

satisfy the requirements. Note: No amounts will be paid for the items in this BID in excess of the amounts quoted.

17. **Award:** A written purchase order or notice of award mailed or otherwise furnished to the successful bidder within the time of acceptance specified in this package results in a binding contract without further action by either party.
18. **Variation in Quantity:** The University assumes no liability for commodities produced, processed or shipped in excess of the amount specified herein.
19. **Invoicing:** Bidder shall submit two (2) copies of an itemized invoice showing bid number and purchase order number to:

**Midwestern State University
Accounts Payable
3410 Taft Blvd.
Wichita Falls, TX. 76308**

20. **Payments:** The University, after receipt of completed order will make payment to the contractor within 30 days from the receipt of goods or invoice whichever is later. All partial shipment must be pre-approved by the Director of Purchasing. In the event of partial shipments the University is not required to make payments until the order is complete. Acceptance of and final payment for the item will be contingent upon satisfactory performance of the product received by the University.
21. **Discrimination:** In order to comply with the provisions of fair employment practices, the contractor agrees as follows; 1.) the contractor will not discriminate against any employee or applicant for employment because of race, sex, religion, handicap, or national origin; 2.) in all solicitations or advertisements for employees, the contractor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap or national origin; 3.) the contractor will furnish such relevant information and reports as request by the University for the purpose of determining compliance with these regulations; and 4.) failure of the contractor to comply with these laws will be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part.
22. **Assignment:** Any contract entered into pursuant to this request is not assignable, nor the duties thereunder, by either party without the written consent of the other party in the contract.
23. **Other Remedies:** In addition to the remedies stated herein, the University has the right to pursue other remedies permitted by law or in equity.
24. **E-Verify:** Contractor is responsible to verify all employees are approved by The Homeland Security E-Verify program.

REQUEST FOR PROPOSAL

MASS COMMUNICATIONS FURNITURE MIDWESTERN STATE UNIVERSITY

It is the intent of these specifications to describe the minimum requirements for **the above titled project** at Midwestern State University in sufficient detail to secure comparable bids.

Each bidder must confirm he fully understands these specifications and the University's needs and satisfies himself that he is cognizant of all factors relating to requirements contained in these specifications.

The bid analysis will include compliance to bid specifications, past performance with vendor, references, delivery time, which will have a weighted average of 30 percent and the overall cost to the university, which will have a weighted average of 70 percent. Midwestern State University reserves the right to consider deviations from these specifications.

Award of this bid will be contingent on availability of Midwestern State University funds.

References shall be included on this bid form. Three current customers with a comparable purchase shall be listed with complete name, address, telephone number and contact person.

Bids must be submitted on this form and the bidder shall return the entire bid/specification package which will constitute a contract equally binding between the bidder and Midwestern State University if bids accepted by the University. Each bid shall be placed in a sealed envelope or emailed, signed by a person having the authority to bind his/her firm in a contract.

This contract shall remain in effect until completion and acceptance by the University. Midwestern State University reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of the University in the event of breach or default if this contract. Midwestern State University reserves the right to terminate the contract immediately in the event the successful bidder fails to make delivery in accordance with the specifications.

Questions concerning these specifications should be directed via email no later than December 19, 2016 to:

Stephen Shelley, Director of Purchasing and Contract Management
3410 Taft Blvd. Daniel Bldg. Rm. 202
Wichita Falls, TX. 76308
stephen.shelley@mwsu.edu
(940) 397-4110

Midwestern State University may in its sole discretion respond in writing to questions concerning this bid request. Only MSU responses made by formal written addendum to this proposal shall be binding and shall be posted on the MSU purchasing web site located at <http://mwsu.edu/purchasing/>. Oral or other written interpretations or clarifications shall be without legal effect.

All bids meeting the intent of this invitation to bid will be considered for award. Bidders taking exception to the specifications, or offering substitutions, shall state these exceptions by attachment as part of the bid. The absence of such a list shall indicate that the bidder has not taken exception and shall hold the bidder responsible to perform in strict accordance with the specifications of the invitation. Midwestern State University reserves the right to accept any and all or none of the exception(s) / substitution(s) deemed to be in the best interest of the University.

~~**PRE-BID MEETING:** A non-mandatory pre-bid meeting will be held at 10:00 a.m. on Tuesday, December 13, 2016 at the northwest corner of the Bridwell Courts property, Midwestern State University, 3410 Taft Blvd., Wichita Falls, Texas.~~

Proposals are to be sent via email or hand delivered to:

Stephen Shelley, Director of Purchasing and Contract Management
3410 Taft Blvd. Daniel Bldg. Rm. 202
Wichita Falls, TX. 76308
stephen.shelley@mwsu.edu
(940) 397-4110

SPECIFICATIONS

RFP #735-17-8172

Please see specifications and drawing at the below Link under current bid opportunities listed under the RFP number:

<http://mwsu.edu/purchasing/>

Please supply a HUB Subcontracting Plan with your bid, which can be found at the below listed link:

<http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

Please supply schedule and lead time for project with bid: Furniture is tentatively scheduled for delivery around 1st of February to Mid-February. Confirmation required before delivery can be made.

