The parties agree to electronically link the functionality of their respective systems, using commerciallyreasonable efforts.

Purchase Order and Invoice/Credit Memo Data will be transmitted between the systems according to the appropriate method for each University location, cXML, xCBL or EDI standards being preferred. Other methods of PO or Invoice/Credit Memo transmission will only be allowed at the discretion of each University location.

A supplier’s Punch-out site (if applicable) will permit: (a) Users to access the Supplier Site when a User selects the Punch-out Catalog; (b) Supplier site to send back user selected items to Location’s eProcurement system; (c) User to create an Order through the Location’s eProcurement system; and (d) UC eProcurement systems to forward an Order to Supplier for confirmation and Order processing along with Order status inquiry.

Supplier must be able to accommodate orders and invoices for multiple UC locations sharing a single eProcurement platform. Supplier must be able to identify the Punch-out session and transmitted PO as being from the individual locations. If providing a Punch-out catalog, Supplier must be able to accommodate multiple UC locations on a single platform using a single Punch-out site, unless requested otherwise by UC.

(b) Maintenance of Hosted and Punch-out Catalogs.

Supplier will provide its Catalog(s) toUC in a file format that will interface seamlessly with UC’s eProcurement systems. These Catalog files will be in compliance with each UC Location’s eProcurement system.

UC makes no guarantee of a Go Live Schedule for establishment of a new catalog Systemwide, as each Location is a separate enablement and subject to resource availability. Timelines will be estimated and adjusted by UC as needed for concurrent implementations.

For Hosted Catalogs, Supplier must provide UC with updated versions of the Catalog file with, at a minimum, full descriptions and images that Supplier currently utilizes for items offered in its proprietary websites and Punch-out Catalogs. The parties willupdate each other regarding eCommerce specifications as needed from time to time.

Supplier must notify UC’s Contract Administrator at least three (3) weeks in advance of the proposed Go Live Date if it will be requesting additions, deletions, or modifications to the Catalogs. After such advance notification, Supplier must provide UC with Catalog files containing the requested additions, deletions, or modifications with no less than the lead time specified in Section 10 of this appendix. In addition, for price file updates with a mutually agreed upon activation of January 1,Supplier must submit proposed files at least five (5) weeks prior to the first working day in January. Upon UC’s approval of the new Catalog file, UC and Supplier will confirm the Go Live Date; the updated version of the Catalog file will be made effective on that Go Live date. If UC rejects a Catalog more than once because it does not meet UC’s acceptance criteria, the Contract Administrator will suspend Supplier’s price/content change until the date of Supplier’s next acceptable contracted change.

If there is a conflict between a price in a Hosted Catalog and a Punch-out Catalog, UC will be invoiced at the lower price. Supplier must notify UC in advance when substituting items, changing SKU numbers or changing the number of items in a package in any Catalog.

Content in Supplier catalog is limited to the categories specified in this agreement, with additional categories allowed at UC’s discretion. Supplier agrees that UC may block Catalog items at the category and/or SKU level.

The University will require Supplier to clearly identify products as Hazardous Materials, Radioactive, and Controlled Substances in the Supplier’s catalog, whether Hosted or Punch-out. For Punch-out the identifier will be returned to the cart of the Location’s eProcurement system, in a manner/field acceptable to the Location.

The University will require Supplier to clearly identify products with UC-recognized sustainability/green certifications in both hosted and Punch-out catalogs. UC’s Contract Administrator will work with Supplier to ensure that contract items that meet the UC criteria for Green/Sustainable products will be prioritized in all product searches. Products that do not meet UC’s minimum criteria requirements may be blocked in all hosted catalogs and Punch-out catalogs at UC’s discretion.

Supplier is responsible for providing UC with Catalogs that contain accurate pricing and data in accordance with the Agreement. If UC determines there are errors in the pricing or data attributes of a Catalog, UC will notify Supplier of those errors in writing and reject the Catalog. Supplier will have no more than ten (10) business days to review and correct the errors.

(c) License.

Supplier hereby grants to UC, at no additional cost, a limited, non-exclusive, royalty-free right to link to and access the Supplier Site from the eProcurement sites, subject to the terms and conditions herein and solely for the purpose of permitting Users to access the Services. All Supplier Marks will remain the sole property of Supplier.

(d) Accessibility Requirements.

Supplier agrees that Supplier will make available Goods/Services accessible to people with disabilities and conform to the technical requirements of the relevant Revised Standards of Section 508 of the federal Rehabilitation Act. In addition, Supplier warrants that:

1. Any catalog content provided to UC will comply with the accessibility requirements of WCAG 2.0AA.
2. Supplier will promptly respond to and resolve any complaint regarding accessibility of any catalog content provided to UC.

