

RTI PURCHASE ORDER TERMS AND CONDITIONS

1.0 DEFINITIONS

- 1.1 **“Client”** means the US government or another client of RTI.
- 1.2 **“PO”** means the purchase order issued by an authorized RTI representative.
- 1.3 **“Prices”** means the agreed upon payment and currency for the performance of Services or the supply of Products, including all applicable fees, payments and Taxes.
- 1.4 **“Products”** means products specified by RTI in the PO.
- 1.5 **“RTI”** means Research Triangle Institute, with its principal place of business at 3040 Cornwallis Road, Research Triangle Park, NC 27709 and its subsidiaries.
- 1.6 **“Services”** means services specified by RTI in the PO.
- 1.7 **“Taxes”** means any and all applicable taxes, charges, fees, levies or other assessments applicable to the performance of Services or the supply of Products hereunder.
- 1.8 **“Terms”** means the terms and conditions specified herein.
- 1.9 **“Vendor”** means a vendor receiving a PO from RTI which references the Terms.

2.0 SCOPE

2.1 Performance. Vendor shall perform Services and supply Products specified in the PO for the Prices set forth therein and pursuant to the delivery timeframes set forth by RTI. When specified by RTI, Vendor shall comply with the geographic code requirements as set forth by the Client. Vendor will ensure that it does not engage in any procurement activity from the following countries is prohibited: Libya, Cuba, Laos, Iran, North Korea, and Syria. Vendor shall be responsible and accountable for all RTI or Client provided property and where applicable, Vendor shall comply with the requirements of FAR Subpart 45.5 with respect to such property. Vendor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, RTI or Client property upon its delivery to Vendor employees. In the event of loss, damage or destruction of RTI or Client property by Vendor, RTI may initiate an equitable adjustment to the Price in favor of RTI. RTI may direct changes to the PO, and Vendor shall comply immediately with such direction. If RTI directed changes increase or decrease the cost or time required Vendor's deliverables under the PO, the parties shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease.

2.2 Personnel. Where certain Vendor personnel are identified by RTI as “key personnel”, Vendor agrees that such key personnel's involvement in the performance of Vendor's responsibilities under the PO is essential to Vendor' satisfaction of its responsibilities hereunder. Vendor will not replace key personnel without RTI's prior written consent.

3.0 PAYMENT

3.1 Invoicing. Prices set forth in the PO will be the only amount due to Vendor from RTI. Vendor certifies that each invoice issued by it shall be based solely on Services actually performed by Vendor and Products actually supplied by Vendor pursuant to a PO, and that no part or portion of any invoice represents or is attributable to any payment, gift, gratuity or other thing of value given to any person, organization, entity or governmental body (except for those payments required by law). Vendor shall include the following information on its invoices: (1) Vendor's name and complete address; (2) date of invoice; (3) PO number; (4) time period covered by the invoice (if applicable); (5) itemized breakdown of costs, both cumulative and for the billing period, showing the type of cost, number of units, unit cost, and total cost for each item billed for the period. Vendor's invoices shall state applicable Taxes owed by RTI, if any, by tax jurisdiction and with a proper breakdown between taxable and non-taxable items. Vendor shall remit such tax payments to the appropriate jurisdiction. Vendor will indemnify RTI from any claims by any jurisdiction relating to Taxes paid by RTI to Vendor; and for any penalties, fines, additions to tax or interest thereon imposed as a result of Vendor's failure to remit the Taxes in a timely manner to the appropriate taxing jurisdiction or for Vendor's failure to invoice RTI for the correct amount of Taxes. Vendor will keep records to validate invoices hereunder for a period not less than five (5) years from the date of the relevant invoice. RTI reserves the right to audit all invoices, and Vendor shall afford reasonable access to all supporting documentation to enable RTI to do so. RTI will make any payments due under a PO within thirty (30) days after its receipt of a valid invoice from Vendor provided such invoice from Vendor complies with the requirements herein and accurately references the PO number.

