Purchase Order Executive Summary:

- **Supplier:** JEOL USA, Inc.
- **PO (framework) order number:** 5500006649
- **Maximum amount:** $5,000,000.00
- **Dates:**
  - **Start date:** May 1, 2016
  - **End date:** June 30, 2021
  - **Renewal term:** Option to extend up to 5 additional years.
- **Total Cost of Ownership:**
  - **Prices:** Vary by transaction.
  - **Restocking fees:** Vary by transaction.
  - **Delivery/Shipping fees:** Varies by transaction.
  - **Service coverage:** Customized.
  - **Extended warranty:** No extended warranty available; JEOL USA, Inc. offers service agreements at the time of sale.
- **Scope:** JEOL’s entire line of microscopes (including accessories) and related services.
- **Attachments:**
  - JEOL USA, INC. Premier Service Agreement Terms and Conditions.
  - Model Order Form.
  - JEOL Terms and Conditions of Sale – USA
- **Administrative Information:**
  - **How to order:** The University will reference this purchase order number when ordering.
  - **Buyer:** Blake Reagan, J.D. breagan@utk.edu
  - **Supplier’s Representative:** Bill Powell wpowell@jeol.com
  - **Supplier’s Customer Service Phone Number:** 978-495-2139

---

1 The University intends for the executive summary to provide at-a-glance information about this agreement. The executive summary is for convenience only, and is not part of the agreement’s terms and conditions.

2 This amount is required for the University’s accounting system. The Office of Procurement Services can raise this amount, if needed.
Background

a) The University issued a competitive bid solicitation for microscope suppliers on Saturday, February 27, 2016.

b) The University’s goal is to streamline the microscope procurement process to help improve its research procurement processes.

c) Supplier responded to the bid solicitation, and the University’s scoring committee determined that Supplier was qualified to win an award through the solicitation.

d) The University and Supplier intend for this agreement to cover Supplier’s entire microscope product line, Supplier’s entire microscope accessory line, and Supplier’s microscope training, warranty, service, etc.

e) The University’s departments may purchase any goods or services that fall within the scope of this agreement without additional formal bidding or sole-source approvals (no sole-source approvals are needed because this was bid). Note, however, that the University’s departments may negotiate discounts with Supplier when ordering high-volume, or when ordering high-priced goods or services.

Agreement: The parties agree as follows:

Part A: Agreement-specific terms

1) Scope: This agreement applies to Supplier’s entire product line for microscopes, including microscopes that Supplier creates after the start date of this agreement. This agreement covers new, used, and refurbished equipment. Further, this agreement covers warranty, training, etc. Where specific pricing is not included, the University and Supplier will negotiate prices. All of Supplier’s goods and services within the scope of this agreement are referred to as “Products.”

2) Promotion: The parties will promote this agreement to the University research community.

3) Total Costs of Ownership:
   a. Prices:
      i. Prices: The University’s departments will contact JEOL and seek a quote on a transaction-by-transaction basis.

      ii. Taxes: Supplier will make reasonable efforts to ensure that it accounts for the University’s tax-exemption certificate. Supplier is responsible for obtaining University’s tax-exemption certification.
b. **Warranty:** One year from acceptance for purchases. Service agreements have a different warranty.

c. **Shipping:**
   i. **Insurance:** Supplier shall offer shipping insurance to the University.
   
      ii. **Shipping costs:** University is responsible for all shipping costs. Supplier will add all shipping costs to University’s invoice, unless otherwise stipulated by Supplier.

d. **Cancellation:** The University cannot cancel an order. The University may cancel service agreements provided that the University bought the service agreement for an item after the warranty expires.

e. **Re-stocking:** Supplier may charge the University a restocking fee of 15% of the University’s purchase price.

**Part B: General Terms**

1) **Term:**
   a. **Initial Term:** The initial term of this agreement begins May 1, 2016 and ends at 11:59 PM Eastern Time on June 30, 2021.
   
   b. **Renewal Term:** Upon mutual written agreement, the parties may extend this agreement for up to 5 years, with a final end date of June 30, 2026.
   
   c. **Auto Renewal Prohibited:** This agreement does not automatically renew.

2) **Unrestricted Termination:** The University may terminate this agreement for any reason by giving the Supplier at least 30 days’ prior notice. Upon receiving the University’s notice, the Supplier shall stop all work.

