

ITEMS BELOW APPLY TO AND BECOME A PART OF TERMS AND CONDITIONS OF THE PURCHASE
ANY EXCEPTIONS THERETO MUST BE IN WRITING

The following are the terms and conditions for Texas A&M Engineering Experiment Station and/or Texas A&M Transportation Institute, hereafter referred to as the Agency. Each Party represents and warrants that it has full right, power and authority to enter into and perform its obligations under this Agreement, and that the person signing this Agreement is duly authorized to enter into this Agreement on its behalf.

1. VENDOR REQUIREMENTS

- 1.1 Vendors must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of the Agency.
- 1.2 Pricing must be quoted on a "per unit" basis, extended as indicated. Any trade discounts included must be itemized and deducted from extended prices. Unit Prices shall govern in the event of extension errors. Vendor guarantees product or service offered will meet or exceed specifications included.
- 1.3 Purchases should be "F.O.B. destination, freight prepaid and allowed." If vendor quotes freight differently, the order should specify the exact delivery cost and who bears it if not included in the unit price.
- 1.4 Bid prices are requested to be firm for a minimum of 60 days after bid opening date. "Discount from list" bids are not acceptable unless requested. Cash discount will not be considered in determining the low bid. All cash discounts will be taken if earned.
- 1.5 Purchases made for the Agency use are exempt from the State Sales tax and Federal Excise tax. Excise Tax Exemption Certificate will be furnished by the Agency upon request.
- 1.6 The Agency reserves the right to accept or reject all or any part of any offer, waive minor technicalities and issue the purchase order to the vendor that best serves the interests of the State.
- 1.7 Consistent and continued tie offers could cause rejection of offers by the Agency and/or investigation for antitrust violations.
- 1.8 Bids should be submitted electronically via the AggieBuy e-procurement platform, or as otherwise instructed. Late bids will not be considered under any circumstances. As a Vendor responding to this invitation for bid, upon submission of your response, regardless of the format of your submission, you and the entity you represent are agreeing to the Terms and Conditions of Bid ("Terms and Conditions") presented herein. Bid may not be altered or amended after opening time.
- 1.9 **TEXAS BIDDER AFFIRMATION.** Vendor certifies that if a Texas address is shown as the address of the Vendor on this Response, Vendor qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.
- 1.10 **VENDOR AFFIRMATION**
By submitting this bid or accepting this purchase order, the vendor affirms any false statement is a material breach of contract and shall void the submitted bid/quote or any resulting contracts, and the vendor shall be removed from all bid lists. By signature hereon affixed, the vendor hereby certifies that:
The vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid.
The vendor is not currently delinquent in the payment of any franchise tax owed the State of Texas.
Pursuant to Section 2155.004 Government Code, relating to collection of state and local sales and use taxes, the vendor certifies that the individual or business entity named in this order is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.
- 1.11 **PRODUCTS AND MATERIALS PRODUCED IN TEXAS (BUY TEXAS AFFIRMATION).** Vendor agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations under this Agreement, Vendor will purchase products and materials produced in Texas when such products and materials are available at a price and time comparable to products and materials produced outside of Texas.
- 1.12 **FALSE STATEMENTS.** Respondent represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.
- 1.13 **SIGNATURE AUTHORITY.** By submitting a bid response/quote, Vendor represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Vendor and to bind the Vendor under any contract that may result from the submission of this Response.
- 1.14 **REPRESENTATIONS & WARRANTIES.** 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 or organization 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 this Agreement, and the individual executing this Agreement on behalf of Vendor has been duly authorized to act for and bind Vendor.
- 1.15 **NOTE TO VENDORS.** Any terms and conditions attached to a quote will not be considered unless the vendor specifically refers to them in the quote. WARNING: Such terms and conditions may result in disqualification of the quote, (e.g. quotes with the laws of a State other than Texas, requirements for prepayment, limitations on remedies, etc.)
- 1.16 **CONFLICT OF INTEREST.** Vendor certifies, to the best of their knowledge and belief, that no member of the A&M SYSTEM Board of Regents, nor any employee of Agency or TEXAS A&M, has a direct or indirect financial interest in Vendor or in the transaction that is the subject of the Agreement.

- 1.17 **PRIOR EMPLOYMENT.** Vendor acknowledges that Section 2252.901, Texas Government Code, prohibits TEXAS A&M from using state appropriated funds to enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with an individual who has been previously employed by TEXAS A&M during the twelve (12) month period immediately prior to the effective date of the Agreement. If Vendor is an individual, by signing this Agreement, Vendor represents and warrants that it is not a former or retired employee of TEXAS A&M that was employed by TEXAS A&M during the twelve (12) month period immediately prior to the effective date of the Agreement.
- 1.18 **NOT ELIGIBLE FOR REHIRE.** Vendor is responsible for ensuring that its employees involved in any work being performed for Agency under this Agreement have not been designated as “Not Eligible for Rehire” as defined in A&M System policy 32.02, Discipline and Dismissal of Employees, Section 4 (“NEFR Employee”). In the event Agency becomes aware that Vendor has a NEFR Employee involved in any work being performed under this Agreement, Agency will have the sole right to demand removal of such NEFR Employee from work being performed under this Agreement. Non-conformance to this requirement may be grounds for termination of this Agreement by Agency.
- 1.19 **VENDOR ASSIGNMENTS.** Supplier hereby assigns to Agency and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and which arise under the antitrust laws of the State of Texas, TEX. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967).
- 1.20 **ANTITRUST AFFIRMATION.** Respondent represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, or anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Response to any competitor or any other person engaged in the same line of business as Respondent.
- 1.21 **EXECUTIVE HEAD OF A STATE AGENCY AFFIRMATION.** Under Section 669.003 of the Texas Government Code, relating to contracting with an executive head of a state agency, Respondent represents that no person who served as an executive of Agency, in the past four (4) years, was involved with or has any interest in the contract. If Respondent employs or has used the services of a former executive of Agency, then Respondent shall provide the following information in the Response.

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Position with Vendor: _____

Date of Employment with Vendor: _____

2. SPECIFICATIONS

- 2.1 Any catalogue, brand name or manufacturer's reference used in the Invitation for Bid is descriptive only, not restrictive, and is used to indicate type and quality desired. Bids on brands of like nature and quality will be considered unless otherwise specified. If bidding on other than reference, bid should show manufacturer, brand or trade name, and other description of the product offered. If other than brand(s) specified is offered, illustrations and complete description of product offered are requested to be made part of the bid. If Vendor takes an exception to specifications or reference data in his or her bid, Vendor will be required to furnish brand names, numbers, etc., as specified in the Invitation for Bid (IFB).
- 2.2 All items shall be new and unused, including containers suitable for shipment and storage, unless otherwise indicated in IFB/PO. Oral agreements to the contrary will not be recognized.
- 2.3 All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.
- 2.4 The Agency will not be bound by any oral statement or representation contrary to the terms and conditions of this purchase.
- 2.5 Manufacturer's standard warranty shall apply unless otherwise stated.

3. DELIVERY

- 3.1 Bid/quotes should show number of days required to place material in receiving agency's designated location under normal conditions. Failure to state delivery time obligates Vendor to complete delivery in 14 calendar days. Unrealistically short or long delivery promises may cause bid to be disregarded.
- 3.2 If delay is foreseen, vendor shall give written notice to the Agency. The Agency has the right to extend delivery date if reasons appear valid. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the Agency to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting vendor.
- 3.3 No substitutions or cancellation permitted without written approval of the Agency's Purchasing Department.
- 3.4 Delivery shall be made during normal working hours only, unless prior approval for late delivery has been obtained from the Agency.

- 4. INSPECTION AND TESTS.** All goods will be subject to inspection and test by the Agency to the extent practicable at all times and places. Authorized Agency personnel shall have access to any vendor's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted or on samples taken from regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample used and the cost of the testing shall be borne by the vendor. Goods which have been delivered and rejected in whole or in part may, at the Agency's option, be returned to the vendor or held for disposition at vendor's risk and expense. Latent defects may result in revocation of acceptance. All returns should be processed via direct deposit or check returned to the Agency.

