

1) **Introduction.** The following Supplement to Purchase Order terms and conditions shall govern the procurement of the products and/or services which are the subject matter of the accompanying Purchase Order (the "Purchase Order") issued by the University of Chicago or any of its affiliates ("Buyer") to a supplier ("Seller"). The Buyer's offer to purchase the products and/or services in the Purchase Order is conditioned upon the acceptance of the Supplement to Purchase Order terms and conditions by Seller. By accepting the Purchase Order and/or performing thereunder, Seller will be deemed to have accepted the Supplement to Purchase Order terms and conditions. The Purchase Order including the Supplement to Purchase Order terms and conditions shall constitute the entire contract between the parties, and supersedes any and all prior written and oral agreements or understandings relating to such subject matter. It is expressly agreed that the terms of the Purchase Order and the Supplement to Purchase Order terms and conditions shall supersede any additional or contrary terms, limitations or conditions set forth in any acceptance, quote, proposal or other non-Buyer document, and no terms included in any such document shall apply. The Purchase Order and the Supplement to Purchase Order terms and conditions may be amended or modified only by a writing executed by both parties. Notwithstanding the foregoing, if the Buyer and the Seller have also entered into a written agreement executed by the Seller and an authorized signatory of the Buyer that governs the procurement of the products and/or services which are the subject matter of the Purchase Order (the "Agreement"), as specified in the Agreement, then the terms and conditions of that Agreement control and supersede the provisions of the Purchase Order and the Supplement Purchase Order terms and conditions to the extent inconsistent and/or conflicting therewith.

2) **Seller's Work and/or Materials; Performance.** Seller agrees to fully execute and perform the construction required by, and reasonably inferable from, the Purchase Order (the "Work") and/or to supply goods, products, supplies, parts, assemblies, equipment, systems, software or other items required by the Purchase Order ("Materials") (collectively the "Work and/or Materials"). Seller shall make deliveries of the Materials or perform the Work in accordance with the date/dates specifically negotiated with Buyer. In the event Seller is unable to fulfill Buyer's specific request, Seller shall immediately advise Buyer. Seller shall not back-order or delay the shipment of Materials or the performance of Work without Buyer's authorization, and if Seller cannot make timely deliveries to Buyer or perform Work in a timely manner, in addition to any other remedies available to Buyer at law or equity, Buyer shall have the option to cancel, at no charge, the individual Purchase Order or Work request or any portion thereof, and Buyer may procure its Work and/or Materials requirement(s) elsewhere.

3) **Invoices.** Seller shall render a separate invoice for each Purchase Order. All items on an invoice must conform to item numbers shown on this Purchase Order. Invoice must show Buyer's Purchase Order number. If the name of Seller on the invoice will be other than that shown on the face of this Purchase Order, both names must be indicated on the invoice. Failure to do this can result in delayed payment. MAIL INVOICE(S) AND STATEMENTS TO: THE UNIVERSITY OF CHICAGO, P.O. Box 1017, South Bend, IN 46624. Email address: invoices@uchicago.edu. For assistance, please contact the University of Chicago Shared Services Office at: services.uchicago.edu or call 773.702.5800.

4) **Payment Terms.** The Buyer shall pay each invoice properly issued by Seller hereunder within forty-five (45) calendar days after its receipt thereof. The Buyer may, however, withhold payment of any invoiced amounts that the Buyer disputes in good faith, pending resolution thereof.

5) **F.O.B. Point.** F.O.B. DESTINATION, The University of Chicago, "Freight Prepaid", unless otherwise shown on Purchase Order.

6) **Title and Delivery.** Title to goods shall pass to the Buyer upon delivery to the F.O.B. point. Risk of loss of any goods shall pass to the Buyer upon delivery to the Buyer. Deliveries shall be made in accordance with the written order of the Buyer or as stated in the Purchase Order at the times and places and in the amounts specified. Receipt of any early or late deliveries shall not constitute a waiver of any of the rights of the Buyer under this Purchase Order. Deliveries before or after the specified date may be made only with the prior written approval of the Buyer.