3) **No Obligation on University to Make Purchases; Not Exclusive:**
   a. **No Obligation to Purchase:** The parties agree that this agreement does not obligate University to make any purchases from Supplier.
   
   b. **Not Exclusive:** This agreement does not create an exclusive arrangement between University and Supplier.
4) **Compliance; Monitoring; Audit:**
   a. **Compliance:** Supplier shall make reasonable efforts to ensure that it complies with the terms and conditions of this agreement.
   
b. **Monitoring:** University will monitor Supplier’s performance at all times. Supplier shall cooperate with University in University’s efforts to monitor Supplier’s performance.
   
c. **Records; Audit:**
      i. **Records:** Supplier shall maintain records for all expenses for which Supplier invoices the University under this agreement. Supplier shall maintain its records for at least 3 years, and shall maintain its records in accordance with generally accepted accounting principles.
      
      ii. **Audit:** During the term of this agreement and for 3 years after the last payment from the University to Supplier under this agreement, the state of Tennessee Comptroller or the University’s internal audit, or both, may audit Supplier’s records that relate to this agreement.

5) **Illegal Immigrants:** In compliance with the requirements of Tenn. Code Ann. § 12-3-309, Supplier hereby attests that it shall not knowingly utilize the services of an illegal immigrant in the United States in the performance of this agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the United States in the performance of this agreement.

6) **Modification; Waiver:**
   a. **Modification:** No amendment of this agreement will be effective unless it is in writing and signed by authorized officials of both parties. Only the University’s authorized officials have the authority to bind the University. A list of the University’s authorized officials is located here: [http://treasurer.tennessee.edu/contracts/contractssignature.html](http://treasurer.tennessee.edu/contracts/contractssignature.html).
   
   b. **Waiver:** No waiver of satisfaction of a condition or failure to comply with an obligation under this agreement will be effective unless it is in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or failure to comply with any other obligation.

7) **Force Majeure:** Neither party’s delay or failure to perform any provision of this agreement, as result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) will be deemed a breach of this agreement.
8) **Dispute Resolution:** The parties shall make reasonable efforts to resolve any dispute before filing any formal legal action. Accordingly, the parties shall make good faith efforts to resolve any disputes amicably.

9) **Assignment:** This agreement is personal to the University, and the University may not assign its rights or delegate its duties under this agreement.

10) **Waiver of Claims:**
    a. **Respondent’s Intent:** Supplier intends to protect the University’s employees from personal liability. Accordingly, Supplier intends to waive and release any claims against the University’s employees.
    b. **Irrevocable Waiver:** Supplier hereby irrevocably waives any claims against the University’s employees or former employees. Supplier hereby covenants not to sue University employees or former employees in their individual capacity. This release and waiver applies to Supplier and Supplier’s successors, heirs, and assigns.
    c. **Materiality:** The University and Supplier state that this clause is material to this agreement.

11) **University Policies:**
    a. **Non-Solicitation:** Supplier shall comply with the University’s “Vending and Solicitations on the University Campus” policy: [http://policy.tennessee.edu/fiscal_policy/fi0325/](http://policy.tennessee.edu/fiscal_policy/fi0325/)
    b. **Gift Acceptance:** Supplier shall comply with the University’s “Employee Gift Acceptance Policy”: [http://policy.tennessee.edu/fiscal_policy/fi0717/](http://policy.tennessee.edu/fiscal_policy/fi0717/)

12) **Notice:**
    a. For a notice or other communication under this agreement to be valid, it must be in writing and delivered (1) by hand, (2) by a national transportation company, with all fees prepaid, or (3) by registered or certified mail, return receipt requested and postage prepaid;
    b. Subject to sub-section (d) below, a valid notice or other communication under this agreement will be effective when received by the party to which it is addressed. It will be deemed to have been received as follows:
       i. if it is delivered by hand, delivered by a national transportation company, with all fees prepaid, or delivered by registered or certified mail, return receipt requested and postage prepaid, upon receipt as indicated by the date on the signed receipt; and
ii. if the party to which it is addressed rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no notice was given, then upon that rejection, refusal, or inability to deliver.

c. For a notice or other communication to a party under this agreement to be valid, it must be addressed using the information specified below for that party or any other information specified by that party in a notice in accordance with this section.

