

TERMS AND CONDITIONS OF ORDERS ISSUED BY THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION

INCORPORATED INTO ALL PURCHASE ORDERS – ACCEPTANCE OF THIS PURCHASE ORDER INDICATES VENDOR AGREES TO ALL OF THE FOLLOWING TERMS AND CONDITIONS.

DELIVERY:

1. If delay in delivery is foreseen, Vendor shall notify The University of Texas System Administration (“UT System”), Contracts & Procurement Office, 210 West 7th Street, Austin, TX 78701, (512)499-4373. UT System has the right to extend delivery date if reasons appear valid. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes UT System to purchase supplies elsewhere and charge full increase in cost, if any, to defaulting contractor.
2. No substitutions or cancellations permitted without approval of UT System Contracts & Procurement Office.
3. The Texas Health and Safety Code, Chapter 502, Texas Hazard Communication Act, requires chemical manufacturers and distributors to provide Material Safety Data Sheets (MSDS's) for hazardous materials sold. Products covered by the Act must be accompanied by a MSDS and such product labeled in compliance with the law. If the product is not covered under the Act, a statement of exemption must be provided.
4. Delivery shall be made during normal working hours only to the location noted on the Purchase Order.

PAYMENT:

1. UT System is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate furnished on request.
2. Vendor shall submit an itemized invoice showing purchase order number and a valid Vendor ID number.
3. Materials will be considered received by UT System upon final acceptance by the end user.
4. If Vendor is a taxable entity as defined by Chapter 171, Texas Tax Code ("Chapter 171"), Vendor certifies that it is not currently delinquent in the payment of any taxes due under

Chapter 171, or that Vendor is exempt from the payment of those taxes, or that Vendor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

5. Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, Vendor agrees that any payments owing to Vendor under this Order may be applied directly toward any debt or delinquency that Vendor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

6. All payments shall be made in accordance with Texas Government Code, Chapter 2251 ([Texas Prompt Payment Act](#)). Standard payment terms in accordance with the Texas Prompt Payment Act are Net 30 from receipt of materials/services, or receipt of invoice, whichever is later, unless otherwise specified by the purchase order.

GENERAL:

1. Pursuant to Section 2155.004 and 2155.006, Texas Government Code, Vendor certifies that the individual or business entity named in this Order is not ineligible to receive the award of or payments under this Order and acknowledges that this Order may be terminated and payment withheld if this certification is inaccurate.

2. Pursuant to Section 231.006, Texas Family Code, Vendor certifies that it is not ineligible to receive the award of or payments under this Order and acknowledges that this Order may be terminated and payment may be withheld if this certification is inaccurate.

3. If Vendor will provide services under this Order, Vendor covenants and agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations under this Order, Vendor will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

4. Except as otherwise provided in this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Order will be in writing and will be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows: The University of Texas System, Contracts & Procurement Office, 210 West 7th Street, Austin, TX 78701, or such other person or address as may be given in writing by UT System Administration in accordance with the aforesaid. Such a notice must reference the purchase order number for this Order.

5. This Order supersedes all prior agreements, written or oral, between Vendor and UT System and will constitute the entire agreement and understanding between the parties with respect to the subject matter hereof. This Order and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by UT System and Vendor.

6. Vendor understands that acceptance of funds under this Order constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), Texas Education Code. Vendor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Vendor will include this provision in all contracts with permitted subcontractors.

7. No member of the Board of Regents of The University of Texas System has a direct or indirect financial interest in the transaction that is the subject of this Order.

INSURANCE:

In the event the Vendor, its employees, agents or subcontractors enter premises occupied by or under the control of UT System in the performance of this Order, the Vendor agrees that it will maintain public liability and property damage insurance in reasonable limits covering the obligations set forth in this Order, and will maintain workers compensation coverage (either by insurance or if qualified pursuant to law, through a self-insurance program) covering all employees performing this order on premises occupied by or under the control of UT System.

DISPUTE RESOLUTION PROVISION:

To the extent that Chapter 2260, Texas Government Code, is applicable to this Order and is not preempted by any other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 shall be used by The University of Texas System and Vendor to attempt to resolve any claim for breach of contract made by Vendor that cannot be resolved in the ordinary course of business. The Chief Business Officer of The University of Texas System shall examine Vendor's claim and any counterclaim and negotiate with Vendor in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the execution of this Order by The University of Texas System nor any other conduct, action or inaction of any representative of The University of Texas System

relating to this Agreement constitutes or is intended to constitute a waiver of The University of Texas System's or the state's sovereign immunity to suit; and (ii) The University of Texas System has not waived its right to seek redress in the courts.

