TEXAS SOUTHERN UNIVERSITY PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions are incorporated by reference into each Purchase Order issued by the University that references them, and 'Purchase Order' as used herein means the specific Purchase Order, contract, or ordering document into which these Terms are so incorporated. Texas Southern University, an institution of higher education and agency of the State of Texas (the "**University"**) is not agreeing to any of the following: arbitration, indemnification by the University, limit of liability, waiver of class action by University, personal jurisdiction or subject matter jurisdiction, any law other than Texas law, use of the University's logos except with written permission, monetization or selling of any data, mediation, and waiver of trial by jury.

1. **DELIVERY; SUBSTITUTIONS; INVOICES.** Contractor shall keep the University advised at all times of the status of delivery or performance under the Purchase Order. Time is of the essence with respect to Contractor's delivery and performance obligations under the Purchase Order. If delay is foreseen, Contractor will send prompt written notice to the University. Upon notice, the University may extend the delivery date in its sole discretion. Contractor will only tender for acceptance those goods and services that conform to the requirements of the Purchase Order. Substitutions, cancellations and price changes will require prior written consent of the University.

   Vendor invoices shall be submitted directly to the Accounts Payable office using the following official receipt channel without exception:

   Email: invoices@tsu.edu

   U.S. Mail:
   Texas Southern University:
   Accounts Payable
   Hannah Hall Suite 333
   3100 Cleburne Street
   Houston, Texas 77004

   Invoices shall be itemized, identify the applicable Purchase Order number, and contain information reasonably required by the University for payment. Disputed invoices and amounts withheld shall be governed by Chapter 2251, Texas Government Code

2. **TITLE AND RISK OF LOSS.** Title to and risk of loss to any goods to be delivered under the Purchase Order will not pass to the University until the University actually receives, accepts, and takes possession of such goods at the point of delivery.

3. **PAYMENTS; SALES TAX; ELECTRONIC FUNDS TRANSFER.**
   (a) So long as Contractor has provided the University with its current and accurate Federal Tax Identification Number in writing, the University will pay Contractor for goods and services in accordance with Chapter 2251, Texas Government Code. The University, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on goods and services in accordance with §151.309, Texas Tax Code, and Title 34 Texas Administrative Code (TAC) §3.322.

   (b) Section 51.012, Texas Education Code, authorizes the University to make any payment through electronic funds transfer methods. Contractor agrees to receive payments from the University through electronic funds transfer methods, including the automated clearing house system (also known as ACH). Prior to the first payment under the Purchase Order, the University will confirm Contractor's banking information. Any changes to Contractor's banking information must be communicated to the University in writing at least thirty (30) days in advance of the effective date of the change.

   (c) The University and Contractor will meet and discuss how to handle any and all proposed tariffs. Contractor cannot charge the University for any tariffs or taxes without University's express written agreement. Absent such agreement, no tariffs or taxes shall be charged to University.

   (d) Consistent with applicable law and the University's obligation to ensure the lawful, prudent, and best-value expenditure of public funds, the University may recover any payment determined to have been erroneous, duplicative, unsupported, unallowable, or in excess of amounts properly due under the Purchase Order. Contractor shall promptly refund such amounts upon written notice, or the University may offset them against amounts otherwise payable to Contractor, to the extent permitted by applicable law.

4. **WARRANTIES.** In addition to all warranties established by law, Contractor hereby represents, covenants, certifies, warrants and agrees that:
   (a) Contractor shall comply with all requirements of the Purchase Order.
   (b) If Contractor is a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, it is duly organized, validly existing and in good standing under the laws of the state of its organization and is duly authorized and in good standing to conduct business in the State of Texas.
   (c) Pursuant to §§2107.008 and 2252.903, Texas Government Code, Contractor agrees that any payments owing to Contractor under the Purchase Order may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
   (d) In accordance with §231.006, Texas Family Code, the individual or business entity named in the Purchase Order is not ineligible to receive the award of or payment under the Purchase Order and the Purchase Order may be terminated and payment may be withheld if this certification is inaccurate.
   (e) All goods and services covered by the Purchase Order shall conform to the specifications, drawings, samples or other descriptions furnished or adopted by the University (collectively, **specifications**), and shall be new, of best quality and workmanship, and free from all defects. The University shall have the rights of inspection and approval and may reject and return goods or require reperformance of services at Contractor's expense if defective or not in compliance with University's specifications. Defects will not be deemed waived by University's failure to notify Contractor upon receipt of goods or completion of services or by payment of invoice.
   (f) No disclosure, description, or other communication of any sort shall be made by Contractor to any third person of the fact of University's purchase of goods or services under the Purchase Order, or of the details and characteristics of the goods or services, without University's prior written consent. Anything furnished to Contractor by the University pursuant to the Purchase Order including samples, drawings, patterns, and materials shall remain the property of the University, will be held at Contractor's risk, and shall be returned to the University upon University's request, and no disclosure or reproduction thereof in any form will be made without University's prior written consent.
   (g) Contractor 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**). Contractor warrants, represents, covenants and agrees that all persons providing services are duly registered, certified, and/or licensed under the laws, rules, and regulations of any authority having jurisdiction (collectively, **Governmental Authorities**).
   (h) All goods delivered or services provided pursuant to the 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**).
   (i) All services shall be performed timely, professionally, competently, and workmanlike by appropriately qualified personnel, consistent with Applicable Laws, industry standards, and the Purchase Order. A/E and other professional services shall meet the skill, care, diligence, and judgment ordinarily exercised by competent professionals in similar disciplines and circumstances. Construction, installation, repair, maintenance, and support shall conform to Applicable Laws, codes, and industry standards and maintain or restore required condition or functionality. All goods, equipment, and systems shall be new unless otherwise specified, merchantable, free from defects, fit for disclosed purposes, and conform to applicable specifications, performance, functionality, and compatibility requirements. Licensed or subscription content shall conform to applicable specifications, functionality, and access rights, and Contractor warrants authority to provide it. Goods shall be timely and securely delivered, properly packaged and protected against loss or damage. Contractor shall promptly correct, reperform, repair, replace, redeliver, or restore, as applicable, anything nonconforming at no additional cost to the University. Contractor 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 Contractor, its employees, agents or subcontractors