Supply an insurance certificate with your Bid.

Supply a W-9 With your Bid if new to Midwestern State University.

~~2005 Uniform General Conditions apply to this Bid and can be found at the below listed link:~~

~~<http://mwsu.edu/purchasing/contract-management>~~

A Bid Bond of 5% will be required with your Bid.

Pricing Breakdown: Pricing to be an each price with total for each item. Freight and Installation charges are to be shown separately. Vendor is responsible for installation & clean up.

Item	Preview	Mfg	Cat	Part Number	Part Description	Qty
1		HON	HCG	H105681X	10500 Series Return Shell 29-1/2H x 41W x 24D	1
				.MOCH	LAM: Mocha	
				MOCH	LAM: Mocha	
2		HON	HCG	H105201R	10500 Series Pen w/End Panel 72W x 30/42"D x 29-1/2"H	1
				.MOCH	LAM: Mocha	
				MOCH	LAM: Mocha	
3		HON	HCG	H105535	10500 Series Bookcase 5-shelf 36Wx13-1/8Dx71H	7
				.MOCH	LAM: Mocha	
				MOCH	LAM: Mocha	
4		HON	HCG	H105102	10500 Series Mobile Full Ht Ped B/B/F 15-5/8W x 22-3/4D	7
				.MOCH	LAM: Mocha	
				MOCH	LAM: Mocha	
5		HON	HCG	H5210	Single Monitor Arm-Effortless Adj	0
6		HON	HSN	HN6	Nucleus Guest Multi-purpose Chair Four Leg Stacking Frame	19
				.F	Arm: Fixed Arm	
				.E	Option: Glide	
				.IM	Back: Stretch Black	
				\$(2)	Gr 2 UPH	
				.DOT	Dotty	
				10	Uph: Black	
				.T	FRAME: Black	
7		HON	HSN	HN1	Nucleus Mid Back Work Chair	7
				.A	Arm: Ajustable Arm	
				.H	CASTER: Hard (Standard)	
				.IM	Back: Stretch Black	
				\$(2)	Gr 2 UPH	
				.WP	Whisper Vinyl	
				39	COLOR: Charcoal	
				.SB	Base: Standard Plastic Black	
			.T	FRAME: Black		

8		HON	HSN	HFLSC1	Flock Square Lounge Chair	2
				.L	Standard Leg P6N or P7A FRM	
				\$(2)	Gr 2 UPH	
				.DOT	Dotty	
				90	Uph: Tide	
				.P6N	Textd Satin Chrome N/A caster	
9		HON	HSN	HFLYO1	Flock Round Mini	2
				.LP6N	Glide: Textrd Satin ChromeDisc	
				\$(1)	Gr 1 UPH	
				.NR	Inertia	
				98	COLOR: Calypso	
10		HON	HSN	HLOCC2	Square Occasional Table, Open Front and Back Mocha finish	1
11		HON	HSN	HL2SL	Endorse Two-seat Lounge	2
				.RL	Leg: Round	
				\$(2)	Grade 2 Fabric	
				.WP	Whisper Vinyl	
				39	COLOR: Charcoal	
				.P6N	Textured Satin Chrome	
12		HON	HSN	HL1SL	Endorse Single Seat Lounge	3
				.RL	Leg: Round	
				\$(1COM)	Gr 1 COM Uph	
				.QTE1	S246977XP EXPO/SKY	
				.P6N	Textured Satin Chrome	
13		HON	HSN	HLOCC3	Rectangular Occasional Table, Open All Sides MOCHA FINISH	1
14		HON	HSN	HLOCC1	Square Occasional Table, Open All Sides MOCHA FINISH	3
15		HON	HSN	HLWM	Endorse Work Mid-back Mesh Back	7
				.Y2	Synchro Tilt	
				.A	Arm: Height and Width Adj	
				.H	CASTER: Hard (Standard)	
				.IM	Black Mesh	
				\$(1)	Gr 1 UPH	

			.RI	Stitchery	
			10	COLOR: Jet	
			.SB	Base: Standard Plastic Black	
			.N	No Head Rest	
16	HON	HSN	HL3SL	Endorse Three-seat Lounge	1
			.RL	Leg: Round	
			\$(2)	Grade 2 Fabric	
			.WP	Whisper Vinyl	
			39	COLOR: Charcoal	
			.P6N	Textured Satin Chrome	
17	HON	HTL	HMVR-3066G-FX	Motivate Table Rect 30Dx66W 2mm Edge Fixed Base	1
			.G	3" Round Grommet	
			\$(L1CORE)	L1 Core Lam Opts	
			.B9	Silver Mesh	
			.K	Platinum	
			.G	Glide	
			\$(CORE)	Paint Grade: Core Paint	
			.S	Charcoal	
18	HON	HTL	HMVR-3096G-FX	Motivate Table Rect 30Dx96W 2mm Edge Fixed Base	6
			.G	3" Round Grommet	
			\$(L1CORE)	L1 Core Lam Opts	
			.B9	Silver Mesh	
			.K	Platinum	
			.G	Glide	
			\$(CORE)	Paint Grade: Core Paint	
			.S	Charcoal	
19	HON	HSN	HSLVMM	Mid Back Work Chair Mesh Back	92
			.Y1	Ctrl: SynchroTilt w/ SeatSlide	
			.N	Arm: Armless	
			.H	CASTER: Hard (Standard)	
			.IM	Black ilira Stretch Mesh	