7) **Shipping Instructions.** If shipping charges contractually apply, ship Bill 3rd Party via FedEx account # "call for number", FOB Destination. Insert our PO# in recipient 2nd address field. If combined shipping weight exceeds 150lbs, call 888-457-5851 for carrier instructions prior to shipping.

8) **Customs Brokerage Services:** The University's preferred customs broker is American Overseas Transport (AOT Group), 175 Hansen Court, Suite 108, Wood Dale, IL 60191, Attn: Judy Hopkins, Telephone: 847-436-4694, j.hopkins@aotgrp.com. Please refer all imports to this supplier. Additionally, AOT Group should be listed as the "Notify Party" on all shipping documents.

9) **Discount Period.** When applicable, will start from date of acceptable invoice or receipt of material whichever is later.

10) **Interest Charged on Invoices.** Interest charges referenced on an invoice will not be accepted by the Buyer.

11) **Labeling of Packages.** All packages should be marked as per "DELIVER TO" instructions, and showing Purchase Order number.

12) **Termination for Cause or Convenience.** The Buyer may terminate this Purchase Order for cause, in whole or in part, in the event that Seller fails or refuses to deliver any of the Work and/or Materials specified in the Purchase Order within the time provided (except as set forth under the Paragraph 13 (Delays)), or otherwise violates any of the conditions of this Purchase Order, or if it becomes evident that Seller is not performing or providing the Work and/or Materials in accordance with the Purchase Order, applicable specifications or with diligence so as to permit completion and delivery on or before the specified completion or delivery date, and in either of the latter two events does not cure such failure within a period of ten (10) days (or such longer period as the Buyer may authorize in writing) after receipt of notice from the Buyer specifying such failure. The Buyer may withdraw from the Seller those completed/delivered parts or portions that are acceptable and instruct others of its choosing to complete or deliver the Work and/or Materials and the Buyer may cancel this Purchase Order, but such withdrawal of completed/delivered Work and/or Materials and cancellation shall not constitute a waiver of the Buyer's rights to damages arising from such default. Seller shall be liable for any excess or additional cost or damages occasioned the Buyer by reason of the Seller's breach. The Buyer reserves the right to terminate this Purchase Order in whole or in part for its convenience by written notice to the Seller. If the Purchase Order is so terminated, the Buyer shall make an equitable adjustment in the purchase price to compensate Seller for all reasonable costs incurred by Seller in connection with said Purchase Order plus a reasonable profit with respect to all necessary work performed by Seller to the date it received notice for such termination.

13) **Inspection and Acceptance.**

a) The Work and/or Materials called for by this Purchase Order together with that portion of the Seller's plant devoted thereto and all materials (which term throughout these Terms and Conditions includes without limitation, raw materials, components, intermediate assemblies and end products) shall at all reasonable times and to the extent practicable be subject to inspection and test by Buyer. If any inspection or test is made by the Buyer on the premises of the Seller, the Seller shall provide all reasonable facilities and assistance for the safety and convenience of the Buyer.

b) If any Work and/or Materials are found to be defective, Seller shall promptly repair or replace such Work and/or Materials at the Seller's expense and risk. Upon authorization by the Seller, or if the Seller is unable, refuses or does not proceed promptly with such repair or replacement, the Buyer may by contract or otherwise, on the Buyer's premises or elsewhere repair or replace such defective Work and/or Materials and assess the Seller the excess cost and damages incurred by the Buyer thereby.

c) Regardless of the form or content of any receipt given the Seller at the time of delivery, and despite any payment which may have been made there under, all Work and/or Materials delivered shall be subject to final inspection by the Buyer following delivery to the Buyer at destination. In the event of rejection, the Seller shall be responsible for the quick removal of the rejected property within a reasonable time after receiving notification of rejection and shall bear all risks and loss after such notification.

d) Acceptance of all property and services ordered hereunder shall be affected by the Buyer within a reasonable time after delivery. Except as otherwise provided for in this Purchase Order, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

14) **Delays.** Delays in performance or delivery beyond the time specified in this Purchase Order due to causes beyond the control and without the fault or negligence of Seller may be excused by the Buyer if Seller notifies the Buyer in writing of the cause of such delay within a reasonable time from the beginning thereof. When such excuse is given, the Buyer, by written notice to the Seller, will extend the time for performance by such period of time as the Buyer determines to be commensurate within the period of delay.