brings on the University's premises, or (2) a statement of exemption if the product is not covered by the Texas Hazard Communication Act.

(j) Use or sale of any goods or services delivered under the Purchase Order, except (with respect to patents) goods produced to the University's detailed design, shall not infringe any adverse valid patent, copyright, trademark or other intellectual property right.

(k) The price to be paid by the University shall be that contained in Contractor's bid, proposal, or other equivalent offer form which Contractor warrants to be no higher than Contractor's current prices on orders by others for goods or services of the kind covered by the Purchase Order for similar quantities to similar customers under similar conditions. In the event Contractor breaches its warranty, the prices will be reduced to Contractor's current prices on orders by others or, in the alternative, the University may cancel the Purchase Order without liability to Contractor.

(l) Contractor will make records of Contractor's costs, reimbursable expenses and payments pertaining to the Purchase Order available to the University or its authorized representative during business hours and retain those records for four (4) years after final payment or abandonment of the project, unless the University otherwise instructs Contractor in writing.

(m) If the Purchase Order requires Contractor's presence on University's premises or in the University's facilities, Contractor shall cause its employees, representatives, agents, and subcontractors to become aware of, fully informed about, and in full compliance with all applicable University rules and policies, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.

(n) Contractor has not given or offered to give, nor does Contractor 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 the Purchase Order.

5. **PURCHASE ORDER ACCEPTANCE.** Purchase Order Acceptance. To the maximum extent practicable, the University's Purchase Order, these Texas Southern University Purchase Order Terms and Conditions, and any specifications, solicitation documents, responses, quotes, proposals, statements of work, exhibits, addenda, amendments, or other documents expressly incorporated into or referenced by the Purchase Order collectively constitute the "Contract Documents." Any reference to the "agreement" or "contract" between the University and Contractor means the Contract Documents collectively. Contractor accepts and agrees to be bound by the Purchase Order Terms and Conditions upon the earliest of: (a) executing any Contract Document; (b) accepting or acknowledging the Purchase Order; (c) commencing performance; or (d) delivering goods or providing services under the Purchase Order.

6. **ACCESS BY INDIVIDUALS WITH DISABILITIES.** Contractor represents and warrants that the electronic and information resources ("EIR") and all associated information, documentation, and support provided under the Purchase Order comply with applicable requirements in 1 TAC Chapter 213 and 1 TAC §206.70 (ref. Subchapter M, Chapter 2054, Texas Government Code) (the "EIR Accessibility Warranty"). To the extent Contractor becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to the University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Contractor fails or is unable to do so, the University may terminate the Purchase Order and, within thirty (30) days after termination, Contractor will refund to the University all amounts the University paid under the Purchase Order. Contractor will provide all assistance and cooperation necessary for performance and documentation of accessibility testing, planning, and execution criteria conducted by the University or the University's third party testing resources, as required by 1 TAC §213.38(g).

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

8. **EXPORT CONTROL.** Contractor shall comply with applicable U.S. export control and sanctions Laws, shall not provide export-controlled items or information without prior University approval, and warrants that Contractor and its personnel are not prohibited from performance under applicable U.S. restrictions.

9. **GRANT FUNDING.** Contractor certifies that it shall comply, as applicable, with,2 C.F.R. Part 200 including Appendix II, for federal funds; TxGMS for Texas state grant funds; and all applicable award and funding-agency requirements in performing the Purchase Order.