5. **AWARD OF CONTRACT.** A response to an Invitation for Bid is an offer to contract with the Agency based upon the terms, conditions and specifications contained herein. Offers do not become contracts until they are accepted and an authorized purchase order is issued. The substantive laws of the State of Texas (and not its conflicts of law principles), USA, govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Pursuant to Section 85.18 (b), Texas Education Code, venue for a state court suit filed against any member of The Texas A&M University System, or any officer or employee of The Texas A&M University System is in the county in which the primary office of the chief executive officer of the system or member, as applicable, is located. At execution of this Agreement, such county is Brazos County, Texas. Venue for any suit brought against The Texas A&M University System in federal court must be in the Houston Division of the Southern District of Texas.
6. **PAYMENT**
- 6.1 All invoices shall be itemized, showing order number and agency purchase order number. Payment will be made upon approval of a valid, uncontested invoice within 30 days of final performance acceptance or invoice submission.
- 6.2 All payments, to the maximum extent practical, shall be made by electronic direct deposit. Vendor should ensure they have completed the direct deposit section of the vendor setup process.
- 6.3 **PROMPT PAYMENT.** Agency's payment shall be made in accordance with Chapter 2251, Texas Government Code ("the Texas Prompt Payment Act"), which shall govern remittance of payment and remedies for late payment and non-payment.
- 6.4 **PAYMENT OF DEBT OR DELINQUENCY TO THE STATE.** Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, Vendor agrees that any payments owed to Vendor under this Agreement may be applied directly toward certain debts or delinquencies that Vendor owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- 6.5 **PAYMENT CARD INDUSTRY (PCI) COMPLIANCE.** For purposes of this Agreement, "PCI DSS" means the most current version of the Payment Card Industry Data Security Standard administered by the Payment Card Industry Security Standards Council. Vendor acknowledges and agrees that it is responsible for the security of cardholder data it possesses or otherwise stores, processes or transmits on behalf of Agency, or to the extent that Vendor could impact the security of the cardholder data environment. Vendor represents and warrants that, as of the Effective Date of this Agreement, it has complied with all PCI DSS requirements and has performed the necessary steps to validate its compliance with PCI DSS. Vendor shall maintain such compliance for the Term of this Agreement and send documentation of its most recent validation of compliance to Agency annually during the Term of this Agreement. In the event that Vendor learns that it is no longer PCI DSS compliant, Vendor will notify Agency within two (2) business days of discovery and immediately remediate such non-compliance. Vendor acknowledges that unauthorized access to the cardholder data environment (a "cardholder data breach") resulting from a lapse in Vendor's security obligations is grounds for early termination of this Agreement, without penalty and with immediate effect, at Agency's discretion. Vendor agrees to comply with all laws, rules, and regulations applicable to cardholder data services, including without limitation, those laws requiring notification of individuals in the event of a cardholder data breach. Vendor agrees to indemnify and hold harmless Agency from and against any third-party claims, damages, or other harm related
7. **COMPLIANCE WITH LAWS**
Each Party hereto shall comply with all federal, state, and local laws, rules, and regulations applicable to the performance of its obligations under this Agreement.
8. **INDEMNIFICATION**
Vendor shall indemnify and hold harmless TEXAS A&M, Agency, and their regents, employees and agents (collectively, the "A&M System Indemnitees") from and against any third-party claims, damages, liabilities, expense or loss asserted against A&M System Indemnitees arising out of any acts or omissions of Vendor or its employees or agents pertaining to the activities and obligations under this Agreement, except to the extent such liability, loss or damage arises from an A&M System Indemnitee's gross negligence or willful misconduct.
9. **CONFIDENTIALITY**
If applicable, the Parties anticipate that under this Agreement it may be necessary for a Party (the "Disclosing Party") to transfer information of a confidential nature ("Confidential Information") to the other Party (the "Receiving Party"). The Disclosing Party shall clearly identify Confidential Information at the time of disclosure by (a) appropriate stamp or markings on the document exchanged, or (b) written notice, with attached listings of all material, copies of all documents, and complete summaries of all oral disclosures (under prior assertion of the confidential nature of the same) to which each notice relates, delivered within thirty (30) days of the disclosure to the other party. "Confidential Information" does not include information that: (a) is or becomes publicly known or available other than as a result of a breach of this Agreement by the Receiving Party; (b) was already in the possession of the Receiving Party as the result of disclosure by an individual or entity that was not then obligated to keep that information confidential; (c) the Disclosing Party had disclosed or discloses to an individual or entity without confidentiality restrictions; or (d) the Receiving Party had developed or develops independently before or after the Disclosing Party discloses equivalent information to the Receiving Party. The Receiving Party shall use the same reasonable efforts to protect the Disclosing Party's Confidential Information as it uses to protect its own confidential information of a similar nature. The Receiving Party may only disclose Confidential Information to its personnel having a need to know the Confidential Information to fulfill the Receiving Party's obligations under this Agreement. The Receiving Party may not reproduce, disclose, or use Confidential Information except in performing its obligations under this Agreement. If the Receiving Party is legally required to disclose Confidential Information, the Receiving Party shall, to the extent allowed by law, promptly give the Disclosing Party written notice of the requirement so as to provide the Disclosing Party a reasonable opportunity to pursue appropriate process to prevent or limit the disclosure. If the Receiving Party complies with the terms of this Section, disclosure of that portion of the Confidential Information, which the Receiving Party is legally required to disclose, will not constitute a breach of this Agreement. The Receiving Party shall, upon request of the Disclosing Party, promptly return or destroy all materials embodying Confidential Information other than materials in electronic backup systems or otherwise not reasonably capable of being readily located and segregated without undue burden or expense, except that the Receiving Party may securely retain one (1) copy in its files solely for record purposes. The Receiving Party's obligations as to Confidential Information will survive the termination or expiration of this Agreement for a period of three (3) years.

- 9.1 **INSURANCE.** Vendor acknowledges that, because Agency is an agency of the state of Texas, liability for the tortious conduct of employees of Agency or for injuries caused by conditions or use of tangible state property is provided solely by the provisions of the Texas Tort Claims Act (Texas Civil Practice and Remedies Code Chapters 101 and 104); and that workers' compensation insurance coverage for employees of Agency is provided by the [A&M SYSTEM] as mandated by the provisions of Chapter 502, Texas Labor Code. Agency shall have the right, at its option, to (a) obtain liability insurance protecting Agency and its employees and property insurance protecting Agency's buildings and contents, to the extent authorized by Section 51.966, Texas Education Code, or other law, or (b) self-insure against any risk that may be incurred by Agency as a result of its operations under the Agreement.
- 9.2 **PROHIBITED AGREEMENTS.** Vendor recognizes that as a state agency, Agency may not award contracts as outlined below.
- 1) **Compensation for Preparing Bids.** Agency cannot award a contract if such contract includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based. Under Section 2155.004, Texas Government Code, Vendor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 2) **Disaster Related Contracts.** Agency cannot award a contract if such contract involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal, civil, or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina or any other disaster occurring after September 24, 2005. Under Section 2155.006, Texas Government Code, Vendor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 3) **Involvement in Human Trafficking.** Agency cannot award a contract if such contract includes financial participation by a person, who, during the five-year period preceding the date of the contract, has been convicted of any offense related to the direct support or promotion of human trafficking. Under Section 2155.0061, Texas Government Code, Vendor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 9.3 **INDEPENDENT CONTRACTOR.** Notwithstanding any provision of this Agreement to the contrary, the Parties hereto are independent contractors. No employer-employee, partnership, agency, or joint venture relationship is created by this Agreement or by Vendor's service to Agency. Except as specifically required under the terms of this Agreement, Vendor (and its representatives, agents, employees and subcontractors) will not represent themselves to be an agent or representative of Agency or A&M SYSTEM. As an independent contractor, Vendor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including but not limited to workers' compensation insurance. Vendor and its employees shall observe and abide by all applicable Agency policies, regulations, rules and procedures, including those applicable to conduct on its premises.
- 9.4 **HIPAA.** If applicable, the Parties shall comply with all federal and state laws, rules, and regulations applicable to the maintenance, use, and disclosure of Protected Health Information (as defined in HIPAA (as defined below)), including but not limited to, the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("HIPAA"), Subtitle D of the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and any regulations promulgated thereunder (the "HITECH Act", and collectively with HIPAA, the "HIPAA Requirements"). The Parties agree to enter into any further agreements with each other or other appropriate entities as may be necessary to facilitate compliance with the HIPAA Requirements.
- 9.5 **NOTICES.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed given: (a) three (3) business days after it is deposited and post-marked with the United States Postal Service, postage prepaid, certified mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by email transmission with electronic confirmation of receipt by the party being notified, or (d) on the date of delivery if delivered personally. Agency and Vendor can change their respective notice address by sending to the other Party a notice of the new address. Notices must be addressed as follows: Texas A&M Engineering Experiment Station, Procurement Department, 3124 TAMU, College Station, TX 77843.
10. **SUSPENSION AND DEBARMENT**
Vendor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.
- 10.1 **EXCLUDED PARTIES.** Vendor certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the United States Department of the Treasury, Office of Foreign Assets Control.
- 10.2 **CERTIFICATION REGARDING BOYCOTTING ISRAEL.** To the extent that Texas Government Code, Chapter 2271 is applicable to this Agreement, Vendor certifies that (a) it does not currently boycott Israel; and (b) it 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.
- 10.3 **CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS**
Vendor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152, Texas Government Code. Vendor acknowledges this Agreement may be terminated immediately if this certification is inaccurate.
- 10.4 **CERTIFICATION AS TO BOYCOTTING ENERGY COMPANIES.** To the extent that Chapter 2274, Texas Government Code, is applicable to this Agreement, Vendor verifies that (a) it does not boycott energy companies, and (b) it will not boycott energy companies during the term of this Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
- 10.5 **CERTIFICATION AS TO DISCRIMINATION AGAINST FIREARM ENTITIES.** To the extent that Chapter 2274, Texas Government Code, is applicable to this Agreement, Vendor verifies that (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (2) it will not discriminate during the term of this Agreement