15) **Warranties/12 Month Correction of the Work Period.** Unless otherwise agreed to in writing by the parties, Seller warrants that: i) all workmanship shall be first class; ii) the Materials purchased will be supplied according to the terms and conditions of the Purchase Order and applicable specifications; (iii) Seller will comply with all applicable laws, statutes, rules, regulations and orders of the United States, including any state or political subdivision thereof; (iv) the Work and/or Materials will not infringe or otherwise violate any copyright, trade secret, trademark, patent invention, proprietary information or non-disclosure rights of any third party and (v) except as otherwise provided in the specifications, all goods incorporated in the work shall be new and of the most suitable grade of their respective kinds for the purpose. Such warranties together with Seller's service warranties and guarantees, if any, shall survive inspection tests, acceptance of and payment for the goods and shall run to Buyer, its successors and assigns. In addition to the warranty obligations set forth herein, the Seller shall, within a reasonable time after receipt of written notice thereof, make good at its own expense and without cost to the Buyer any defects in materials or workmanship which may appear during the period ending on a date twelve (12) months after delivery or completion of the Work unless a different correction of the work period is provided in this Purchase Order. Buyer, at its option, may either return for credit or require prompt correction or replacement of any defective or nonconforming Work or Materials or part thereof. If Seller is unable to or refuses to promptly correct or replace such defective or nonconforming Work or Materials or part thereof, Buyer, may, by contract or otherwise, repair or replace such work or materials and assess Seller the excess cost occasioned the Buyer thereby. The one-year correction of the work period shall not operate to reduce the statutory period of limitations for suit for breach of contract nor is it intended to limit or eliminate any legal remedy, statutory or otherwise.

16) **Changes.** No changes of any type may be made in a Purchase Order, including changes in quantity, type of goods, delivery date, price, or any other provision of this Order, without the Buyer's express written approval.

17) **Software License.** Buyer has the right to perpetually use provided software with unlimited user access. Seller warrants that Seller holds all rights, titles and/or licenses necessary to provide any software hereunder without restriction. Seller warrants that Buyer is licensed to copy any software provided under the Purchase Order onto a computer memory device and to make back-up copies of such software. Unless otherwise provided for in the Purchase Order, or in a prior written agreement directed to the software provided hereunder, Buyer's sole obligation with respect to software provided hereunder shall be to use such software in compliance with applicable laws and regulations, irrespective of any other license agreement including, but not limited to, any license agreement packaged with such software. Seller warrants that neither software provided to Buyer nor software utilized by Seller shall contain any code that does not support a software requirement and weakens the security of the application, including computer viruses, worms, time bombs, back doors, trojan horses, easter eggs, or all other forms of malicious code. Seller acknowledges that software, licensed by Buyer hereunder, that may require modification in order to operate per specification(s), shall be modified by Seller, in a timely fashion, at no cost to Buyer.

18) **Accessibility.** Seller represents and warrants that the Work and/or Materials are and will remain in material conformance with all federal disability laws, including Section 508 of the Rehabilitation Act, that are applicable to the Work and/or Materials and will also remain in conformance with Level A and AA of the W3C Web Content Accessibility Guidelines (WCAG)

2.1, as applicable to the Work and/or Materials. In the event that the Work and/or Materials provided hereunder do not fully conform to WCAG 2.1 A and AA, Seller must advise Buyer in writing of such nonconformance, and should provide detailed information regarding the plans to achieve conformance.

19) **General Indemnity.** To the fullest extent permitted by law, the Seller will protect, indemnify, defend and hold the Buyer, University of Chicago Medical Center, their respective trustees, individually and collectively, affiliates, officers, agents and employees (the "Indemnified Parties") free and harmless from any and all liabilities, claims, demands, actions, costs, suits or matters in connection therewith (including, without limitation, reasonable attorneys' fees, expert fees, court costs and expenses), if caused by reason of or as a result of: i) the performance of the Work and/or Materials; ii) breach of any covenants, representations or warranties in this Purchase Order including Seller's warranties contained herein; iii) notice of lien, claim for lien, or suit to foreclose a lien filed, given, made or maintained by a subcontractor, sub-subcontractor or supplier; or iv) hazardous materials, whether based upon or claimed to be based upon statutory, contractual, tort or other liability hereunder. To the extent prohibited by applicable laws, no person or entity indemnified under the terms of this Paragraph 18, shall be indemnified for claims to the extent arising from such person's or entity's own negligence. The obligations of the Contractor pursuant to this Paragraph 18 are not to be construed to negate or reduce any other right or obligation of indemnification which would otherwise exist as to any party or person described in this Paragraph.