10. **INDEPENDENT CONTRACTOR.** In performing any services under the Purchase Order, Contractor is, and undertakes performance thereof as, an independent contractor, with sole responsibility for all persons employed in connection therewith, including exclusive liability for the payment of all federal, state, and local unemployment and disability insurance premiums and fees and all social security and other taxes and contributions payable in respect of such persons, from and against which liability Contractor agrees to indemnify, exonerate and hold harmless University.

11. **INDEMNITY.** INDEMNITY. CONTRACTOR WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS TEXAS SOUTHERN UNIVERSITY, THE TEXAS SOUTHERN UNIVERSITY BOARD OF REGENTS (BOARD), THE STATE OF TEXAS, AND THEIR OFFICERS, AGENTS, AND EMPLOYEES (COLLECTIVELY, THE INDEMNIFIED PARTIES) FROM AND AGAINST ANY THIRD-PARTY CLAIMS, DEMANDS, DAMAGES, LIABILITIES, LOSSES, EXPENSES, OR CAUSES OF ACTION, INCLUDING REASONABLE ATTORNEYS' FEES (COLLECTIVELY, CLAIMS), ARISING OUT OF OR RELATED TO: (I) ANY ALLEGATION THAT GOODS OR SERVICES PROVIDED BY CONTRACTOR UNDER THE PURCHASE ORDER INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS; (II) CONTRACTOR'S BREACH OF ANY CERTIFICATION, REPRESENTATION, OR WARRANTY CONTAINED IN THE PURCHASE ORDER; OR (III) ANY ACT OR OMISSION OF CONTRACTOR OR ITS EMPLOYEES OR AGENTS PERTAINING TO THE PURCHASE ORDER, EXCEPT TO THE EXTENT A CLAIM ARISES FROM AN INDEMNIFIED PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

12. **INSURANCE.** Contractor shall maintain and cause its agents, suppliers and subcontractors (if any) to maintain the following insurance coverages for at least the specified limits: University may require Contractor to maintain additional insurance appropriate to the goods, services, and risks, including any specialized coverage specified:

Coverages	**Limits**
Workers' Compensation	Statutory Limits
Employer's Liability	$500,000 per accident and employee
Commercial Auto Liability	$1,000,000 combined single limit
Commercial General Liability (including contractual liability)	$1,000,000 per occurrence
General Aggregate	$3,000,000 per policy limit

All policies (except Workers' Compensation) shall name University, the Board, and their officers and employees as Additional Insured. A Waiver of Subrogation in favor of the University and the Board and thirty (30) day notice of cancellation is required on all policies. Certificates of insurance verifying the foregoing requirements shall be provided to the University prior to commencement of any services under the Purchase Order. Contractor shall endorse all policies to require insurance carriers to notify the University of cancellation, termination, material change, or non-renewal of any policy.

13. **VENUE; GOVERNING LAW.** Harris County, Texas, shall be the proper place of venue for suit on or in respect of any Purchase Order. Each Purchase Order, all of its terms and conditions, all rights and obligations of the parties, and all claims arising out of or relating to any Purchase Order, shall be construed, interpreted, and applied in accordance with, governed by, and enforced under, the laws of the State of Texas, without regard to its conflict-of-laws principles.

14. **ASSIGNMENT AND DELEGATION.** Contractor may not assign any of its rights or delegate any of its obligations under the Purchase Order without the University's prior written consent. Any assignment or delegation attempted by Contractor in violation of this clause shall be void and ineffective for all purposes.

15. **ENTIRE AGREEMENT.** The Purchase Order, these University Purchase Order Terms and Conditions, and any documents expressly incorporated into or referenced by the Purchase Order constitute the entire agreement and understanding between the parties with respect to the subject matter thereof (collectively, the "Agreement") and supersede all prior agreements, representations, negotiations, and understandings, whether written or oral.

In the event of any conflict, inconsistency, or ambiguity among the documents comprising the entire Purchase Order agreement, the following order of precedence shall apply: (1) these University Purchase Order Terms and Conditions; (2) the face of the Purchase Order and any University-issued special terms, addenda, or amendments; (3) any scope of work, specifications, drawings, requirements, or other documents issued or expressly approved by the University; and (4) any Contractor quotation, offer, bid, proposal, statement of work, scope of work, specifications, or other document expressly incorporated into or referenced by the Purchase Order, but only with respect to the scope, deliverables, quantities, specifications, schedule, pricing, and other commercial terms expressly accepted by the University. Any term that diminishes any right, protection, privilege, or immunity of the University under applicable law or these Purchase Order Terms and Conditions is void and shall have no effect to the extent of such diminishment.

Contractor-authored documents may supplement the scope, deliverables, specifications, schedule, pricing, and other commercial requirements of the Purchase Order agreement, but shall not modify, limit, disclaim, or supersede the University's terms, rights, remedies, warranties, or protections unless expressly accepted in writing by an authorized University representative. Any inconsistent or additional Contractor terms that diminish or adversely affect such rights or protections, including terms contained in or incorporated by reference through any quotation, proposal, invoice, acknowledgment, website, hyperlink, clickwrap, browsewrap, shrinkwrap, or other electronic or online terms, are rejected and shall have no force or effect.