against a firearm entity or firearm trade association. Vendor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.

- 10.6 **CERTIFICATION REGARDING PRODUCTS FROM THE GAZA STRIP.** Vendor represents and warrants that the goods it provides to Agency under this Agreement are not produced in or exported from the Gaza Strip or from any organization or state actor with ties to Hamas.
- 10.7 **EXECUTIVE ORDER GA-48.** Vendor represents and warrants that Vendor is not and, if applicable, none of its holding companies or subsidiaries are a) listed in Section 889 of the 2019 National Defense Authorization Act ("NDAA") regarding telecommunications and video surveillance; b) listed in Section 1260H of the 2021 NDAA regarding Chinese military companies in the US; c) owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4 ("15 C.F.R. § 791.4 List"); or d) controlled by any governing or regulatory body located in a country on the 15 C.F.R. § 791.4 List. Vendor acknowledges that a false certification is a material breach of contract and is grounds for immediate termination of this Agreement with no further obligation on the part of A&M System. If this Agreement is terminated due to a false certification, Vendor will immediately reimburse Agency for all prepaid costs.
11. **SURVIVAL**
Any provision of this Agreement that may reasonably be interpreted as being intended by the Parties to survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.
12. **PUBLIC INFORMATION**
Vendor acknowledges that TEXAS A&M is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon TEXAS A&M's written request, and at no cost to TEXAS A&M, Vendor will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of TEXAS A&M in a non-proprietary format acceptable to TEXAS A&M that is accessible by the public. Vendor acknowledges that TEXAS A&M may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and Vendor agrees that this Agreement can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.
- 12.1 Vendor will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.
13. **STATE AUDITOR'S OFFICE RIGHT TO AUDIT.** Vendor understands that acceptance of funds under this Agreement 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 Section 51.9335(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.
14. **PUBLIC INFORMATION ACT.** Vendor acknowledges that Agency is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon Agency's written request, vendor will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of Agency to Agency in a non-proprietary format acceptable to Agency that is accessible by the public. Vendor acknowledges that Agency may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this agreement and the vendor agrees that the agreement can be terminated if the vendor knowingly or intentionally fails to comply with a requirement of that subchapter.
15. **DELINQUENT CHILD SUPPORT OBLIGATIONS.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. Under Section 231.006, *Texas Family Code*, Vendor certifies that it is not ineligible to receive the payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
16. **DISPUTE RESOLUTION.** To the extent that Chapter 2260, *Texas Government Code*, is applicable to this Agreement, the dispute resolution process provided in Chapter 2260, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by Agency 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. Vendor shall submit written notice of a claim of breach of contract under this Chapter to the Risk & Compliance Officer, who shall examine Vendors's claim and any counterclaim and negotiate with Vendor in an effort to resolve the claim. This provision and nothing in this Agreement waives Agency's sovereign immunity to suit or liability and Agency has not waived its right to seek redress in the courts.
17. **GOVERNING LAW**
The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- 17.1 **VENUE.** Pursuant to Section 85.18(b), Texas Education Code, mandatory venue for all legal proceedings against Agency is to be in the county in which the principal office of Agency's governing officer is located.
18. **USE OF NAME**
Each Party acknowledges that all rights in any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with that Party (its "Marks"), including all goodwill pertaining to the Marks, are the sole property of that Party. Neither Party

may use the Marks of the other without the advance written consent of that Party, except that each Party may use the name of the other Party in factual statements that, in context, are not misleading.

18.1 **PATENTS OR COPYRIGHTS.** The vendor agrees to protect the Agency from claims involving infringement of patents or copyrights.

18.2 **OWNERSHIP OF CREATED WORKS.** Vendor irrevocably assigns, transfers and conveys to Agency, for no additional consideration, all of Vendor's ownership, rights, title and interest in and to all works prepared by Vendor under this Agreement ("Deliverables"), including, without limitation, all copyrights, patents, trademarks, trade secrets and other intellectual property rights and all other rights that may hereafter be vested relating to the Deliverables under law. Vendor certifies that all Deliverables will be original, or that Vendor will have obtained all rights necessary for the ownership and unrestricted use of the Deliverables by Agency. Vendor shall secure for Agency all consents, releases, and contracts and perform other reasonable acts as Agency may deem necessary to secure and evidence Agency's rights in any Deliverable.

19. TERMINATION
19.1 CONVENIENCE

Agency may terminate this Agreement for no cause on thirty (30) days' written notice to Vendor. Furthermore, any provision automatically renewing or extending the term of this Agreement shall have no effect or be enforceable against Agency under this Agreement.

19.2 CAUSE/DEFAULT

In the event of substantial failure by Vendor to perform in accordance with the terms of this Agreement, the Agency may terminate this Agreement upon fifteen (15) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that said failure is through no fault of the Agency.

19.3 **RIGHTS UPON TERMINATION OR EXPIRATION.** In the event that the Agreement is terminated for any reason, or upon its expiration, the Agency shall retain ownership of all associated work products and documentation obtained from Vendor under the Agreement. Further, the Agency and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Vendor may be entitled to the remedies provided in Texas Government Code, Chapter 2260. No later than the first calendar day after the termination of this Agreement, or at the Agency request, Vendor shall deliver to the Agency all completed, or partially completed, work and any and all documentation or other products and results of these services.

19.4 **REFUND OF DEPOSIT/PREPAYMENT.** In the event this Agreement is canceled and/or terminated by Vendor for reason not attributable to Agency or if canceled and/or terminated by Agency for default of performance by Vendor, then within thirty (30) days after cancellation and/or termination, Vendor will reimburse Agency for all advance payments paid by Agency to Vendor that were (a) not earned by Vendor prior to cancellation and/or termination, or (b) for goods or services that the Agency did not receive from Vendor prior to cancellation and/or termination.

19.5 **LOSS OF FUNDING.** Performance by Agency under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, Agency will issue written notice to Vendor and Agency may terminate this Agreement without further duty or obligation hereunder. Vendor acknowledges that appropriation of funds is beyond the control of Agency. In the event of a termination or cancellation under this Section, Agency will not be liable to Vendor for any damages that are caused or associated with such termination or cancellation.

20. **SEVERABILITY.** In case any one or more of the provisions contained in this Agreement 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 provisions hereof, and this Agreement shall be construed as if such invalid, illegal, and unenforceable provision had never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto and shall become effective on the date designated by such law or by regulation.

21. **FORCE MAJEURE.** Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement if and to the extent such failure or delay is caused by or results from causes beyond the affected Party's reasonable control, including, but not limited to, acts of God, strikes, riots, flood, fire, epidemics, natural disaster, embargoes, war, insurrection, terrorist acts or any other circumstances of like character; provided, however, that the affected Party has not caused such force majeure event(s), shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure, including describing the force majeure event(s) and the actions taken to minimize the impact of such event(s).

