
**Texas Tech University Health Sciences Center
Purchase Order Terms and Conditions**

"TTUHSC" shall mean Texas Tech University Health Sciences Center.

1. ACCEPTANCE OF PURCHASE ORDER: Acceptance of this Purchase Order is expressly limited to the terms and conditions herein contained on both sides hereof. None of the terms and conditions contained in this Purchase Order may be modified, superseded or otherwise altered except by a written instrument signed by an authorized representative of the TTUHSC and delivered by TTUHSC to Supplier, and each shipment received by TTUHSC from Supplier shall be deemed to be only upon the terms and conditions contained in this Purchase Order except as these may be added to, modified, superseded or otherwise altered by a written instrument signed by an authorized representative of TTUHSC and delivered by TTUHSC to Supplier, notwithstanding any terms and conditions that may be contained in any acknowledgement, invoice or other form of Supplier and notwithstanding TTUHSC's act of accepting or paying for any shipment or similar act of TTUHSC. TTUHSC's failure to object to provisions contained in Supplier's documents shall not be deemed a waiver of the Purchase Order, the Terms and Conditions set forth herein and any exhibits (collectively also referred to as "Purchase Order") which shall constitute the entire agreement between the parties.

2. DELIVERY; SUBSTITUTIONS; INVOICES; SALES TAX: Supplier will keep TTUHSC advised at all times of the status of delivery or performance under this Purchase Order. If delay is foreseen, Supplier will give prompt written notice to TTUHSC. Upon notice, TTUHSC may extend the delivery date in its sole discretion. Supplier will only tender for acceptance those goods and services that conform to the requirements of this Purchase Order. Substitutions, cancellations and price changes will require prior written consent of TTUHSC Purchasing Department. TTUHSC will not be bound by any oral statement or representation contrary to the written Specifications of this Purchase Order. Default in promised delivery or failure to conform to the requirements of this Purchase Order authorizes TTUHSC to purchase goods or services elsewhere and charge to Supplier any excess cost of such repurchase. Supplier will show this Purchase Order number and complete "ship to" information, including attention line, on all packages, shipments, and invoices. Invoices must include Supplier's Texas Vendor Identification Number and be addressed and mailed to:

Texas Tech University Health Sciences Center
Accounts Payable Department
P.O. Box 5970
Lubbock, Texas 79408.

TTUHSC, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on the goods and services covered by this Purchase Order, in accordance with Section 151.309, *Texas Tax Code*, and Title 34 *Texas Administrative Code* ("**TAC**") Section 3.322.

3. TITLE AND RISK OF LOSS: Title to and risk of loss to any goods to be delivered under this Purchase Order will not pass to TTUHSC until TTUHSC actually receives and takes possession of such goods at the point of delivery.

4. WARRANTIES: In addition to all warranties established by law, Supplier hereby represents, covenants, certifies, warrants and agrees that:

- (a) Supplier will comply with all requirements of this Purchase Order.
- (b) All goods and services covered by this Purchase Order will conform to the specifications, drawings, samples or other descriptions furnished or adopted by TTUHSC (collectively "**Specifications**"), and will be new, merchantable, fit for the purpose intended, of best quality and workmanship, covered by manufacturer's warranty, and free from all defects. All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from a Nationally Recognized Testing Laboratory (NRTL). TTUHSC will have the rights of inspection and approval and may reject and return goods or require reperformance of services at Supplier's expense if defective or not in compliance with TTUHSC's Specifications. Defects will not be deemed waived by TTUHSC's failure to notify Supplier upon receipt of goods or completion of services or by payment of invoice.
- (c) No disclosure, description, or other communication of any sort will be made by Supplier to any third person of the fact of TTUHSC's purchase of goods or services under this Purchase Order, or of the details and characteristics of the goods or services, without TTUHSC's prior written consent. Anything furnished to Supplier by TTUHSC pursuant to this Purchase Order including samples, drawings, patterns, and materials will remain the property of TTUHSC, will be held at Supplier's risk, and will be returned to TTUHSC upon TTUHSC's request, and no disclosure or reproduction thereof in any form will be made without TTUHSC's prior written consent.
- (d) Supplier is familiar with and is in full compliance with its obligations, if any, under all applicable federal, state and local, laws, regulations, and ordinances (collectively, "**Applicable Laws**").
- (e) All goods delivered or services provided pursuant to this Purchase Order will conform to standards established for such goods and services by all Applicable Laws, including those standards promulgated by the federal Occupational Safety and Health Administration (OSHA) and the Texas Hazard Communication Act, Chapter 502, *Texas Health and Safety Code* ("**Texas Hazard Communication Act**").
- (f) Supplier is familiar with and in full compliance with the Texas Hazard Communication Act and will provide either (1) a Material Safety Data Sheet ("**MSDS**") for each product Supplier, its employees, agents or subcontractors brings on TTUHSC's premises, or (2) a statement of exemption if the product is not covered by the Texas Hazard Communication Act. For any chemicals purchased, mail Material Safety Data Sheet to:

Texas Tech University Health Sciences Center
Safety Services, Stop 9020
3601 4th Street
Lubbock, Texas 79430

Include an additional Material Safety Data Sheet with the shipment.