16. **MODIFICATIONS.** Consistent with the Texas Procurement and Contract Management Guide (PCMG), the University may issue unilateral administrative changes that are within the scope of the Purchase Order and do not affect or alter the parties' substantive rights. Substantive changes shall be documented by a written amendment, change order, or revised Purchase Order, as applicable, issued by an authorized University representative and, where required, accepted by Contractor. Contractor shall not perform changed or additional work, or incur additional costs, without such prior written authorization. No oral direction, course of dealing, invoice, or Contractor document shall amend the Purchase Order.

17. **BREACH OF CONTRACT CLAIMS.** To the extent that Chapter 2260, Texas Government Code, is applicable to the Purchase Order and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by the University and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. An authorized Texas Southern University representative will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The University and Contractor specifically agree that (i) neither the execution of the Purchase Order by the University nor any other conduct, action or inaction of any representative of the University relating to the Purchase Order constitutes or is intended to constitute a waiver of University's or the state's sovereign immunity to suit; and (ii) the University has not waived its right to seek redress in the courts.

18. **STATE AUDITOR'S OFFICE.** Contractor understands that acceptance of funds under the Purchase Order constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, **Auditor**), to conduct an audit or investigation in connection with those funds pursuant to §§51.9335(c), 73.115(c) and 74.008(c), Texas Education Code. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including providing all records requested. Contractor will include this provision in all contracts with subcontractors.

19. **LIMITATIONS.** THE PARTIES ARE AWARE THAT THERE MAY BE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF THE UNIVERSITY (A STATE AGENCY AND AUTHORIZED INSTITUTION OF HIGHER EDUCATION) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF THIS PURCHASE ORDER, INCLUDING TERMS AND CONDITIONS (IF ANY) RELATING TO LIENS ON UNIVERSITY'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE **LIMITATIONS**), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON THE UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

20. **ETHICS MATTERS; NO FINANCIAL INTEREST.** Contractor and its employees, agents, representatives, and subcontractors have read and understand the University's Ethics and Conflicts of Interest Policy (MAPP 02.05.05), available at,https://tsu.edu/mapp/pdf/human-resources/02.05.05-Ethics%20and%20Conflict%20of%20Interest.pdf and applicable state ethics laws and rules, including Chapter 572 of the Texas Government Code. Neither Contractor nor its employees, agents, representatives, or subcontractors will assist or cause University employees to violate MAPP 02.05.05 or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board of Regents has a financial interest in the Purchase Order prohibited by Texas Education Code § 51.923, and that the Purchase Order does not constitute a prohibited contract under Texas Government Code § 2261.252 with respect to the University President, General Counsel, Chief Procurement Officer, Procurement Director, or a Family Member in the Second Degree of any such individual.

Further, if applicable, Contractor agrees to comply with §2252.908, Texas Government Code (**Disclosure of Interested Parties Statute**), and 1 TAC §§46.1 through 46.5 (**Disclosure of Interested Parties Regulations**), as implemented by the Texas Ethics Commission (**TEC**), including, among other things, providing the TEC and the University with information required on the form promulgated by TEC. Contractor may learn more about these disclosure requirements, including the use of TEC's electronic filing system, by reviewing the information on TEC's website at https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php.

21. **CONTINUITY OF SERVICES.** Contractor acknowledges the University's responsibility as a Texas public institution of higher education to maintain continuity of essential operations. Except where reasonably necessary to address an imminent security or system-integrity threat, Contractor shall not suspend, terminate, or restrict University access without thirty (30) days' prior written notice and opportunity to cure. For disputed payments, the parties shall first attempt in good faith to resolve the dispute. Any suspension for nonpayment shall be limited to the severable services associated with the unpaid amount, and Contractor shall continue all unaffected services and reasonably minimize disruption.

22. **PROCUREMENT INTEGRITY CERTIFICATION.** Pursuant to Texas Government Code § 2155.004, Contractor represents, warrants, and certifies that neither Contractor nor any person or entity financially participating in the Purchase Order received compensation from the University for participating in preparing the specifications or request for proposals upon which the Purchase Order is based, and that Contractor is not ineligible to receive the Purchase Order. Contractor acknowledges that the Purchase Order may be terminated and payment withheld if this certification is inaccurate.