22. **NON-WAIVER PRIVILEGES AND IMMUNITIES.** Agency is an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. Vendor expressly acknowledges that Agency is an agency of the state of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by Agency of its right to claim such exemptions, remedies, privileges, and immunities as may be provided by law, including the sovereign immunity of Agency.

23. **ABANDONMENT OR DEFAULT.** If the Vendor defaults on the Agreement, the Agency reserves the right to cancel the Agreement without notice and either re-solicit or re-award the Agreement to the next best responsive and responsible respondent. In the event of abandonment or default, Vendor will be responsible for paying damages to the Agency including but not limited to re-procurement costs, and any consequential damages to the State of Texas or the Agency resulting from Vendor's non-performance. The defaulting Vendor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

24. **EXPORT CONTROL.** Each Party shall comply with U.S. export control regulations. If either Party desires to disclose to the other Party any information, technology, or data that is identified on any U.S. export control list, the disclosing Party shall advise the other Party at or before the time of intended disclosure and may not provide export-controlled information to the other Party without the written consent of the other Party. As an institution of higher learning, the Agency typically does not take receipt of export-controlled goods, technical data, services or technology ("Materials") except as may be specifically agreed by the Agency. **Vendor agrees that it will not provide or make accessible to the Agency any export-controlled materials without first informing the Agency of the export-controlled nature to the materials and obtaining its written consent to accept such materials as well as any specific instructions for delivering controlled materials to the Agency.** Vendor agrees to obtain government approval or export license if required from the appropriate US Government agency and to share that information with the Agency prior to delivery of such. Materials. In the event that any purchased item is export controlled under the U.S. Export Control Regulations, Vendor shall provide the Agency with the export control classification and failure to do so may result in the cancellation of the respective purchase order or agreement.
- 24.1 **EXPORT COMPLIANCE.** Agency is subject to United States laws and regulations controlling the export of technical data, software, laboratory prototypes, and other commodities, and its obligations under this Agreement are contingent on compliance with applicable laws and regulations. The transfer of certain technical data and commodities may require a license from the cognizant agency of the United States government or written assurances by Vendor that Vendor will not export data or commodities to certain countries without advance approval of that agency. Agency neither represents that a license will not be required nor that, if required, it will be issued. Vendor shall comply with all applicable export laws and regulations and may not export or allow the export or re-export of commodities or technical data in violation of those laws or regulations. Vendor certifies that none of its personnel participating in the activities under this Agreement is a "restricted party" as listed on the Denied Persons List, Entity List, and Unverified List (U.S. Department of Commerce), the Debarred Parties Lists (U.S. Department of State), the Specially Designated Nationals and Blocked Persons List (U.S. Department of Treasury), or any similar governmental lists. If applicable, Vendor certifies that the [LICENSED MATERIALS] (a) if subject to the U.S. Export Administration Regulations, are not classified under any ECCN in the Commerce Control List other than EAR99, (b) are not controlled under the U.S. International Traffic in Arms Regulations, and (c) are not otherwise controlled by the U.S. government for national security or foreign policy purposes.
25. **INFORMATION SECURITY.** Pursuant to Title 1, Chapter 202, §202.77 of the Texas Administrative Code, Vendor hereby acknowledges responsibility to comply with all applicable the Agency policies, rules, standards, practices, and agreements, including but not limited to: safety policies, privacy policies, security policies, auditing policies, software licensing policies, acceptable use policies, and nondisclosure as required by the Agency. For purposes of this section concerning Vendor Access, Confidential Information is defined as information that must be protected from unauthorized disclosure or public release based on state or federal law or other legally binding agreement and may include but is not limited to the following: personally identifiable information (social security number and/or financial account numbers, student education records); intellectual property (as set forth in Section 51.914 of the Texas Education Code); and medical records. Mission Critical Information is information that is defined by the Agency to be essential to the continued performance of the mission of the Agency, the unavailability of which would result in consequences to the Agency. In the event Vendor should obtain or be granted access to Confidential and/or Mission Critical Information of the Agency, Vendor will keep and protect the Agency information confidential to no less than the same degree of care as required by the Agency policies, rules and procedures. At the expiration or early termination of this Agreement, Vendor agrees to return all the Agency information or agrees to provide adequate certification that the Agency information has been destroyed. Vendor, its employees, agents, Vendors, and subcontractor shall use the Agency information solely in connection with performance by Vendor of the services provided to the Agency pursuant to this Agreement, and for no other purpose. Should Vendor, its employees, agents, Vendors, or subcontractor acquire other Agency information during the course of this Agreement, it shall not be used for Vendor's own purposes or divulged to third parties. Vendor shall comply with all terms and conditions of any the Agency non-disclosure agreement applicable to this Agreement. Both parties shall each provide contact information for specific individuals. The designated contact for the Agency is listed on the front of this purchase order. Should the designated contact for either party need to be changed, the new contact information shall be updated and provided to the respective parties within 24 hours of any staff changes. Should Vendor have a need to access the Agency information, that request shall be directed to the Agency designated contact. Further, Vendor is responsible for reporting all security breaches directly to the Agency.
26. **SUSTAINABILITY.** The Agency is committed to campus sustainability initiatives. Support of these initiatives necessarily includes the purchase of goods and services that minimize the impact on the environment to the greatest extent possible. The Agency requests Vendor's assistance in campus sustainability initiatives by informing in any bid response, or other discussions, of Vendor's sustainability practices or environmentally sustainable product offerings. For example, alternative products available from Vendor which may be recyclable or reusable, end of life (obsolescence) return of equipment to Vendor, energy-saving devices, return to Vendor
27. **DECEPTIVE TRADE PRACTICES UNLAWFUL.** Pursuant to Section 17.46(b)(27) of the Texas Government Code, it is unlawful to take advantage of a disaster declared by the governor under Chapter 418 of the Texas Government Code by selling or leasing at, or making a demand for, an exorbitant or excessive price for fuel, food, medicine or another necessity.
28. **CLOUD COMPUTING SERVICES (TxRAMP).** As of the Effective Date, Vendor certifies that it complies with the then-current requirements of the risk and authorization management program established by the Texas Department of Information Resources ("TX-RAMP"). Pursuant to Section 2054.0593, Texas Government Code, Vendor shall maintain TX-RAMP compliance and certification, as may be amended from time to time, throughout the Term, including any renewal term of this Agreement. Vendor shall provide Agency with evidence of its TX-RAMP compliance and certification within thirty (30) days of Agency's request and at least thirty (30) days prior to the start of any renewal term of this Agreement. In the event that Vendor fails to maintain TX-RAMP compliance and certification throughout the Term, including any Renewal Term, Agency may immediately terminate this Agreement, and Vendor will provide a refund to Agency of any prepaid fees.
29. **EXCESS OBLIGATIONS PROHIBITED.** This contract is subject to termination or cancellation, without penalty to the Agency, either in whole or in part, subject to the availability of state funds.
30. **NON-DISCRIMINATION.** The Seller and its agents and employees are prohibited from engaging in or allowing any impermissible discrimination on the basis of race, religion, color, national origin, age, sex, disability, genetic information or veteran status in relation to (1) the Seller's employment practices; (2) the performance of the Seller's obligations under the Agreement. In performing its obligations under the Agreement, Seller shall be subject to and shall comply with all currently effective or subsequently promulgated policies regarding non-discrimination issued by either the Agency or The Texas A&M University System.

