# ADDENDUM TO AGREEMENT

The following terms and conditions are incorporated into and form a part of the agreement to which they are attached (**Agreement**) for all purposes. **University** means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. **Contractor** means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**Representations and Warranties by Contractor.** Contractor represents and warrants Contractor is duly organized, validly existing and in good standing under the laws of the state of its organization; it is duly authorized and in good standing to conduct business in the State of Texas; it has all necessary power and has received all necessary approvals to execute and deliver this Agreement; and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.

**Tax Certification.** If Contractor is a taxable entity as defined by [Chapter 171, *Texas Tax Code*](http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.171.htm), then Contractor certifies it is not currently delinquent in the payment of any taxes due under Chapter 171, Contractor is exempt from the payment of those taxes, or Contractor is an out‑of‑state taxable entity that is not subject to those taxes, whichever is applicable.

**Payments. [Option:** So long as Contractor has provided University with its current and accurate Federal Tax Identification Number in writing,**]** University will pay Contractor for goods and services in accordance with [Chapter 2251, *Texas Government Code*](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2251.htm). University (a state agency) is exempt from Texas Sales & Use Tax on goods and services in accordance with [§151.309, *Texas Tax Code*](http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.151.htm#151.309)*,* and [Title 34 *Texas Administrative Code* (**TAC**) §3.322](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=34&pt=1&ch=3&rl=322).

**Payments by Electronic Funds Transfer.** [§51.012, *Texas Education Code*](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm#51.012), authorizes University to make payments through electronic funds transfer methods. Contractor agrees to accept payments from University through those methods, including the automated clearing house system (ACH). Contractor agrees to provide Contractor’s banking information to University in writing on Contractor letterhead signed by an authorized representative of Contractor. Prior to the first payment, University will confirm Contractor’s banking information. Changes to Contractor’s bank information must be communicated to University in writing at least thirty (30) days before the effective date of the change and must include an IRS Form W-9 signed by an authorized representative of Contractor.

**Payment of Debt or Delinquency to the State.** Pursuant to §§[2107.008](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2107.htm#2107.008) and [2252.903](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#2252.903), *Texas Government Code*, Contractor agrees any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency Contractor owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.

**[Option: (Use in all contracts under which Contractor will process credit card payments to perform or further any portion of the services provided by Contractor, including (1) contracts for retail outlet services (merchandise sales, ticket sales, etc.) under which Contractor will accept credit card payments, and (2) contracts for development and fund raising activities under which Contractor will accept gifts to University via credit card): Payment Card Industry Standards.** **[Note: If using this Option, contact OGC to confirm that the services provided by Contractor do not violate or conflict with existing UT System or State of Texas contracts or agreements.]** University is required to validate compliance on a periodic basis with applicable Payment Card Industry Data Security Standards (**PCI DSS**), including Payment Application Data Security Standards (**PA DSS**), promulgated by the Payment Card Industry Security Standards Council (**PCI SSC**). The compliance validation process requires University to undergo an assessment of (1) system components used to process, store or transmit cardholder data, and any other components that reside on the same network segment as those system components, as well as (2) related processes used to process, store or transmit cardholder data, (**System Components in Scope**). Some or all System Components in Scope have been outsourced to Contractor under this Agreement. Contractor will cause its agents and subcontractors to comply with all terms of this Section applicable to Contractor. Contractor will achieve and maintain compliance under the current versions of PCI DSS and PA DSS published on the PCI SSC website for service providers and payment applications. Contractor will provide to University (1) on or before the date this Agreement is signed by University, and (2) within ten (10) days after each anniversary of the date this Agreement is signed by University, a copy of Contractor’s annual attestation of compliance signed by a Qualified Security Assessor (**QSA**) as more particularly described on the PCI SSC website.

If Contractor is unable to provide the required attestations of compliance, Contractor will permit University or University’s QSA to assess all System Components in Scope that are hosted or managed by Contractor or by Contractor’s agents or subcontractors. Contractor will create and maintain reasonably detailed, complete and accurate documentation describing the systems, processes, network segments, security controls, and dataflow used to receive, transmit, store and secure cardholder data. The documentation will conform to the most current version of PCI DSS. Contractor will, upon written request by University, make the documentation and the individuals responsible for implementing, maintaining and monitoring System Components in Scope available to (1) QSAs, forensic investigators, consultants and attorneys retained by University to facilitate the validation of University’s PCI DSS compliance, and (2) University’s information technology, information security, audit, compliance and other staff.

Contractor will retain the documentation for at least one (1) year after termination of this Agreement.]