20) **Governing Law.** This Purchase Order shall be governed by and construed in accordance with the laws of the State of Illinois without regard to its conflict of laws doctrine, and applicable federal laws of the United States of America. In the event of a dispute hereunder, the parties agree to submit to the exclusive jurisdiction of the state courts of, and federal courts sitting in, the State of Illinois.

21) **Federal Government Contract Numbers.** When a Federal Government contract number is shown on the face of this Purchase Order, the purchase is being made under a contract with or grant from the U.S. Government, and certain provisions of that contract or grant may apply to this Purchase Order, and such provisions are incorporated herein. A copy of the contract provisions may be reviewed at the Office of Research Administration, 6030 S. Ellis Avenue, Chicago, Illinois 60637.

22) **Examination of Records.** Seller agrees that it will maintain complete and accurate records relating to the Purchase Order provided by Seller to Buyer, including records of Seller's use of any and all funds to be paid by Buyer to Seller under this Purchase Order. During the term and for a period of three (3) years thereafter, Buyer shall have a right of audit and access to such records without limitation. Buyer will have the right to request any additional information and documentation from Supplier that Buyer, in its sole discretion, may require from Seller in order to verify Seller's compliance with laws as herein described.

23) **Assignment.** The Buyer may at any time, without Seller's consent, assign this Purchase Order or any of its rights hereunder to the United States Government or any other person or entity. Neither this Purchase Order, nor any payments, claims, or interests there under, are assignable or transferable by Seller without Buyer's written approval.

24) **Non-Discrimination and Equal Opportunity.** By acceptance of this order Seller certifies that it will comply with all applicable provisions of E.O. 11246 and E.O. 11375, as amended; the Vietnam Era Veterans Readjustment Assistance Act of 1974; E.O. 11701; the Rehabilitation Act of 1973; E.O. 11758; and the rules, regulations and relevant orders of the Secretary of Labor. Buyer and Seller shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

25) **Contract Work Hours and Safety Standards Act.** (Applies only where the Purchase Order has a federal contract number, it is for more than \$100,000, and it is not for goods available in the open market.)

a) **Overtime Requirements.** Neither the Seller nor any subcontractor contracting for any part of the Work under this Purchase Order which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic, in any workweek in which he is employed on such work, to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on Work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

b) **Working Conditions.** If this Purchase Order involves construction work, neither the Seller nor any subcontractor contracting for any part of the work under this Purchase Order shall require any laborer or mechanic to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor.

c) **Subcontracts.** The Seller shall insert paragraphs a) through c) of this Paragraph in all subcontracts, and shall require their inclusion in all subcontractor contracts of any tier subject to the Act.

26) **Clean Air and Water.** If this Purchase Order exceeds \$100,000, or orders under an indefinite quantity contract in any one year will exceed \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 7413 (c) (1)) or the Clean Water Act (33 U.S.C. 1319 (c)) and is listed by EPA as a violating facility, or the Purchase Order is not otherwise exempt, the Seller agrees as follows:

a) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 7414, et seq., as amended) and section 308 of the Clean Water Act (33 U.S.C. 1318, et seq., as amended), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Clean Air Act and the Clean Water Act, respectively, and all regulations and guidelines issued there under before the award of this Purchase Order.

b) That no portion of the work required by this Purchase Order will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Purchase Order was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

c) To use best efforts to comply with clean air standards and clean water standards at the facilities in which the Purchase Order is being performed.

d) To insert the substance of the provisions of this Paragraph in any nonexempt subcontract, including this paragraph d).