Supplier: JEOL USA, Inc.
11 Dearborn Road
Peabody, MA 01960
Fax: 978-536-2221

University: The University of Tennessee
5723 Middlebrook Pike
Knoxville, TN 37921-5946
ATTN: Office of Procurement Services
Fax: 865-974-2701
Email: procurement@tennessee.edu

d. If a notice or other communication addressed to a party is received after 5:00 p.m. on a business day at the location specified in the address for that party, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.

13) Registration with Tennessee Department of Revenue: In compliance with the requirements of Tenn. Code Ann. § 12-3-306, the Supplier hereby attests that it has registered with the State of Tennessee’s Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this agreement.

14) Use of University Intellectual Property: Except as allowed in this section, Supplier shall not use the University’s name, logo, or any other University-owned intellectual property for any reason, without the written consent of an authorized official of the University. During the term of this agreement, Supplier may list the University’s name in Supplier’s list of clients.

15) Third-Party Beneficiaries: There are no third-party beneficiaries to this agreement.

16) Export Control: University shall comply with all applicable laws governing export control. Further, University shall not, directly or indirectly, transmit, deliver, send or export any
product to any foreign country (i) in violation of any of the United States export control laws or regulations, and (ii) without first obtaining the express written consent of Supplier.

17) **Nature of Parties**: The parties intend for Supplier to be an independent contractor. Accordingly, Supplier is responsible for all taxes and insurance related to this agreement.

18) **Severability**: The parties intend as follows:
   a. that if any provision of this agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;
   b. that if an unenforceable provision is modified or disregarded in accordance with this section, then the rest of the agreement will remain in effect as written; and
   c. that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.

19) **Entire agreement**: This agreement constitutes the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties. In the event Supplier’s website, mobile applications, or other platforms contain click-wrap, browse-wrap, or shrink-wrap terms and conditions, Supplier states that such terms and conditions do not apply to University. Any terms and condition on JEOL’s invoices or order forms do not apply to the University, excluding specification regarding delivery and payment.
1. CUSTOMERS TERMS AND CONDITIONS

The products (each, a “Product”) are offered for sale on the terms and conditions offered herein. Notwithstanding any terms or conditions on Customer purchase orders, JEOL’s acceptance of an order is expressly made conditional on Customer’s agreement to these Terms and Conditions, unless otherwise specifically agreed to in writing. In the absence of such an agreement, commencement of performance shall for all purposes be deemed to constitute Customer’s acceptance of and assent to these Terms and Conditions, or any one of them. Acceptance of the Products ordered hereunder by Customer shall constitute Customer’s agreement to JEOL’s Terms and Conditions as provided herein. Any additional or inconsistent terms issued by Customer shall not be binding upon JEOL.

2. ORDERS

All orders are subject to written acceptance by JEOL’s Sales Administration department in Peabody, Massachusetts. Accepted orders shall be construed under and governed by the laws of the State of Tennessee.

3. QUOTATIONS

a. All quotations are subject to the terms and conditions stated herein as well as any additional terms and conditions that may appear on the face of the Sales Quotation. In the case of a conflict between the terms and conditions stated herein and those appearing on the face of the Sales Quotation, the terms and conditions on the face of the Sales Quotation shall control.

b. JEOL’s prices and quotations are subject to the following:
   i. All price quotations are firm for thirty (30) days unless otherwise specified in writing.
   ii. Unless otherwise stated in writing by JEOL, all prices quoted are F.O.B. port of entry and shall be exclusive of handling or unloading charges at destination, insurance premiums, taxes and other charges relating thereto, and Customer shall report and pay any and all taxes (including, without limitation, any use, sales tax, or similar tax), or other charges related thereto. In the event that, based upon customer’s representation, the price quoted does not include customs duty and the Product is subject to duty, Customer shall pay such duty to JEOL upon demand.

