2.1 “University” shall mean either Angelo State University or Texas Tech University System. Both agencies are agencies of the State of Texas.

2.3 Samples, when requested, must be furnished free of expense to the University. If not destroyed in examination, they will be returned to the Vendor, on request, at Vendor’s expense. Each sample should be marked with Vendor’s name and address.

3. DELIVERY, INSPECTIONS AND TESTS

3.3 Tests shall be performed on samples submitted with the bid/proposal or on samples taken from regular shipment. All costs shall be borne by the Vendor in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part at the University's option may be returned to the Vendor for disposition at Vendor’s expense. Vendor is responsible for all costs of rework, reinspection, reshipment, and/or labor and overhead associated with such corrective action.

3.6 Delivery must be made to the “Ship To” address located on the Purchase Order. Failure to deliver to the appropriate address will not be grounds for reimbursement for shipping costs and will result in delay of payment.

3.10 Vendor shall bear all risk of loss on items covered by any resulting purchase order until final acceptance at the destination specified on the face of the purchase order, except for loss occasioned solely by the negligence of the University. Any “F.O.B.” designation does not vary the foregoing risk of loss provisions. Vendor shall replace any lost or damaged media containing licensed software or data upon request at a price not exceeding the reasonable cost of media duplication, packaging and shipping.

3.1 No substitutions are permitted without written approval of the University's Purchasing Department.

5.4 Services are warranted by Vendor to be performed in a professional and workmanlike manner in substantial compliance with applicable specifications.

5.5 If items are found within twelve (12) months after acceptance (or such longer period specified by Vendor) not to be as warranted, the University may require the work to be corrected or may return all defective items to Vendor, at Vendor's expense, for replacement or credit as the University may direct.

5.6 Replacements are warranted for the latter of the remaining original warranty period or ninety (90) days.

5.7 Manufacturer's standard warranty shall apply unless otherwise stated in the solicitation.

5.8 Services are warranted by Vendor to be performed in a professional and workmanlike manner in substantial compliance with applicable specifications.

5.9 University will return undelivered items within twenty (20) days after the date the agency receives the goods under the contract; 2) the date the performance of the contracted service is completed; 3) the date the agency receives an undisputed invoice for the goods or services.
6.5 Your invoice must be either emailed to apayable@angelo.edu, or addressed and mailed to Angelo State University, Accounts Payable Department, ASU Station #11034, San Angelo, Texas 76909 unless specifically instructed otherwise in writing. Failure to do so will delay payment.

6.6 If Vendor is a taxable entity as defined by Chapter 171, Texas Tax Code ("Chapter 171"), Vendor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Vendor is exempt from the payment of those taxes, or that Vendor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

6.7 Pursuant to Sections 207.008 and 2252.903, Texas Government Code, Vendor agrees that any payments owing to Vendor under this Order may be applied directly toward any debt or delinquency that Vendor 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.

6.8 University utilizes a third-party company (PaymentWorks) for new vendor setups and vendor updates. PaymentWorks is a secured portal for entering payee information and helps protect personal and sensitive information. Vendors are required to set up an account and complete an onboarding process through PaymentWorks. University will send an email "invite" to initiate this process.

7. AUDIT

7.1 Vendor understands that acceptance of funds under this agreement acts as acceptance of the authority of the State Auditor’s Office, Texas Tech University System Office of Audit Services, or any successor agencies, to conduct an audit or investigation in connection with those funds. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract awards.

8. PATENTS OR COPYRIGHTS

8.1 The Vendor agrees to protect the University and the State of Texas from claims involving infringement of patents or copyrights.

9. AFFIRMATION

9.1 Vendor affirms that it is an independent contractor of the University and is not an employee, partner, joint venture, or franchisee. Vendor is not entitled to participate in any employee benefit plan of the University.

9.2 Vendor represents that it has no other substantial sources of revenue, will file tax returns and pay tax as an independent contractor for this relationship and will defend, indemnify and hold the University harmless from any claims against it.

9.3 Vendor agrees to inform the University, of any violation under this Purchase Order, and of any conduct of which it becomes aware during the performance of the Vendor’s obligations. This shall include any conduct by the company or any of its employees, agents, or contractors, or by University or any of its agents, employees, or subcontractor, which a reasonable person would conclude, may violate any of the requirements herein.

9.4 Officers, faculty, and staff (“employees”), of the University, including Board of Regents members, may not have direct or indirect interests, including financial and other interests, engage in business transactions or professional activities, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the employees’ duties, including any function in which such employees may acquire authority to conduct or approve the transaction.

9.5 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 associated order.

