The following are the terms and conditions for Texas A&M University-Commerce hereafter referred to as the Agency.

1. VENDOR REQUIREMENTS
1.1 Vendors must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.

1.2 Pricing must be quoted on a “per unit” basis, extended as indicated. Any trade discounts included must be itemized and deducted from extended prices. Unit Prices shall govern in the event of extension errors. Vendor guarantees product or service offered will meet or exceed specifications included.

1.3 Purchases should be “F.O.B. destination, freight prepaid and allowed”. However, if vendor quoted freight otherwise, then face of order should show exact delivery cost and who bears cost if not included in unit price.

1.4 Prices are firm for within 90 days of the offer. Cash discounts were not considered in determining the best value. All cash discounts will be taken if earned.

1.5 Purchases made for the Agency use are exempt from the State Sales tax and Federal Excise tax. Excise Tax Exemption Certificate will be furnished by the Agency upon request.

1.6 The Agency reserves the right to accept or reject all or any part of any offer, waive minor technicalities and issue the purchase order to the vendor that best serves the interests of the State.

1.7 Products and services awarded as a result of this IFB/RFP may be extended to other Institutions of Higher Education as defined by Section 61.003 Education Code, Government Code Section 2155.134. Other individual institutions may or may not elect to use this agreement.

1.8 Consistent and continued tie offers could cause rejection of offers by the Agency and/or investigation for antitrust violations.

2. SPECIFICATIONS
2.1 Any catalogue, brand name or manufacturer’s reference used is descriptive only (not restrictive), and is used to indicate type and quality desired. Therefore, offers of brands of like nature and quality were considered unless otherwise specified. Vendor will be required to furnish brand names, numbers, etc., as specified on the purchase order unless noted otherwise at time of offer.

2.2 All items shall be new and unused, in first class condition, including containers suitable for shipment and storage, unless otherwise indicated.

2.3 All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.

2.4 The Agency will not be bound by any oral statement or representation contrary to the terms and conditions of this purchase.

2.5 Manufacturer’s standard warranty shall apply unless otherwise stated.

3. DELIVERY
3.1 Order delivery time as shown on the face of the purchase order reflects the number of days required to place material in receiving agency’s designated location under normal conditions. Failure of vendor to state delivery time obligates supplier to complete delivery in 14 calendar days.

3.2 If delay is foreseen, supplier shall give written notice to the Agency. The Agency has the right to extend delivery date if reasons appear valid. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the Agency to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting supplier.

3.3 No substitutions or cancellation permitted without written approval of the Texas A&M University-Commerce Purchasing Department.

3.4 Delivery shall be made during normal working hours only, unless prior approval for late delivery has been obtained from the Agency.

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

5. AWARD OF CONTRACT
A response to an Invitation for Bid is an offer to contract with the Agency based upon the terms, conditions and specifications contained herein. Offers do not become contracts until they are accepted and an authorized purchase order is issued. The contract shall be governed, construed and interpreted under the laws of the State of Texas. The factors listed in Texas Education Code, Title 3, Chapter 51, Section 51.9335, shall also be considered in making an award when specified. Any legal actions must be filed in Hunt County, TX.

6. PAYMENT
Supplier shall submit one copy of an itemized invoice showing order number and agency purchase order number. The Agency will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services on an uncontested invoice.

7. PATENTS OR COPYRIGHTS
The supplier agrees to protect the Agency from claims involving infringement of patents or copyrights.

8. SUPPLIER ASSIGNMENTS
Supplier hereby assigns to purchaser any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and which arise under the antitrust laws of the State of Texas, TEX. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967).

9. VENDOR AFFIRMATION
By accepting this order, the vendor affirms any false statement is a material breach of contract and shall void the submitted quote or any resulting contracts, and the vendor shall be removed from all bid lists. By signature hereon affixed, the vendor hereby certifies that:

9.1 The vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid.

9.2 The vendor is not currently delinquent in the payment of any franchise tax owed the State of Texas.

9.3 Pursuant to Section 2155.004 Government Code, relating to collection of state and local sales and use taxes, the vendor certifies that the individual or business entity named in this order is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.

9.4 Neither the vendor nor the firm, corporation, partnership or institution represented by the vendor, or anyone acting for such firm, corporation, partnership or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce code, or the Federal Antitrust Laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

9.5 The vendor had not received compensation for participation in the preparation of the specifications for order.

9.6 The supplier shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings costs, damages, and liabilities, from any acts or omissions of supplier or any agent, employee, subcontractor, or supplier of supplier in the execution or performance of this purchase order.

9.7 Vendor hereby agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

9.8 Vendor certifies that they are in compliance with section 669.003 of the Government Code, relating to contracting with an executive of a state agency, Vendor represents that no person who, in the past four years, served as an executive of the Texas Comptroller of Public Accounts, Texas A&M University-Commerce or any other state agency, was involved with or has any interest in this bid or any contract resulting from this bid. If vendor employs or has used the services of a former executive head of Texas A&M University-Commerce or other state agency, then Respondent shall provide the following information: relating to contracting with executive head of a State Agency.

Name of Former Executive: ________________________________
Name of State Agency: __________________________________
Date of Separation from State Agency: _____________________
Position with Vendor: ___________________________________
Date of Employment with Vendor: ___________________________

9.9 Vendor agrees to comply with Government Code 2155.4441, pertaining to service contract use of products produced in the State of Texas.

