

TEXAS SOUTHERN UNIVERSITY STANDARD TERMS AND CONDITIONS

TO VENDOR OF TEXAS SOUTHERN UNIVERSITY:

The Purchasing Office, under the direction of the Chief Financial Officer, has authority to obligate Texas Southern University ("TSU") for the purchase of the supplies, equipment and service. TSU will not assume liability for payment of obligations undertaken which have not been made in accordance with TSU policies and procedures and approved by the designated purchasing officers for TSU.

DELIVERY:

1. If delay in delivery is foreseen, Vendor shall notify TSU, Purchasing Office, 3100 Cleburne Street, Hannah Hall, Room 333, Houston, TX 77004,(713) 313-7195. TSU has the right to extend delivery date if reasons appear valid. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes TSU to purchase supplies elsewhere and charge full increase in cost, if any, to defaulting contractor.
2. No substitutions or cancellations permitted without approval of TSU's Purchasing 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 shown on the front side of this purchase order.

PAYMENT:

1. TSU 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 TSU 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. Pursuant to the Texas Family Code Section 231.006, Texas Government Code Sections 2155.004 and 2155.006, Vendor certifies that it is not ineligible to receive the Order and payments pursuant to the Order and acknowledges that the Order may be terminated and payment withheld if this representation and warranty is inaccurate.
7. All payments shall be made in accordance with Texas Government Code, Chapter 2251 (Texas Prompt Payment Act) (<http://www.statutes.legis.state.tx.us/SOTWDOcs/GV/pdf/GV.2251.pdf>). 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.
8. All payments shall be in accordance with TSU's policy and procedures located online at: http://www.tsu.edu/PDFFiles/Admin/MAPP/Fiscal%20Affairs/03.02.08%20Prompt%20Payment_001.pdf

GENERAL:

ALTERNATIVE DISPUTE RESOLUTION: The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used, as further described herein, by TSU and Vendor to attempt to resolve any claim for breach of contract made by Vendor, to the extent it is applicable to the Order and not preempted by other law. Except as otherwise provided by law, nothing herein is a waiver by TSU or the State of Texas of the right to seek redress in a court of law.

ASSIGNMENT: The parties recognize that this Order is based upon the skill and expertise of the parties and therefore agree that the Order and the obligations thereunder may not be assigned or delegated without the written consent of the other party, except as expressly allowed by this Order.

COMPLIANCE WITH LAW: Vendor shall certify that he/she or it is in compliance with all applicable state and federal laws, including non-discrimination laws as it relates to the terms and conditions of the Order.

NON-APPROPRIATIONS: Vendor understands that TSU is a governmental entity, and should the Legislature fail to provide funding for any period during the term of this Order, TSU shall be excused for all liability for payment. TSU is required to give Vendor written notice within thirty (30) days after learning that the funds will not be available. Upon receiving written notice from TSU, this Order will automatically terminate.

NOTICES: Any notice given under this Order by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.

OFFICIALS NOT TO BENEFIT: No trustee, officer, director, regent, employee, administrator and representative of TSU shall be admitted to any share or part of this Order or to any benefit that may arise therefrom.

GOVERNING LAW/VENUE/STATUTE OF LIMITATIONS: The validity of this Order and the interpretation of its terms and the applicable statute of limitations for any cause of action brought by or against TSU pursuant to the Order shall be governed by the laws of the State of Texas. Jurisdiction for any legal proceedings incident to this Order shall lie in Harris County, Texas.

SUBCONTRACTS: Any subcontracts and outside associates or consultants required by Vendor in connection with the services covered by this Order will be limited to such individuals or firms as were specifically identified and agreed to during negotiations. Vendor shall ensure that each subcontractor complies with all provisions of the Order. Vendor shall remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of the products and/or services set forth in the Order.

TAX EXEMPTION: TSU and Vendor agree that TSU will not be required to pay any taxes for which it can demonstrate an exemption.

CONFIDENTIALITY: Subject to the Texas Public Information Act and any similar legal requirements, neither Party shall disclose any confidential information obtained from the other Party without such Party's prior written approval.

INTELLECTUAL PROPERTY: Vendor represents that it has all intellectual property rights necessary to enter into and perform its obligations under the Order and shall indemnify, defend and hold harmless the State of Texas and TSU against any action, claim, liability, loss or expense related to such intellectual property rights and representations. Vendor will pay any damages attributable to such claim that are awarded against the State of Texas and/or TSU in a judgment or settlement.

