

### Standard Purchasing Agreement

This Standard Purchasing Agreement ("Agreement") is entered into between the \_\_\_\_\_ on behalf of the Department/College/Division/School of \_\_\_\_\_ ("University") and \_\_\_\_\_ ("Contractor"). University and Contractor may be referred to singularly as a "Party" and collectively as the "Parties."

- 1. **TERM:** The term of this Agreement ("Term") will begin on \_\_\_\_\_ and end on \_\_\_\_\_, unless terminated earlier pursuant to the terms of this Agreement or extended by mutual written agreement of the Parties.
- 2. **SERVICES:** Insert detailed description of the goods and/or services to be provided by Contractor pursuant to this Agreement ("Services") and attach additional pages if necessary.

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← Check here if an exhibit, offer, proposal or other similar document (collectively, "Attachment") is being added as part of this Agreement. Any such Attachment: (i) should be described above in this Section 2 and attached to this Agreement; and (ii) is hereby incorporated by reference. In the event of any inconsistency between the Attachment and this Agreement, this Agreement will prevail.

3. **COMPENSATION:** Check one box only:

**This is a fixed price contract.** University will pay Contractor the amount of \$\_\_\_\_\_.

**This is not a fixed price contract.** University will pay Contractor an amount not to exceed \$\_\_\_\_\_ (based on an hourly fee and/or other method of calculation as follows:

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**This is not a fixed price contract and will be performed on a service-order basis.** University will pay Contractor an amount not to exceed \$\_\_\_\_\_ (based on service order form(s) to be completed and signed by the Parties, a version of which will be provided to Contractor by University). University will engage Contractor on an "as-needed if needed" basis and does not guarantee the purchase of any quantity or dollar amount of Services.

4. **PAYMENT TERMS:** Contractor shall submit detailed invoices to University describing the Services rendered, the times when such Services were performed, compensable expenses and the amount due. University will pay undisputed amounts within thirty (30) days of receiving invoices. Payment terms are subject to Chapter 2251 of the Texas Government Code.

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 this Agreement and payments under this Agreement and acknowledges that University may terminate this Agreement and/or withhold payment 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 payments under this Agreement will be applied to the debt or delinquent taxes owed to the State of Texas until the debt or delinquent taxes are paid in full.

6. **CONTRACTOR'S STATUS AND RESPONSIBILITIES:** In performing the Services, Contractor will be deemed an independent contractor and not 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 component of the University of Houston System) within the past two (2) years. If so, Contractor must attach a separate statement setting forth 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 Contractor's assigned 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 product, including any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by Contractor in the performance of its obligations under this Agreement will be deemed works for hire and the exclusive property of University. Contractor shall deliver all such materials to University upon completion, termination or cancellation of this Agreement. Any programs, 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, its component institutions 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, 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 the following requirements ("Insurance Requirements"): Contractor shall maintain on a primary basis, at its sole expense the following insurance coverage's described herein. Commercial 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 \$1,000,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability Policy or a separate Commercial Auto Liability Policy (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's 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. Commercial 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 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 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 local, state and federal laws (including without limitation the Jeanne Clery Act), regulations and University policies and procedures.
14. **CONFIDENTIALITY; DATA PROTECTION:** Subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code) 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 protection/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 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. 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.
- 19. AUDIT:** Execution of this Agreement constitutes Contractor’s acceptance of the authority of University, the Texas State Auditor 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.
- 20. TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Agreement.
- 21. 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, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Agreement as of the date specified in the notice, and may seek other relief as provided by law.
- 22. 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.
- 23. 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. Notices will be effective as of the date: (i) delivered by hand, (ii) delivered by national courier service or Registered/Certified Mail, postage prepaid, return receipt requested, or (iii) received by facsimile.