- (g) Use or sale of any goods delivered under this Purchase Order, except (with respect to patents) goods produced to TTUHSC's detailed design, will not infringe any adverse valid patent, copyright, trademark or other intellectual property right.
- (h) The price to be paid by TTUHSC will be that contained in Supplier's bid or proposal, which Supplier warrants to be no higher than Supplier's current prices on orders by others for goods or services of the kind covered by this Purchase Order for similar quantities to similar customers under similar conditions. In the event Supplier breaches its warranty, the prices will be reduced to Supplier's current prices on orders by others or, in the alternative, TTUHSC may cancel this Purchase Order without liability to Supplier.
- (i) Supplier will make records of Supplier's costs, reimbursable expenses and payments pertaining to this Purchase Order available to TTUHSC or its authorized representative during business hours and retain those records for four (4) years after final payment or abandonment of the project, unless TTUHSC otherwise instructs Supplier in writing.
- (j) If this Purchase Order requires Supplier's presence on TTUHSC's premises or in TTUHSC's facilities, Supplier will cause its employees, representatives, agents, and subcontractors to become aware of, fully informed about, and in full compliance with all applicable TTUHSC rules and policies, including but not limited to those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.
- (k) Supplier has not given or offered to give, nor does Supplier intend 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 this Purchase Order.
- (l) Supplier shall comply with applicable export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR) 15 CFR Parts 730 through 799, in the performance of this Purchase Order. In the absence of available license exemptions/exceptions, Supplier shall be responsible for obtaining the appropriate licenses or other authorizations, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance. Supplier shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions. Prior to disclosing or transferring to TTUHSC any hardware, technical data, software or product utilizing any such data which is subject to export controls under federal law, Supplier shall notify TTUHSC in writing of the nature and extent of the export control. TTUHSC shall have the right to decline any such technical data or product utilizing such data. In the event the Supplier sends such technical data or product that is subject to export control, without notice of the applicability of such export control, TTUHSC has the right to immediately terminate this Purchase Order.
- (m) Supplier agrees that all writings or other materials produced by Supplier, its employees or agents relating to the work under this Purchase Order shall be deemed "works made for hire" as that term is defined in the U.S. Copyright Act, that all rights thereto shall be owned by TTUHSC, and that Supplier shall not assert any claim thereto. In the event that works are not considered "works made for hire" as that term is defined in the U.S. Copyright Act, the Supplier assigns any and all intellectual property rights, including but not limited to copyrights to any such works, and Supplier agrees to execute any necessary documentation to effect this assignment.
- (n) The foregoing representations, covenants, certifications, and warranties will survive acceptance of goods as well as performance of services under this Purchase Order.

5. PAYMENT: TTUHSC will make payment for purchases made by TTUHSC departments under this Purchase Order in accordance with Chapter 2251 of the Texas Government Code. Notwithstanding any provision of this Purchase Order to the contrary, TTUHSC will not be obligated to make any payment to Supplier if Supplier is in default under this Purchase Order. No payment made by TTUHSC will (a) be construed to be final acceptance or approval of that Product or Services to which the payment relates, or (b) relieve Supplier of any of its duties or obligations under this Purchase Order. The acceptance of each payment by Supplier will constitute a waiver of all claims by Supplier except those previously made in writing and identified by Supplier as unsettled at the time of the invoice for that payment. TTUHSC will have the right to verify the details set forth in Supplier's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Supplier at mutually convenient times; (b) examining any reports with respect to the Project; and (c) other reasonable action.

6. ANTITRUST LAWS; CLAIMS FOR OVERCHARGES: Supplier warrants and represents that neither Supplier nor any party acting on behalf of Supplier has violated the antitrust laws of the United States or of the State of Texas. Supplier hereby assigns to TTUHSC any and all claims for overcharges associated with this Purchase Order which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., or of the State of Texas, Tex. Bus. & Comm. Code Sec. 15.01, et seq.