				\$(1)	Gr 1 UPH	
				.RI	Stitchery	
				10	COLOR: Jet	
				.NL	No Lumbar	
				.SB	Base: Standard Black	
20		HON	HTL	HMVR-3066G-AH	Motivate Table Rect 30Dx66W 2mm Edge Adj Height Base	1
				.G	3" Round Grommet	
				\$(L1CORE)	L1 Core Lam Opts	
				.B9	Silver Mesh	
				.K	Platinum	
				.G	Glide	
				\$(CORE)	Paint Grade: Core Paint	
				.S	Charcoal	
21		HON	HSN	HLTSM	Endorse Task Stool Mesh Back	3
				.Y1	Limited Synchor Tilt	
				.F	Arm: Fixed Black	
				.H	CASTER: Hard (Standard)	
				.IM	Black Mesh	
				\$(2)	Grade 2 Fabric	
				.WP	Whisper Vinyl	
				39	COLOR: Charcoal	
22				.SB	Base: Standard Plastic Black	
		HON	HCG	H105681X	10500 Series Return Shell 29-1/2H x 41W x 24D	6
				.MOCH	LAM: Mocha	
23				MOCH	LAM: Mocha	
		HON	HCG	H105202L	10500 Series Pen w/End Panel 72W x 42/30"D x 29-1/2"H	6
				.MOCH	LAM: Mocha	
24				MOCH	LAM: Mocha	
		HON	HCG	H10503	10500 Series Lateral File Ped 36"W x 20"D x 28"H	7
				.MOCH	LAM: Mocha	
	HON	HCG	H105382K	10500 Series 42"x18 1/2" Wall Mount Storage 2-Dr Locking	14	

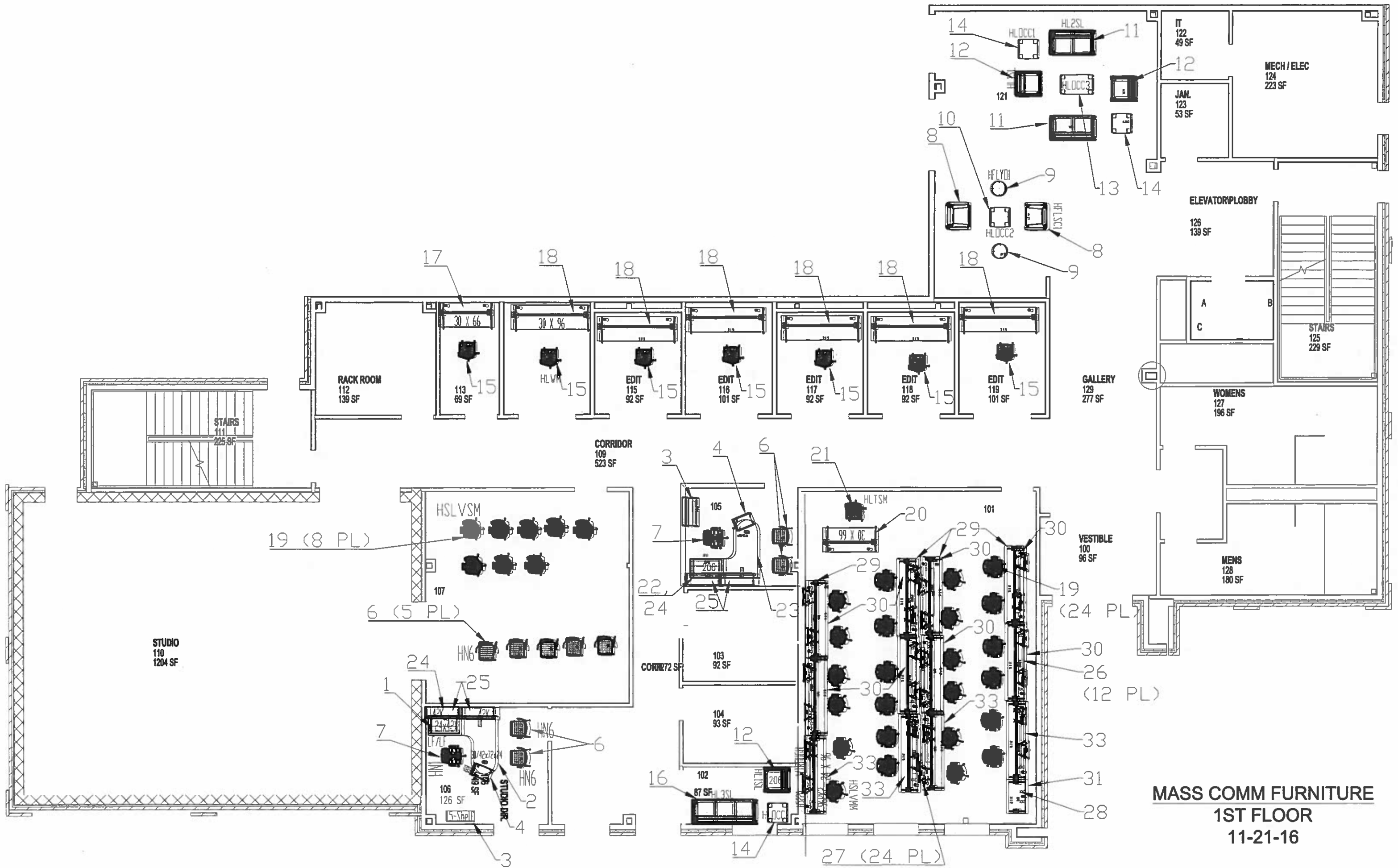
25				MOCH	LAM: Mocha	
				MOCH	LAM: Mocha	
[26]		HON	HTL	HMVR-2496G-FX	Motivate Table Rect 24Dx96W 2mm Edge Fixed Base	18
				.G	3" Round Grommet	
				\$(L1CORE)	L1 Core Lam Opts	
				.B9	Silver Mesh	
				.K	Platinum	
				.G	Glide	
				\$(CORE)	Paint Grade: Core Paint	
				.S	Charcoal	
27		HON	HCG	H5220	Dual Monitor Arm-Effortless Adj	24
28		HON	HTL	HMVR-2442G-FX	Motivate Table Rect 24Dx42W 2mm Edge Fixed Base	1
				.G	3" Round Grommet (1groment)	
				\$(L1CORE)	L1 Core Lam Opts	
				.B9	Silver Mesh	
				.K	Platinum	
				.G	Glide	
				\$(CORE)	Paint Grade: Core Paint	
				.S	Charcoal	
29		HON	HTL	HMACABLE	4-Trac Elect Power Entry Cable	16
30		HON	HTL	HMAPOWER96	4-Trac Elect 1st Circuit Power kit for 96W Table	14
31		HON	HTL	HMAPOWER42	4-Trac Elect 1st Circuit Power kit for 42W Table	1
32		HON	HCL	HCTROUGH3610	Cable Mngmt Trough 36W ten pk	5
33		HON	HTL	HMAPOWER962	4-Trac Elect 2nd Circuit Power kit for 96W Table	4
34		HON	HTL	HGRMTDATA	4-Trac ElectData Grommet	0
				.P	Plastic: Black	
35		HON	HTL	HTLA48120	Preside 120W x 48D Racetrack Shaped Laminate Top	1
				.G	2MM/Flat	
				MOCH	Edge: Mocha	
				.G2	Cut out for Flip Top Port	
				.MOCH	LAM: Mocha	

