

# Terms and Conditions of Purchase

**1) ACCEPTANCE** – Agreement by Vendor to furnish the goods and services ordered by Trustees of Boston University (“Purchaser”), or Vendor’s beginning to furnish such goods and services in whole or in part, shall constitute agreement by Vendor to provide such goods and services subject to these terms and conditions. Purchaser will not be bound to any terms and conditions to which it has not specifically agreed in writing. Any terms or conditions proposed by Vendor inconsistent with or in addition to these terms and conditions shall be void and of no effect unless Purchaser specifically agrees to such terms and conditions in writing. These terms and conditions, together with such additions and/or modifications, and with such terms and conditions relating to price and delivery as are accepted in writing by Purchaser, constitute the entire agreement between the parties. The rights of both parties hereunder shall be in addition to their rights and remedies at law or in equity. Failure of Purchaser to enforce any of its rights hereunder shall not constitute a waiver of such rights or of any rights it may have.

**2) PRICES AND PAYMENTS** – If a purchase order (a “Purchase Order”) is used to order Vendor’s goods and/or services, Vendor shall fill the order at the price specified on the Purchase Order, or at any lower price. If no price is specified or if no Purchase Order is used, the order shall be filled at the lowest of (a) the price Vendor last quoted by Vendor, (b) the price Purchaser last paid by Purchaser to Vendor, and (c) the prevailing market price, unless an authorized representative of Purchaser’s procurement department approves a higher price in writing. All goods furnished to Purchaser shall be subject to Purchaser’s inspection and approval, notwithstanding prior receipt and payment, and, if unsatisfactory, may be returned, transportation both ways at Vendor’s expense. Vendor shall box, crate, or package as necessary for shipment without charge unless otherwise specified on the Purchase Order. Supplier shall invoice Purchaser promptly upon delivery of goods or performance of services. Vendor shall provide a monthly statement detailing any invoices more than sixty (60) days past due upon Purchaser’s request. Vendor’s invoices shall include, when applicable, a Purchase Order number and any other information Purchaser reasonably requests.

**3) DELIVERY: NOTICE OF LABOR DISPUTES** – Time is and shall remain of the essence of a Purchase Order; no acts of Purchaser, including without limitation modification of a Purchase Order or acceptance of late deliveries, shall constitute a waiver of this provision. Vendor shall notify Purchaser immediately of any actual or potential labor dispute which is delaying or threatens to delay the timely performance of a Purchase Order. Purchaser reserves the right to refuse or return, at Vendor’s risk and expense, shipments made in excess of Purchaser’s orders or in advance of required schedules, or to defer payment on advance deliveries until scheduled delivery dates.

**4) TERMINATION** – Purchaser may terminate a Purchase Order in whole or in part at any time. Upon receipt of notice of such termination Vendor shall stop all performance under the Purchase Order, except as Purchaser otherwise directs, furnish Purchaser with a list of all outstanding orders for goods and services and take such action relative thereto as may be directed. Purchaser shall reimburse Vendor for reasonable expenses incurred by reason of such termination including Vendor’s cancellation charges. In the event of such termination pursuant to a Notice of Termination received by Purchaser from a government entity in accordance with a grant or contract award. Purchaser shall be obligated to pay Vendor only that amount which shall be determined to be, or approved as, reimbursable to Purchaser under said grant or contract with respect to the Purchase Order.

**5) SUBCONTRACTORS** – Vendor shall not use subcontractors to provide goods or to perform any services under a Purchase Order without the Purchaser’s prior written authorization.

**6) WARRANTIES** – Vendor represents and expressly warrants (a) that all goods ordered to specifications will conform thereto and to the drawings, samples or other descriptions Purchaser furnishes or, if not ordered to specifications, that such goods will be suitable for the purpose intended, and (b) that all goods and services will be of good quality and workmanship and free from defects. In addition to all other remedies available to Purchaser at law, at Purchaser's option and promptly upon receipt of notice from Purchaser, Vendor shall at its own expense (i) replace any goods which are defective, (ii) correct any goods which are defective, or (iii) refund any payments Purchaser has made for, and arrange pick-up or return of, any goods which are defective. Vendor agrees to proceed with the correction of any defects in a manner satisfactory to Purchaser. Vendor shall assume all risk of loss or damage to goods which are to be replaced or corrected pursuant to this warranty, from the date on which Vendor is notified of the defect or non-conformity until the replaced or corrected goods are received at the destination designated by Purchaser. Alternatively, Purchaser may at its option repair such defective goods at Vendor's expense.

**7) CHANGES** – Purchaser may at any time, by written order and without notice to any surety, make changes or additions within the general scope of a Purchase Order in or to drawings, designs, specifications, instructions for work, method of shipment or packing or place of delivery. If any such change causes an increase or decrease in the cost of or in the time required for performance of a Purchase Order, Vendor shall notify Purchaser in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of the Purchase Order. Any claim by Vendor for any such adjustment must be made within thirty (30) days, or such other period as the parties may agree upon in writing, after Vendor's receipt of notice of the change. Nothing herein contained shall excuse Vendor from proceeding with the Purchase Order as changed.

**8) PATENTS, COPYRIGHTS, TRADEMARKS AND TRADE SECRETS** – Vendor warrants that the sale, use or incorporation into manufactured products of all goods furnished hereunder which are not of Purchaser's design, composition or manufacture shall be free and clear of infringement of any valid patent, copyright, trademark or trade secret. Vendor shall indemnify and hold Purchaser harmless from any and all liability and/or loss of any kind (and the cost and expenses, including without limitation attorney's fees) arising out of any claim, suit or action alleging or arising out of any such infringement, which claim, suit or action Vendor agrees to compromise or defend.