7. INDEMNITY: SUPPLIER WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS TEXAS TECH UNIVERSITY SYSTEM, TTUHSC, AND ITS REGENTS, OFFICERS, DIRECTORS, EMPLOYEES, AUTHORIZED REPRESENTATIVES AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM SUPPLIER'S PERFORMANCE UNDER OR BREACH OF THIS PURCHASE ORDER AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF SUPPLIER, ANYONE DIRECTLY EMPLOYED BY SUPPLIER OR ANYONE FOR WHOSE ACTS SUPPLIER MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE. IN ADDITION, SUPPLIER WILL DEFEND, INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF, IN CONNECTION WITH OR RESULTING FROM THIS PURCHASE ORDER OR THE GOODS OR SERVICES PROVIDED UNDER THIS PURCHASE ORDER.

8. INSURANCE: If this Purchase Order requires the presence on TTUHSC's premises of Supplier's employees, agents, suppliers or subcontractors (if any), Supplier agrees to maintain and to cause its agents, suppliers and subcontractors (if any) to maintain the following insurance coverages for at least the specified limits:

Coverages:	Limits:
Commercial General Liability	
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000
Damage to Rented Premises	\$50,000
Medical Payments (Any One Person)	\$5,000
Liquor Liability (if applicable)	
Each Occurrence	\$1,000,000
Aggregate	\$2,000,000
Automobile Liability	
Bodily Injury/Property Damage (Each Accident)	\$1,000,000
Personal Injury Protection (if applicable)	Statutory
Workers' Compensation	
Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers' Liability)	\$1,000,000
	\$1,000,000
	\$1,000,000
Crime Coverage (if applicable)	50% of the contract value; or \$100,000, whichever is greater

All policies (except Workers' Compensation) will name the Texas Tech University System Board of Regents ("TTUS Board"), TTUHSC, and its officers and employees as Additional Insured. A Waiver of Subrogation in favor of TTUHSC and the TTUS Board and thirty (30) day notice of cancellation is required on all policies. Certificates of insurance verifying the foregoing requirements will be provided to TTUHSC prior to commencement of any services under this Purchase Order.

9. HUB SUBCONTRACTING: If authorized, Supplier will use good faith efforts to subcontract the goods or services performed under this Purchase Order in accordance with the Supplier's Historically Underutilized Business ("HUB") Subcontracting Plan ("HSP") submitted in connection with this Purchase Order, if any. Except as specifically provided in the HSP, Supplier will not subcontract any of its duties or obligations under this Purchase Order, in whole or in part. This Purchase Order is subject to 34 TAC Section 20.14, HUB Programs. Supplier will comply with all of its duties and obligations under 34 TAC Section 20.14. In addition to other rights and remedies, TTUHSC may exercise all rights and remedies authorized by 34 TAC Section 20.14.

10. ETHICS MATTERS: TTUHSC is an entity subject to the Deficit Reduction Act of 2005 and is required to establish and disseminate policies to be adopted by its Suppliers and agents. Accordingly, Supplier agrees that it will comply with federal, state or local laws or regulations applicable to Supplier's performance under the Purchase Order. Supplier further agrees that it will comply with applicable TTUHSC Operating Policies and Procedures located at <http://www.ttuhs.edu/HSC/OP>, including, but not limited to HSC OP 52.06, Standards of Conduct and Ethics Guide, HSC OP 52.03, Compliance Hotline, and HSC OP 52.04, Reporting Violations and Non-Retaliation Policy, as well as all relevant published TTUHSC compliance programs, which are available on its website: <http://www.ttuhs.edu/compliance>. If Supplier performs coding/billing services or provides health care items or services on behalf of TTUHSC, upon request from TTUHSC, Supplier agrees to participate in TTUHSC's billing compliance and HIPAA privacy training sessions.

11. NOTICES: Except as otherwise provided in this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Purchase Order to TTUHSC will be in writing and will be sent via registered or certified mail, overnight courier, confirmed facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below), and notice will be deemed given (i) if mailed, when deposited, postage prepaid, in the United States mail, (ii) if sent by overnight courier, one business day after delivery to the courier, (iii) if sent by facsimile (to the extent a facsimile number is set forth below), when transmitted, and (iv) if sent by email (to the extent an email address is set forth below), when received:

John Haynes
Managing Director of Purchasing
3601 4th Street, STOP 9021
TTSWMC, Suite 200D
Lubbock, Texas 79430-9021
Fax: 806-743-7841
John.g.haynes@ttuhs.edu

or such other person or address as may be given in writing by TTUHSC to Supplier.