31. **NON-ASSIGNMENT.** Vendor shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of Agency. Any attempted assignment in violation of this provision is void and without effect. TEX GOVT CODE §2262.056(b)
32. **CONFLICTING TERMS & CONDITIONS.** Any terms and conditions attached to a bid will not be considered unless the Vendor specifically refers to them on a formal bid. WARNING: SUCH TERMS AND CONDITIONS MAY RESULT IN DISQUALIFICATION OF THE BID. (E.G. BIDS WITH THE LAWS OF A STATE OTHER THAN TEXAS, REQUIREMENTS FOR PREPAYMENT, LIMITATIONS ON REMEDIES, ETC.)
33. **CYBERSECURITY TRAINING PROGRAM.** If applicable, Pursuant to Section 2054.5192, Texas Government Code, Vendor's employees, officers, and subcontractors who have access to Texas A&M's computer system and/or database must complete a cybersecurity training program certified under Section 2054.519, Texas Government Code, and selected by TEXAS A&M. The cybersecurity training program must be completed by Vendor's employees, officers, and subcontractors during the Term and any renewal period of this Agreement. Vendor shall verify completion of the program in writing to TEXAS A&M within the first thirty (30) calendar days of the Term and any renewal period of this Agreement. Vendor acknowledges and agrees that its failure to comply with the requirements of this paragraph are grounds for TEXAS A&M to terminate this Agreement for cause.
34. **ACCESS BY INDIVIDUALS WITH DISABILITIES.** Vendor represents and warrants that the goods and services provided hereunder comply with the accessibility requirements in Title 1, Chapters 206 and 213 of the *Texas Administrative Code* and Title II of the Americans with Disabilities Act and the technical standards set forth in the Web Content Accessibility Guidelines 2.1, level AA (available at <https://www.w3.org/TR/WCAG21>), as published by the Web Accessibility Initiative of the World Wide Web Consortium (the "Accessibility Warranty"). Vendor shall promptly respond to and use commercially reasonable efforts to resolve and remediate any noncompliance with the Accessibility Warranty. In the event that Vendor fails or is unable to do so, Agency may immediately terminate this Agreement, and Vendor will refund to Agency all amounts paid by Agency under this Agreement within thirty (30) days following the effective date of termination.
- 34.1 **ELECTRONIC AND INFORMATION RESOURCE (EIR).** An EIR is information technology and any equipment or interconnected system or subsystem of equipment used to create, convert, duplicate, store, or deliver data or information. EIR includes telecommunications products (such as telephones), information kiosks and transaction machines, web sites, multimedia, and office equipment such as copiers and fax machines. If the embedded information technology has an externally available web or computer interface, that interface is considered EIR. Other terms: Information and Communications Technology (ICT), Information Technology (IT), Electronic Information Technology (EIT), etc. can be considered interchangeable terms with EIR.
- 34.2 **INFORMATION AND COMMUNICATION TECHNOLOGY (ICT).** ICT refers to technologies that provide access to information through telecommunications. Information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT: computers and peripheral equipment; information kiosks and transaction machines; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; websites; videos; and electronic documents. Supersedes Electronic and Information Technology (EIT)
35. **ACCESS TO AGENCY DATA**
If applicable, Pursuant to Section 2054.138, *Texas Government Code*, Vendor shall implement and maintain appropriate administrative, technical, and physical security measures, including without limitation, the security controls available at <https://iso.engr.tamu.edu/catalog.html>, as may be amended from time to time (the "Security Controls"), to safeguard and preserve the confidentiality, integrity, and availability of Agency's data. Vendor shall periodically provide Agency with evidence of its compliance with the Security Controls within thirty (30) days of Agency's request.
- 35.1 **DATA PRIVACY.** If applicable, Vendor shall hold Agency's data in confidence. Vendor shall only use or disclose Agency's data for the purpose of fulfilling Vendor's obligations under this Agreement, as required by law, or as otherwise authorized in writing by Agency. Vendor shall restrict disclosure of the Agency's data solely to those employees, subcontractors or agents of Vendor that have a need to access the Agency's data in order for Vendor to perform its obligations under this Agreement. Vendor shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on Vendor in this Agreement. Vendor shall, within two (2) business days of discovery, report to Agency any use or disclosure of Agency's data not authorized by this Agreement or in writing by Agency. Vendor's report must identify: (a) the nature of the unauthorized use or disclosure, (b) the Agency data used or disclosed, (c) who made the unauthorized use or received the unauthorized disclosure, (d) what Vendor has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (e) what corrective action Vendor has taken or will take to prevent future similar unauthorized use or disclosure. Vendor shall provide such other information, including a written report, as reasonably requested by Agency. Vendor must promptly notify Agency of any legal request for Agency's data from a third party and take (and assist Agency in taking) appropriate steps not to disclose such Agency data. Within thirty (30) days of the expiration or termination of this Agreement, Vendor, as directed by Agency, shall return all Agency data to Agency in its possession (or in the possession of any of its subcontractors or agents) or delete all such Agency data if return is not feasible. Vendor shall provide Agency with at least ten (10) days' written notice of Vendor's intent to delete such Agency data, and shall confirm such deletion in writing.
36. **COMPUTER EQUIPMENT RECYCLING PROGRAM (for purchase or lease of computer equipment).** If applicable, Vendor certifies its compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
37. **HUB SUBCONTRACTING PLAN.** It is the policy of the State of Texas and Agency to encourage the use of Historically Underutilized Businesses ("HUB") in our contracts, purchasing transactions and through subcontracting opportunities. The goal of the HUB program is to promote equal access and equal opportunity to HUB vendors in Agency contracting and purchasing. When applicable, Vendor will use good faith efforts to subcontract work performed under this Agreement in accordance with the Agency HUB subcontracting plan ("HSP"). Except as specifically provided in the HSP, Vendor will not subcontract any of its duties or obligations under this Agreement, in whole or in part. Furthermore, Vendor will comply with all of its duties and obligations under Section 20.285 of the Texas Administrative Code.

38. **COVID-19 VACCINE PASSPORT PROHIBITION (for Agreements using State funds).** If applicable, Respondent certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Respondent's business. Respondent acknowledges that such a vaccine or recovery requirement would make Respondent ineligible for a state-funded contract.
39. **ENTIRE AGREEMENT.** This Agreement constitutes the entire and only agreement between the Parties hereto and supersedes any prior understanding, written or oral agreements between the Parties, or "side deals" which are not described in this Agreement. This Agreement may be amended only by a subsequent written agreement signed by authorized representatives of both parties.
40. **FEDERALLY FUNDED PURCHASES – Contract Provisions for Contracts Under Federal Grants & Government Contracts**
The Vendor shall comply with all federal regulations relating to the performance of services or deliverables provided for in this Purchase Order. In addition to the Agency Purchase Order terms and conditions and other provisions required by the Federal agency, the clauses listed in this section are hereby incorporated into solicitations and purchase orders with the same force and effect as if set forth in full text, as applicable. If these clauses conflict with any other term of this Purchase Order, these clauses will prevail. Vendor must flow-down all applicable clauses to lower-tier Vendors. The Agency and Vendor comply with the requirements of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards to non-Federal entities ("Uniform Guidance"): [Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#). If used below, "Contract" and/or "Subcontract" shall mean the Purchase Order or Agreement, "Contractor" shall mean the Vendor, and "Government" and/or "Contracting Officer" or equivalent phrases shall mean the Agency.
The term "FAR" means Federal Acquisition Regulations, including revisions in effect on the date of this Purchase Order. The term "DFARS" means the Defense Federal Acquisition Regulation Supplements, including revisions in effect on the date of this Purchase Order. If the date or substance of any clause listed below differs from the date or substance of the clause incorporated in the Prime Contract (or any higher-tier subcontract), the date or substance of the clause incorporated in the Prime Contract (or higher-tier subcontract) will apply. The parties intend that these clauses apply to Vendor to ensure Vendor's obligations to the Agency and to the United States government and to enable the Agency to meet its obligations under its Prime Contract or subcontract. Any reference to a "Disputes" clause in any of these clauses refers to the "Disputes" clause in the Prime Contract, but such reference does not allow Vendor, without the approval of the Agency, to prosecute and/or appeal either directly or in the name of the Agency to the Contracting Officer for the Prime Contract.