27) **Labor Standards for Construction Work.** (Applies only where the Purchase Order has a federal contract number, the terms of that contract make federal construction labor standards applicable, and the work involves construction labor in excess of \$2000.) The Seller shall follow the terms of the Davis-Bacon Act, Copeland Anti-Kickback Act and related laws and Department of Labor regulations respecting construction labor. These Acts, among other things, require contractors to pay laborers and mechanics wages at rates not less than prevailing wages as determined by the U. S. Department of Labor, and prohibit inducing any employee to give up any part of the compensation to which the employee is entitled.

28) **Bonding.** For construction or facilities improvements Purchase Orders or contracts exceeding \$100,000 the Seller shall maintain a performance bond for 100 percent of the contract price, and a payment bond for 100 percent of the contract price. These bonds shall be obtained from companies holding certificates of authority as acceptable sureties and shall be on AIA A312 (1984) bond forms or other form approved by Buyer.

29) **Insurance.** Seller shall procure and maintain during the life of this contract, at Seller's sole expense, minimum coverage/limits as follows: (i) commercial general liability insurance (\$1,000,000 each occurrence, \$1,000,000 general aggregate); (ii) automobile liability insurance (\$1,000,000 combined single limit per accident for bodily injury and property damage); (iii) worker's compensation as required by law; and (iv) employer's liability insurance (\$500,000 each accident, \$500,000 disease-each employee, \$500,000 disease-aggregate). The University of Chicago, The University of Chicago Medical Center, and all of their respective trustees, officers, agents, directors, employees, volunteers, affiliates, parent and subsidiary entities, and consultants shall be named as additional insured under the general liability policy and the automobile liability policy. Such policies shall stipulate that the insurance afforded to the Buyer shall apply as primary insurance and that any other insurance carried by the additional insureds will be excess only and will not contribute with Seller's insurance. All insurers shall agree to waive all rights of subrogation against the Buyer. Seller shall provide evidence of such insurance to Buyer prior to commencing or delivering any Work and/or Materials hereunder. An insurance provision in a related contract/agreement with the Buyer takes precedent over the insurance provision in this Purchase Order.

30) **Byrd Anti-lobbying Amendment.** If any portion of this Purchase Order is federally funded, and the amount is in excess of \$100,000, the Seller shall file all required certifications under the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). This Amendment requires each contractor or subcontractor to certify that it will not and has not used Federal 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, and shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

31) **Debarment and Suspension.** In acceptance of this Purchase Order and its fulfillment the Seller hereby certifies that Seller is not currently a listed vendor in the Federal General Services Administration's "List of Parties Excluded from Federal Procurement or Non-Procurement Programs" in accordance with Presidential Executive Orders 12549 and 12689, "Debarment and Suspension".

32) **Employee Notice.** "To the extent applicable to contracts, subcontracts or purchase orders involving federal funds in excess of \$100,000, the provisions of 29 CFR 470 (Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees) are hereby incorporated by this reference."

33) **Electrical Equipment.** Seller warrants that all electrical equipment and/or appliances that may be furnished under this Purchase Order have been tested and approved by an OSHA recognized Nationally Recognized Testing Laboratory to the extent required by the Chicago Municipal Code. Seller will not ship Materials that do not conform, and will contact the Buyer's Procurement and Payment Services for instructions regarding any non-conforming Materials.

34) **Export Compliance.** Seller agrees that it will provide the export control classification associated with the commodity being purchased, to the extent that this item is controlled either under the Export Administration Regulations (EAR) or the International Traffic in Arms Regulations (ITAR). For EAR-controlled items, the correct ECCN classification based on the Commerce Control List will be provided. For ITAR items, the correct USML Category will be provided. In both cases, to the extent that the item includes technical data such as operational manuals, such data must also be classified. In the event that the Seller is unable to comply with this instruction, it will notify Buyer within five (5) days of purchase order, indicating the reason for non-compliance and recommended solution.

35) **Prohibition on Covered Telecommunications Equipment or Services.** Pursuant to Sections 889(a)(1)(B) and Section 889(b) of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), Seller represents and warrants that it will not provide Buyer with (i) "covered telecommunications equipment or services" or (ii) 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, as such terms are defined at Federal Acquisition Regulation (FAR) clause [52.204-25](#).