

## **TERMS AND CONDITIONS**

This contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained herein. Any changes must be accomplished by a formal signed addendum prior to the effective date of such change.

### **INVOICING AND PAYMENT**

- a. Lincoln University does not pay state or federal taxes unless otherwise required under law or regulation.
- b. Each invoice submitted must be itemized in accordance with items listed on the purchase order and/or contract.
- c. The contractor shall not transfer any interest in the contract whether by assignment or otherwise without the prior written consent of the University.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears. Lincoln University shall not make any advance deposits.
- e. Lincoln University assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the University's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by Lincoln University shall be subject to late payment charges as provided in Section 34.055 RSMO.

**DELIVERY** – Time is of the essence. Deliveries must be made no later than the time stated or within a reasonable time, if a specific time is not stated.

**INSPECTION AND ACCEPTANCE** – No equipment, supplies, and/or services received by the University shall be deemed accepted until the University has had reasonable opportunity to inspect said equipment, supplies, and/or services.

- a. All equipment, supplies, and/or services which are unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective, or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- b. Lincoln University reserves the right to return any such rejected shipment at the contractor's expense for the full credit or replacement and to specify a reasonable date by which replacements must be received. Lincoln University's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the University may have.

**WARRANTY** – The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description, (2) be fit and sufficient for the purpose intended, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect. Such warranty shall survive delivery and shall not be deemed waived either by reason of the University's acceptance of or payment for said equipment, supplies, and/or services.

### **APPLICABLE LAWS AND REGULATIONS**

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies as may be required by law or regulations.
- c. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.

## **REMEDIES AND RIGHTS**

- a. No provision in the contract shall be construed expressly or implied, as a waiver by Lincoln University of any existing or future right and/or remedy available by law in the event of any claim by Lincoln University of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to Lincoln University of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with Lincoln University.

**CANCELLATION OF CONTRACT** – If the University cancels the contract for breach of contract, the University reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the University deems appropriate and charge the contractor for any additional costs incurred thereby.

**BANKRUPTCY OR INSOLVENCY** – Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee or assignee for the benefit of creditors, the contractor must notify the University immediately. Upon learning of any such actions, the University reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

**INVENTIONS, PATENTS AND COPYRIGHTS** – The contractor shall defend, protect, and hold harmless Lincoln University, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

**NON-DISCRIMINATION** – In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status.

If discrimination by a contractor is found to exist, Lincoln University shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, removal from all bidder's lists issued by the University until collective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

**AMERICANS WITH DISABILITIES ACT** – In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).