9.6 Pursuant to Section 231.006 (d) of the Texas Family Code, regarding child support, the Vendor certifies that the individual or business entity named in this order is not ineligible to receive the specified payment and acknowledges that this order or contract may be terminated and payment may be withheld if this certification is inaccurate.

9.7 Under Section 2155.004 of the Texas Government Code, the Vendor certifies that the individual or business entity named in this order or contract is not ineligible to receive the specified order or contract and acknowledges that this order or contract may be terminated and payment withheld if this certification is inaccurate.

9.8 By accepting this Purchase Order, the Vendor is certifying that neither the owners nor any employees are in dual employment positions as a University employee. In addition, the Vendor is certifying that the owner and any employee are not related in any manner with any University employee. If such relationship exists, then that relationship shall be disclosed prior to acceptance of the Purchase Order to the Purchasing and Contracting Office. If the status of any owner or employee of the Vendor changes during the course of the contract or purchase order, then that relationship shall be disclosed immediately to the managing director of Procurement Services. Any violation of this policy shall result in immediate cancellation of any resulting contract or purchase order in addition to a potential debarment.

9.9 Vendor covenants and agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations, Vendor will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

10. CONTRACT VENUE

10.1 The agreement shall be governed, construed and interpreted under the laws of the State of Texas and the Texas Uniform Commercial Code. Any legal actions must be filed in Tom Green County, Texas.

11. DISPUTE RESOLUTION

11.1 The dispute resolution process provided for in the Texas Government Code, Chapter 2260 shall be used, as further described herein, by the University and the Vendor in an attempt to resolve any unresolved claim for breach of contract arising under this Agreement and made by the Vendor.

11.2 A Vendor’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 Government Code, Chapter 2260, Subchapter B. To initiate the process, the Vendor shall submit written notice, as required by Subchapter B, to the Director of Purchasing. Said notice specifically state that the provisions of Chapter 2260, Subchapter B are being invoked. A copy of the notice shall be also be given to all other representatives of the University and the Vendor that are otherwise entitled to notice under this Agreement. Compliance by the Vendor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Government Code, Chapter 2260, Subchapter C. The contested case proceeding provided in Government Code Chapter 2260, Subchapter C shall be the Vendor’s sole and exclusive process for seeking a remedy for an alleged breach of contract by the University if the Parties are unable to resolve their disputes in the ordinary course of business or under Chapter 2260, Subchapter D, UNLESS, after considering the recommendation of the Administrative Law Judge, the Legislature grants the Vendor consent to sue under Chapter 107 of the Civil Practices and Remedies Code.

NEITHER THE EXECUTION OF THIS CONTRACT BY THE UNIVERSITY NOR ANY OTHER CONDUCT OF ANY REPRESENTATIVE OF THE UNIVERSITY RELATING TO THE CONTRACT SHALL BE CONSIDERED A WAIVER OF THE UNIVERSITY’S SOVEREIGN IMMUNITY TO SUIT.

The dispute resolution process provided in Government Code Chapter 2260 at any time, will not affect the University’s right to or bring suit against the Vendor for disputes arising under this Agreement, nor will it affect the University’s ability to assert all claims and defenses in a lawsuit. Pursuant to Chapter 2260, the submission, processing and resolution of the Vendor’s claim is governed by the published rules adopted by the Texas Attorney General’s Office, as currently effective, hereafter enacted or subsequently amended.

An event of claim for breach of contract is not grounds for the Vendor to suspend performance under this Agreement.

12. PUBLIC INFORMATION

12.1 Information, documentation, and other material in connection with this solicitation or any resulting contract are subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the Public Information Act).

13. ACCESS TO DOCUMENTS

13.1 Vendor/contractor will maintain records generated pursuant to Goods provided or Services rendered under to this PO for a period of at least two (2) years after submission of the last accounting for such items that are readily marketable and any rented facilities that can be readily rebooked shall not be subject to a cancellation charge.

14. AFFIRMATIVE ACTION

14.1 The Vendor shall not maintain or provide racially segregated facilities for employees at any establishment under his control. Vendor agrees to adhere to the principles set forth in Executive Orders 11246 and 11375, Section 503 of the Rehabilitation Act of 1973, and USC 2012 (Disabled Veterans and Veterans of the Vietnam Era), and to undertake specifically: to maintain employment policies and practices that affirmatively promote equality of opportunity for minority group persons and women; to take affirmative steps to hire and promote women and minority group persons at all job levels and in all aspects of employment; to communicate this policy in both English and Spanish to all persons concerned within his company, and to discuss with the University the policies and practices relating to the Vendor’s Affirmative Action program.