<b>To University:</b>
Dept. Name: _____
Attn: _____
Address: _____
_____
<b>with a copy to:</b>
Office of the General Counsel
Attn: Contract Administration
311 E. Cullen, Ste. N
Houston, TX 77204-5010

<b>To Contractor:</b>
_____
Attn: _____
Address: _____
_____
<b>with a copy to:</b>
_____
Attn: _____
Address: _____
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- 24. BREACH OF CONTRACT CLAIMS:** To the extent Chapter 2260 of the Texas Government Code is applicable to this Agreement and not preempted by other law, the dispute resolution process provided by Chapter 2260 and the rules adopted by the Texas Attorney General 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.
- 25. 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.
- 26. 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.
- 27. PUBLIC INFORMATION.** University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act. In accordance with Section 552.002 of the Texas Public Information Act and Section 2252.907 of the Texas Government Code, and at no additional charge to University, Contractor will make any information created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under the Texas Public Information Act) available in a format reasonably requested by University that is accessible by the public.
- 28. WAIVER:** Waiver by either Party of a breach or violation of any provision of this Agreement will not operate as a waiver of any subsequent breach.
- 29. SURVIVAL:** Termination or expiration of this Agreement will not affect the Parties’ rights or 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:** Terms and conditions of this Agreement will only be binding on University to the extent permitted by the Constitution and laws of the State of Texas.
- 32. NO FRAUD VIOLATIONS:** Contractor affirms that it has not been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds and that it does not employ officers or employees that have been convicted of, or pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds.
- 33. FOREIGN NATIONAL INFORMATION ADDENDUM:** Contractor must check the appropriate box. The Contractor **IS NOT BOTH** an **individual** and a **Foreign National** (i.e., is not a U.S. Citizen or U.S. Resident Alien)  or the Contractor **IS BOTH** an **individual** and a **Foreign National** . A Contractor who is **BOTH** an individual and a Foreign National must complete the Foreign National Information Addendum located on the University of Houston website (<http://www.uh.edu/legal-affairs/contract-administration/contract-documents/amendments-addenda/>) and submit it with this Agreement to the University. This information is required to ensure that the Contractor is eligible to receive payment and that the correct tax withholding, if any, is applied to that payment. The Foreign National Addendum must be submitted to the University at least three weeks before services will be performed under this Agreement. Contractors who are not individuals and Foreign Nationals are not required to attach the Foreign National Information Addendum to this Agreement.
- 34. FORCE MAJEURE:** The performance of this Agreement is subject to acts of God, including fire, storms, and floods; war; orders, requisitions or necessity of the government; domestic and/or international threats or acts of terrorism; disasters; riots; rebellions; strikes or other labor disputes; civil disorder; epidemics, pandemics, such as COVID-19 or any disease having a similar effect; any other national or regional emergency; curtailment of transportation facilities beyond the Parties' control; or any other cause not enumerated herein but which is beyond the reasonable control of the Party whose performance is affected and which makes it illegal, impossible, or impracticable for such Party to perform its duties and obligations under this Agreement (collectively, a "Force Majeure Event"). A Party may suspend performance of this Agreement during the occurrence of a Force Majeure Event if it is unable in good faith to perform its duties and obligations under this Agreement due to that Force Majeure Event. Additionally, if a Force Majeure Event lasts longer than thirty (30) continuous days then this Agreement may be terminated by the Party affected by such a Force Majeure Event, provided however, that the Parties are liable for and shall be required to perform the duties and obligations that arose prior to such Force Majeure Event.
- 35. GOVERNING LAW; VENUE:** This Agreement will be governed by the laws of the State of Texas without regard to choice of law principles. In the event of any suit or action arising from this Agreement, the Parties consent to jurisdiction of the courts in Harris County, Texas.
- 36. MISCELLANEOUS:** This Agreement, together with any Attachment(s), constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior contracts, agreements, representations and understandings made by the Parties relating to such subject matter. This Agreement may not be amended or otherwise modified except by the written agreement of both Parties. Contractor may not assign this Agreement without 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.

**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 Agreement, the appropriate University representative from the **Department of Risk Management** may waive the requirements by initialing here: →  Otherwise, Contractor must satisfy the Insurance Requirements specified in this Agreement.

**Signature:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**CONTRACTOR:**

**Signature:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Note: Modification of this Form requires written approval of UHS Office of General Counsel**