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3.2 Inspection and Reporting. RTI and Client have the right to inspect and evaluate the work performed or being performed under the PO, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If either RTI or the Client performs inspection or evaluation on the premises of Vendor or its lower tier subcontractors, the Vendor shall furnish and require its subcontractors to furnish all reasonable facilities and assistance for the safe and convenient operation of these duties. Vendor shall maintain books, records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of the PO. Vendor agrees that these records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized delegates of RTI. Vendor shall retain all such records concerning the PO for a period of three (3) years after the completion of the PO. If any litigation, claim or audit is started before the expiration date of this three-year period, Vendor will retain such records until all litigation, claims or audit findings involving the records have been resolved. Vendor shall submit annually an "Interim" and "Final" report (pursuant to timeframes specified by RTI and including Vendor name, contact information, PO number, amount of foreign taxes assessed for each foreign government, and amount of any foreign taxes reimbursed by each foreign government) on the amount of foreign taxes, as of the date of each report, charged by a foreign government on commodity purchase transactions valued at \$500 (US Dollars) or more financed with U.S. Government funds under the PO during the prior U.S. Government fiscal year, and the amount reimbursed by the foreign government. Negative reports are required for each period.

4.0 WARRANTIES

Vendor warrants that Vendor and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded for the award of contracts by any Client. Vendor warrants that it is not aware of any facts or circumstances that might indicate the existence of or give rise to actual or potential organizational conflicts of interest, where due to such organizational conflict, Vendor is unable to render impartial assistance or advice. Vendor warrants that it has all the rights necessary to perform Services and supply Products under the PO and that it shall perform its responsibilities under the PO in a professional and highly skilled manner and to standards not less than those generally accepted in Vendor's industry. Vendor warrants that its deliverables hereunder are merchantable and fit for use for the particular purpose specified by RTI. Vendor warrants that Products supplied hereunder will remain fully functional and operational for at least twelve (12) months after delivery to RTI, and any longer periods pursuant to the manufacturer's warranty period applicable to such Products.

5.0 INTELLECTUAL PROPERTY

The parties acknowledge and agree that all work performed under the PO shall be deemed to be a "work for hire", with all intellectual property rights therein vesting in RTI. Vendor agrees to irrevocably transfer and assign all such rights to RTI, and comply with all reasonable requests by RTI to affect such transfer and assignments.

6.0 COMPLIANCE

6.1 Laws. Vendor shall comply with all laws and regulations of Federal, State, or local governments, as well as all U.S. statutes, regulations, and administrative requirements regarding relationships with non-U.S. governmental and quasi-governmental entities including but not limited to the export control regulations of the Department of State and the International Traffic in Arms Regulations ("ITAR"), the Department of Commerce and the Export Administration Act ("EAA"), the anti-boycott and embargo regulations and guidelines issued under the EAA, and the regulations of the U.S. Department of the Treasury, Office of Foreign Assets Control. Vendor shall give all notices and obtain all permits and licenses required under such laws. The anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), 15 U.S.C. §§ 78dd-1", *et seq.*, makes it unlawful for U.S. companies, as well as their officers, directors, employees, and agents, to corruptly offer or make a corrupt payment of money or anything of value to a foreign official for the purpose of obtaining or retaining business. Vendor acknowledges and understands that Vendor must comply fully with the anti-bribery provisions of the FCPA. Specifically, Vendor understands and agrees that it shall be unlawful for Vendor to pay, offer,

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promise to pay (or authorize to pay or offer) money or anything of value to a *foreign official* in order to assist RTI in *obtaining or retaining business* for or with, or *directing business* to, RTI. A “foreign official” means any officer or employee of a foreign government, a public international organization, or any department or agency thereof, or any person acting in an official capacity. Vendor understands all applicable laws relating to kickbacks. Vendor agrees to periodically verify its compliance with such laws and to inform RTI immediately of any violations thereof. Vendor shall take affirmative action in compliance with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or physical handicap.

6.2 Exports. Vendor agrees to comply with all U.S. export control laws and regulations, specifically including but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; including the requirement for obtaining any export license or agreement, if applicable. Vendor agrees to notify RTI if any deliverable under the PO is restricted by export control laws or regulations. Vendor shall immediately notify RTI if Vendor is, or becomes listed in any Denied Parties List or if Vendor’s export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government entity or agency. Vendor shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorney’s fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Vendor, its officers, employees, agents, or subcontractors at any tier, in the performance of any of its obligations under this section. Vendor shall include the Terms of this section in all subcontracts issued when technical data is provided to such subcontractors.