FEDERAL REQUIREMENTS FOR ALL PURCHASES:

- **No Obligation by Federal Government**
The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- **DHS Seal, Logo, and Flags**
The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- **Program Fraud and False or Fraudulent Statements or Related Acts**
The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.
- **Compliance with Federal Law, Regulations, and Executive Orders**
If applicable, this is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- FAR 52.203-15 Whistleblower Protections Under the American Recovery And Reinvestment Act of 2009 (June 2010)
- FAR 52.203-17 Contractor Employee Whistleblower Rights (Nov 2023) (applies unless this Purchase Order is under a Prime Contract with the DoD, NASA, the U.S. Coast Guard, or applicable elements of the intelligence community (defined in 50 U.S.C. 3003(4))
- FAR 52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (applies unless this Purchase Order is with an individual for personal services)
- FAR 52.204-2 Security Requirements (Mar 2021)
- FAR 52.204-13 System for Award Management Maintenance (Oct 2018) (applies if FAR 52.204-7 is included in the solicitation)
- FAR 52.204-18 Commercial and Government Entity Code Maintenance (Aug 2020) (applies if FAR 52.204- 16 is included in the solicitation)
- FAR 52.204-19 Incorporation by Reference of Representations and Certifications (Dec 2014)
- FAR 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (Nov 2021) (applies if Vendor may have federal contract information residing in or transiting through its information system, unless this Purchase Order is for commercially available off-the shelf items)
- FAR 52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (Dec 2023)
- FAR 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)
- FAR 52.204-27 Prohibition on a ByteDance Covered Application (Jun 2023) (unless an exception is or has been granted in accordance with OMB Memorandum M-23-13)
- FAR 52.204-30 Federal Acquisition Supply Chain Security Act Orders—Prohibition (Dec 2023) (excluding (c)(1); applies if this Purchase Order is subject to FASCSA order(s), unless this Purchase Order is a Federal Supply Schedule, Governmentwide acquisition contract, or multi-agency contract)
- FAR 52.204-30 Federal Acquisition Supply Chain Security Act Orders—Prohibition (Dec 2023), with its Alternate I (Dec 2023) (excluding (c)(1); applies if (1) the program office or requiring activity of the contract instructs the contracting officer to select FASCSA orders, or (2) this Purchase Order is a Federal Supply Schedule, Governmentwide acquisition contract, or multi-agency contract where FASCSA order(s) are applied at the contract level)
- FAR 52.211-5 Material Requirement (Aug 2000) (applies if this Purchase Order is for supplies that are not commercial products)
- FAR 52.211-15 Defense Priority and Allocation Requirements (Apr 2008) (applies if this Purchase Order is a rated order)
- FAR 52.212-4 Contract Terms and Conditions—Commercial Products and Commercial Services (Nov 2023)
- FAR 52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders— Commercial Products and Commercial Services (Dec 2023)
- FAR 52.213-2 (for Purchase Orders that authorize advance payments) Invoices (Apr 1984)
- FAR 52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (Jan 2025)

- FAR 52.219-8 Utilization of Small Business Concern (Sep 2023) (applies if this Purchase Order offers further subcontracting opportunities, unless this Purchase Order is for personal services or will be performed entirely outside of the United States and its outlying areas). If this Purchase Order exceeds \$750,000 (\$1,500,000 for construction), Vendor shall include this clause in lower tier subcontracts that offer subcontracting opportunities.
- FAR 52.222-19 Child Labor – Cooperation with Authorities and Remedies (Feb 2024)
- FAR 52.222-50 Combating Trafficking in Persons (Nov 2021)
- FAR 52.222-54 Employment Eligibility Verification (May 2022)
- FAR 52.222-55 Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022) (applies if this Purchase Order is subject to the Service Contract Labor Standards statute or the Construction Wage Rate Requirements (Construction) statute)
- FAR 52.222-62 Paid Sick Leave Under Executive Order 13706 (Jan 2022) (applies if this Purchase Order is subject to the Service Contract Labor Standards statute or the Construction Wage Rate Requirements (Construction) statute)
- FAR 52.223-2 Reporting of Biobased Products Under Service and Construction Contracts (May 2024) (Applies to service and construction contracts unless the contract will not involve the use of biobased products in USDA-designated product categories at <https://www.biopreferred.gov> or 7 CFR part 3201)
- FAR 52.223-3 Hazardous Material Identification and Material Safety Data (Feb 2021) (applies if this Purchase Order requires delivery of hazardous materials)
- FAR 52.223-6 Drug-Free Workplace (May 2001)
- FAR 52.223-7 Notice of Radioactive Materials (Jan 1997)
- FAR 52.224-2 Privacy Act (Apr 1984)
- FAR 52.224-3 Privacy Training (Jan 2017) (applies if flow down is required in accordance with (f); its Alternate I (Jan 2017) applies if flow down is required under FAR 52.224-3(f) and the agency specifies that only its agency-provided training is acceptable)
- FAR 52.225-1 Buy-American Supplies (Oct 2022)
- FAR 52.225-3 Buy American-Free Trade Agreements-Israeli Trade Act (Nov 2023)
- FAR 52.225-13 Restrictions on Certain Foreign Purchases (Feb 2021)
- FAR 52.225-26 Contractors Performing Private Security Functions Outside the United States (Oct 2016) (applies if this Purchase Order is for performance outside the United States in an area of combat operations or other significant military operations)
- FAR 52.227-10 Filing of Patent Applications – Classified Subject Matter (Dec 2007) (applies if this Purchase Order is classified or if the nature of the work reasonably might result in a patent application containing classified subject matter)
- FAR 52.227-11 Patent Rights-Ownership by the Contractor (May 2014) (applies if this Purchase Order is for experimental, developmental, or research work)
- FAR 52.227-13 Patent Rights-Ownership by the Government (Dec 2007)
- FAR 52.227-14 Rights in Data-General (May 2014)
- FAR 52.232-23 Assignment of Claims (May 2014)
- FAR 52.232-39 Unenforceability of Unauthorized Obligations (Jun 2013)
- FAR 52.232-40 Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) (applies if this Purchase Order is with small business concern)
- FAR 52.233-1 Disputes (May 2014), and its Alternate I (Dec 1991)
- FAR 52.233-3 Protest After Award (Aug 1996) (its Alternate I (June 1985) applies if this Purchase Order is a cost-reimbursement contract)
- FAR 52.233-4 Applicable Law for Breach of Contract Claim (Oct 2004)
- FAR 52.240-1 Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities (Nov 2024)
- FAR 52.242-15 Stop-Work Order (Aug 1989) (applies if this Purchase Order is for supplies, services, or research and development; if this Purchase Order is a cost-reimbursement contract, Alternate I (Apr 1984) applies)
- FAR 52.243-1 Changes – Fixed Price (Aug 1987) (applies if this Purchase Order is a fixed-price contract for supplies)
- FAR 52.243-1 Changes – Fixed Price (Aug 1987), with its Alternate V (Aug 1984) (applies if this Purchase Order is a fixed-price contract for supplies and a research and development contract is contemplated)
- FAR 52.243-2 Changes-Cost-Reimbursement (Aug 1987) (applies if this Purchase Order is a cost-reimbursement contract for supplies)
- FAR 52.243-2 Changes-Cost-Reimbursement, with its Alternate V (Aug 1984) (applies if this Purchase Order is a cost-reimbursement contract for supplies and a research and development contract is contemplated)
- FAR 52.243-3 Changes-Time-and-Materials or Labor-Hours (Sept 2000) (applies if this Purchase Order is a time-and-materials or labor-hour contract)
- FAR 52.244-6 Subcontracts for Commercial Items (Dec 2023) (applies if this Purchase Order is for other than commercial products or commercial services)
- FAR 52.245-1 Government Property (Sep 2021) (applies if Government property is furnished to Vendor under this Purchase Order)
- FAR 52.247-63 Preference for U.S.-Flag Air Carriers (June 2003)
- FAR 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) (applies if flow down is required in accordance with (d))
- FAR 52.249-1 Termination for Convenience of the Government (Fixed Price) (Short Form) (Apr 1984)
- FAR 52.249-2 Termination for Convenience of the Government (Fixed Price) (Apr 2012)
- FAR 52.249-8 Default (Fixed-Price Supply and Service) (Apr 1984)
- DFARS 252.203-7002 Requirement to Inform Employees of Whistleblower Rights (Dec 2022)
- DFARS 252.204-7000 Disclosure of Information (Oct 2016) (applies if Vendor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public)
- DFARS 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Jan 2023) (applies unless Purchase Order is solely for commercially available off-the-shelf items)
- DFARS 252.204-7015 Notice of Authorized Disclosure of Information for Litigation Support (Jan 2023)
- DFARS 252.204-7020 NIST SP 800-171 DoD Assessment Requirements (Nov 2023) (applies unless Purchase Order is solely for commercially available off-the-shelf items)
- DFARS 252.211-7003 Item Unique Identification and Valuation (Jan 2023)
- DFARS 252.225-7007 Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies (Dec 2018) (applies if this Purchase Order involves delivery of items covered by the U.S. Munitions List or the 600 series of the Commerce Control List, unless an exception in DFAR 225.770-3 applies)
- DFARS 252.225-7048 Export Controlled Items (June 2013)
- DFARS 252.225-7060 Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region (Jun 2023) (applies when Purchase Order is for products and utilizes funds appropriated to DoD)

