South Dakota Science and Technology Authority 630 East Summit Street Lead, South Dakota, 57754

PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions will be included on the purchase order to the selected vendor(s).

I. PURCHASE ORDER AS AGREEMENT

This Purchase Order constitutes the SDSTA's acceptance of the Bid of ______(Vendor) dated ______, attached hereto as Exhibit B, to furnish the items or commodities specified in the Bid, but subject to the terms and conditions stated in this Purchase Order and the attachments, including, if applicable, the Specifications for Materials shown on Exhibit A. Upon written acceptance by the Vendor, this Purchase Order and the attachments hereto shall constitute a legally-binding agreement between the SDSTA and the Vendor. The SDSTA agrees that the items or articles specified in the Bid are identical to those specified in the SDSTA's solicitation, or are acceptable on an "as equal" basis.

II. DELIVERY TIME AND PLACE

All deliveries are to be made to: Attn: Name Sanford Underground Laboratory / SDSTA 100 Ross Street - Ross Warehouse Lead, SD 57754 Main phone number: (605) 722-8650

Vendor will coordinate delivery requirements with SDSTA's Procurement Representative (Pam Millard, <u>pmillard@sanfordlab.org</u>, (605) 722-4056, and will confirm delivery arrangements with this Representative at least one week prior to delivery.

III. INVOICES AND STATEMENTS

All delivery tickets, invoices and statements shall reference the number of this Purchase Order. Invoices must be submitted electronically to SDSTA at this address: <u>ap@sanfordlab.org</u>, by the 3rd of the month for payment to be made by the 20^{th} of the month.

IV. SDSTA REPRESENTATIVE

The SDSTA shall designate in writing a SDSTA Project Representative. The SDSTA Project Representative shall be responsible for providing SDSTA-supplied information and approvals in a timely manner to permit Vendor to fulfill its obligations pursuant to this Agreement. The SDSTA Project Representative shall also provide Vendor with prompt notice if it observes any failure on the part of the Vendor to fulfill its contractual obligations, including any errors,

omissions or defects in the performance of the work provided for in this Agreement. Unless changed in writing by the SDSTA, the SDSTA Project Representative is ______.

V. INSPECTION

Items or commodities purchased hereunder are subject to inspection and acceptance at the delivery point. The SDSTA reserves the right to reject and refuse acceptance of items or commodities which do not conform to the SDSTA's solicitation and related instructions, specifications, drawings and data, or with Vendor's warranty (expressed or implied). The Vendor shall be responsible for the SDSTA's reasonable costs incurred in inspecting items or commodities which the SDSTA deems to be nonconforming. Items or commodities which are rejected will be returned to Vendor at Vendor's expense and Vendor agrees to accept the same. Payment for any item or commodity delivered pursuant to this Purchase Order shall not be deemed an acceptance thereof.

VI. WARRANTY

Vendor expressly warrants that all articles, assemblies, parts and materials furnished under this Purchase Order (a) will correspond with the description thereof contained in the Bid and with the additional specifications, if any, attached hereto and made a part hereof; (b) will be free from defects in labor, materials or fabrication; and (c) will be free and clear of all liens and encumbrances, Vendor hereby warranting to SDSTA good and merchantable title thereto. All of said warranties shall survive acceptance and shall run in favor of the SDSTA, its successors and assigns. Vendor shall carefully study and compare all manufacturers' numbers, quantities, descriptions and special instructions with its Bid and this Purchase Order, and will at once report to the SDSTA in writing any discrepancies, inconsistencies or omissions discovered by the Vendor.

VII. INDEMNITY

Vendor agrees to indemnify and hold the SDSTA harmless from and against all claims, damages and expenses arising out of or related to any patent controversy or litigation, damages to person or property caused by Vendor's negligence or other fault.

VIII. COMPLIANCE WITH LAWS

Vendor warrants that all federal, state and local laws and regulations of all governmental and trade authorities, agencies or commissions concerning the manufacture, sale, pricing and labeling of the merchandise purchased hereunder have been complied with, and Vendor agrees to indemnify SDSTA against any loss or expense sustained by the SDSTA as the result of any noncompliance.

IX. TERMINATION

SDSTA may at any time terminate this Purchase Order in whole or in part for the convenience of SDSTA or for cause, by written or electronic notice, or verbal notice confirmed in writing, and

thereupon the SDSTA shall be entitled to recover all deposits and advances made. Upon termination for the convenience of the SDSTA, the SDSTA shall pay the Vendor's reasonable expenses incurred in connection with this Purchase Order, including a commercially-reasonable restocking fee, if applicable. If, however, termination is occasioned by Vendor's breach of any condition hereof, including breach of warranty, or by Vendor's delay, Vendor shall not be entitled to any such payment, and the SDSTA shall have against Vendor all remedies provided by law and equity.

X. TITLE AND RISK OF LOSS

The risk of loss shall remain with the Vendor until upon completion of Vendor's obligations with respect to delivery or installation, as required, at which time title and the risk of loss shall be deemed transferred to the SDSTA.

XI. NOTICES

Questions concerning shipping dates, pricing structures, invoices, and technical questions and notices which may be or are required to be given under this Purchase Order must be given writing to the contacts listed below. The failure to return calls, faxes or emails in a timely manner shall constitute a breach of this Purchase Order.

XII. NON-DISCRIMINATION STATEMENT - DEBARMENT

The SDSTA requires that all contractors, vendors, and suppliers employing fifteen or more persons and doing business with the SDSTA provide a statement of non-discrimination. By submitting the attached Vendor's Bid, the Vendor certifies they do not discriminate in its employment practices with regard to race, religion, age, sex, national origin or disability. By executing this Purchase Order, the Vendor certifies that it is not ineligible, debarred or suspended from participating in agreements involving the expenditure of federal funds and that it is eligible to participate in federally-funded contracts. Vendor further agrees that Vendor will not employ, hire, contract with or engage any designer, consultants, subconsultants, contractors, subcontractors or other person to perform work in connection with this Purchase Order which is ineligible, debarred or suspended from participating in such agreements.

XIII. MISCELLANEOUS

This Purchase Order and the attachments specifically referred to herein constitute the entire agreement of the parties concerning its subject matter. In the event these terms conflict with the Federal Requirements, the Federal Requirements take precedence. The terms of this Purchase Order may only be amended by a written document, executed with the same formalities as this Purchase Order. Time is of the essence in the performance of the covenants, terms and conditions of this Purchase Order. If the Vendor attempts to alter these terms and conditions or substitute any terms and conditions of its own that are contrary, its Bid will be considered unresponsive. The terms of this Purchase Order are to be construed under and governed by the laws of South Dakota. Any lawsuit arising out of or related to this Purchase Order must be brought in the state courts of South Dakota.

SDSTA:

VENDOR:

SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY

By:_____

Executive Director

By:			
-			
Title :			

VENDOR:

By:_____Date

Its _____

Fed. Emp. Tax ID#:

Shipping Contact: <u>Pam Millard</u> Email: <u>pmillard@sanfordlab.org</u> Phone: (605) 722-4056

Cell: (605) 920-0080

Exhibit A Bid Requirements Exhibit B Bid