**Texas Family Code Child Support Certification.** Pursuant to [§231.006, *Texas Family Code*](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.231.htm#231.006), Contractor certifies it is not ineligible to receive the award of or payments under this Agreement, and acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**Contractor Certification regarding Boycotting Israel.** Pursuant to [Chapter 2271, *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm), Contractor certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.  **[Note:  This provision should only be included in a contract that (1) has a value of $100,000 or more that is to be paid wholly or partly from public funds and (2) is with a for-profit entity, not including a sole proprietorship, that has 10 or more full time employees.** [**Section 2271.002, *Texas Government Code***](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm#2271.002)**, requires inclusion of this section in contracts between a governmental entity and a “company”.** [**Section 2271.001(2), *Texas Government Code***](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm#2271.001)**, defines “company” to have the meaning assigned by** [**Section 808.001, *Texas* *Government Code***](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.808.htm#808.001)**, not including a sole proprietorship.  Section 808.001(2) defines “company” as a for-profit entity.]**

**Contractor Certification regarding Business with Certain Countries and Organizations.** Pursuant to [Subchapter F, Chapter 2252, *Texas* *Government Code*](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#F), Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.  **[Note 1:**  [**Subchapter F, Chapter 2252, *Texas Government Code***](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#F)**, requires University to implement a process to compare Contractor’s name(s) to the various lists designated in Section 2252.152, *Government Code*, before execution of this Agreement.]**

**[Note 2: This section only applies to a contract with a for-profit entity.** [**Section 2252.151(1), *Texas Government Code***](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#2252.151)**, defines “company” to have the meaning assigned by Section 806.001, *Texas Government Code*.** [**Senate Bill 253**](http://www.legis.state.tx.us/tlodocs/85R/billtext/html/SB00253F.htm) **(85th Regular Session) moved Section 806.001 to** [**Section 2270.0001, *Texas Government Code***](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2270.htm#2270.0001)**.  Section 2270.0001 defines “company” as a for-profit entity.]**

**Contractor Verification Regarding Discrimination Against Firearm Entities or Trade Associations**. Pursuant to [Chapter 2274, *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm) *(enacted by* [*SB 19, 87th Texas Legislature, Regular Session (2021)*](https://capitol.texas.gov/tlodocs/87R/billtext/html/SB00019F.htm)*)*, Contractor verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate. **[Note:  This provision should only be included in a contract entered into on or after 9/1/21 that (1) is not with a Contractor that is a sole-source provider, (2) has a value of $100,000 or more that is to be paid wholly or partly from public funds, and (3) is with a for-profit entity, not including a sole proprietorship, that has 10 or more full time employees.  However, this provision should not be included in a contract if (A) the University did not receive any bids from a company that is able to provide the written verification required above or (B) it is a contract exempt from compliance under Section 2274.003 of the *Texas Government Code* (applicable to contracts entered into in connection with or relating to the issuance, sale, or delivery of notes under Subchapter H, Chapter 404, *Texas Government Code* or the administration of matters related to the notes, including the investment of note proceeds, if determined to be exempt by the Texas Comptroller in its sole discretion and in compliance with the requirements of that statute.)]**

**Contractor Verification Regarding Boycotting Energy Companies**. Pursuant to [Chapter 2274, *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v2.htm) *(enacted by* [*SB 13, 87th Texas Legislature, Regular Session (2021))*](https://capitol.texas.gov/tlodocs/87R/billtext/html/SB00013F.htm), Contractor verifies (1) it does not boycott energy companies and (2) it will not boycott energy companies during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate. **[Note:  This provision should only be included in a contract entered into on or after 9/1/21 that (1) has a value of $100,000 or more that is to be paid wholly or partly from public funds and (2) is with a for-profit entity, not including a sole proprietorship, that has 10 or more full time employees. However, this provision should not be included in a contract if the University determines that these requirements are inconsistent with the University's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.]**

**Contractor Certification Regarding COVID-19 Vaccination**. Pursuant to [Section 161.0085, *Texas Health and Safety Code*](https://statutes.capitol.texas.gov/Docs/HS/htm/HS.161.htm#161.0085) *(enacted by* [*SB 968, 87th Texas Legislature, Regular Session (2021)*](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=SB968)*)*, Contractor certifies that it does not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor’s business. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**Access by Individuals with Disabilities.** Contractor represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Contractor provides to University under this Agreement (**EIRs**) comply with applicable requirements in [1 TAC Chapter 213](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=213) and [1 TAC §206.70](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=206&rl=70) (ref. [Subchapter M, Chapter 2054, *Texas Government Code*](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2054.htm#M)). To the extent Contractor becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Contractor fails or is unable to do so, University may terminate this Agreement and, within thirty (30) days after termination, Contractor will refund to University all amounts University paid under this Agreement. Contractor will provide all assistance and cooperation necessary for performance and documentation of accessibility testing, planning, and execution criteria conducted by University or University’s third party testing resources, as required by [1 TAC §213.38(g)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=213&rl=38).