36		HON	HTL	HTLHP120	Preside Laminate Hollow Panel Base For 120" W Table Tops	1
				.MOCH	LAM: Mocha	
				.MOCH	Mocha	
37		HON	HSN	HITL1	Ignition Tsk Low Bck Pneu Swivel Tilt Tilt Bck Ht Adj	10
				.F	Arm: Fixed	
				.H	CASTER: Hard (Standard)	
				.M	Back: Mesh Back	
				\$(2)	GRADE: II UPHOLSTERY	
				.WP	Whisper Vinyl	
				39	COLOR: Charcoal	
				.T	FRAME: Black	
38		HON	HTL	HTLCREDA	Laminare Hospitality Credenza	1
				.G	LAM: 2mm/Flat	
				.MOCH	Edge: Mocha	
				.MOCH	LAM: Mocha	
				.MOCH	LAM: Mocha	
				.J	Pull: Loop Satin Nickel	
39		HON	HSN	HFSS7	Flock Stool	8
				.LA	Clr: Lava	
				\$(1)	Gr 1 UPH	
				.COMP	Compass	
				62	Ruby	
40		HON	HTL	HMVR-2484G-FX	Motivate Table Rect 24Dx84W 2mm Edge Fixed Base	19
				.G	3" Round Grommet	
				\$(L1CORE)	L1 Core Lam Opts	
				.B9	Silver Mesh	
				.K	Platinum	
				.G	Glide	
				\$(CORE)	Paint Grade: Core Paint	