**9) ASSIGNMENT** – Vendor shall not assign any of its rights (including without limitation the right to any monies due or to become due) or delegate any of its obligations under a Purchase Order without prior written consent of Purchaser.. Any assignment by Vendor of any monies due or to become due shall be subject to set-off, recoupment or other claim of Purchaser against Vendor.

**10) RELEASE OF LIENS** – All goods supplied and all services performed by Vendor pursuant to a Purchase Order shall be free from all liens. If Purchaser requests, Vendor shall provide a proper release of liens or other satisfactory evidence of freedom from liens.

**11) INDEMNITY** – Vendor shall indemnify and hold Purchaser harmless from any and all claims, losses, liabilities, damages, costs and expenses including reasonable attorneys' fees, including without limitation claims of injury or death to persons or damage to property (collectively "Losses"), which may result from any act or omission arising out of the performance or non-performance of a Purchase Order (including without limitation acts or omissions of Vendor or of its agents, employees or subcontractors), except to the extent that such Losses are due directly to Purchaser's gross negligence or willful misconduct. Vendor shall compromise or defend any such claim, suit or action.

**12) INSURANCE** – Vendor shall maintain such Public Liability, Property Damage, Employer's Liability and Compensation Insurance and Motor Liability Insurance (Personal Injury and Property

Damage) as will protect Vendor (or its subcontractors) and Purchaser from said risks and from any claims under any applicable Worker's Compensation or Occupational Disease statutes.

**13) COMPLIANCE WITH LAWS** – Vendor warrants that in performance of a Purchase Order it has complied or will comply with all applicable federal, state and local laws, rules and regulations, including without limitation the Walsh-Healy Public Contracts Act (41 U.S.C. §§35-45) (if a Purchase Order is for an amount exceeding \$10,000 and is otherwise subject to the Walsh-Healy Public Contracts Act); Section 202, Executive Order 11246, as amended by Executive Order 11375, 41 C.F.R. Part 60-1; Section 503 of the Rehabilitation Act of 1973, 20 C.F.R. §§41.3, 741.4; and the Vietnam Era Veterans Readjustment Assistance Act of 1974, 41 C.F.R. Part 50-250. In accordance with Executive Order 12549 (Debarment and Suspension), by entering into the Agreement, Vendor certifies, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where Vendor is unable to certify to any of the statements in this certification, it shall provide a written explanation to Purchaser. If Vendor provides export controlled products, technology and/or software (“Products”) to Purchaser, Vendor will provide Purchaser with a list of ECCNs (Export Control Classification Numbers) for such Products, as well as updates to such list when new Products are added. Vendor certifies (and will certify with respect to any updates) that it has (i) conducted proper classification analysis under the EAR or (ii) obtained Official Commodity Classifications (CCATS) from BIS. Additionally, if any Product is on the U.S.M.L., Vendor will provide Purchaser with the classification and will certify that it conducted proper ITAR analysis or obtained Jurisdiction Classifications Rulings from DDTC.

**14) FIRE TESTING** – Whenever required, all material used in the fabrication or installation of the goods supplied under a Purchase Order shall have been tested and approved by the Boston Fire Department. Such material must meet the standards set forth in the “Regulations Controlling Decorations, Furnishings, and Interior Finish,” as most recently revised. Vendor will submit a copy of the Certificate of Compliance with such regulations, issued by the Boston Fire Department, to the buyer responsible for the relevant Purchase Order (at the purchasing department listed on the face of the Purchase Order) prior to delivery or no later than ten (10) days after the receipt of the certificate from the Boston Fire Department, whichever date is earlier.

**15) PUBLICITY** – Vendor shall not use or register the name “Boston University” (alone or as part of another name) or any logos, seals, insignia or other words, names, symbols or devices that identify Purchaser or any Purchaser school, unit, division or affiliate (“BU Names”) for any purpose except with the prior written approval of, and in accordance with restrictions required by, Purchaser. Without limiting the foregoing, Vendor shall cease all use of BU Names on the termination or expiration of this Agreement except as otherwise approved by Purchaser.

**16) MISCELLANEOUS** – This Agreement, and all rights and obligations of the parties, whether arising under this Agreement or otherwise, shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to its principles of conflict of laws. The sole and exclusive jurisdiction for resolution of any disputes between the parties shall be in the state and federal courts located in Boston, MA, and each of the parties hereby submits to the jurisdiction of such courts.

## Yearly Cost Savings

The money that we've helped save  
Boston University since July 1<sup>st</sup>, 2012

\$ 3, 0 1 6, 9 5 3

## News »

**[Terrier Marketplace Gift Card Program](#)**

**[Researchers: No More Shipping and Dry Ice Charges on R&D Reagents](#)**

**[Reminder: Laboratory Supply & Equipment Expo Is This Thursday](#)**

**[New Bio-Rad Freight Program](#)**

**[Attend the Laboratory Supply & Equipment Expo on Thursday, April 3.](#)**

## **Most Popular Pages**

**[Terrier Marketplace](#)**

**[Contact Us](#)**

**[Travel Services](#)**

**[BUworks Suppliers](#)**

**[Shopper's Guide](#)**

**[Supplier Registration](#)**