23. **NOTICES.** Except as otherwise provided by this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of the Purchase Order will be in writing and will be sent via certified mail, hand delivery, overnight courier, facsimile transmission with return receipt to the following:

Texas Southern University:
Attention: Agnes Harris – Procurement
Hannah Hall, Suite 333
3100 Cleburne Street
Houston, Texas 77004

Copy to:
Texas Southern University:
Office of General Counsel
Hannah Hall, Suite 340
3100 Cleburne Street
Houston, Texas 77004

Notwithstanding any other requirements for notices given by a party under this Purchase Order, if Contractor intends to deliver written notice to University pursuant to payments to the University or §2251 of the Texas Government Code, then Contractor will send that notice to University or other person or address as may be given in writing by University to Contractor in accordance with this Section as follows:

Texas Southern University:
Accounts Payable
Hannah Hall, Suite 333
3100 Cleburne Street
Houston, Texas 77004

24. **UNDOCUMENTED WORKERS.** Contractor represents and warrants compliance with 8 U.S.C. § 1324a. and shall not employ unauthorized workers.

25. **STATE OF TEXAS COMPUTER EQUIPMENT RECYCLING PROGRAM CERTIFICATION.** If Contractor is selling or leasing computer equipment (defined in Section 361.952 (2), Texas Health and Safety Code) to the University under the Purchase Order, then pursuant to §361.965, Texas Health and Safety Code, Contractor certifies that it is in 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. Contractor acknowledges that the Purchase Order may be terminated and payment may be withheld if this certification is inaccurate.

26. **RESPONSIBILITY FOR INDIVIDUALS PERFORMING WORK; CRIMINAL BACKGROUND CHECKS.** Each individual who is assigned to perform services under the Purchase Order will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing services under the Purchase Order. Prior to commencing services, Contractor will have an appropriate criminal background screening performed on all the individuals who will be performing services on the University's campus. Contractor will determine on a case-by-case basis whether each individual assigned to perform services is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on the University's campus who has a history of criminal conduct unacceptable for a University campus or healthcare center, including violent or sexual offenses. Contractor will update the University each time there is a change in the individuals assigned to perform services on University's campus.

27. **FORCE MAJEURE.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, government order, including executive orders and legislative action or inaction or any other circumstances of like character (**force majeure occurrence**). Provided, however, in the event of a force majeure occurrence, Contractor agrees to use its best efforts to mitigate the impact of the occurrence so that the University may continue to provide services during the occurrence.

28. **TERMINATION.**
(a) The University reserves the right to terminate the Purchase Order or any related agreement thereunder at any time, in whole or in part, without cost or penalty, by providing thirty (30) calendar days' advance written notice, if the University determines that such termination is in the best interest of the state or University. In the event of such a termination, Contractor must, unless otherwise mutually agreed in writing, cease all work immediately upon the effective date of termination. The University may be liable for payments limited only to the portion of work the University authorized in writing and which Contractor has completed, delivered to the University, and which has been accepted by the University. All such work shall have been completed, in accordance with contract requirements, prior to the effective date of termination. The University shall have no other liability, including no liability for any costs associated with the termination. There shall be no buy-out or other amounts due if the University terminates early. Upon termination under this provision, Contractor shall refund to the University any amounts attributable to the terminated portions of the work or service within thirty (30) calendar days of the termination effective date.

(b) In the event of a material failure by Contractor to perform in accordance with the terms of the Purchase Order ("Default"), the University may terminate the Purchase Order upon ten (10) University business days' written notice of termination setting forth the nature of the default; provided that, the default is through no fault of University. Termination will not be effective if the default is fully cured by Contractor prior to the end of the ten-day period. In the event of such a default, the University may procure the goods and/or services from other sources and Contractor will be liable to the University for any excess costs that the University incurs.

29. **PUBLIC INFORMATION.** The University strictly adheres to all statutes, court decisions and opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act (**TPIA**), Chapter 552, Texas Government Code. In accordance with §552.002 of TPIA and §2252.907, Texas Government Code, and at no additional charge to University, Contractor will make any information created or exchanged with the University pursuant to the Purchase Order (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by the University that is accessible by the public**.**

30. **CONTRACTOR CERTIFICATION REGARDING BOYCOTTING ISRAEL.** If applicable, pursuant to Chapter 2271, Texas Government Code, Contractor certifies Contractor:
(1) Does not currently boycott Israel; and
(2) Will not boycott Israel during the period of performance of the service under the Purchase Order. Contractor acknowledges the Purchase Order may be terminated and payment withheld if this certification is inaccurate.

31. **CONTRACTOR CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges the Purchase Order may be terminated and payment withheld if this certification is inaccurate.

32. **PROHIBITED SUBSTANCES AND ALCOHO**L. Contractor acknowledges that University is an institution of higher education and agency of the State of Texas and certifies that, in performing the Agreement, Contractor and its employees, agents, and subcontractors shall comply with all applicable Texas state and federal laws and University policies prohibiting the possession, use, distribution, or consumption of alcohol, controlled substances, and other prohibited substances on University property.

33. **CYBERSECURITY TRAINING PROGRAM.** If Contractor and/or its subcontractors, officers, or employees will have an account on a state computer system (for example, an account to an application, database, or network), then pursuant to Section 2054.5192, Texas Government Code, Contractor and its subcontractors, officers, and employees

must complete a cybersecurity training program certified under Section 2054.519, Texas Government Code and selected by the University. The cybersecurity training program must be completed by Contractor and its subcontractors, officers, and employees during the term and any renewal period of the Purchase Order. Contractor shall verify completion of the program to the University.