- DFARS 252.227-7013 Rights in Technical Data-Noncommercial Other Than Commercial Products and Commercial Services (Mar 2023) (applies if this Purchase Order requires delivery of technical data pertaining to other than commercial products or commercial services, or pertaining to commercial products or commercial services for which the Government will have paid for any portion of the development costs, unless the only deliverable items are as listed in DFARS 227.7103-6(a) or if contracting under the Small Business Innovation Research Program)
- DFARS 252.227-7014 Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation (Mar 2023) (applies if this Purchase Order requires the delivery of computer software or computer software documentation, unless the only deliverable items are as listed in DFARS 227.7203-6(a)(1) or if contracting under the Small Business Innovation Research Program)
- DFARS 252.227-7015 Technical Data—Commercial Products and Commercial Services (Mar 2023) (applies if this Purchase Order requires delivery of technical data pertaining to commercial products, commercial components, or commercial services, or commercial processes)
- DFARS 252.227-7016 Rights in Bid or Proposal Information (Jan 2023)
- DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data (applies when DFARS 252.227-7013 or DFARS 252.227-7015 is included)
- DFARS 252.227-7038 Patent Rights—Ownership by the Contractor (Large Business) (Jun 2012) (applies in place of FAR 52.227-11 when Purchase Order is for experimental, developmental, or research work; Seller is other than a small business concern or nonprofit; and no alternative patent rights clause is used under FAR 27.303)
- DFARS 252.231-7000 Supplemental Cost Principles (Dec 1991)
- DFARS 252.239-7010 Cloud Computing Service (Jan 2023) (applies if this Purchase Order involves using cloud computing to provide information technology services)
- DFARS 252.244-7000 Subcontracts for Commercial Products or Commercial Services (Nov 2023)
- DFARS 252.244-7001(c)(19), (20), and (21) Contractor Purchasing System Administration (May 2014)
- DFARS 252.246-7003 Notification of Potential Safety Issues (Jan 2023) (applies if this Purchase Order is for repairable or consumable parts identified as critical safety items; systems and subsystems, assemblies, and subassemblies integral to a system; or repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system)
- DFARS 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (Jan 2023) (applies only if Vendor is subject to the Cost Accounting Standards and Purchase Order is for electronic parts; end items, components, parts, or assemblies containing electronic parts; or services, if Vendor will supply electronic parts or components, parts, or assemblies containing electronic parts as part of the service; unless this Purchase Order is a set aside for small business)
- DFARS 252.246-7008 Sources of Electronic Parts (Jan 2023) (non-CAS; applies if this Purchase Order is for electronic parts; end items, components, parts, or assemblies containing electronic parts; or services, if Vendor will supply electronic parts or components, parts, or assemblies with electronic parts as part thereof)
- **2 CFR 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.**
 Prohibition on Contracting for Covered Telecommunications Equipment or Services –
 (a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
 (b) Prohibitions.
 (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
 (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to: (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
 (c) Exceptions.
 (1) This clause does not prohibit contractors from providing— (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
 (2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
 (d) Reporting requirement.
 (1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
 (e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”

- **2 CFR 200.322 Domestic Preferences for Procurements.** As appropriate and to the extent consistent with law, Vendor should, to the greatest extent practicable under the Purchase Order, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products), as provided in 2 CFR 200.322. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber. Vendor shall include these requirements in any lower-tier awards under this Purchase Order.
- **2 CFR 200.337 Access to Records.** As provided in 2 CFR 200.337, the Agency, the federal agency providing funding, Inspectors General, the Comptroller General of the United States, or any of their duly authorized representatives, may access any documents, papers, or other records of Vendor that are pertinent to this Purchase Order, in order to make audits, examinations, excerpts, and transcriptions, and have timely and reasonable access to Vendor's personnel for the purpose of interview and discussion related to such documents.
- 9 CFR Parts 1-4 Laboratory Animal Welfare Act (7 U.S.C. 2131-2156)
- **Rights to Inventions Made under a Contract or Agreement.** (Applies if the Purchase Order constitutes a "funding agreement" under 37 CFR § 401.2 (a): Vendor shall, in the assignment or performance of experimental, developmental, or research work under the Purchase Order, comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the Federal agency providing funding.
- **Equal Employment Opportunity** 41 CFR 60-741.5(a) (Applies if this Purchase Order constitutes a "federally assisted construction contract" under 41 CFR Part 60-1.3, except as otherwise provided in 41 CFR Part 60): Vendor shall comply with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause provided under 41 CFR 60-1.4(b) and implementing regulations at 41 CFR Part 60 are incorporated into the terms of this Purchase Order.

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for,

Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

- 45 CFR Part 90 Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq. (NSF)
- 45 CFR Part 690 Protection of Human Subjects (NSF)
- 41 U.S.C. 4712 Whistleblower Protection Laws (NSF)
- 42 U.S.C. 2000d, et seq. Civil Rights Act of 1964
- 42 U.S.C. 5801, et seq Energy Reorganization Act of 1974 (NSF)
- 49 U.S.C. 40118 Fly America Act
- **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by Agency. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$2,000

- FAR 52.222-6 Construction Wage Rate Requirements (Aug 2018)
- **Davis-Bacon Act**, as amended (40 U.S.C. 3141-3144, 3146-3148) (Applies when required by Federal program legislation and this Purchase Order is in excess of \$2,000 for construction work): Vendor shall comply with the Davis-Bacon Act (40 U.S.C. 3141–3144, 3146–3148), as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, Vendor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Vendor shall pay wages not less than once a week. All suspected or reported violations must be reported to the Federal agency providing funding.
- **Copeland "Anti-kickback" Act, as amended** (18 U.S.C 874 & [40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). (Applies when required by Federal program legislation and this Purchase Order is in excess of \$2,000 for construction work): Vendor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States") as may be applicable, which are incorporated by reference into this Agreement. The Act provides that each contractor or subrecipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which they are otherwise entitled. All suspected or reported violations must be reported to the Federal agency providing funding. Vendor shall notify all subcontractors of this requirement. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12."

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$2,500

- 41 U.S.C. 351 McNamara –O'Hara Service Contract Act of 1965, et seq.

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$10,000 (Micro-purchase threshold)

- FAR 52.219-28 Post-Award Small Business Program Rerepresentation (Sep 2023) (applies if this Purchase Order is with a small business concern and for supplies or services)
- FAR 52.222-3 Convict Labor (Jun 2003) (applies unless this Purchase Order will be subject to 41 U.S.C. Chapter 65; the supplies or services are to be purchased from Federal Prison Industries, Inc.; or the acquisition involves the purchase, from any state prison, of finished supplies that may be secured in the open market or from existing stocks, as distinguished from supplies requiring special fabrication)
- FAR 52.222-19 Child Labor-Cooperation with Authorities and Remedies (Nov 2023) (applies if this Purchase Order is for supplies)
- FAR 52.222-21 Prohibition of Segregated Facilities (Apr 2015) (applies if FAR 52.222-26 is included)
- FAR 52.222-26 Equal Opportunity (Sept 2016) (applies unless this Purchase Order is exempted by rules, regulations, or orders of the Secretary of Labor under Executive Order 11246, as specified under FAR 22.807)
- FAR 52.222-40 Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (applies unless this Purchase Order is exempted by rules, regulations, or orders of the Secretary of Labor pursuant to section 3 of Executive Order 13496 of January 30, 2009)
- FAR 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020)
- FAR 52.225-1 Buy American-Supplies (Oct 2022) (applies if this Purchase Order is for supplies or services involving the furnishing of supplies, unless exception to the Buy American statute applies)

2 CFR 200.323 Procurement of Recovered Materials. Vendor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of

the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

ii. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

- 41 CFR 50-201.1 The Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45)

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$15,000

- FAR 52.222-20 Contracts for Materials, Supplies, Articles, and Equipment (Jun 2020) (applies if this Purchase Order is subject to the Walsh-Healey Public Contracts Act)
- FAR 52.222-36 Equal Opportunity for Workers with Disabilities (Jun 2020) (applies unless this Purchase Order is exempted by rules, regulations, or orders of the Secretary of Labor or a waiver has been granted per FAR 22.1403)

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$25,000

- 40 CFR 372 Toxic Chemical Release Reporting

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$30,000

- FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) (applies unless this Purchase Order is not required to be reported in the Federal Procurement Data System)
- FAR 52.226-6 Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (applies if this Purchase Order is for the provision, service, or sale of food in the United States)
- 2 CFR 170 Reporting Subaward and Executive Compensation Information

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$35,000

- 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Nov 2021) (applicable to orders that are not for commercially available off-the-shelf items)

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$100,000

- 52.223-13 Toxic Chemical Release Reporting (Aug 2003)
- **Byrd Anti-Lobbying Amendment** 31 U.S.C. 1352 (as amended). Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

- **Appendix A, 44 C.F.R. Part 18 – Certification Regarding Lobbying:**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- **Contract Work Hours and Safety Standards Act 40 U.S.C 3701-3708.** (Applies if this Purchase Order is in excess of \$100,000 that involve the employment of mechanics or laborers): Vendor shall comply with Section 3702 and Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under Section 3702 of the Act, Vendor shall compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that Vendor compensates the worker at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 3704 is applicable to construction work and provides that no laborer or mechanic may be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous. These requirements do not apply if this Purchase Order is for supplies or materials or articles ordinarily available on the open market or for transmission of intelligence or transportation by land, air, or water.