**SECTION 5 – USER SUPPORT**

(a) UC Duties. Each UC Location will provide its Users with initial contact and system support assistance on all functionality and use issues for eProcurement (including links to the Supplier Site). When known, UC will promptly notify Supplier of any such issues relating to the Catalog, the Supplier Site, and/or other Supplier materials/systems.

(b) Supplier Duties. Supplier will provide all customer support relating to the Catalog, Supplier Goods and/or Services, Invoicing/Payment/Credits, and Supplier Sites in a manner consistent with the customer support that Supplier provides to other customers, and at least as good as the customer support that Supplier provides to customers who are purchasing through any other means.

**SECTION 6 – PROPRIETARY RIGHTS**

## UC’s Terms and Conditions of Purchase contains provisions regarding the parties’ rights and responsibilities with respect to intellectual property relating to the Goods and Services. Without altering those provisions, the parties additionally agree as follows: UC may require Supplier to “brand” Supplier’s Punch-out Catalog with one or more UC Marks. If UC requires Supplier to utilize one or more UC Marks on Supplier’s Punch-out Catalog, UC will provide the appropriate artwork and such artwork will be deemed to have been provided with a limited, non-exclusive, non-sub-licensable right for Supplier to use it solely for the purpose of a UC-branded Punch-out Catalog hosted by Supplier and subject to the following terms:

## Supplier may not make any additional use of the UC Marks without UC’s prior written approval.

Supplier’s use of the UC Marks in the Punch-out Catalog must acknowledge UC's ownership of the UC Marks. Supplier will include all notices and legends with respect to UC trademarks, trade names, or copyrights as may be required by applicable trademark and copyright laws or which may be reasonably requested by UC. Supplier agrees not to claim any title to UC Marks or any right to use UC Marks except as permitted by this Appendix. Upon termination of this Appendix or the Agreement, all rights to UC Marks conveyed by UC to Supplier will cease and Supplier will destroy or return to UC all media with UC Marks. UC specifically reserves any and all rights to UC Marks not specifically granted to Supplier.

Supplier grants to UC the right to use Supplier's trademarks, logos, trade names, and service marks for the purpose of promoting UC eProcurement sites to the UC community. UC acknowledges Supplier's right, title, and interest in and to Supplier’s Marks and Supplier’s exclusive right to use and license the use of Supplier Marks and agrees not to claim any title to Supplier Marks or any right to use Supplier Marks except as permitted by this Appendix. UC will include all notices and legends with respect to Supplier trademarks, trade names, or copyrights as may be required by applicable trademark and copyright laws or which may be reasonably requested by Supplier. Upon termination of this Appendix, all rights to Supplier Marks conveyed by Supplier to UC will cease and UC will destroy or return to Supplier all media with Supplier Marks. Supplier specifically reserves any and all right to Supplier Marks not specifically granted to UC.

1. The licenses granted in the previous paragraphs regarding UC Marks and Supplier Marks are subject to the ongoing approval of the party owning the respective trademarks, logos, trade names, or copyrights. Such ongoing approval includes the ability to terminate – at any time, for any reason, and in the sole discretion of the owner of the respective trademarks, logos, trade names, or copyrights – the trademark licenses provided in the preceding paragraphs for any particular trademark, logo, trade name, or copyrighted work without necessarily terminating this Appendix. Each party agrees not to take any action that will adversely reflect upon or damage the goodwill, reputation, or the brand value of the other party. Each party further agrees not to take any action that is inconsistent with the other party’s ownership of the respective trademarks, trade names, or copyrights. At all times (including following termination of the Agreement), Supplier agrees to comply with Section 92000 of California’s Education Code.

(a) Grant of License. Supplier hereby grants UC a non-exclusive, royalty-free: (i) license to use, copy, transmit, and display the Catalog, any information contained therein and the Supplier Marks for the purposes of permitting Customers to access information about and order Supplier Goods and/or Services from a Catalog and (ii) if Supplier is using a Punch-out Catalog, right to link to and access the Punch-out Catalog on the Supplier Site, for the purposes of permitting Customers to access the Supplier Website and permitting Customers to order Supplier Goods and/or Services.