**Notices.** Except as otherwise provided by this Section, notices, consents, approvals, demands, requests or other communications provided or permitted under this Agreement, will be in writing and sent via certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below) as provided below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile (to the extent a facsimile number is set forth below) or email (to the extent an email address is set forth below), when received:

If to University: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attention: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*with copy to:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attention: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

If to Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attention: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

or other person or address as may be given in writing by either party to the other in accordance with this Section.

**Venue; Governing Law.** \_\_\_\_\_\_\_\_\_\_\_ County **[Note:  Insert “Travis” or county in which University is located.]**, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement, all of its terms and conditions, all rights and obligations of the parties, and all claims arising out of or relating to this Agreement, will be construed, interpreted and applied in accordance with, governed by and enforced under, the laws of the State of Texas.

**Breach of Contract Claims.** To the extent that [Chapter 2260, *Texas Government Code*](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2260.htm), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The chief business officer of University will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve the claims. The parties specifically agree (i) neither execution of this Agreement by University nor any other conduct, action or inaction of any representative of University relating to this Agreement constitutes or is intended to constitute a waiver of University’s or the state's sovereign immunity to suit; and (ii) University has not waived its right to seek redress in the courts.

**Entire Agreement; Modifications.** This Agreement supersedes all prior agreements, written or oral, between Contractor and University and will constitute the entire Agreement and understanding between the parties with respect to its subject matter. This Agreement and each of its provisions will be binding upon the parties, and may not be waived, modified, amended or altered, except by a writing signed by University and Contractor.

**Loss of Funding.** Performance by University under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (**Legislature**) and/or allocation of funds by the Board of Regents of The University of Texas System (**Board**). If Legislature fails to appropriate or allot necessary funds, or Board fails to allocate necessary funds, then University will issue written notice to Contractor and University may terminate this Agreement without further duty or obligation. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond University’s control.

**State Auditor’s Office.** Contractor understands acceptance of funds under this Agreement constitutes acceptance of authority of the Texas State Auditor's Office or any successor agency (**Auditor**), to conduct an audit or investigation in connection with those funds (ref. §§[51.9335(c)](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm#51.9335), [73.115(c)](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.73.htm#73.115) and [74.008(c)](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.74.htm#74.008), *Texas Education Code*). Contractor agrees to cooperate with Auditor in the conduct of the audit or investigation, including providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.

**Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character (“**force majeure occurrence**”). Provided, however, in the event of a force majeure occurrence, Contractor agrees to use its best efforts to mitigate the impact of the occurrence so that University may continue to provide services during the occurrence.

**Limitations.** The Parties are aware there are constitutional and statutory limitations (**Limitations**) on the authority of University (a state agency) to enter into certain terms and conditions that may be part of this Agreement, including terms and conditions relating to liens on University’s property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; dispute resolution; indemnities; and confidentiality, and terms and conditions related to Limitations will not be binding on University except to the extent authorized by the laws and Constitution of the State of Texas.

**Ethics Matters;** **No Financial Interest.** Contractor and its employees, agents, representatives and subcontractors have read and understand University’s Conflicts of Interest Policy at **[Note: Insert University’s web page where Policy is posted.] [Option (Include for UT System only.):** <https://www.utsystem.edu/sites/policy-library/policies/uts-180-conflicts-of-interest-conflicts-of-commitment-and-outside-activities>**]**, University’s Standards of Conduct Guide at **[Note: Insert University’s web page where Guide is posted.] [Option (Include for UT System only.):** <https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide>**]**, and applicable state ethics laws and rules at <https://www.utsystem.edu/offices/systemwide-compliance/ethics>. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University’s Conflicts of Interest Policy, University’s Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

**[Option (include *only* when (1) procuring a contract that requires Board approval or may have a value exceeding $1 million, and (2) Contractor is *not* exempt from disclosure requirements under** [§2252.908(c), *Texas Government Code*](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#2252.908) **and, after 12/31/2017, see Section 5 of HB 1295 amending Section 2252.908(c), Gov Code, at** <http://www.legis.state.tx.us/tlodocs/84R/billtext/html/HB01295F.htm>**):** Further, Contractor agrees to comply with [§2252.908, *Texas Government Code*](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#2252.908) (**Disclosure of Interested Parties Statute**), and [1 TAC §§46.1 through 46.5](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=2&ch=46&rl=Y) (**Disclosure of Interested Parties Regulations**), as implemented by the Texas Ethics Commission (**TEC**), including, among other things, providing the TEC and University with information required on the form promulgated by TEC. Contractor may learn more about these disclosure requirements, including the use of TEC’s electronic filing system, by reviewing the information on TEC’s website at <https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php>.**]**

