

EXHIBIT D
UNIVERSITY OF PENNSYLVANIA
PURCHASE ORDER SUPPLEMENTARY TERMS AND CONDITIONS
FOR ASBESTOS REMOVAL

This document amends and supplements the Terms and Conditions applicable to Purchase Orders issued by the University of Pennsylvania, Division of Facilities and Real Estate Services and other University entities for asbestos removal. To the extent that any of these Supplementary Terms and Conditions for Asbestos Removal are inconsistent with the Purchase Order Terms and Conditions, then these Supplementary Terms and Conditions for Asbestos Removal shall govern. These Supplementary Terms and Conditions for Asbestos Removal, the Terms and Conditions and the Purchase Order, together with the plans, specifications and other documents (“Project Documents”) attached to or incorporated by reference herein and therein, constitute the full and complete agreement between the Contractor (“Contractor”) and The Trustees of the University of Pennsylvania (“Owner”). References to the Supplier in the Terms and Conditions shall be deemed to refer to the Contractor herein, and vice versa, and references to the Buyer in the Terms and Conditions shall be deemed to refer to the Owner herein, and vice versa.

1. Additional Requirements for Asbestos Work.

1.1 The asbestos abatement or removal work (the “Asbestos Work”) shall be performed by Contractor in accordance with all applicable federal, state, and local laws, ordinances, and regulations, including but not limited to the following relating to the inspection, notification, removal, handling, transportation, and disposal of asbestos containing material, including certification and training requirements (“Applicable Laws”):

- a) Federal National Emission Standard for Hazardous Air Pollutants (NESHAP) 40 C.F.R. Part 61.
- b) Federal Resource Conservation and Recovery Act (RCRA) 40 C.F.R. Parts 240-282.
- c) Federal Occupational Safety and Health (OSHA) Regulations pertaining to asbestos, 29 C.F.R. 1910.1001 (General Industry) and 1926.1101 (Construction).
- d) Pennsylvania Residual Waste Management Relations, 25 Pa. Code paragraphs 287.1; 288.192; 288.302; 299.152; and 299.232.
- e) Pennsylvania’s Solid Waste Management Act, 35 Pa. Stat. 6018 et seq and 25 Pa. Code 260a-298.
- f) Pennsylvania Air Quality Regulations, 25 Pa. Code Ch. 124.
- g) Pennsylvania Asbestos Occupations Accreditation and Certification Act of 1990, 63 P.S. paragraph 2101 et seq.
- h) City of Philadelphia Asbestos Control Regulation (Title 6).

1.2 Contractor shall be responsible, at its cost and expense, for making all notices and obtaining and maintaining all permits, licenses, certificates, and other approvals required by Applicable Laws to perform the Asbestos Work, including but not limited to the Commonwealth of Pennsylvania

Asbestos Abatement and Demolition/Removal Notification Form and City of Philadelphia Permit, if necessary.