15. FUNDING OUT CLAUSE

15.1 The Texas Constitution prohibits obligations beyond the current fiscal year appropriations. This Purchase Order may be canceled at any time without penalty if legislative and/or University funds are not appropriated for goods or services obligated on the Purchase Order beyond the current fiscal year (September 1 through August 31 of any given year).

16. TERMINATION

16.1 The University may at any time by written notice suspend or cancel any purchase order or agreement or any part thereof without cause.

16.2 The University shall pay Vendor a reasonable cancellation charge, determined by the University in good faith, for work-in-process (not exceeding the price for cancelled items) to the extent Vendor's costs for such items cannot be mitigated.

16.3 Off-the-shelf items that are readily marketable and any rented facilities that can be readily rebooked shall not be subject to a cancellation charge.

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17. SUSPENSION AND DEBARMENT
17.1 The vendor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the contract by any state or federal agency (Texas Government Code §2155.077).

18. FEDERAL FUNDS
18.1 The University is recipient of federal funds from various federal agencies. The University shall require Vendors to comply with all federal regulations relating to the use of federal funds. In addition, Vendors agree to flow down all applicable clauses from OMB Circular A-110 to lower-tier subcontractors.

18.1.1 Prohibition of non-Segregated Facilities FAR 52.219-7
18.1.2 Equal Opportunity FAR 52.222-20 and Executive Order 11105
18.1.3 Counterpart of Affirmative Action Plan FAR 52.222-36
18.1.4 Prohibition of Discrimination on the Basis of Sex FAR 52.222-24
18.1.5 Affirmative Action for Workers with Disabilities - 52.222-36 and Executive Order 11758
18.1.6 Affirmative Action for Workers with Disabilities FAR 52.222-7
18.1.7 Affirmative Action for Workers with Disabilities FAR 52.222-37
18.1.8 Preference for Privately Owned U.S.-Flag Commercial Vessels - FAR 52.247-64
18.1.9 Vendors must provide evidence that the construction is consistent with all applicable federal regulations.
18.1.10 Small Business Subcontracting Plan FAR 52.219-9
18.1.11 Filing of Patent Applications FAR 52.227-10
18.1.12 Patents Rights – Retention by the Contractor Short and Long Form FAR 52.227-11, FAR 52.227-12 and FAR 52.227.13 Validation of Restrictive Markings on Technical Data FAR 52.227-707
18.1.13 Buy American Act – Supplies FAR 52.221-1

18.2 FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN $5,000
18.2.1 Affirmative Action for Workers with Disabilities - 52.222-36 and Executive Order 11758
18.2.2 Occupational Safety and Health 29 USC 151
18.2.3 Service Contracts Act
18.2.4 Contract Work Hours and Safety Standards Act 40 USC 327-33
18.2.5 Buy American Act – Supplies FAR 52.221-1

18.3 FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN $10,000
18.3.1 Examination of Records by Comptroller General (if document was entered by negotiation) FAR 52.215-1
18.3.2 Examination of Records by Comptroller General (if document was entered by negotiation) FAR 52.215-2
18.3.3 Walsh-Healy Public Contracts Act FAR 52.222-20
18.3.4 Affirmative Action for Disabled Veterans and Vietnam of the Vietnam Era FAR 52.222-35
18.4 FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN $25,000
18.4.1 Restriction on Certain Foreign Purchases FAR 52.225-13
18.4.2 Responsibility for Supplies FAR 52.246-16
18.4.3 Debarment and Suspension, Executive Orders 12549 and 12689, FAR 52.209.5
18.5 FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN $100,000
18.5.1 Clean Air Act – 42 USC 7401, et seq and Executive Order 11758
18.5.2 Federal Water Pollution Control Act 33 USC 1251, et seq
18.5.3 Buyd Anti-Lobbying Amendment - 31 USC 1352
18.5.4 Buyd Small Business Concerns FAR 52.219-8
18.5.5 Notice and Assistance Regarding Patent and Copyright Infringements FAR 52.227.2
18.5.6 Audit and Records – Negotiation (Applies only if this was entered into by negotiation) FAR 52.215-2
18.5.7 Utilization of Small Business Concerns FAR 52.219-8
18.5.8 Notice and Assistance Regarding Patent and Copyright Infringements FAR 52.227.2
18.5.9 Authorization and Consent Patents and Copyrights FAR 52.227.1
18.5.10 Subcontractor Cost or Pricing Data Modifications FAR 52.225-10

18.6 FEDERAL REQUIREMENTS ON PURCHASES GREATER THAN $500,000
18.6.1 Small Business Subcontracting Plan FAR 52.219-9

19. AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING
19.1 This Purchase Order may be funded wholly or partially with federal funds subject to the American Recovery and Reinvestment Act of 2009 (ARRA). The vendor shall comply with all applicable provisions of ARRA, which may include, but are not limited to the provisions in Division A, Titles XV and XVI (e.g., audit provisions, whistleblower protection, and preferences for American products). Vendors may contact the Purchaser if they have questions about the funding provided on the Purchase Order.