6.3 RTI Requirements. Vendor will ensure that its employees, agents, or designees, when in or upon RTI’s premises, shall obey all ethics and business conduct, workplace health, safety and security rules and regulations established by RTI, regarding the conduct of its own employees and any additional rules and regulations established by RTI for non-employees, including without limitation, security rules, and regulations. Vendor shall certify that their company has a practice and a process to verify the legal status of all employees and by certifying assures RTI that all employees assigned to support RTI with access to our facilities are legally able to work in accordance with the laws applicable to such location. Vendor will obtain and track citizenship and immigration status of employees performing work for RTI. Vendor shall maintain records of employees’ citizenship or immigration status described above for all employees or the employees of Vendor’s subcontractors assigned to perform work for RTI at any RTI location. The records shall be kept current at all times and shall be available and accessible for review and audit upon request.

7.0 EXCHANGE OF INFORMATION

7.1 Confidentiality. Vendor agrees that all personal information provided by RTI or any of its employees is confidential and may not be disclosed without the express written permission of RTI. Vendor will ensure it has adequate measures in place to protect the confidentiality of such information in accordance with all laws and standards to which RTI and Vendor are subject.

7.2 Publicity. Notwithstanding the foregoing, Vendor shall not, without RTI’s prior written approval: (1) disclose or use, in any advertising, sales promotion materials, press releases, or any other publicity matters, the name “RTI International”, or any variation thereof or language from which the connection of said names may be implied, (2) disclose or advertise in any manner the nature of the PO or any of any of the transactions between the parties, or, (3) disclose any business personal information relating to RTI employees for any purpose other than its responsibilities under the PO.

8.0 INSURANCE

As a minimum, Vendor shall, at its sole cost and expense, provide and maintain the following insurance coverage and insurance coverage limits: (1) Worker’s Compensation: Vendor shall provide and maintain worker’s compensation insurance as required by the laws of the applicable jurisdiction, as well as employer’s liability coverage with minimum limits of \$1,000,000 (or an equivalent value in the local currency), covering all of Vendor’s employees who are engaged in any work under the PO; and if any work is subcontracted, Vendor shall require the subcontractor to provide the same coverage for any of its

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employees engaged in any work under the PO, (2) Commercial General Liability: Vendor shall maintain general liability coverage on a comprehensive broad form on an occurrence basis in the minimum amount of \$1,000,000 (or an equivalent value in the local currency) combined single limit (where the defense is in excess of the limit of liability); (3) Automobile: Vendor shall maintain automobile liability insurance to include liability coverage, covering all owned, hired and non-owned vehicles used in connection with the PO, and the minimum combined single limit shall be \$1,000,000 (or an equivalent value in the local currency) bodily injury and property damage, including: (a) \$500,000 (or an equivalent value in the local currency) uninsured/underinsured motorist; and (b) \$5,000 (or an equivalent value in the local currency) medical payment. Providing and maintaining adequate insurance coverage is a material obligation of the Vendor under the PO. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage in accordance with the governing jurisdiction(s). Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with applicable laws or the PO. The limits of coverage under each insurance policy maintained by Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the PO. In addition, Vendor represents and warrants that, it shall maintain insurance and limits as stipulated above and RTI shall be listed as an "additional insured" on the Vendor's certificate of insurance. At RTI's request, Vendor shall furnish RTI with a certificate of insurance depicting the insurance requirements set forth in this section. RTI reserves the right at any time to immediately terminate the PO, or any portion thereof, if in RTI's opinion such insurance coverage is inadequate.

9.0 LIABILITY

Vendor shall indemnify and hold RTI free and harmless from any losses, damages, liabilities and costs (including, without limitation, legal fees and disbursements), which are attributable to any act or omission of Vendor and/or any of Vendor's employees, subcontractors, or subcontractors' employees, and which are in any way connected with or related to the PO. Notwithstanding anything to the contrary, the parties agree that the limitations of liability included herein do not apply to RTI's remedies under this section. Except as otherwise set forth in this section with respect to Vendor, in no event shall RTI or Vendor be liable to the other for either incidental or consequential damages.