- 1.3 Contractor at all times shall keep the Site free from accumulation of non-hazardous waste materials or rubbish caused by its operations. At the completion of the Asbestos Work, Contractor shall remove all of its non-hazardous waste materials and rubbish from and about the Site as well as all its tools, construction equipment, machinery, and surplus materials, and leave the area “broom clean,” except as otherwise specified. If Contractor fails to clean up, Owner may do so and the cost thereof shall be charged to the Contractor.
2. Submittals. Contractor shall submit the following information for review and approval of Owner. No Asbestos Work shall begin until all submittals have been approved.
 - a) Description of the methods and proposed plan to comply with the Specifications and Applicable Laws.
 - b) A list of all employees to be utilized for the Asbestos Work, their job descriptions, and a copy of the Pennsylvania Asbestos Occupation Certification and City of Philadelphia Asbestos Worker Certification for each Worker and Supervisor.
 - c) A copy of the Contractor’s current Pennsylvania Asbestos Certification and City of Philadelphia Asbestos license, or if the Asbestos Work is subcontracted, the Subcontractor’s Pennsylvania Asbestos Certification and City of Philadelphia Asbestos License.
 - d) List of proposed subcontractors.
 - e) Copies of all Contractor’s and subcontractors’ certificates of insurance identified in paragraph 7 hereof.
 - f) Copy of waste hauler’s Pennsylvania Hazardous Waste Transporter license and EPA identification number of the waste hauler, and any other required licenses/permits.
 - g) Copy of permit for disposal facility and, if the asbestos containing waste material is friable, certification that the disposal facility is permitted to accept friable asbestos containing waste from the Site.
 - h) Certificates of insurance for waste hauling firm.
 - i) A copy of Contractor’s procedures in the event of any emergency at the Site.
3. Air Monitoring.
 - 3.1 Contractor shall perform personnel air monitoring in accordance with applicable OSHA standards. Laboratory analysis of air samples shall be performed by a laboratory certified by the City of Philadelphia Air Management Services Asbestos Unit.
 - 3.2 Owner will perform or coordinate project visual and air monitoring and visual and air clearances required by the City of Philadelphia Asbestos Control Regulations. If Contractor requests air clearance sampling, the results of which fail to achieve clearance, Contractor shall reimburse the Owner for all additional air clearance sampling required to achieve clearance.

4. Clearance and Completion of the Work.

- 4.1 Once visual and air clearances are achieved, all isolation systems (plastic sheeting, decontamination chambers, negative air systems, and critical barriers) shall be removed from the site. If the asbestos containing material, which was the subject of the Asbestos Work, was friable, all plastic sheeting, tape, and any remaining debris will be disposed of as friable asbestos waste, and the area shall be inspected by the Owner.

5. Acceptance and Payment.

- 5.1 Before final payment, Contractor shall supply the following to the Owner: For friable asbestos waste, satisfactory evidence of the final disposal of all friable asbestos-containing materials in accordance with the Specifications and all Applicable Law including, but not limited to, state and/or federal hazardous waste manifest forms fully executed by all parties involved in the disposal process and otherwise fully completed in compliance with the Resource Conservation and Recovery Act and 40 CFR part 263, and all other Applicable Laws and regulations and compliance with Pennsylvania's Solid Waste Management Act. Such evidence shall also include, without limitation, evidence that the disposal site is properly permitted, and that the disposal site owner operator is financially responsible.

6. Responsibility of Contractor, Indemnification by Contractor of Owner.

- 6.1 Contractor covenants and agrees to protect and indemnify Owner, its trustees, officers, employees, agents, servants, assigns, and students, and to hold each of them harmless, from and against any and all judgments, settlements, damage, loss, and expense, of any nature or kind whatsoever, including civil penalties and counsel fees, incurred as a result of or in connection with, or allegedly by any person or entity to be a result of, the performance of the work or the removal, handling, or disposal of any asbestos containing materials in connection therewith. Such damages, loss, and expense shall include, without limitation, compensatory and punitive damages, civil and/or criminal penalties, fines and assessments, the expense of providing air monitoring or other monitoring, inspection or surveillance services, incurred as a result of or in connection with any private or governmental claim or judicial or administrative proceeding, including, without limitation, any suit or proceeding alleging actual or prospective bodily injury or property damage, any suit or proceeding alleging non-compliance with any statute, regulation or rule, or any suit, claim or proceeding seeking injunctive or other similar relief. In addition, Contractor shall have the right and duty to defend Owner, its trustees, officers, employees, agents, servants, assigns, and students against any such claim or judicial or administrative proceeding, and shall hold Owner, its trustees, officers, employees, servants, assigns, or students harmless from and against any and all legal fees and expenses incurred in connection with the defense thereof. Contractor shall not seek to raise, assert, plead, or prove as a ground of defense in any such claim or proceeding the fact that Owner is a non-profit institution, unless Owner shall first have consented thereto in writing. The indemnity and defense obligations of Contractor under this paragraph shall apply irrespective of the presence of allegations of, or proof of, the sole or joint negligence or gross negligence of Owner, its trustees, officers, employees, agents, servants, assigns, and students. The provisions of or expiration of this paragraph shall survive termination of other provisions of the Project Documents.
- 6.2 All employees of Contractor shall agree to release and hold harmless Owner, its trustees, officers, employees, and agents from and against any and all damages, claims, demands, judgments, and expense, of any nature or kind whatsoever, arising from or connected in any way with the performance of the Asbestos Work or the removal, handling, or disposal of asbestos containing