34. TEXAS PUBLIC INFORMATION ACT - SUBCHAPTER J REQUIREMENTS. If applicable, pursuant to Section 552.372 of the Texas Government Code, Contractor must:

(1) Preserve all contracting information (ref. Section 552.003(7), Texas Government Code) related to the Purchase Order as provided by the records retention requirements applicable to the University for the duration of the Purchase Order;
(2) Promptly provide to the University any contracting information related to the Purchase Order that is in the custody or possession of Contractor on request of the University; and
(3) Upon completion of the Purchase Order, either:
  (A) provide at no cost to the University all contracting information related to the Purchase Order that is in the custody or possession of Contractor, or
  (B) preserve the contracting information related to the Purchase Order as provided by the records retention requirements applicable to the University.

If applicable, the requirements of Subchapter J, Chapter 552, Government Code (**Subchapter J**) may apply to the Purchase Order and Contractor agrees that the Agreement can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of Subchapter J.

35. CONTRACTOR VERIFICATION REGARDING DISCRIMINATION AGAINST FIREARM ENTITIES OR TRADE ASSOCIATIONS. If applicable, pursuant to Chapter 2274,
Texas Government Code (enacted by SB 19, 87th Texas Legislature, Regular Session (2021)) Contractor verifies (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 the Purchase Order against a firearm entity or firearm trade association. Contractor acknowledges the Purchase Order may be terminated and payment withheld if this verification is inaccurate.

36. CONTRACTOR CERTIFICATION REGARDING COVID-19 VACCINATION. Pursuant to Section 161.0085, Texas Health and Safety Code (enacted by,SB 968, 87th Texas Legislature, Regular Session (2021)) Contractor certifies that it does not require a customer 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 Contractor's business. Contractor acknowledges the Purchase Order may be terminated and payment withheld if this certification is inaccurate.

37. FEDERAL REQUIREMENTS FOR TELECOMMUNICATIONS EQUIPMENT OR SERVICES.

(a) Contractor represents that it will not provide covered telecommunications equipment or services, as defined in 2 CFR § 200.216, to the University in the performance of the Purchase Order or any contract, subcontract, or other contractual instrument resulting from the Purchase Order.
(b) In the event Contractor identifies covered telecommunications equipment or services, as defined in 2 CFR § 200.216, used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of the Purchase Order, or Contractor is notified of such by a subcontractor at any tier or by any other source, Contractor shall report information about the contract, equipment item, and mitigation measures to the University within one (1) University business day, and provide the University with an update within ten (10) University business days that includes measures to prevent recurrence.

38. CONTRACTOR CERTIFICATION RELATING TO CRITICAL INFRASTRUCTURE. If Contractor will be granted direct or remote access to or control of critical infrastructure in the State of Texas pursuant to Chapter 2275, Texas Government Code (enacted by SB 2116, 87th Texas Legislature, Regular Session (2021)), Contractor certifies (A) it is neither owned by nor is the majority of stock or other ownership interest of the Contractor held or controlled by (i) individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor of Texas as a threat to critical infrastructure under Section 2275.0103 of the Texas Government Code (a **designated country**) or (ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; and (B) it is not headquartered in China, Iran, North Korea, Russia, or a designated country. Contractor understands that the prohibitions set forth in the preceding sentence apply regardless of whether (1) Contractor's or its parent company's securities are publicly traded or (2) Contractor or its parent company is listed on a public stock exchange as either (a) a Chinese, Iranian, North Korean, or Russian company or (b) a company of a designated country. Contractor acknowledges that the Purchase Order may be terminated and payment withheld if this certification is inaccurate.

39. CONTRACTOR COMPLIANCE AND WARRANTY RELATING TO CLOUD COMPUTING SERVICES. If Contractor provides cloud computing services subject to TX-RAMP, Contractor shall maintain required certifications and comply with Texas Government Code § 2054.0593, 1 TAC § 202.77, and applicable DIR TX-RAMP requirements throughout the Purchase Order.

40. TRAVEL EXPENSES: If the University specifies that travel is a part of the services under the Purchase Order, Contractor agrees and acknowledges that all travel expenses shall be subject to University policies and procedures with regard to meals, lodging, mileage and all other expenses related to travel. Further, Contractor agrees and acknowledges that Contractor shall not be reimbursed by the University for expenses which are prohibited or which exceed the allowable amounts set forth therein and in accordance with applicable law. As a condition precedent to receiving reimbursement for expenses and disbursements, Contractor shall submit to the University receipts, invoices, and other documentation as required by the University.

41. PRESS RELEASES. Except when defined as part of the services, Contractor shall not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of the University in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of the University.