10.0 TERM AND TERMINATION

10.1 Term. The term of the PO shall commence on the date specified at the top of the PO and shall continue until such time Vendor completes all its responsibilities under the PO, unless sooner terminated as provided hereinafter. All obligations and liabilities which, by their nature, are intended to survive the expiration or the earlier termination of the PO shall remain in effect beyond any expiration or termination.

10.3 Termination for Convenience. Upon thirty (30) days written notice to Vendor, RTI may terminate the PO or any portion thereof for its convenience, without obligation or liability of any nature except to make payments to Vendor which are owed to Vendor prior to the effective date of termination specified in such notice. If so requested in such written notice of termination, Vendor shall perform any Services and supply any Products specified in the notice, and the Terms shall continue to govern such Services and Products; otherwise, Vendor shall use its best efforts to conclude its activities and minimize any charges prior to the effective date of termination.

10.4 Termination for Default. If either party shall be in default of the PO and such default shall continue for more than twenty (20) days after notice thereof is given to the party in default, the party not in default shall be entitled to immediately terminate the PO upon written notice. The election to terminate shall not be construed to be an election of remedies or a waiver thereof, and the party not in default shall be entitled to each and every other remedy available at law and/or in equity. The failure to object to an act of default shall not be deemed a waiver thereof.

10.5 Bankruptcy. If Vendor shall be declared insolvent or bankrupt, or if any assignment of its property shall be made for the benefit of creditors or otherwise, or if its interest herein shall be levied upon under execution or seized by virtue of any writ of any court, or if a petition is filed in any court to declare Vendor bankrupt and not dismissed within sixty (60) days, or if a trustee in bankruptcy, receiver or receiver-manager or similar officer is appointed for Vendor or for any of Vendor's assets, then RTI may, at its option, terminate, without charge, the PO or a portion thereof and shall thereupon be free from

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all liability under the PO. The ability of RTI to terminate in such instances shall be subject to the applicable bankruptcy and insolvency statutes.

11.0 GENERAL

11.1 Assignment and Subcontracts. Vendor shall not assign or subcontract any portion of its rights, duties, and/or obligations under the PO unless RTI, in its sole discretion, grants Vendor written permission to do so. Notwithstanding any such consent, Vendor shall continue to be fully responsible and liable for full performance of all obligations assumed by it hereunder.

11.2 Relationship. Vendor acknowledges that the PO may have been issued by RTI under a contract with Client, but does not bind nor purport to bind the Client. In all respects and in the conduct of the work hereunder, Vendor is acting in the capacity of an independent contractor. The execution of the PO shall not (a) create the relationship of principal and agent, employer and employee, joint venture, or partnership between RTI and the Vendor; and (b) establish any privity of contract between the Vendor and Client. All communications regarding the PO must be directed to RTI and not to the Client. The PO and all notices, communications and submittals between the parties pursuant to the implementation of this PO shall be in the English language, unless otherwise directed in writing by RTI. All translation services, to include the physical presence of qualified translators, necessary for written or oral communications shall be provided by Vendor. All disputes and differences that may arise out of or in connection with this purchase order will be settled by negotiations. If negotiations cannot be concluded to the satisfaction of both parties within ninety (90) days, the dispute will be settled by arbitration according to the international arbitration rules of the International Chamber of Commerce. A panel of three (3) arbitrators will be selected, with each party designating a single arbitrator. The location of the arbitration will be Washington D.C. The laws controlling the arbitration will be the laws of the State of North Carolina, United States of America. The provisions of the United Nations Convention for the International Sale of Goods are specifically excluded. Pending final determination of any dispute hereunder, the Vendor shall proceed diligently with the performance of the PO.

11.3 Interpretation. The PO and these Terms shall be construed and interpreted in accordance with the laws of the State of North Carolina. If any Term herein is found to be unenforceable in any respect, the validity of the remaining Terms will be unaffected, provided that such unenforceability does not materially affect the parties' rights under PO. The failure of a party to enforce any provision herein, it shall not constitute a waiver of such provision or the right of such party to enforce such provision and every other provision. The PO and any documents incorporated specifically by reference including the Terms represent the entire agreement between the parties and supersede all prior oral or written statements or agreement. The Terms may be amended only by written amendments duly executed by RTI and Vendor. The PO shall inure to the benefit of and be binding upon the parties hereto and their successors and permitted assigns.