

## FLORIDA INTERNATIONAL UNIVERSITY (FIU) PURCHASE ORDER TERMS AND CONDITIONS

**Vendor's delivery of the goods or provision of services to FIU indicates Vendor's acceptance of the following terms and conditions. The agreement of the parties shall consist of the Purchase Order and these terms and conditions (the "Contract")**

**1. PAYMENT:** Vendor shall submit bills for fees or other compensation for services or expenses in detail sufficient for a proper pre-audit and post-audit. FIU's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. FIU will make payment in accordance with Florida Administrative Code **Rule 6C8-7.032 Prompt Payment**, which states the Vendor's rights as a Vendor and FIU's responsibilities concerning interest penalties and time limits for payment of invoices. Upon receipt, FIU has five (5) business days to inspect and approve the goods or services. If a payment is not issued within 40 days of receipt of a proper invoice and receipt and inspection and approval of the goods and services, FIU will pay to the Vendor, in addition to the amount of the invoice, an interest penalty at the rate established pursuant to Section 55.03(1) F.S., provided the interest penalty is in excess of one dollar (\$1.00). A Vendor Ombudsman has been established within the Office of Business and Finance. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment from FIU. The Vendor Ombudsman may be contacted at (305) 348-2101.

Vendor will cooperate with FIU and provide specific records and/or access to all of the Vendor's records related to this Contract for purposes of conducting an audit or investigation. FIU will provide Vendor with reasonable notice of the need for such.

Vendor will supply FIU with a complete vendor application and accurate W-9 or W8-BC (Foreign Vendor); if Vendor fails to supply FIU with a complete and accurate W-9 or W8-BC, the invoice will be deemed insufficient for payment until such information has been provided.

**2. SHIPPING.** Vendor will ship goods FOB Destination. Vendor must include Purchase Order No. on all: invoices, B/L, cases, bundles, packing lists and correspondence. Vendor will include a packing list showing contents of that container in each container shipped. FIU will accept delivery of goods only between 8:30 A.M. and 4:30 P.M. EST Mondays through Fridays at Central Receiving; no deliveries will be accepted on University and State of Florida holidays. Vendor must get prior approval from a purchasing agent at the Purchasing Department for changes in delivery times.

In compliance with Code of Federal Regulations, 29 CFR 1910.1200 if this purchase order involves the shipping of any item designated as a toxic substance such shipment must be in compliance with the law and accompanied by a Material Safety Data Sheet (MSDS). A toxic substance is designated as any chemical substance or mixture in gaseous, liquid, or solid state, which can cause harm to the human body.

**3. GOVERNING LAW.** This Contract is governed by the laws of the state of Florida. Venue for all actions or proceedings arising in connection with this Contract shall be tried and litigated exclusively in the state or federal courts located in Miami-Dade County, Florida.

**4. INDEMNITY.** Nothing in the Contract shall be construed as FIU's indemnification of the Vendor.

**5. TERMINATION.** FIU may terminate this Contract upon thirty (30) days written notice without cause. A termination penalty may not be charged to FIU. FIU shall be liable only for payment for goods provided or service rendered prior to the effective date of termination.

**6. CANCELLATION:** FIU may cancel this Contract for refusal by the Vendor to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119 and made or received by the Vendor in conjunction with this Contract.

**7. CERTIFICATION.** In accordance with Section 112.3185, Florida Statutes, the Vendor hereby certifies that to the best of Vendor's knowledge and belief no individual employed by Vendor or subcontracted by Vendor has an immediate relation to any employee of FIU who was directly or indirectly involved in the procurement of said services. Violation of this section by Vendor shall be grounds for cancellation of this Contract by FIU.. The Vendor also certifies the Vendor's directors and/or principal officers are not employed and/or affiliated with FIU,

**8. EQUAL OPPORTUNITY IN EMPLOYMENT.** Vendor affirms the principles of equal opportunity employment. Vendor will not discriminate against qualified candidates for any unlawful reasons, including race, religion, sex, sexual orientation, national origin, age or disability.

**9. PUBLIC ENTITY CRIMES:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a Contractor, supplier, SubContractor, or consultant under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date being placed on the convicted vendor list. By entering into this Contract, Vendor is certifying that Vendor is not on any convicted vendor list.

**10. VENDOR'S EMPLOYMENT OF UNAUTHORIZED ALIENS:** The Vendor's employment of unauthorized aliens is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Vendor knowingly employs unauthorized aliens, such violation shall be cause for FIU'S unilateral cancellation of the contract. **PRISON REHABILITATIVE**

**12. TRAVEL:** If FIU is specifically responsible for paying for any of Vendor's travel expenses pursuant to the Purchase Order, such expenses, shall be paid in accordance with Section 112.061, Florida Statutes after Vendor has submitted the appropriate receipts and the proper forms. Vendor is responsible for any expenses in excess of the amounts prescribed by law.

**13. CONFIDENTIALITY OF INFORMATION.** If Vendor is exposed to any of FIU's confidential information as a result of providing goods and/services under this Contract, Vendor agrees to act in accordance with any guidelines and applicable laws regarding such confidential information. Such laws include, but are not limited to, the Florida Public Records Law, FERPA, the Sarbanes-Oxley Act, the Gramm-Leach Bliley Act, and other applicable federal and state statutes and regulations that govern the use/safe keeping of personally identifiable information.