TERMINATION:

1. Termination for Convenience:

Upon written notice to the Vendor, UT System may terminate this contract, in whole or in part, whenever UT System shall determine that such termination is in the best interest of UT System. UT System shall pay all reasonable costs incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Vendor may not be reimbursed for anticipatory profits.

Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of the UT System's Procurement Policies and Procedures.

2. Termination for Default:

When the Vendor has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of UT System. Failure on the part of a Vendor to fulfill contractual obligations shall be considered just cause for termination of the contract and the Vendor is not entitled to recover any costs incurred by the Vendor up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of UT System's Procurement Policies and Procedures.

3. Termination for Loss of Funding:

Continuation of the obligations set forth in this purchase past the end of any fiscal year (August 31st) may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then UT System shall issue written notice to Vendor and UT System may terminate the Agreement without further duty or obligation hereunder. Vendor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UT System.

ACCESS BY INDIVIDUALS WITH DISABILITIES:

Vendor represents and warrants (“EIR Accessibility Warranty”) that the electronic and information resources and all associated information, documentation, and support that it offers to provide to UT System under this Order (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent Vendor becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Vendor represents and warrants that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Vendor is unable to do so, then University may terminate this Order and Vendor will refund to UT System all amounts UT System has paid under this Order within thirty (30) days after the termination date.

SAFEGUARDING OF CONFIDENTIAL DATA:

If the item(s) or service(s) specified in this Purchase Order require Vendor access to Confidential Data (e.g. social security numbers, credit card numbers, Family Educational Rights and Privacy Act (FERPA) protected data, Health Insurance Portability and Accountability Act (HIPAA) protected data), Contractor agrees that it may (1) create, (2) receive from or on behalf of UT System, or (3) have access to records or systems containing Confidential Data. Vendor represents, warrants, and certifies that it will: (1) hold information in the strictest confidence and will not use or disclose information except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by UT System in writing; (2) safeguard information according to commercially reasonable administrative, physical and technical standards (e.g., National Institute of Standards and Technology, Center for Internet Security, GrammLeach Bliley Act, Payment Card Industry Data Security Standards (PCI-DSS); and (3) continually monitor its operations and take any action necessary to assure the information is safeguarded in accordance with the terms of this Agreement. At the request of UT System, Vendor agrees to provide UT System a written summary of the procedures the Vendor uses to safeguard this information. If an impermissible use or disclosure of any of the Confidential Data occurs, Vendor will provide written notice to UT System within one (1) business day after Vendor’s discovery of use or disclosure. Vendor will promptly provide UT System all information requested by UT System regarding the impermissible use or disclosure. In addition to any other termination rights set forth in this Agreement and any other rights at law or equity, if UT System reasonably determines that the Vendor has breached any restrictions or obligations set forth in this section, UT System may immediately terminate this Agreement without notice or opportunity to cure.

VENDOR WILL DEFEND WITH COUNSEL APPROVED BY UT SYSTEM, INDEMNIFY, AND HOLD HARMLESS THE UNIVERSITY OF TEXAS SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF VENDOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF VENDOR IN THE EXECUTION OR PERFORMANCE OF THIS PURCHASE ORDER.

VENDOR CERTIFICATION REGARDING BOYCOTTING ISRAEL:

Pursuant to Chapter 2271, *Texas Government Code*, Vendor certifies Vendor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

VENDOR CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS:

Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*, Vendor certifies Vendor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

CYBERSECURITY TRAINING PROGRAM

If Vendor and/or its subcontractors, officers, or employees will have an account on a state computer system (for example, an account to an application, database, or network), then pursuant to Section 2054.5192, *Texas Government Code*, Vendor and its subcontractors, officers, and employees must complete a cybersecurity training program certified under Section 2054.519, *Texas Government Code* and selected by UT System. The cybersecurity training program must be completed by Vendor and its subcontractors, officers, and employees during the term and any renewal period of this Agreement. Vendor shall verify completion of the program to UT System.

THIS ORDER IS ISSUED UNDER AND GOVERNED BY THE LAWS OF THE STATE OF TEXAS. Travis County, Texas, will be the proper place of venue for suit on or in respect of this Order.