

Terms and Conditions

1. **GENERAL:** All terms and conditions stated in the invitation for Bid govern this contract.
2. **PRICES:** Prices are firm and not subject to escalation, unless otherwise specified in the invitation for Bid.
3. **DISCOUNTS:** All cash discounts offered will be taken if earned.
4. **TAXES:** Arkansas State University-Jonesboro must pay State Sales Tax. Itemize State Sales Tax when applicable on your invoices.
5. **BRAND NAME REFERENCES:** Contractor guarantees commodity delivered is the same as specified in his bid.
6. **GUARANTY:** All items are to be newly-manufactured, in first class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in bid invitation. Contractor guarantees that everything furnished hereunder will be free from defects in design, workmanship, and material; that if sold by drawing, sample or specification, it will conform thereto and will serve the function for which furnished. Contractor further guarantees that if the items furnished hereunder are to be installed by the contractor, that such items will function properly when installed. Contractor also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling, and registration. Contractor's obligations under this paragraph shall survive for a period of one (1) year from date of delivery, unless otherwise specified in the Invitation for Bid.
7. **DELIVERY:** On the face of the Purchase Order is shown the number of days required to place the commodity in ASU-J's designated location under normal conditions. Consistent failure to meet delivery without valid reason may cause removal from bidders list or suspension of eligibility for award.
8. **BACKORDERS OR DELAY IN DELIVERY:** Backorders or failure to deliver within the time required may be default of the contract. Contractor must give written notice to ASU-J Procurement Services of the reason and the expected delivery date. If reason is not acceptable, contractor is in default. ASU-J Procurement Services has the right to extend delivery if reasons appear valid. If date is not acceptable ASU-J may buy elsewhere.
9. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of ASU-J Procurement Services. Delivery shall

be made during work hours only, 8:00 a.m. to 4:30 p.m. Packing memorandum shall be enclosed with each shipment.

10. DEFAULT: All commodities furnished will be subject to inspection and acceptance of ASU-J after delivery. Default in promised delivery or failure to meet specifications authorizes ASU-J Procurement Services to cancel this contract or any portion of same and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to defaulting contractor.

11. VARIATION IN QUANTITY: ASU-J assumes no liability for commodities produced, processed or shipped in excess of the amount specified herein.

12. INVOICING: Contractor shall submit an original and one (1) copy of an itemized invoice showing bid number and purchase order number. Invoices must be sent to Arkansas State University-Jonesboro Procurement Services.

13. ASU-J PROPERTY: Any specifications, drawings, technical information, dies cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for the use hereunder shall remain property of ASU-J, be kept confidential, be used only as expressly authorized, and returned at the contractor's expense to ASU-J Procurement Services, properly identifying what is being returned.

14. ASSIGNMENT: This contract is not assignable nor the duties hereunder delegable by either party without the written consent of the other party to the contract.

15. OTHER REMEDIES: In addition to the remedies outlined herein, the contractor and ASU-J have the right to pursue any other remedy permitted by law or in equity.

16. LACK OF FUNDS: ASU-J may cancel this contract to the extent funds are no longer legally available for expenditure under this contract. Any delivered but unpaid for goods will be returned in normal condition to the contractor. If ASU-J is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission. If the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim.

17. CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM: The failure of any individual or entity to disclose as required under any term of executive order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party, failing to disclose or in

violation, to all legal remedies available to the Agency under the provisions of the existing law.

18. TECHNOLOGY ACCESS: When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications) that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

- Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;
- Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;
- After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;
- Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
- Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;
- Integrating into networks used to share communications among employees, program participants, and the public; and
- Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

State agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an

agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product.

For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

19. **PERFORMANCE STANDARDS** Act 557 of 2015 enacted by the Arkansas General Assembly requires that contracts include performance standards. By acceptance of this Purchase Order, the Contractor agrees to the performance of any technical/general services in a professional, comprehensive manner. This may include, but not be limited to, ensuring milestone deadlines are met, and services are delivered in a professional, comprehensive manner, consistent with the contracted skill level. Any special performance standards outlined in any associated contract or agreement to this Purchase Order may be in addition to the above performance standards.

20. **EQUAL OPPORTUNITY** “This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a). These regulations prohibit discrimination on the basis of race, color, religion, sex, or national origin, against qualified protected veterans on the basis of veteran status, and against qualified individuals on the basis of disability; and require affirmative action by covered prime contractors and subcontractors to ensure equality of opportunity in all aspects of employment, and to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.”