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor

and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The University shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$150,000

- FAR 52.203-7 Anti-Kickback Procedures (Jun 2020)
- FAR 52.203-11 Certification & Disclosure Regarding Payments to Influence Certain Federal Transactions (Sep 2007)
- FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Jun 2020) (applies unless Purchase Order is under DoD Prime Contract)
- FAR 52.222-4 Contract Work Hours and Safety Standards-Overtime Compensation (May 2018) (applies if this Purchase Order involves the employment of laborers or mechanics)
- FAR 52.222-35 Equal opportunity for Veterans (Jun 2020) (applies unless this Purchase Order is exempted by rules, regulations, or orders of the Secretary of Labor or a waiver of all terms has been granted per FAR 22.1305)
- FAR 52.222-37 Employment Reports on Veterans (Jun 2020) (applies when FAR 52.222-35 is included)
- DFARS 252.209-7004 Subcontracting with Firms That Are Owned or Controlled By The Government Of A Country That Is A State Sponsor Of Terrorism (May 2019)
- DFARS 252.249-7002 Notification of Anticipated Contract Termination or Reduction (Dec 2022) (applies when Purchase Order is under major defense program)
- **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)** (Applies if this Purchase Order is in excess of \$150,000): Vendor shall comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended. Violations must be reported to the Federal agency providing funding and the Regional Office of the Environmental Protection Agency (“EPA”).

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to Texas A&M University System and Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to Texas A&M University System and Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$250,000 (Simplified Acquisition Threshold)

- FAR 52.202-1 Definitions (Jun 2020)
- FAR 52.203-3 Gratuities (Apr 1984) (applies unless this Purchase Order is for personal services)
- FAR 52.203-5 Covenant Against Contingent Fees (May 2014)
- FAR 52.203-6 Restrictions on Subcontractor Sales to the Government (Jun 2020)
- FAR 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (May 2014)
- FAR 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (May 2014)
- FAR 52.209-5 Certification Regarding Responsibility Matters (Aug 2020)
- FAR 52.215-2 Audit and Records- Negotiation (Jun 2020) (applies if this Purchase Order was entered by negotiation)
- FAR 52.215-23 Limitations on Pass-Through Charge (Jun 2020) (applies if this Purchase Order is a cost-reimbursement contract)
- FAR 52.215-14 Integrity of Unit Prices (Nov 2021)
- FAR 52.219-8 Utilization of Small Business Concerns (Feb 2024) (applies if this Purchase Order offers further subcontracting opportunities, unless this Purchase Order is for personal services or will be performed entirely outside of the United States and its outlying areas). If this Purchase Order exceeds \$750,000 (\$1,500,000 for construction), Vendor shall include this clause in lower tier subcontracts that offer subcontracting opportunities.
- FAR 52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts (Sept 2013) (applies if this Purchase Order is service or construction contract, unless it will not involve the use of USDA-designated items at <http://www.biopreferred.gov> or 7 CFR part 3201)
- FAR 52.223-6 Drug-Free Workplace (May 2001)
- FAR 52.225-8 Duty-Free Entry (Oct 2010) (applies if this Purchase Order is for supplies that may be imported into the United States and for which duty-free entry may be obtained in accordance with FAR 25.903(a))
- FAR 52.227-1 Authorization and Consent (Jun 2020) (if this Purchase Order is for research and development work, Alternate I (Apr 1984) applies)
- FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (Jun 2020)

- FAR 52.244-5 Competition in Subcontracting (Dec 1996) (applies unless this Purchase Order is firm-fixed-price contract competitively awarded, time-and-materials contract, labor-hour contract, or architect-engineer contract)
- FAR 52.246-16 Responsibility for Supplies (Apr 1984) (applies if this Purchase Order is a fixed-price contract for supplies, services involving Vendor furnishing supplies, or research and development)
- DFARS 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (Jan 2023)
- DFARS 252.209-7000 Disclosure of Ownership or Control by a Foreign Government(Dec 2022)

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$750,000

- FAR 52.219-9 Small Business Subcontracting Plan (Sep 2023) (applies if this Purchase Order offers subcontracting possibilities and includes 52.219-8, unless this Purchase Order is with small business concern; threshold is \$1,500,000 if this Purchase Order is for construction)
- FAR 52.219-16 Liquidated Damages-Subcontracting Plan (Sep 2021)
- DFARS 252.219-7003 - Small Business Subcontracting Plan (DoD contracts)—Basic (Dec 2019)

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$1,500,000

- DFARS 252.205-7000 Provision of Information to Cooperative Agreement Holders (Jun 2023)

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$2,000,000

- FAR 52.215-10 Price Reduction for Defective Certified Cost or Pricing Data (Aug 2011) (applies if this Purchase Order is entered by negotiation; threshold is reduced to \$750,000 if the Prime Contract was awarded before July 1, 2018)
- FAR 52.215-11 Price Reduction for Defective Certified Cost or Pricing Data-Modifications (Jun 2020) (applies if this Purchase Order is entered by negotiation; threshold is reduced to \$750,000 if the Prime Contract was awarded before July 1, 2018)
- FAR 52.215-12 Subcontractor Certified Cost or Pricing Data (Jun 2020) (applies if FAR 52.215-10 is included)
- FAR 52.215-13 Subcontractor Certified Cost or Pricing Data-Modifications (Jun 2020) (applies if FAR 52.215-11 is included)
- FAR 52.230-2 Cost Accounting Standards (Jun 2020) (applies if this Purchase Order is entered by negotiation)
- FAR 52.230-5 Cost Accounting Standards-Educational Institution (Jun 2020)
- FAR 52.230-6 Administration of Cost Accounting Standards (June 2010) (applies if FAR 52.230-2 is included)

FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN \$6,000,000

- FAR 52.203-13 Contractor Code of Business Ethics and Conduct (Nov 2021) (applies when Purchase Order has performance period greater than 120 days)
- FAR 52.203-14 Display of Hotline Poster(s) (Nov 2021) (applies if the agency has a fraud hotline poster or if this Purchase Order is funded with disaster assistance funds)
- DFARS 252.203-7003 Agency Office of the Inspector General (AUG 2019) (applies when FAR 52.203-13 is included)
- DFARS 252.203-7004 Display of Hotline Posters (Jan 2023) (applies in place of FAR 52.203-14 when Purchase Order is under DoD Prime Contract)

AFFIRMATIVE ACTION

The Vendor shall not maintain or provide racially segregated facilities for employees at any establishment under his control. Vendor agrees to adhere to the principles set forth in Executive Orders 13672 and 11375, Section 503 of the Rehabilitation Act of 1973, and USC 2012 (Disabled Veterans and Veterans of the Vietnam Era), and to undertake specifically: to maintain employment policies and practices that affirmatively promote equality of opportunity for minority group persons and women; to take affirmative steps to hire and promote women and minority group persons at all job levels and in all aspects of employment; to communicate this policy in both English and Spanish to all persons concerned within his company, and to discuss with THE AGENCY the policies and practices relating to the Vendor's Affirmative Action program.

*Full text of the FAR clauses can be found at <https://www.acquisition.gov/far/part-52>

*Full text of the DFAR clauses can be found at <https://www.acquisition.gov/dfars>