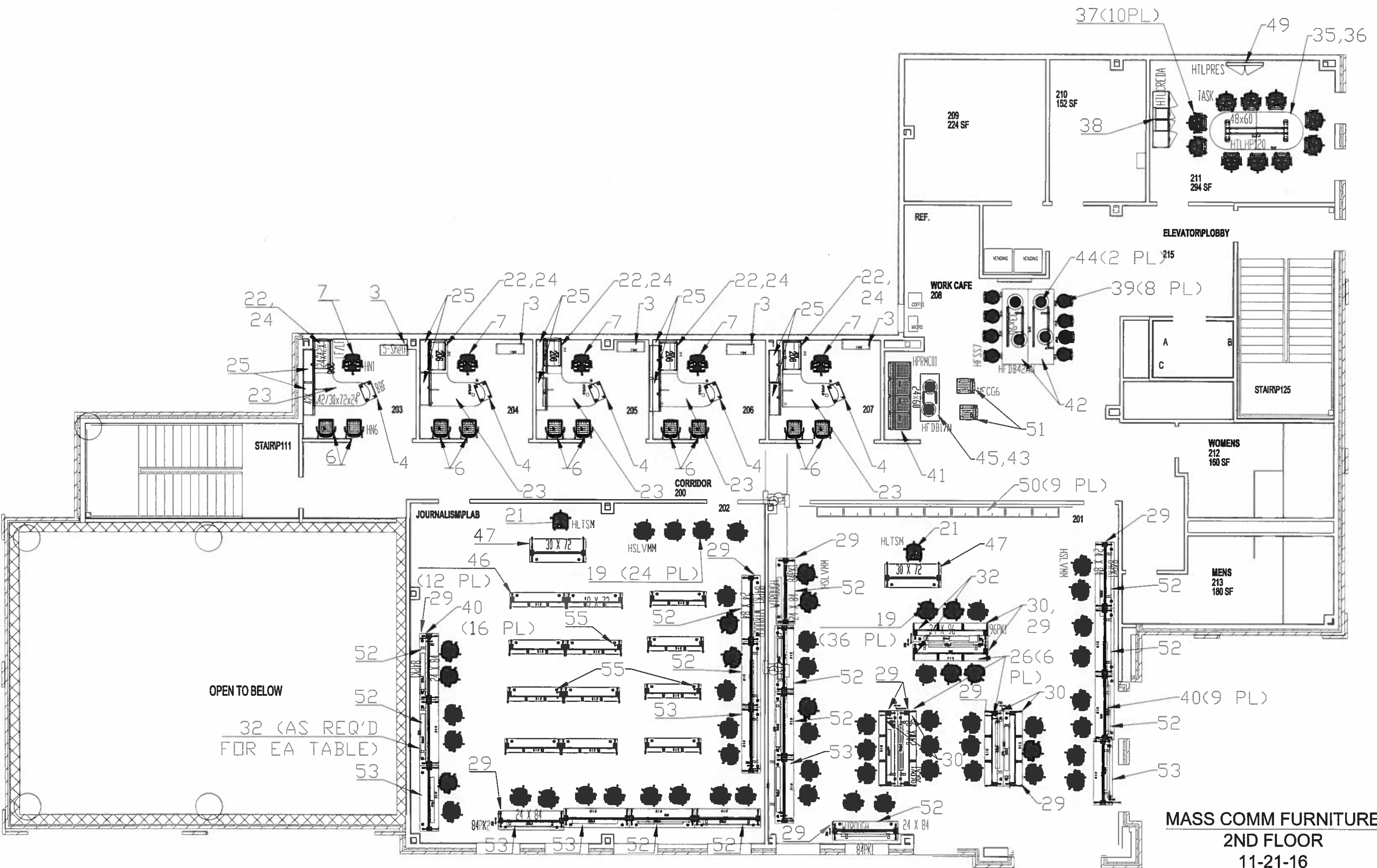
				.S	Charcoal	
41		HON	HSN	HFLMC1	Flock Modular Chair	4
				.L	Standard Leg P6N or P7A FRM	
				\$(2)	Gr 2 UPH	
				.DOT	Dotty	
				62	Uph: Berry	
				.P6N	Textd Satin Chrome N/A caster	
42		HON	HTL	HFTLC3396	Flock 33x96 Rectangle Laminate Top	2
				.G	2MM Edge	
				WHIT	Brilliant White	
				.G	Two Grommets Left & Right	
				T1	PAINT: Platinum Metallic	
				.WHIT	LAM: Brilliant White	
43		HON	HTL	HFTLC2460	Flock 24x60 Rectangle Laminate Top	1
				.G	2MM Edge	
				WHIT	Brilliant White	
				.G	Two Grommets Left & Right	
				T1	PAINT: Platinum Metallic	
				.WHIT	LAM: Brilliant White	
44		HON	HTL	HFDB42AN	Flock Disc Tbl Base for 41H Tbl no Footring Set of 2	2
				.P6N	Textured Satin Chrome	
45		HON	HTL	HFDB17N	Flock Disc Base for 18 High Tbl Use w/24x60 Tops	1
				.P6N	Textured Satin Chrome	
46		HON	HTL	HMVR-1872G-NS	Motivate Table Rect 18Dx72W 2mm Edge Nesting Base	12
				.G	3" Round Grommet	
				\$(L1CORE)	L1 Core Lam Opts	
				.B9	Silver Mesh	
				.K	Platinum	
				.G	Glide	
				\$(CORE)	Paint Grade: Core Paint	
				.S	Charcoal	