materials in connection therewith. The employees of the Contractor shall execute a form of release acceptable and prepared by Owner.

7. Insurance Requirements. Prior to commencement of any Asbestos Work, the Contractor and all subcontractors of the Contractor shall, at its sole expense, maintain the following insurance on its own behalf with insurance companies lawfully authorized to do business on an admitted basis in the jurisdiction in which the work is located and furnish to the Owner Certificates of Insurance evidencing same. In addition, Contractor is required to forward these Insurance Requirements to the Contractor's Insurance Agent/Broker for their review and approval. The term "Contractor" as used in these Insurance Requirements shall mean and include Contractor, subcontractors and sub-subcontractors of every tier.
 - 7.1 Workers' Compensation and Employers Liability: in the State in which the work is to be performed and elsewhere as may be required and shall include, where applicable, U.S. Longshoremen's and Harbor Workers Coverage.
 - a) Workers' Compensation Coverage: Statutory Requirements
 - b) Employers Liability Limits not less than:

Bodily Injury by Accident:	\$100,000 Each Accident
Bodily Injury by Disease:	\$100,000 Each Employee
Bodily Injury by Disease:	\$500,000 Policy Limit
 - c) Including Waiver of Right to Recover from Others Endorsement (WC 00 0313) naming Owner.
 - 7.2 Commercial General Liability: (including Premises - Operations, Independent Contractors, Products/Completed Operations, Personal Injury, Broad Form Property Damage, and Explosion, Collapse and Underground Coverages).
 - a) Occurrence Form with the following limits:

(1) General Aggregate:	\$2,000,000
(2) Products/Completed Operations Aggregate:	\$2,000,000
(3) Each Occurrence:	\$1,000,000
(4) Personal and Advertising Injury:	\$1,000,000
 - b) Products/Completed Operations Coverage must be maintained for at least two (2) years after final payment.
 - c) Contractual Liability (including Liability for Employee Injury assumed under a contract) provided by the Standard ISO Policy Form CG 00 01 or its equivalent. Policy does NOT include the restrictive Endorsement CG 24 26 (Amendment of Insured Contract Definition) or any other provision excluding coverage for the Contractor's Sole Negligence which has been assumed by contract.
 - 7.3 Automobile Liability: Coverage to include:
 - a) All Owned, Hired and Non-Owned Vehicles (Any Auto)
 - b) Contractual Liability Coverage (including Liability for Employee Injury assumed under a contract),
 - c) Pollution coverage for the transportation of hazardous materials or pollutants. Such coverage requirement may be met through Contractor's or its subcontractor's or transporter's Automobile Liability Policy by providing coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48). If Contractor is subject to the Motor Carrier Act of 1980,

the Motor Carrier Act endorsement MCS-90 shall be included with certificate of insurance.

- d) Per Accident Combined Single Limit \$1,000,000

7.4 Commercial Umbrella Liability:

- a) Occurrence Limit: \$4,000,000
- b) Aggregate Limit (where applicable): \$4,000,000
- c) Policy to apply excess of the Commercial General Liability (following form Per Project Aggregate Limit), Commercial Automobile Liability and Employers Liability Coverages.

7.5 Pollution Legal Liability Coverage for Operations: Contractor shall maintain insurance covering losses caused by Pollution Conditions that arise from the operations described under the scope of services.