4. TERMS OF PAYMENT

a. Except as set forth in 4.d., or if specified otherwise within the body of JEOL’s final quotation to customer, payment of the purchase price for the Product(s) shall be as follows: thirty percent (30%) shall be due on Customer’s placement of the order for the Product(s); sixty percent (60%) shall be due on the date of delivery of the Product(s); and ten percent (10%) shall be due upon acceptance of the Product(s), which shall be no later than thirty (30) days after the delivery of each such Product or component thereof, as set forth in Section 8.

b. Customer agrees to accept partial order shipments or deliveries, and shall be responsible for paying the partial amount due for such shipments or deliveries.

c. If Customer wishes to delay the delivery of the Product(s) for any reason, Customer shall notify JEOL in writing at least thirty (30) days prior to the scheduled delivery date for the Product(s).

   Upon receipt of such notice, JEOL shall delay the delivery of the Product(s) for up to thirty (30) days. After such thirty (30) days has elapsed, JEOL shall deliver the Product(s) to the storage or temporary facility identified by Customer, or if Customer fails to identify any such place, to Customer’s main place of business.

d. In the case of orders less than $2,000, payment in full shall be due thirty (30) days after delivery of the Product(s).

e. Past due balances for orders shall bear interest at the rate of the lower of 1.5% per month (18% per annum), and the highest amount permitted by law.

5. RISK

Risk of loss of the Product(s) shall pass to customer upon delivery by land transportation at Customer’s plant or place of business. JEOL shall have a purchase money security interest in the Product(s) to secure Customer’s obligations. Customer shall cooperate fully with JEOL, at JEOL’s expense, to execute such documents and to accomplish such filings and/or recordings thereof as JEOL may deem necessary for the protection of its interests in the Product(s) furnished hereunder.

6. DELIVERY AND INSTALLATION

a. Customer shall, at Customer’s expense, provide all necessary labor and materials for plumbing service, carpentry work, conduit wiring, air conditioning, electrical service and other site preparation for the installation and connection of the Product(s). All such site preparations shall be completed and ready by time of delivery of the Product(s). If any special rigging, construction or structural changes of any kind are required, or if special work of any type must be done to comply with requirements of any government authority, the same shall be made, done and provided by Customer at Customer’s expense. Customer shall provide any equipment necessary for unloading the Product(s) at Customer’s site, free access to Customer’s installation site and suitable and safe space thereon for storage of equipment prior to installation.

b. If conditions caused by trade unions or other labor action or inaction prevent the completion of Customer’s site preparation or any installation and connection by JEOL, Customer shall make all reasonable accommodations with such trade unions and other parties to permit completion of site preparation and/or the installation and connection of the Product(s), as the case may be, and any additional costs incurred therefore shall be paid by the Customer. In such an event, JEOL’s obligations shall be limited to providing engineering supervision of installation of the Product(s) and connection of same to existing utilities as may be required.

c. Delivery dates for the Product(s) are estimated on the basis of the prompt receipt by JEOL of all necessary information from Customer. If Customer delays in furnishing complete information, JEOL may extend the date of delivery. Should delivery or installation of the Product(s) be delayed, in whole or in part, for any reason for which JEOL is not responsible, installation and demonstration of said Product(s) shall be deemed satisfactorily completed sixty (60) days from the date of delivery or tender of delivery of the Product(s) to Customer. JEOL shall not be liable for delays in the manufacture, delivery or installation of the Product(s), or for failure to manufacture, deliver or install the Product(s), resulting from any cause or causes whatsoever beyond JEOL’s reasonable control, including, but not limited to, acts of God, fire, labor disturbance, floods, acts of the Customer, war, civil unrest, terrorism, priorities, transportation delays, or from any other cause or causes beyond JEOL’s reasonable control, and in no event shall JEOL be liable for special or consequential damages. Customer shall accept and permit delayed delivery and installation of the Product(s) when due to any cause beyond JEOL’s reasonable control.

7. WARRANTY

a. Each Product manufactured by JEOL are warranted for a period of one (1) year, from the date of Customer’s first use of the Product(s), against defects in workmanship and component failure. In the event that installation and/or acceptance of the Product(s) is delayed by Customer, the warranty period will begin sixty (60) days after the originally scheduled delivery date. During the warranty period, all labor and parts necessary to repair the Product(s) shall be provided by JEOL at no cost to the Customer. JEOL reserves the right to repair or replace components at its sole discretion. This warranty does not cover components that (i) have been damaged through misuse or accident, (ii) have been modified by the Customer or by any third party, or (iii) are considered consumable.