9.10 Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor’s Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor’s Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract awards.

10. NOTE TO VENDORS
Any terms and conditions attached to a quote will not be considered unless the vendor specifically refers to them in the quote. WARNING: Such terms and conditions may result in disqualification of the quote, (e.g. quotes with the laws of a State other than Texas, requirements for prepayment, limitations on remedies, etc.)
11. **PUBLIC INFORMATION**

(a) [PROVIDER] acknowledges that [MEMBER] is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.

(b) Upon [MEMBER]'s written request, [PROVIDER] will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to [MEMBER] in a non-proprietary format acceptable to [MEMBER]. As used in this provision, “public information” has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which [MEMBER] has a right of access.

(c) [PROVIDER] acknowledges that [MEMBER] is required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

12. **TEXAS FAMILY CODE SECTION 231.006**

Ineligibility to Receive State Grants or Loans, or Receive Bids or Payments on State Contracts.

(a) A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to:
   1. receive payments from state funds under a contract to provide property, materials, or services; or
   2. receive a state-funded grant or loan.

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) remains ineligible until:
   1. all arrearages have been paid; or
   2. the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

(c) Pursuant to Section 231.006(c), Family Code, quote should include name and Social Security number of each person with at least 25% ownership of the business entity submitting the quote. Vendors that have pre-registered this information on the TPASS Centralized Master Bidders List have satisfied this requirement. If not pre-registered, attach name & Social Security number for each person. Otherwise this information must be provided prior to contract award.

(d) “Pursuant to Section 231.006, Family Code, re: child support, the vendor certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledge that this contract may be terminated and payment may be withheld if this certification is inaccurate.”

(e) If a State Agency determines that an individual or business entity holding a state contract is ineligible to receive payment under Section (a) the contract may be terminated.

(f) If the certificate required under Subsection (d) is shown to be false, the vendor is liable to the State for attorney's fees, the costs necessary to complete the contract, including the cost of advertising and awarding a second contract, and any other damages provided by law or contract. Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 82, eff. Sept. 1, 1995.

13. **ALTERNATIVE DISPUTE RESOLUTION**

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used as further described herein, by the Agency, and the bidder to attempt to resolve any claim for breach of contract made by vendor:

(1) The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Texas A&M University-Commerce and the contractor to attempt to resolve any claim for breach of contract made by the contractor:

(A) A contractor's claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the contractor shall submit written notice, as required by subchapter B, to the President. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Texas A&M University-Commerce and the contractor otherwise entitled to notice under the parties' contract. Compliance by the contractor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

(B) The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by Texas A&M University-Commerce if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.

(C) Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by Texas A&M University-Commerce nor any other conduct of any representative of Texas A&M University-Commerce relating to the contract shall be considered a waiver of sovereign immunity to suit.

(2) The submission, processing and resolution of the contractor's claim is governed by the published rules adopted by the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found at the Texas Register, Volume 25, Number 21, issued May 26, 2000.

14. **BUSINESS ETHICS EXPECTATIONS**
During the course of pursuing contracts with Owner and while performing contract work in accordance with this Agreement, Architect/Engineer agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner’s best interests.

Architect/Engineer shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Owner’s best interests. These obligations shall apply to the activities of Architect/Engineer’s employees, agents, subconsultants, subconsultants’ employees and other persons under their control.

Architect/Engineer’s employees, agents, subconsultants (and their representatives) shall not make or offer, or cause to be made or offered, any cash payments, commissions, employment, gifts valued at $50 dollars or more, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to Owner's representatives, employees or their relatives.

Architect/Engineer’s employees, agents and subconsultants (and their relatives) shall not receive or accept any cash payments, commissions, employment, gifts valued at $50 dollars or more, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of contractors, subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the Project.

Architect/Engineer agrees to notify the Assistant Vice President for Facilities & Support Services within 48 hours of any instance where the Architect/Engineer becomes aware of a failure to comply with the provisions of this article.

Upon request by Owner, Architect/Engineer agrees to provide a certified Management Representation Letter executed by a Architect/Engineer representative selected by Owner in a form agreeable to Owner stating that the representative is not aware of any situations violating the business ethics expectations outlined in this Agreement or any similar potential conflict of interest situations.

Architect/Engineer agrees to include provisions similar to this Article in all contracts with subconsultants receiving more than $25,000 in funds in connection with the Project.

15. NON-DISCRIMINATION
The Seller and its agents and employees are prohibited from engaging in or allowing any impermissible discrimination on the basis of race, religion, color, national origin, age, sex, disability, genetic information or veteran status in relation to (1) the Seller’s employment practices; (2) the performance of the Seller’s obligations under the Agreement. In performing its obligations under the Agreement, Seller shall be subject to and shall comply with all currently effective or subsequently promulgated policies regarding non-discrimination issued by either the University or The Texas A&M University System.

16. INDEPENDENT VENDOR STATUS
Seller agrees that Seller and Seller's employees and agents have no employer-employee relationship with University. University shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, federal or state unemployment taxes, income tax withholding, Workers Compensation Insurance payments, or any other insurance payments, nor will University furnish any medical or retirement benefits or any paid vacation or sick leave.