47		HON	HTL	HMVR-3072G-AH	Motivate Table Rect 30Dx72W 2mm Edge Adj Height Base	2
				.G	3" Round Grommet	
				\$(L1CORE)	L1 Core Lam Opts	
				.B9	Silver Mesh	
				.K	Platinum	
				.G	Glide	
				\$(CORE)	Paint Grade: Core Paint	
				.S	Charcoal	
48		HON	HTL	HMVR-2496G-NS	Motivate Table Rect 24Dx96W 2mm Edge Nesting Base	0
				.G	3" Round Grommet	
				\$(L1CORE)	L1 Core Lam Opts	
				.B9	Silver Mesh	
				.K	Platinum	
				.G	Glide	
				\$(CORE)	Paint Grade: Core Paint	
				.S	Charcoal	
49		HON	HTL	HTLPRES	Preside Laminate Presentation Cabinet	1
				.MOCH	LAM: Mocha	
50		HON	HSF	HS30ABC	Brigade Bookcase 2-Shelf 12-5/8D x 34-1/2W x 29H	9
				\$(CORE)	PAINT: Select Core Paint	
				.Q	PAINT: Light Gray	
51		HON	HSN	HFCG6	Flock Casual Guest	2
				\$(1)	Gr 1 UPH	
				.COMP	Compass	
				62	Ruby	
				.P6N	Textured Satin Chrome	
52		HON	HTL	HMAPOWER84	4-Trac Elect 1st Circuit Power kit for 84W Table	13
53		HON	HTL	HMAPOWER842	4-Trac Elect 2nd Circuit Power kit for 84W Table	6
54		HON	HCL	H5210	Single Monitor Arm-Effortless Adj	0
55		HON	HTL	HGRMTAC	4-Trac Electrical Power Hub 3" Grommet Mount	3
				.X	Plastic: Standard Color	

56						INSTALLATION, TRASH REMOVAL, CLEAN UP,	1
					Grand Total		



**MASS COMM FURNITURE
1ST FLOOR
11-21-16**



OPEN TO BELOW

32 (AS REQ'D FOR EA TABLE)

VENDOR REFERENCES

Please list three (3) references of current customers who can verify the quality of service your company provides. The University prefers customers of similar size and scope of work to this proposal. ***THIS FORM MUST BE RETURNED WITH YOUR PROPOSAL.***

REFERENCE ONE

Government/CompanyName: _____

Address: _____

ContactPersonandTitle: _____

Phone: _____ Fax: _____

Contract Period: _____ ScopeofWork: _____

REFERENCE TWO

Government/CompanyName: _____

Address: _____

ContactPersonandTitle: _____

Phone: _____ Fax: _____

Contract Period: _____ ScopeofWork: _____

REFERENCE THREE

Government/CompanyName: _____

Address: _____

ContactPersonandTitle: _____

Phone: _____ Fax: _____

Contract Period: _____ ScopeofWork: _____

AFFIDAVIT

The undersigned certifies that the bid prices contained in this proposal have been carefully checked and are submitted as correct and final and if bid is accepted (within 90 days unless otherwise noted by vendor), agrees to furnish any and/or all items upon which prices are offered, at the price(s) and upon the conditions contained in the Specifications.

STATE OF TEXAS
COUNTY OF WICHITA

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared

_____ who, after having first been duly sworn, upon oath did depose and say;

That the foregoing proposal submitted by _____

_____ hereinafter called "Bidder" is the duly authorized agent of said company and that the person signing said proposal has been duly authorized to execute the same. Bidder affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other Bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this bid.

Name and Address of Bidder:

Telephone number _____

Email _____

Signature

Name: _____

Title: _____

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ day of _____, 20 _____.

Notary Public in and for the
State of Texas.

**PURCHASING AGREEMENT
BETWEEN
MIDWESTERN STATE UNIVERSITY
AND**

Choose an item.

University in the event this provision is exercised, and the University shall not be obligated or liable for any future payments due or any damages as a result of termination under this section. This provision shall not be construed so as to permit the University to terminate this Agreement in order to purchase, lease, or rent similar goods or services from another party.

5. **ELIGIBILITY TO RECEIVE PAYMENT:** In accordance with Section 231.006 of the *Texas Family Code* and Sections 2155.004 and 2155.006 of the *Texas Government Code*, Contractor certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is or becomes inaccurate. Contractor acknowledges that, in accordance with Section 403.055 of the *Texas Government Code*, as applicable, if the Texas Comptroller of Public Accounts is currently prohibited from issuing a warrant to Contractor, Contractor agrees that payment under this Agreement will be applied to the debt or delinquent taxes are paid in full. And pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Contractor agrees that any payments owing to Contractor under the Agreement may be applied directly toward any debt or delinquency that Contractor 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. **CONTRACTOR'S STATUS AND RESPONSIBILITIES:** In performing the services, Contractor will be deemed an independent contractor and not the University's agent or employee. This Agreement will not be construed to create any partnership, joint venture or other similar relationship between the Parties. As an independent contractor, Contractor will be solely responsible for determining the means and methods for performing the services. Contractor shall perform the services in strict accordance with this Agreement and in accordance with the highest standards of care, skill, diligence and professional competence applicable to contractors engaged in providing similar services.
 Check here if Contractor is an individual and has been a temporary or permanent employee of the State of Texas (including any employment with Midwestern State University) within the past two (2) years; if so, Contractor must attach a separate statement setting for the name of the agency or department by which Contractor was employed, the dates of employment, the annual rate(s) of compensation during such employment and the nature of the Contractor's duties.
7. **INTELLECTUAL PROPERTY:** Contractor represents that it has all intellectual property rights necessary to enter into and perform its obligations in this Agreement.
8. **OWNERSHIP OF WORK PRODUCT:** All work products, including any software, research, reports, studies, data photographs, negatives or other documents, drawings or materials prepared by Contractor in the performance of its obligation under this Agreement will be deemed work for University upon completion, termination or cancellation of this Agreement. Any program data or other materials furnished by University for use by Contractor in connection with the services performed under this Agreement will remain University's property.
9. **INDEMNITY:** To the fullest extent permitted by law, Contractor shall indemnify and hold harmless University, and each of their directors, officers, agents and employees from and against all liability, loss, expense (including reasonable litigation costs and attorney fees), or claims for injury or damages arising out of the performance of this Agreement (collectively, "Claim") to the extent the Claim arises from the negligence, willful act, breach of contract or violation of law by Contractor, its employees,