b. TO THE EXTENT ALLOWED BY LAW, EXCEPT AS STATED ABOVE, JEOL DISCLAIMS ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, STATUTORY OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CORRESPONDENCE TO DESCRIPTION AND ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF JEOL, WHETHER IN CONTRACT, NEGLIGENCE OR OTHERWISE. JEOL NEITHER ASSUMES NOR HAS AUTHORIZED ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE PRODUCT(S).

c. In no event shall JEOL be liable, by reason of any cause, for indirect, special, incidental or consequential damages of any kind including but not limited to loss of profits or data, business interruption or economic loss, or damages resulting from loss of the Product(s) even if JEOL has been advised of the possibility of such damages.

d. Any Product(s) not manufactured by JEOL, including but not limited to NMR Super Conducting Magnet, are subject to the warranty and service policies of the manufacturer only, and JEOL assumes no further warranty or service liability for same.

8. ACCEPTANCE

Each Product shipped hereunder shall be deemed accepted by Customer unless notice of defect or nonconformity is received within thirty (30) days of delivery thereof, provided, that for any Product for which JEOL agrees in writing to provide installation shall for all purposes be deemed accepted by Customer upon completion by JEOL of its applicable acceptance tests and the execution of the JEOL acceptance test report. If JEOL’s reasonable control, including, but not limited to, acts of God, fire, labor disturbance, floods, acts of the Customer, war, civil unrest, terrorism, priorities, transportation delays, or from any cause or causes beyond JEOL’s reasonable control, and in no event shall JEOL be liable for special or consequential damages. Customer shall accept and permit delayed delivery and installation of the Product(s) when due to any cause beyond JEOL’s reasonable control.

9. EXPORT COMPLIANCE NOTICE

Products, Services, and technical data delivered by JEOL may be subject to U.S. export controls or the trade laws of other countries. Customer will comply with all such laws and obtain all licenses to export, re-export, or import as may be required after delivery to Customer. Customer will not export or re-export to entities on the most current U.S. export exclusion lists or to any country subject to U.S. embargo or terrorist controls as specified in the U.S. export laws.

10. MISCELLANEOUS

a. Any person executing this order on behalf of a corporation, joint enterprise, partnership or association, hereby expressly warrants his or her authority to obligate such entity. The acceptance of any down payment by JEOL shall not be construed as an acceptance of this order by JEOL. Any order shall not be binding on JEOL until it has been accepted in writing by a duly authorized officer of JEOL. If any provision of these Terms and Conditions is prohibited by or deemed invalid under applicable laws or regulations, such provision shall be deemed omitted but shall not invalidate of remaining provisions thereof.

b. Each delivery hereunder shall be construed and considered as a separate sale insofar as the Customer’s obligation to accept and to pay for the Product(s) is concerned under these Terms and Conditions, and Customer agrees to accept and pay for each such delivery as provided herein. Should customer fail to accept or pay for each such delivery, JEOL may, without prejudice to any other lawful remedy, defer further deliveries until payment thereof or payment therefor is made by Customer; or, at its option, JEOL may without liability whatsoever terminate the order as to any undelivered portion thereof, as well as any other outstanding order with Customer, and Customer shall be responsible for any expenses and/or losses incurred by JEOL in so doing.

c. If an order is canceled within thirty (30) days of its acceptance by JEOL, a cancellation charge of ten percent (10%) of the order amount shall be assessed. An order cancelled within ninety (90) days of acceptance by JEOL, and prior to its shipment, shall be assessed a cancellation charge of thirty percent (30%) of the order amount. Orders cancelled more than ninety (90) days after acceptance by JEOL shall require payment in full.

d. JEOL USA instruments are manufactured in Japan by our parent Company JEOL LTD.
JEOL USA, INC. PREMIER SERVICE AGREEMENT
TERMS AND CONDITIONS

JEOL’s normal business hours are 8:30AM to 5:00PM, Monday through Friday excluding JEOL’s scheduled holidays.

1. COVERAGE/EXCLUSIONS – The Main unit, accessories and components listed on the JEOL Service Agreement (JSA) are covered under these terms. The JSA specifically excludes coverage on a) components, accessories and parts damaged through abuse, misuse or accident by the Customer; b) all components, accessories and parts modified by the Customer without JEOL’s prior written approval; c) damage caused by customer’s modification; and d) damage or failure caused by operator error.