20. LIABILITY FOR INJURY
20.1 Vendor shall defend, indemnify and hold the University harmless against liability for personal injury and property damage caused by items or services furnished hereunder by Vendor, its subcontractors and agents.
20.2 If the purchase order or agreement involves any provision of service to the University, Vendor shall procure and maintain the following insurance during the term of the purchase order or agreement (in addition to any additional policies required on a specific bid/proposal): (i) General Liability insurance including coverage for premises-operations, products-completed operations and personal injury in the amount of $1,000,000 per occurrence and $1,000,000 annual aggregate, (ii) Automobile Liability Insurance in the amount of $1,000,000 combined single limit, and (iii) Workers Compensation insurance.

21. ADVANCED TECHNOLOGY CLAUSE
21.1 The Vendor expressly acknowledges that a state agency cannot expend funds in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, the Vendor represents and warrants to the University that the technology provided to University for purchase is capable, either by virtue of features included in the technology or because it is readily adaptable by use with other technology, of:
   a. providing equivalent access for effective use by both visual and non-visual means;
   b. presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
   c. being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, 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 or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

22. ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY POLICY
22.1 As authorized by Chapter 2054, Subchapter M of the Texas Government Code, the Texas Department of Information Resources (“DIR”) has adopted rules (the “DIR Accessibility Rules”) governing how Texas institutions of higher education are to develop, procure, maintain, and use “electronic and information resources” (or “EIRs”) so that the EIRs may be accessed by individuals with disabilities. Such DIR Accessibility Rules are set forth in Title 1, Chapter 205, Rule §205-100 of the Texas Administrative Code and in Title 1, Chapter 213 of the Texas Administrative Code.

22.2 Vendors will be required to provide required documentation to evidence the accessibility of Electronic and Information Resources.
23. IRON OR STEEL PROJECTS
23.1 To the extent this purchase relates to a project as defined Tex. Gov’t Code §2252.201(5) (a project to construct, remodel, or alter a building, structure, or infrastructure; to supply material for such a project; or to finance, refinance, or provide funds for such a project), and no exemption in Tex. Gov’t Code §2252.203 applies, any iron or steel product produced through a manufacturing process and used in the project that is the subject of this purchase must be produced in the United States (as defined in Tex. Gov’t Code §2252.201(4).

24. ISRAEL BOYCOTT
24.1 Pursuant to Texas Gov’t Code Section 2271.001, Vendor affirmatively states that it does not boycott Israel. Additionally, Vendor shall not engage in a boycott of Israel during the term of this Agreement.

25. VENDOR CERTIFICATION
25.1 Vendor certifies this purchase is not prohibited under Tex. Gov’t Code §2261.252(b) and agrees that if Contractor's certification is or becomes untrue, this purchase order or related contract is void, and Vendor will not seek and waives its right to seek any legal or equitable remedy for past or future performance under this purchase order or related contract, including damages, whether under breach of contract, unjust enrichment, or any other legal theory; specific performance; and injunctive relief.

26. TTUS New Force Majeure Clause
26.1 Force Majeure. “Event of Force Majeure” means an event beyond the control of Contractor or University which prevents or makes a party’s compliance with any of its obligations under this Contract illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war; act or threats of terrorism, hostilities (whether or not war be declared); invasion; act of enemies; rebellion, insurrection, usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority. No party will be considered in breach of this Contract to the extent that performance of their respective obligations is prevented or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the Contract but prior to the beginning of the term). A party asserting an Event of Force Majeure hereunder (“Affected Party”) will give reasonable notice to the other party of an Event of Force Majeure upon it being foreseen by, or becoming known to, Affected Party. In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the Contract only so far as reasonably practicable.

27. TEXAS HEALTH AND SAFETY CODE
27.1 Contractor affirmatively states that it will comply with the requirements of Texas Health and Safety Code § 161.0085(c).

28. EMERGENCY HEALTH AND SAFETY PROCEDURES
28.1 In the event of pandemic, epidemic, viral outbreak, health crisis, or other emergency (“Emergency”), University may, at its sole discretion, implement new or modified health and safety procedures in order to protect the health and safety of the University community. In the event of Emergency, Vendor or Contractor agrees to adhere to all such procedures and related directives from University when entering into and performing services on University campus.