**PURCHASING AGREEMENT
BETWEEN
MIDWESTERN STATE UNIVERSITY
AND**

Choose an item.

agents, contractors or subcontractors.

10. **INSURANCE:** Unless an appropriate University representative agrees to waive the requirements by initialing the designated space near the signature block below, Contractor shall comply with general liability insurance coverage of \$1,000,000 per occurrence. If, during the term, Contractor will enter University property, Contractor shall also maintain the following insurance: (i) worker's compensation coverage as required by law with statutory limits for the State of Texas, including employers liability coverage of \$500,000 per accident; (ii) commercial automobile liability coverage of \$1,000,000 combined single limit; (iii) for engineers and architects only: professional liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: builders risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against University. Comprehensive general liability and commercial automobile liability policies must name University as additional insured. Contractor shall provide certificates of Insurance evidencing the insurance requirements prior to the start of work.
11. **INSPECTION AND ACCEPTANCE OF SERVICES:** University reserves the right to inspect the services provided under this Agreement at all reasonable times and places during the term. If any of the services do not conform to the requirements set forth in this Agreement, University may (i) require Contractor to perform the services again in conformity with such requirements, with no additional charge to the University; or (ii) equitably reduce payment due Contractor to reflect the reduced value of the Services performed. These remedies do not limit other remedies available to University in this Agreement or otherwise available at law.
12. **RISK OF LOSS:** All work performed by Contractor pursuant to this Agreement will be at Contractor's exclusive risk until final and complete acceptance of the work by University. In the case of any loss or damage to the work prior to the University's acceptance, such loss or damage will be Contractor's responsibility. Delivery of any goods to University pursuant to this Agreement must be FOB destination.
13. **COMPLIANCE:** Contractor shall observe and abide by all applicable state and federal law requirements and University policies and procedures. Contractor shall certify that he/she or it is in compliance with all applicable state and federal laws as it relates to the terms and conditions of this Agreement.
14. **CONFIDENTIALITY; DATA PROTECTION:** Subject to the Texas Public Information Act and any similar legal requirements, neither Party shall disclose any confidential information obtained from the other Party without such Party's prior written approval. As applicable, Contractor shall maintain and process all information it receives in compliance with all applicable data protect/privacy laws and regulations and University policies.
15. **PUBLICITY:** Contractor shall not use University's name, logo or other likeness in any press release, marketing material or other announcement without University's prior written approval.
16. **SUBCONTRACTORS:** If Contractor is permitted to subcontract any of the services, Contractor shall ensure that each subcontractor complies with all provisions of this Agreement. Contractor will remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of

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the services.

17. **PRODUCTS AND MATERIALS PRODUCED IN TEXAS:** In performing its obligations under this Agreement, Contractor shall 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. [Section 2155.4441 of the Texas Government Code]
18. **TRAVEL EXPENSES:** In the event the Agreement requires the University to reimburse Contractor for travel expenses, then reasonable travel, meals, and lodging expenses shall be charged in accordance with and shall not exceed State of Texas travel, meal, and lodging reimbursement guidelines applicable to employees of the State of Texas.
19. **BONDS:** If applicable to the Services and this Agreement, Contractor shall secure payment and/or performance bonds in accordance with Section 2253.021 of the Texas Government Code upon executing this Agreement.
20. **AUDIT:** Execution of this Agreement constitutes Contractor's acceptance of the authority of University, the Texas State Auditors and/or their designated representative (collectively, "Auditor") to conduct audits or investigations in connection with this Agreement. Contractor agrees to cooperate with the Auditor conducting such audits or investigations and to provide all information and documents reasonably requested.
21. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Agreement.
22. **DEFAULT:** A party will be in default of this Agreement if such Party fails to comply with any obligation in this Agreement and such failure continues for ten (10) days after receiving written notice from the non-defaulting Party. In the event of default, upon written notice to the defaulting Party, the non-defaulting Party may terminate this Agreement as of the date specified in the notice, and may seek other relief as provided by law.
23. **TERMINATION FOR CONVENIENCE:** University may terminate this Agreement in writing at any time upon providing at least thirty (30) days written notice to Contractor. University will only be liable for payment for Services received prior to the effective date of such termination.
24. **NOTICE:** Any notice required or permitted by this Agreement must be in writing and addressed to the Party at the address set forth below, or such other address as is subsequently specified in writing. Notice will be effective at the date: (i) delivered by national courier service or Registered/Certified Main, postage prepaid, return receipt required, or (iii) received by facsimile.
25. **BREACH OF CONTRACT CLAIMS:** To the extent Chapter 2260 of the *Texas Government Code* is applicable to this Agreement and is not preempted by other law, the dispute resolution process provided by Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 will be used by the Parties to attempt to resolve any claim for breach of contract made by Contractor against University that cannot be resolved in the ordinary course of business. An event or claim for breach of contract is not grounds for Contractor to suspend performance under this Agreement. The Parties specifically agree that (1) neither the execution of the Agreement by