2. PREVENTIVE MAINTENANCE – JEOL agrees to provide up to two preventive maintenance (PM) visits per year, said visit shall include work JEOL deems necessary to assure long-term performance and reliability. Malfunctioning systems will receive corrective service at this time. Replacement of components/parts are at JEOL’s discretion.

3. EMERGENCY SERVICE – Whenever the instrument becomes inoperable or does not to perform to specifications due to a failure associated with the instrument, a factory certified JEOL engineer will make the appropriate repairs during JEOL’s regularly scheduled business hours.

4. PARTS REPLACEMENT – As determined by JEOL, all defective items covered by the JSA, shall be replaced. The following items are excluded: filaments, x-ray crystals, fluorescent screens, detectors, lead glass, camera film boxes, burnt CRTs, Wehnelt assemblies, consumables, specimen exchange tools, and specimen holders not listed on the JSA. Emitter exchange coverage is included on all FEG instruments. JEOL reserves the right to use refurbished and/or rebuilt parts at its sole discretion. Said parts are warranted under paragraph 7 below. All defective parts replaced by JEOL shall become the property of JEOL. It is the customer’s sole responsibility to insure that all parts returned to JEOL are shipped in compliance with all applicable laws.

5. AGREEMENT ELIGIBILITY – An instrument is eligible for a JSA following either the expiration of a warranty or of a previous JSA with no lapse in coverage. Eligibility after a lapse in coverage requires an inspection and certification by a factory certified JEOL engineer.

6. DISCOUNTS – Premier JSA includes a 20% discount for parts purchased by customer. Discounts for multiple instrument and multiyear JSAs are also offered. Contact JEOL service for information and qualification.

7. WARRANTY – Except for parts defined as exceptions in paragraph 4, all items covered by the JSA, are unconditionally warranted for the term of the JSA. If Customer elects not to renew or extend the terms of this agreement, a 30-Day Labor, 90-Day Parts Warranty, shall apply to repairs performed during the last 90 days of the term of this agreement.

8. LIMITATION OF LIABILITY – JEOL is not obligated to perform repairs or provide services, the need for which arises out of abuse, misuse (accidental or otherwise), external causes, including but not limited to fire, flooding, explosions and acts of God. Damage to any equipment resulting from cooling water, supporting facilities, corrosive atmosphere, strikes, transportation delays, unavailability of replacement parts, delays by suppliers of services or materials, line voltage variations, and similar environmental problems are also excluded. UNDER NO CIRCUMSTANCES SHALL JEOL BE LIABLE FOR ANY DAMAGES RESULTING FROM THE LOSS OF USE OF JEOL PRODUCTS, INCLUDING WITHOUT LIMITATION, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE LOSSES,
JEOL USA, INC. PREMIER SERVICE AGREEMENT
TERMS AND CONDITIONS

JEOL’s normal business hours are 8:30AM to 5:00PM, Monday through Friday excluding JEOL’s scheduled holidays.

DAMAGES OR EXPENSES OR LOST PROFITS OR SAVINGS EVEN IF JEOL HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE, OR EVEN IF JEOL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR BOTH. WITH THE EXCEPTION OF LIABILITIES RESULTING FROM JEOL’S SOLE GROSS NEGLIGENCE, JEOL’S TOTAL LIABILITY HEREUNDER SHALL IN NO WAY EXCEED THE TOTAL PRICE OF THIS SERVICE AGREEMENT.

9. CHILLER COVERAGE – Chiller coverage excludes the “facility supplies to” or the “facility returns from” the chiller unit. Damage arising out of connecting hoses, water pressure, or other circumstances outside of JEOL USA, Inc.’s direct action or control is excluded. JEOL recommends customer install safeguards to monitor and protect against leakage. Customer agrees that JEOL USA, Inc. will not be liable for damages resulting as described above.

10. CONFIDENTIAL DATA – If Customer requires any personal and/or confidential data, including but not limited to, social security numbers, health/medical records or any data that JEOL, USA, Inc. has a legal duty to keep confidential, Customer represents, warrants and certifies that it will hold confidential data in the strictest of confidence and will not use or disclose said data except to the extent required by law or authorized by JEOL in writing. Said confidential data shall be safeguarded according to commercially reasonable standards and protected at the same level as Customers own confidential data.