12. UNDOCUMENTED WORKERS: The *Immigration and Nationality Act* (8 United States Code 1324a) ("Immigration Act") makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs

Enforcement Service has established the Form I-9 Employment Eligibility Verification Form ("**I-9 Form**") as the document to be used for employment eligibility verification (8 *Code of Federal Regulations* 274a). Among other things, Supplier is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by law. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Supplier employs unauthorized workers during performance of this Purchase Order in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by law, TTUHSC may terminate this Purchase Order. Supplier represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

13. STATE OF TEXAS COMPUTER EQUIPMENT RECYCLING PROGRAM CERTIFICATION: Pursuant to Section 361.965, *Texas Health and Safety Code*, Supplier certifies that it is full compliance with the *State of Texas Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act* set forth in Subchapter Y, Chapter 361, *Texas Health and Safety Code*, and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in 30 TAC Chapter 328. Supplier acknowledges that this Purchase Order may be terminated and payment may be withheld if this certification is inaccurate.

14. RESPONSIBILITY FOR INDIVIDUALS PERFORMING WORK; CRIMINAL BACKGROUND CHECKS: Each individual who is assigned to perform services under this Purchase Order will be an employee of Supplier or an employee of a subcontractor engaged by Supplier. Supplier is responsible for the performance of all individuals performing services under this Purchase Order. Prior to commencing services, Supplier will (1) provide TTUHSC with a list ("**List**") of all individuals who may be assigned to perform services, and (2) have an appropriate criminal background screening performed on all the individuals. Supplier will determine on a case-by-case basis whether each individual assigned to perform services is qualified to provide the services. Supplier will not knowingly assign any individual to provide services on TTUHSC's campus who has a history of criminal conduct unacceptable for a TTUHSC campus or healthcare center, including violent or sexual offenses. Supplier will update the List each time there is a change in the individuals assigned to perform services. Prior to commencing performance of services under this Purchase Order, Supplier will provide TTUHSC a letter signed by an authorized representative of Supplier certifying compliance with this Section. Supplier will provide TTUHSC an updated certification letter each time there is a change in the individuals assigned to perform services.

15. TERMINATION:

- (a) Upon written notice to Supplier, TTUHSC may terminate this Purchase Order, in whole or in part, without cause. If TTUHSC terminates without cause, TTUHSC will pay Supplier all reasonable costs incurred up to the date of termination. Under no circumstance will TTUHSC pay Supplier for anticipatory or lost profits.
- (b) In the event of a material failure by Supplier to perform in accordance with the terms of this Purchase Order ("**default**"), TTUHSC may terminate this Purchase Order upon ten (10) calendar days' written notice of termination setting forth the nature of the default; provided that, the default is through no fault of TTUHSC. Termination will not be effective if the default is fully cured by Supplier prior to the end of the ten-day period.

16. EXCLUSION: Supplier represents and warrants that neither Supplier or any employees or agents who provide items or Services under this Purchase Order are excluded, suspended or debarred from participation in any federal or state health care program or federally funded contracts. TTUHSC may conduct searches of Supplier's name against various federal and state sanction and exclusion databases, including, but not limited to the HHS OIG List of Excluded Individuals/Entities (LEIE), the federal System for Award Management (SAM) and the Texas HHSC Exclusion List. Supplier agrees to immediately inform TTUHSC as soon as it is aware that it or any of its employees, agents or Suppliers providing items or services under the Purchase Order are subject to the imposition of any such sanctions or exclusion. This Purchase Order shall be subject to immediate termination by TTUHSC in the event Supplier, or any of its employees, agents or Suppliers, is listed on any federal or state sanction/exclusion list as being subject to sanctions or exclusion.

17. EMERGENCY HEALTH AND SAFETY PROCEDURES: In the event of pandemic, epidemic, viral outbreak, health crisis, or other emergency ("Emergency"), TTUHSC may, at its sole discretion, implement new or modified health and safety procedures in order to protect the health and safety of the TTUHSC community. In the event of Emergency, Supplier agrees to adhere to all such procedures and related directives from TTUHSC when entering onto and performing services on TTUHSC's campus.

17.1 COVID-19 HEALTH AND SAFETY PROCEDURES. Published at: <https://www.ttuhs.edu/coronavirus/>

18. INCORPORATED TERMS: The Parties acknowledge and agree that the Required Contract Terms set forth at <http://www.texastech.edu/ogc/required-contract-terms.pdf> and the Required IT Terms set forth at <http://www.texastech.edu/ogc/contracting/required-IT-terms.pdf> are incorporated into this Agreement as if expressly stated herein (the "Incorporated Terms").

19. CONTROLLING TERMS: Supplier agrees that this Purchase Order, including the Incorporated Terms, form the agreement between TTUHSC and Supplier. In the event of a conflict between the Incorporated Terms and any other term of this Purchase Order, Supplier acknowledges and agrees that the Incorporated Terms are controlling.