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University nor any other conduct, action or inaction of any representative of University relating to the Agreement constitutes or is intended to constitute a waiver of University's or the State's sovereign immunity to suit; and (2) University has not waived its right to seek redress in the courts.

26. **FUNDING CONTINGENCY:** University's performance under this Agreement may be dependent upon appropriation of funds by the Texas State legislature ("Legislature") and/or allocation of funds by University's Board of Regents ("Board"). If the Legislature fails to appropriate the necessary funds or the Board fails to allocate the necessary funds, University may terminate this Agreement without liability by providing written notice to Contractor.
27. **CONTRACTOR REPRESENTATIONS:** If Contractor is a business entity, it represents that: (i) it is duly organized, validly existing and in good standing under the laws of the state of its organization; (ii) it is authorized and in good standing to conduct business in the State of Texas; (iii) it has all necessary power and has received all necessary approvals to execute and perform its obligations in this Agreement; and (iv) the individual executing this Agreement on behalf of Contractor is authorized to do so. If Contractor is a taxable entity as defined by Chapter 171, *Texas Tax Code*, then Contractor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Contractor is exempt from the payment of those taxes, or that Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
28. **WAIVER:** Waiver by either Party of a breach or violation of any provision of this Agreement will not operate as waiver of any subsequent breach.
29. **SURVIVAL:** Termination or expiration of this Agreement will not affect the Parties' rights obligations that, by their nature and context, are intended to survive termination or expiration.
30. **ELECTRONIC DELIVERY:** Execution and delivery of this Agreement by exchange of email or fax copy containing the signature of a Party will constitute a valid and binding execution and delivery of this Agreement by such Party.
31. **LIMITATIONS:** The University is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on the University property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; indemnities; and confidential information. Terms and conditions of this Agreement relating to these limitations will only be binding on the University to the extent permitted by the Constitution and the laws of the State of Texas.
32. **JURISDICTION AND VENUE; GOVERNING LAW:** It is expressly understood and agreed that the location and place of performance for this Agreement is stipulated to be in Wichita Falls, Wichita County, Texas, and the proper place of venue for suit of all disputes arising under this Agreement shall solely be in Wichita County, Texas. This Agreement and all of the rights and obligations of the Parties thereto and all of the terms and conditions hereof will be construed, interpreted and applied in

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accordance with and governed under the laws of the State of Texas.

33. **AUTHORITY:** The person signing below on behalf of the University and Contractor warrants that he/she has the authority to execute this Agreement according to its terms.
34. **OFFICIAL NOT TO BENEFIT:** No trustee, officer, director, regent, employee, administrator and representative of University shall be admitted to any share or part of this Agreement or to any benefit that may arise there from.
35. **NONDISCRIMINATION:** Contractor shall comply with State of Texas and federal civil rights laws and University policies prohibiting discrimination and harassment. Contractor shall not discriminate against an employee or applicant for employment with respect to the hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, gender, national origin, age, sexual orientation, veteran status, or disability that is unrelated to the individual's ability to perform the duties of a particular position. A breach of this covenant may be regarded as a material breach of this Agreement.
36. **NON-ASSIGNABLE CONTRACT:** This Agreement cannot be assigned, in whole or in part, by either party.
37. **MISCELLANEOUS:** This Agreement, together with any Attachment(s), constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior contracts, agreements, representation and understanding made by the Parties relating to such subject matter. This Agreement may not be waived, altered, amended or otherwise modified except by the written agreement of both Parties. Contractor may not assign this Agreement with University's prior written consent. The invalidity or unenforceability of any provision(s) of this Agreement will not impair the validity and enforceability of the remaining provisions.
38. **EFFECTIVE DATE:** This Agreement shall be deemed to be effective on _____ and is signed by the respective Parties on the dates of their respective signatures as appear below.

<p>INSURANCE REQUIREMENTS WAIVER - IF the Insurance Requirements are not applicable to the services or if University otherwise chooses to waive such requirements for purposes of this <u>Agreement</u>, the appropriate University representative may waive the requirements by initialing here -----> _____. Otherwise, Contractor must satisfy the insurance requirements specified in this Agreement.</p>

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IN WITNESS WHEREOF:

Midwestern State University:

_____ ::

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SAMPLE