11. INSURANCE – JEOL maintains insurance policies which have the following limitations; (a) Comprehensive general liability insurance with a limit of $1,000,000 (one million) for each occurrence and $2,000,000 (two million) in the aggregate. (b) Statutory Workers Compensation insurance. Copies of certificates are available upon request.

12. TERMS/PAYMENT SCHEDULE – Payment is due within 30 days from the start of the JSA or invoice. A 3% interest charge per month or the maximum permitted by state law, whichever is less, will be assessed on late payments. JEOL offers payment plans at an additional fee. Semi-Annual in Advance at 3.5%, Quarterly in Advance at 5.25%, Monthly at 7%, Quarterly in Arrears at 8.75%, Semi-Annual in Arrears at 10.5%. JEOL reserves the right to withhold service if customer fails to make payment as due or if customer has been delinquent in the past.

13. ACCEPTANCE This is JEOL’s offer to sell at the prices and under the terms and conditions stated herein. Any type of counteroffer, including any and all terms and conditions contained in said counteroffer and/or PO, are hereby expressly rejected. JEOL, USA, INC. will only perform under the JSA based on JEOL’s terms and conditions. The JSA specifically excludes any and all customer terms and conditions. Acceptance of JEOL’s terms and conditions is demonstrated by signature, receipt of a valid purchase order, payment, or performance hereunder. IT IS EXPRESSLY AGREED THAT THESE TERMS WILL SUPERSEDE AND TAKE PRIORITY OVER ANY ADDITIONAL OR INCONSISTENT TERMS AND CONDITIONS IN ANY PAST, EXISTING OR FUTURE PURCHASE ORDER, CONFIRMATION, OR OTHER SIMILAR AGREEMENT WHETHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED. THIS AGREEMENT REPRESENTS THE ENTIRE AGREEMENT BETWEEN THE PARTIES.

14. CANCELLATION AND ASSIGNMENT – A JSA may be cancelled by either party by providing 30 days written notice. In the event of cancellation, JEOL will refund the prorated balance. WORK PERFORMED OR PARTS PROVIDED DURING THE 30-DAY NOTICE IS AT THE SOLE DISCRETION OF JEOL. JEOL Service Agreements are non-transferable.
JEOL’s normal business hours are 8:30AM to 5:00PM, Monday through Friday excluding JEOL’s scheduled holidays.

15. **TAXES** – This Service Agreement is subject to all state and local taxes as defined by law. Taxes are not included in the JSA, but will be calculated based on coverage and invoiced to Customer.

16. **SEVERABILITY** - Invalidity or unenforceability of one or more provisions of this Agreement shall not affect any other provision of this Agreement.

17. **SERVICE QUALITY GUARANTEE** - JEOL USA, INC. guarantees a minimum uptime of 90% for instruments covered at least 12 months and will provide a service credit of 75% of the daily rate for each day over 36 days (10%) that the instrument is down. An instrument will be deemed down when a manufacture defect or a failure occurs rendering the instrument inoperable and is verified by a certified JEOL engineer. Preventive maintenance and pre-scheduled repairs/modifications basis are excluded from downtime.
JEOL USA, Inc. Order Form for University PO # ____________

This order form serves as official confirmation of the attached order. *This order form, including any attachments, is governed by University purchase order # ______________.*

**Process:**
1. Department must obtain all necessary internal approvals and then email Blake Reagan (breagan@utk.edu) with the quote and documentation showing internal approvals.

2. The Office of Procurement Services will obtain authorization from the UT department to proceed.

3. The Office of Procurement Services’ director will sign as confirmation that this order is a legitimate order, and route the attached to JEOL’s representative.

4. **JEOL must send invoices to the department address listed on the attached order form.**

5. Department will pay all invoices against PO# ____________.

6. **UT to send order form to:**

**Reference JEOL #: UT-**

**Total Amount:**

- Department authorization: Attached.

- Tax exemption certificate: Attached.

**Ship-to address:**

Click or tap here to enter text.

**Bill-to address:**

Click or tap here to enter text.

**UT Authorized Signature:**

Procurement Services: ____________________________

Name: ____________________________

Title: ____________________________

Date: ____________________________