

# STANDARD TERMS AND CONDITIONS

These standard terms and conditions and any special terms and conditions become part of any contract entered into if any or all parts of the Proposals are accepted by the **Alliance for Innovation - AFI** and shall comply with applicable **State of Texas Public Procurement Regulations**.

## DEFINITION OF BUYER

The **Alliance for Innovation - AFI**, its officers, agents, servants, authorized employees, contractors, and subcontractors who act on behalf of various AFI departments, bodies, or agencies that participate in using the respective Agreement/Contract.

## DEFINITION OF SELLER

The consultant, contractor, supplier, or other provider of goods and/or services, its officers, agents, servants, employees, contractors, and subcontractors who act on behalf of the entity under a contract with **AFI**.

## PUBLIC INFORMATION

Any information submitted to **AFI** may be requested by a member of the public under applicable public records laws, including the **Texas Public Information Act (TPIA), TEX. GOV'T CODE ANN. § 552**. If **AFI** receives a request for information, the Seller listed in the request will be notified and given an opportunity to make arguments to the relevant authority regarding reasons the Seller believes that its information may not lawfully be released. If Seller does not make arguments or the relevant authority rejects the arguments Seller makes, the information will be released.

## PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS

No officer or employee of **AFI** shall have a financial interest, direct or indirect, in any contract with **AFI** or be financially interested, directly or indirectly, in the sale to **AFI** of any land, materials, supplies, or services, except on behalf of **AFI** as an officer or employee. This provision shall comply with **Texas Local Government Code Chapter 171**, which governs conflicts of interest for local government officers. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee found guilty thereof shall forfeit their office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with **AFI** shall render the contract invalid.

## COMPETITIVE PROCUREMENT REQUIREMENTS

Contracts subject to competitive procurement shall comply with **Texas Government Code Chapter 2254 (Professional and Consulting Services)** and **Chapter 252 (Purchasing and Contracting Authority of Municipalities)**, as applicable. **AFI** will follow all relevant procurement laws related to competitive bidding, requests for proposals (RFPs), and sole-source justification where applicable.

## RIGHT TO AUDIT

Seller agrees that **AFI** shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine and copy any relevant books, digital files, documents, and records of the Seller related to transactions under this contract. Seller shall provide reasonable access to facilities and workspaces to enable **AFI** to conduct such audits. **AFI** shall notify Seller in advance of any intended audit. ( This may vary from State to State)

## TITLE AND RISK OF LOSS

Title and risk of loss of the goods shall not pass to **AFI** until **AFI** has received and taken possession of the goods at the designated delivery point, subject to final inspection and acceptance.

## PRODUCT WARRANTY

Seller warrants that all goods furnished will meet **AFI's** specifications, descriptions, and any samples provided. Any attempts to limit or exclude express or implied warranties shall render the contract voidable at **AFI's** discretion.

## SAFETY WARRANTY

Seller warrants that all goods supplied shall conform to the safety standards established by the **Occupational Safety and Health Act (OSHA)** and any applicable federal, state, or local regulations. Non-compliant goods may be returned for correction or replacement at Seller's expense.

## PATENT INFRINGEMENT

Seller shall determine if goods manufactured in accordance with **AFI's** specifications may lead to infringement claims from third parties. If a claim arises, Seller shall indemnify and hold **AFI** harmless against any resulting liabilities. Should the products become the subject of an infringement claim, Seller must either procure the right for **AFI** to continue using the goods, replace them with non-infringing goods, or modify them to avoid infringement.

## **PROPRIETARY RIGHTS**

Seller warrants that all goods do not infringe upon any United States patent, copyright, or trade secret. Seller shall defend and indemnify **AFI** from any claims related to such violations.

## **NON-APPROPRIATION**

This contract is contingent upon the continued availability of funding for the purpose set forth herein. In the event no funds or insufficient funds are appropriated and budgeted in any fiscal period for payments due under this contract, **AFI** shall immediately notify Seller of such occurrence, and this contract shall be suspended until further written notification without penalty or expense to **AFI**. **AFI** shall not be obligated to make any payments under this contract beyond the funds legally available for such purpose.

## **ASSIGNMENT AND DELEGATION**

Seller shall not assign or delegate any part of this contract without prior written consent from **AFI**. Any attempted assignment or delegation without approval shall be considered void and unenforceable.

## **SEVERABILITY**

If any provision of this agreement is found to be invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect.

## **CANCELLATION AND TERMINATION**

**AFI** shall have the right to cancel this contract immediately for default or bankruptcy. The performance of work under this contract may also be terminated in whole or in part by **AFI** with or without cause at any time upon written notice, subject to compliance with applicable **Texas procurement regulations**.

## **APPLICABLE LAW**

This agreement shall be governed by the laws of the **State of Texas**. Venue for any litigation arising from this contract shall be in the relevant jurisdiction within **Texas**, as required by **Texas Civil Practice and Remedies Code Chapter 15**.

## **INDEMNIFICATION**

Seller agrees to indemnify and hold harmless **AFI** and all members utilizing this contract award and its officers and employees from all claims, damages, or injuries arising out of Seller's performance under this contract in accordance with **Texas Civil Practice and Remedies Code Chapter 102**.

## **NON-DISCRIMINATION**

Seller agrees to comply with all applicable non-discrimination laws and regulations, including **Texas Labor Code Chapter 21**.

## **DISABILITY COMPLIANCE**

Seller warrants compliance with the **Americans with Disabilities Act (ADA)** and **Texas Government Code Chapter 469**.

## **ENVIRONMENTAL REGULATIONS**

**AFI** reserves the right to consider a history of environmental violations when determining responsibility. Sellers must comply with **Texas Health & Safety Code Chapter 361 (Solid Waste Disposal Act)** and any other applicable environmental laws.<sup>1</sup>