**14. TRADEMARK OR COPYRIGHT INFRINGEMENT.** Vendor will, at its expense, defend any suit brought against FIU and will indemnify FIU against an award of damages and costs made against FIU by a settlement or final judgment of a court that is based on a claim that the use of the Vendor's Product by FIU infringes a trademark or copyright of a third party; provided that FIU notifies Vendor in writing of the suit or any claim of infringement within 20 days after receiving notice thereof, and further provided that Vendor is permitted to control the defense in any litigation or settlement of the suit. FIU will provide reasonable cooperation in the defense of the suit at Vendor's expense. Such defense and indemnity shall survive termination of the Contract.

**15. PRISON REHABILITATIVE INDUSTRIES (PRIDE):** If, in providing the goods and/or services to FIU pursuant to this Contract, a product or service is required, and such product or service is certified by or is available from PRIDE, and has been approved in accordance with subsection (2) of Florida Statutes Section 946.515, the following language is a part of this Contract:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2), AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE VENDOR CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR FIU INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

**16. CONTRACTS RELATED TO FIU'S AGREEMENT WITH UNITED STATES OF AMERICA.** If FIU has entered into an agreement with the United States of America, or any Department thereof, and this Contract is entered into with the Vendor to further the performance of the work required in such agreement, the following shall apply.

By accepting the order related to this Contract, Vendor agrees to furnish the materials, supplies, or services covered by this Purchase Order ("order"), and to be bound by the terms and conditions set forth in the Contract, and the following special terms and conditions (see below). The applicable FAR sections and Department of Defense Supplement to the FAR are incorporated by reference into the Contract, and have full force and effect. The complete text of each clause is available and will be provided upon request. The FAR provisions in effect at the time of this order govern. When interpreting applicable FAR provisions, "Government," or "Government Representative," or "Contracting Officer" refers to FIU's Director of Purchasing, and the term "Contractor" refers to the Vendor.

The following provisions of the Federal Acquisition Regulations (FAR) apply regardless of the amount of this order:

Anti-Kickback Procedure	52.203-7
Buy American Act and Balance of Payments Program	52.225-01
Contract Work Hours and Safety Standards. Act-Overtime Compensation	52.222-4
Equal Employment Opportunity	52.222-26
Integrity of Unit Prices	52.215-14
Notice to the Government of Labor Disputes	52.222-1
Preference for U.S.-Flag Air Carriers	52.247-63
Restrictions on SubContractor Sales to the Government	52.203-6
Service Contract Act of 1965 Reserved	
Termination for Convenience of Government (Education and other Nonprofit institutions)	52.249-5
Restrictions on Certain Foreign Purchases	52.225-13
Limitation on Payments to Influence Certain Federal Transactions	52.203-12

A. The following provisions of the Federal Acquisition Regulations (FAR) also applies if the amount of this order exceeds \$2,500:

Affirmative Action for Workers with Disabilities	52.222-36
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B. The following provisions of the Federal Acquisition Regulations (FAR) also apply if the amount of this order exceeds \$10,000:

Affirmative Action for special disabled and Vietnam era veterans	
Employment Reports on special disabled veterans and veterans of the Vietnam era	52.222-37
Utilization of Small Business Concerns	52.219-8
Walsh-Healey Public Contracts Act	52.219-8 52.222-20

C. The following provisions of the Federal Acquisition Regulations (FAR) also apply if the amount of this order exceeds \$25,000:

Authorization and Consent	52.227-1
Notice and Assistance re: Patent and Copyright Infringement	52.227-2
Preference for Privately Owned U.S.-Flag Commercial Vessels	52.247-64
Utilization of Labor Surplus Area Concerns	52.220-3
Women-Owned Businesses	52.204-5
Audit - Negotiation	52.215-2
Instruction to Offerors - competitive	52.215-1
Protecting the Government's Interest when Subcontracting with Contractors, Debarred, Suspended or Proposed for Debarment	52.209-6

D. The following provisions of the Federal Acquisition Regulations (FAR) also apply as indicated:

Filing of Patent Applications –Classified Subject Matter	52.227-10
Hazardous Material Identification and Material Safety Data when SubContract involves hazardous material	52.223-3
Reporting of Oversees Subcontracts when Subcontract amount exceeds \$100,000 (DOD only)	252.204-7005
Filing of Patent Applications - Classified Subject Matter when the subcontract or purchase order involves experimental research and development work	<b>52.227-10</b>

**NOTE:** 52.227-11 applies to small businesses and non-profit organizations; 52.227-12 applies to others  
Rights in Technical Data and Computer Software \*\*when subcontract includes technical data or software acquisition requirements, (DOD only) 252.227-7013  
Restrictive Markings on Technical Data Same as \*\* above 252.227-7018  
Validation of Restrictive Markings on Technical Data Same as \*\* above 252.227-7037  
Security Requirements when the subcontract involves access to classified information 52.204-2  
Special Prohibition of Employment when the subcontract amount exceeds \$25,000. (DOD only) 252.203-7001