INDEMNIFICATION: Vendor shall indemnify and hold harmless TSU, and each of its regents, officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities, including without limitation attorneys' fees and reasonable litigation costs, arising out of, connected with, or resulting from any acts or omissions of Vendor or any agent, employee, subcontractor, or supplier of Vendor in the execution or performance of this Order, to the extent the claim arises from negligence, willful act, breach of contract or violation of law.

INSURANCE: In the event Vendor, its employees, agents or subcontractors enter TSU property in the performance of this Order, Vendor shall maintain: (i) public liability and property damage insurance in the amount of \$100,000 per occurrence; (ii) Worker's Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (iii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iv) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (v) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against TSU. Comprehensive General Liability and Commercial Automobile Liability policies must name TSU as Additional Insured. Vendor shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by TSU. Vendor shall provide TSU Certificates of Insurance evidencing these insurance requirements prior to the start of work.

AUDIT; INDEPENDENT AUDITS; RIGHT TO AUDIT; RETENTION; SUPPORTING DOCUMENTS: Vendor agrees and authorizes TSU and/or the State Auditor (collectively, "Auditor") to conduct audits or investigations in connection with this Order. Vendor agrees to cooperate with Auditors conducting such audits or investigations and to provide all information and documents reasonably requested. Vendor will include this provision in all contracts with permitted subcontractors.

LIMITATIONS: The Parties are aware that there are constitutional and statutory limitations on the authority of TSU (a state agency) to enter into certain terms and conditions of the Order, including, but not limited to, those terms and conditions relating to liens on TSU's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on TSU except to the extent authorized by the laws and Constitution of the State of Texas.

SOVEREIGN IMMUNITY: Except as otherwise provided by Texas law, neither the execution of the Order by TSU nor any other conduct, action or inaction of any TSU representative relating to the Order is a waiver of sovereign immunity by TSU or the State of Texas.

REPRESENTATIONS BY VENDOR: If Vendor is a business entity, Vendor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all

necessary approvals to execute and deliver the Order and is authorized to execute this Order according to its terms on behalf of Vendor.

PRODUCTS AND MATERIALS PRODUCED IN TEXAS: If Vendor will provide services under the Order, Vendor covenants and agrees that in performing its duties and obligations under the Order, it 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.

TRAVEL EXPENSES: If the Order requires TSU to reimburse for travel expenses, the Vendor shall invoice all requests for reimbursement in accordance with the State of Texas travel, meal and lodging reimbursement guidelines applicable to State of Texas employees.

RISK OF LOSS: All work performed by Vendor pursuant to the Order will be at Vendor's exclusive risk until final and complete acceptance of the work by TSU. In the case of any loss or damage to the work prior to TSU's acceptance, such loss or damage will be Vendor's responsibility.

PUBLICITY: Vendor shall not use TSU's name, logo or likeness in any press release, marketing materials or other public announcement without receiving TSU's prior written approval.

LEGAL CONSTRUCTION/SEVERABILITY: In the event that any one or more of the provisions contained in this Order shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Order shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this Order are declared to be severable. The Parties may mutually agree to renegotiate the Order to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.

NON-WAIVER: No covenant or condition of this Order may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.

INDEPENDENT CONTRACTOR: This Agreement is not intended by the parties to constitute or create a joint venture, pooling arrangement, partnership, or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth herein. The relationship of the Vendor to TSU is and shall continue to be that of an independent contractor, and no liability or benefits, such as workers' compensation, pension rights or liabilities, insurance rights or liabilities, arising out of or related to an employer/employee relationship, shall arise, or accrue to either party or either party's agent, subcontractor or employee, as a result of this Order or its performance. No relationship, other than that of independent contractor, shall be implied between the parties or between either party and the other party's agent, employee, or subcontractor.

TERMINATION FOR CONVENIENCE: Upon written notice to the Vendor, TSU may terminate this Order/contract, in whole or in part, whenever TSU shall determine that such termination is in the best interest of TSU. TSU shall pay all reasonable costs incurred up to the date of termination. Vendor shall not be reimbursed for anticipatory profits.

TERMINATION FOR DEFAULT: When the Vendor has not performed or has unsatisfactorily performed the Order/contract, payment shall be withheld at the discretion of TSU. Failure on the part of a Vendor to fulfill contractual obligations shall be considered just cause for termination of the Order/contract and the Vendor is not entitled to recover any costs incurred by the Vendor up to the date of termination.

ENTIRE AGREEMENT: This Order constitutes the entire contract and supersedes all prior or contemporaneous agreements, whether written or oral, between the parties. Verbal representations not contained herein shall not be binding on the parties unless acknowledged by them in writing.