42. UNIVERSITY MARKS AND LOGOS. Contractor acknowledges: (1) Use of University's trademarks, service marks, trade names, logos or other commercial or product designations ("Marks") is governed by the policies and regulations found at,https://tsu.edu/about/administration/general-counsel/trademarks-and-licensing/index.php https://tsu.edu/about/administration/general-counsel/trademarks-and-licensing/trademarks.php and https://tsu.edu/about/administration/general-counsel/trademarks-and-licensing/licensing.php; (2) Separate prior written approval from the most senior University representative in charge of the Marks may be required to utilize the University Marks, (3) The University cannot sponsor, act as a reference for, or otherwise publicly express a viewpoint or opinion on products or services, and (4) the representative issuing the Purchase Order on behalf of the University does not have any authority to convey any right or interest in the University Marks.

43. DEBARMENT AND SUSPENSION. Contractor certifies that neither it nor its principals or subcontractors are suspended, debarred, excluded, or otherwise ineligible to contract with the federal government or State of Texas, or subject to a Texas vendor hold.

44. CONTRACTING WITH INSTITUTIONS OF HIGHER EDUCATION. Pursuant to Texas Education Code § 51.9335(h), any provision required by applicable law to be included in a contract with the University is incorporated into that contract by operation of law, whether or not expressly stated therein and notwithstanding any provision to the contrary.

45. CONFIDENTIALITY AND SAFEGUARDING OF UNIVERSITY RECORDS; LOCATION OF DATA. Under the Purchase Order, Contractor may (1) create, (2) receive from or on behalf of University, or (3) have access to, records or record systems (collectively, "the University Records"). Among other things, the University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by applicable federal, state, and local laws, regulations, and ordinances, including the Gramm-Leach-Bliley Act (Public Law No: 106-102) and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g ("FERPA"). If the

University Records are subject to FERPA, and to the extent Contractor is performing an institutional service under University control and using education records solely for authorized purposes, (1) the University designates Contractor as a University official with a legitimate educational interest in the University Records, and (2) Contractor acknowledges that its improper disclosure or redisclosure of personally identifiable information from the University Records will result in Contractor's exclusion from eligibility to contract with the University for at least five (5) years.

Contractor represents, warrants, and agrees that it shall:
(1) Hold the University Records in strict confidence and shall not use or disclose the University Records except as (a) permitted or required by the Purchase Order, (b) required by law, or (c) otherwise authorized by the University in writing;
(2) Safeguard the University Records according to commercially reasonable administrative, physical and technical standards (such as standards established by (i) the National Institute of Standards and Technology and (ii) the Center for Internet Security, the Gramm-Leach-Bliley Act, as well as the Payment Card Industry Data Security Standards) that are no less rigorous than best practices in the data security industry;
(3) Continually monitor its operations and take any action necessary to assure that the University Records are safeguarded and the confidentiality of the University Records is maintained in accordance with all applicable federal, state, and local laws, regulations, and ordinances, including FERPA and the Gramm-Leach-Bliley Act, and the terms of the Purchase Order; and
(4) Comply with the University's rules, policies, and procedures regarding access to and use of the University's computer systems. Contractor represents, warrants and certifies that it complies with and shall remain in compliance with the University's access requirements and the University's cybersecurity policies and procedures, and agrees to provide, upon request by the University, a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of the University Records.

If an impermissible use or unauthorized disclosure of any University Records occurs, Contractor will provide written notice (containing information required under INFORMATION BREACH section in these Terms and Conditions) to the University and its Chief Information Officer, within one (1) calendar day after Contractor's discovery of that use or disclosure. Contractor will promptly provide the University with all information requested by the University regarding the impermissible use or disclosure.

(a) Return of the University Records: Contractor agrees that within thirty (30) calendar days after the expiration or termination of the Purchase Order, for any reason, all the University Records created or received from or on behalf of the University will be (1) returned to the University, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) calendar days before destruction of any University Records, Contractor will provide the University with written notice of Contractor's intent to destroy the University Records. Within five (5) calendar days after destruction, Contractor shall confirm to the University in writing the destruction of the University Records.
(b) Disclosure: If Contractor discloses any University Records to a permitted subcontractor or agent, Contractor will require the permitted subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor by this Section.
(c) Location of Data: Contractor shall store and process all University data within the United States and shall not store, process, transmit, or permit remote access to University data from outside the United States without the University's prior written consent.

46. PROTECTED HEALTH INFORMATION. Contractor shall not create, receive, maintain, transmit, access, use, or disclose protected health information ("PHI"), as defined by HIPAA, in connection with the Purchase Order unless expressly authorized by the University. Where Contractor's activities require a business associate agreement ("BAA"), Contractor shall not access or handle PHI until the parties execute a University-approved BAA, which shall govern Contractor's handling of PHI and control over any conflicting provision of the Purchase Order.