- e) Coverage shall apply for loss arising out of pollution conditions including bodily injury, property damage including loss of use of damaged property and loss of use of property which has not been physically injured; damage to natural resources; diminished value of property and cleanup costs and shall include such loss at occurring at non-owned disposal sites of the Contractor.
- a) Per Claim/Aggregate Limit: \$5,000,000/\$5,000,000
- b) If coverage is written on an Occurrence basis, coverage must be maintained for a period of at least two (2) years after final payment.
- c) If coverage is written on a Claims-made basis, the Contractor warrants that any retroactive date applicable to the coverage under the policy precedes the effective date of the Project Documents (including any design work); and that continuous coverage will be maintained for a period of at least four (4) years after final payment to provide two (2) years of completed operations coverage and an additional two (2) years to report claims that are made.

7.6 Pollution Legal Liability Coverage for Disposal Operations(if applicable, indicated by an “x”): If scope of services includes disposal of any hazardous or regulated materials, Contractor shall furnish to Owner evidence of Site Specific Environmental Impairment Liability insurance coverage maintained by the disposal site operator.

- a) Coverage shall apply for loss arising out of pollution conditions including bodily injury, property damage including loss of use of damaged property and loss of use of property which has not been physically injured; damage to natural resources; diminished value of property and cleanup costs
- b) Per Claim/Aggregate Limit: \$10,000,000/\$10,000,000
- c) Contractor shall continue to provide evidence of coverage to Owner on annual basis for a period of at least two (2) years after final payment.

7.7 Professional Liability Coverage (if applicable, indicated by an “x”): Contractor shall maintain insurance covering losses caused by professional acts, errors or omissions that arise from the operations described under the scope of services.

- a) Per Claim/Aggregate Limit: \$2,000,000/\$2,000,000
- b) If coverage is written on an Occurrence basis, coverage must be maintained for a period of at least two (2) years after final payment.
- c) If coverage is written on a Claims-made basis, the Contractor warrants that any retroactive date applicable to the coverage precedes the effective date of the Project Documents (including any design work); and that continuous coverage will be maintained for a period of at least four (4) years after final payment to provide two

(2) years of completed operations coverage and an additional two (2) years to report claims that are made.

- 7.8 Property Insurance: Contractor is responsible for any damage to their work, materials, equipment, tools, etc. It is the responsibility of the Contractor to determine if any Property or Builder's Risk coverage provided by others is adequate to protect the Contractor. In the event that Contractor determines that said coverage is inadequate, Contractor may obtain such insurance at Contractor's sole expense. In addition, the Contractor waives all rights of recovery and shall cause its Insurers to waive their rights of subrogation against Owner and any of Owner's agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance applicable to the work or any other type of property insurance (such as Contractor's Equipment, Installation Floater) maintained by Contractor.
- 7.9 Financial Rating and Admitted Status of Insurance Companies:
- a) A.M. Best Rating: A- (Excellent) or Higher
 - b) Insurance companies lawfully authorized to do business on an admitted basis in the jurisdiction in which the work is located
- 7.10 Additional Insured Endorsement: To the fullest extent permitted by law, Owner (including its agents, employees, representatives, officers, directors, stockholders, members, managers, trustees, affiliated companies and successor companies) shall be added/included as Additional Insureds even for claims regarding their sole negligence on the above Commercial General Liability coverage (by the use of ISO Additional Insured Endorsements CG 2010 10 01, CG 2037 10 01 and CG 2032 07 98) and the Umbrella Liability and Pollution Liability coverages described above. In the event the above ISO Additional Insured Endorsements are not available from Contractor's insurance carrier, Contractor may substitute other endorsements which achieve the same effective result and attach a copy of the endorsement with Contractor's Certificate of Insurance. The coverage offered to the ADDITIONAL INSUREDS on Contractor's liability policies shall be primary coverage to any other coverage maintained by Owner.