(b) Modifications. UC will not modify or remove any of the proprietary rights markings in the Catalog. UC will not modify the content of the Catalog, except as indicated by Supplier, but may require Supplier to make and submit modifications if required as part of this agreement. However, for hosted catalogs, UC reserves the right to attach flags to catalog items as an aid to shoppers in selecting preferred items, such as green or recycled. UC will not make any representations or warranties, or provide any information, to any third party regarding any Supplier Goods and/or Services (including, but not limited to, any representations or warranties of any information regarding availability, delivery, pricing, characteristics, qualifications or specifications thereof). If UC believes in good faith that any Supplier information does not conform to the requirements of the associated UC Agreement or this Appendix, UC will be entitled to withdraw the Catalog from UC eProcurement sites. In such a case, UC will promptly notify the Supplier of the actions it has taken and will work with the Supplier promptly to resolve UC’s concerns. When UC’s concerns are satisfactorily resolved UC will promptly restore the Catalog, if appropriate. UC will have no liability to the Supplier or anyone else for exercising these rights.

(c) Acknowledgment. Each party acknowledges that the technology embodied in the other party’s Site may be based on patented or patentable inventions, trade secrets, copyrights or other intellectual property or proprietary rights (“Intellectual Property Rights”) owned by the other party and its applicable licensors.

(d) UC Rights. As between the parties, UC will be the sole owner of – or, with respect to any items licensed by UC, will retain all rights to all Intellectual Property Rights associated with UC eProcurement sites, including any modifications, updates, enhancements or upgrades to any of the foregoing, as well as any Order Data generated or collected on such site (collectively, the “UC Materials”). Except as provided herein, Supplier may not copy or use in any way, in whole or in part, any UC Materials without UC’s prior written approval. Any permitted copies of such property, in whole or in part, alone or as part of a derivative work, will remain UC’s sole property. Supplier agrees to reproduce and include UC’s copyright, trademark and other proprietary rights notices on any permitted copies of UC Materials including, without limitation, partial copies and copied materials in derivative works. Supplier will not copy or reproduce any third-party copyrighted or trademarked materials, which appear on or are otherwise associated with any UC eProcurement site without UC’s prior written consent.

**SECTION 7 – MULTIPLE SUPPLIERS**

Supplier acknowledges that all UC eProcurement sites are intended to facilitate Users’ ability to obtain Goods and/or Services from more than one supplier. Nothing in this Appendix will be construed to prevent UC from entering into similar agreements with any third parties including, without limitation, suppliers that may be in competition with Supplier.

**SECTION 8 – WARRANTY DISCLAIMER**

UC does not warrant that access to UC eProcurement sites will be uninterrupted or that the results obtained by use of UC eProcurement sites will be error-free.

**SECTION 9 – DISPUTES AND CHANGES IN THE SERVICES**

(a) UC and Supplier agree to negotiate in good faith to resolve problems, questions and disputes.

(b) Where improvements and clarifications can be made in the business processes related to eProcurement, both parties agree to incorporate such changes as long as they are mutually agreed upon.

**SECTION 10 – ADDITIONAL CONTRACTUAL TERMS**

In addition to the provisions of Section 4, Section 10 provisions will govern the Catalogs. If the provisions of Sections 4 and 10 conflict, Section 10 will govern.

Type(s) of Catalog(s): At UC’s campus discretion, Supplier is allowed to implement a [**specify hosted, Punch-out, or both**] catalog in the UC eProcurement systems. Supplier will be required to comply with UC Location e-commerce requirements on a location by location basis, which includes the decision to move forward with Punch-out or Hosted. Any deviation from the type(s) specified herein must first be agreed upon by UC’s Contract Administrator.

Annual Number of Catalogs: Supplier is allowed to submit no more than [**number**] catalogs per calendar year, with changes as follows:

* Content Additions, Deletions and Other Non-pricing Edits: [**insert number of times Supplier can change its content; quarterly or biannually would be recommended**]
* Price Changes: [**insert number of times Supplier can change its price; once per year would be recommended**]
  + Allowable level of price change ($/%) will be in accordance with the terms of this agreement.
  + If a price file includes both content and pricing changes, it will count toward the pricing allocation.

Lead time: Supplier must load the Catalog price file into the e-Procurement system [**insert** **number, 10 is the minimum**] working days prior to the planned go-live date. (Exception – for January 1 updates to enabled catalogs, Supplier must submit the price file no later than 5 weeks prior, as specified in section 4.)

**Buyer – [Choose those that apply]**:

* Number of catalog/price file versions to be supported for this agreement: [**insert number**]
* If more than one catalog/price file version is supported, please include a description/justification (e.g., special pricing for cores): [**insert description**]
* Maximum Number of SKUs allowed: [**insert number**] (optional)
* Categories allowed within Catalog: [**list specific categories**] or
* Categories blocked within Catalog: [**list specific categories**]