47. UNIVERSITY'S DATA. Contractor agrees that the University will have and retain full ownership rights to all of the information, including but not limited to data, records, reports, accounts, specifications, plans, computations, collected and/or captured through the services provided, use of Contractor's products, software provided by and through Contractor, and all data of the University's employees, students, faculty, customers, clients, student-athletes, coaches, and staff collected and/or captured through the use of Contractor's services, Products, Software, and/or equipment prepared by Contractor or any Contractor's subcontractors, pursuant to the Purchase Order ("University's Data"). University Data excludes Contractor's preexisting technology, intellectual property, confidential information, authorized anonymized telemetry, and third-party data not owned by the University. Contractor agrees that Contractor is not permitted to use any of the University's Data, except for maintenance and correction of errors in Contractor's system. Contractor agrees that Contractor will not market, barter, trade, sell, monetize or otherwise use any of the University's Data for commercial gain. Contractor represents and warrants that it will not provide any of the University's Data to any person or entity except for the University. Contractor represents and warrants that it will not use any of the University's Data for any purpose other than those set forth in the Purchase Order.

48. INFORMATION SECURITY REVIEW. Contractor agrees to make reasonable efforts to allow the University to perform mutually agreed security assessments of service, with notice, throughout the period of performance under the Purchase Order. The University may provide Contractor a report of University's findings, and, in such case, Contractor agrees to reasonably review and address the report in a way that is commercially reasonable and mutually agreeable.

49. INFORMATION BREACH. Contractor shall report any confirmed or suspected unauthorized access to Contractor's software, databases, hardware, or other information, including unauthorized access involving University Data, systems providing the services, University credentials, or incidents reasonably likely to affect the University, (referred to collectively as a security "Breach"), to the University immediately upon discovery, both orally and in writing, but in no event more than one (1) business day after Contractor reasonably believes a Breach has or may have occurred. Contractor's report shall identify: (i) the nature of the unauthorized access, use or disclosure, (ii) the protected information accessed, used or disclosed, (iii) the person(s) who accessed, used and disclosed and/or received protected information (if known), (iv) what Contractor has done or will do to mitigate any deleterious effect of the unauthorized access, use or disclosure, and (v) what corrective action Contractor has taken or will take to prevent future unauthorized access, use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by University.

50. ARTIFICIAL INTELLIGENCE. Contractor is prohibited from using, sharing, disclosing, providing, or otherwise making available the University data for the training, submission, or use of any artificial intelligence or machine learning models, tools, systems, or services created, offered, or used by Contractor and any subcontractor or agent, unless expressly authorized by the University in writing. If expressly authorized by the University in writing, the following restrictions shall apply: (a) Contractor shall restrict its use of the University data to training models, features, or products exclusively for University's benefit, and only within a dedicated environment or instance configured for University; (b) Contractor shall not expose any University data used in training to any other customer or third party; and (c) any models, algorithms, or similar outputs trained using the University data shall be deployed and used solely within University's dedicated environment or instance and shall not be provided, licensed, or otherwise made available to, or used to provide services for, any other customer or third party.

51. SEVERABILITY; NON-WAIVER. If any provision of the Purchase Order is determined by a court or other authority of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality, or unenforceability, and the remaining provisions of the Purchase Order shall remain in full force and effect. No failure or delay by the University in exercising or enforcing any right, remedy, or provision of the Purchase Order shall constitute a waiver thereof, and no waiver of any breach shall constitute a waiver of any other or subsequent breach. No such determination, failure, delay, or waiver shall be construed to waive or impair any constitutional, statutory, or other legal limitation applicable to the University as an agency of the State of Texas or any sovereign or governmental immunity available to the University or the State of Texas.

52. CERTIFICATION REQUIRED BY TEXAS GOVERNOR EXECUTIVE ORDER GA-48. Contractor certifies that during the entire length of the agreement, neither Contractor nor any of its holding companies or subsidiaries are:

1. Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or

2. Listed in Section 1260H of the 2021 NDAA; or
3. 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; or
4. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

Contractor agrees to notify the University immediately of any change of its status as it relates to this certification. Contractor also acknowledges that the Purchase Order may be terminated by the University immediately if Contractor does not comply with this requirement or this Section. Contractor agrees that this certification will apply to all agreements that were based upon a bid or proposal for goods or services submitted by Contractor to the University.

53. SURVIVAL. All provisions of the Purchase Order that by their nature, purpose, or express terms are intended to survive expiration or termination shall survive, including applicable warranties, indemnities, confidentiality, data security and privacy obligations, audit and records-retention requirements, payment and refund obligations, intellectual property rights, and rights and remedies arising from any breach occurring before expiration or termination. The University shall also retain the benefit of any rights, remedies, warranties, protections, or other obligations that survive under any cooperative purchasing agreement or other contract through which the Purchase Order is issued. Expiration or termination of the Purchase Order shall not affect any rights, remedies, obligations, or liabilities accrued before its effective date of expiration or termination.

End of Document

Last Updated September 2026