**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* (**TPIA**), [Chapter 552, *Texas Government Code*](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm). In accordance with §§[552.002](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm#552.002) and [2252.907](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm#2252.907), *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 TPIA) available in a format reasonably requested by University that is accessible by the public**.**

**[Option (include if the value of this Agreement is expected to equal or exceed $100,000 or if University has requested a HUB Subcontracting Plan): Subcontracting.** Contractor will use good faith efforts to subcontract work performed under this Agreement in accordance with the Historically Underutilized Business Subcontracting Plan (**HSP**) (ref. **Exhibit [Note: Insert Exhibit letter/number.]**). Except as specifically provided in the HSP, Contractor will not subcontract any of its duties or obligations under this Agreement, in whole or in part. This Agreement is subject to [34 TAC §20.285](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=34&pt=1&ch=20&rl=285). Contractor will comply with all of its duties and obligations under [34 TAC §20.285](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=34&pt=1&ch=20&rl=285). In addition to other rights and remedies, University may exercise all rights and remedies authorized by [34 TAC §20.285](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=34&pt=1&ch=20&rl=285).**]**

**[Option (include in contracts under which the Contractor (including its subcontractors, officers, or employees) has access to a state computer system or database.  For more information, see the Texas Department of Information Resources’ website on this requirement:** [**https://dir.texas.gov/View-About-DIR/Information-Security/Pages/Content.aspx?id=154**](https://dir.texas.gov/View-About-DIR/Information-Security/Pages/Content.aspx?id=154)**): Cybersecurity Training Program.** If Contractor and/or its subcontractors, officers, or employees will have an account on a state computer system (for example, an account to an application, database, or network), then pursuant to Section 2054.5192, Texas Government Code, Contractor and its subcontractors, officers, and employees must complete a cybersecurity training program certified under [Section 2054.519, *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2054.htm#2054.519) and selected by the University. The cybersecurity training program must be completed by Contractor and its subcontractors, officers, and employees during the term and any renewal period of this Agreement. Contractor shall verify completion of the program to the University.**]**

**[Option (include if this Agreement is a license or terms and conditions for use of an Internet application, software or a database): External Terms.** This Agreement completely supplants, replaces, and overrides all other terms and conditions or agreements, written or oral, concerning Contractor’s performance or provision of goods or services under this Agreement (**External Terms**). External Terms are null and void and will have no effect under this Agreement, even if University or its employees, contractors, or agents express assent or agreement to External Terms. External Terms include any shrinkwrap, clickwrap, browsewrap, web-based terms and conditions of use, and any other terms and conditions displayed in any format that University or its employees, contractors, or agents are required to accept or agree to before or in the course of accessing or using any goods or services provided by Contractor.**]**

**[Option (include the following if this Agreement is with a non-governmental body (see** [**Section 552.003(1), *Texas Government Code***](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm#552.003)**) and either (1) has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by your institution or (2) will result in the expenditure of at least $1 million in public funds for the purchase of goods or services by your institution during a fiscal year of your institution): Texas Public Information Act - Subchapter J Requirements.** Pursuant to [Section 552.372 of the *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm#552.372), Contractor must:

(1) preserve all contracting information (ref. [Section 552.003(1-a), *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm#552.003)) related to this Agreement as provided by the records retention requirements applicable to University for the duration of this Agreement;

(2) promptly provide to the University any contracting information related to this Agreement that is in the custody or possession of Contractor on request of the University; and

(3) on completion of this Agreement, either:

(A) provide at no cost to the University all contracting information related to this Agreement that is in the custody or possession of Contractor, or

(B) preserve the contracting information related to this Agreement as provided by the records retention requirements applicable to the University.

**[NOTE: Do not include the following sentence if (a) the Agreement is related to the purchase or underwriting of a public security, (b) the Agreement is or may be used as collateral on a loan, or (c) the Agreement's proceeds are used to pay debt service of a public security or loan.]** The requirements of [Subchapter J, Chapter 552, *Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm#J) (“Subchapter J”) may apply to this Agreement and Contractor agrees that the Agreement can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of Subchapter J.

University may not accept a bid for a contract described by [Section 552.371, *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm#552.371) or award the contract to an entity that the University has determined has knowingly or intentionally failed to comply with Subchapter J in a previous bid or contract described by Section 552.371 unless the University determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of Subchapter J.

If Contractor fails to comply with the requirements of Subchapter J applicable to Contractor, then University shall provide written notice to Contractor stating the requirement(s) of Subchapter J that Contractor has violated. **[NOTE: Do not include the remainder of this paragraph if (a) the Agreement is related to the purchase or underwriting of a public security, (b) the Agreement is or may be used as collateral on a loan, or (c) the Agreement's proceeds are used to pay debt service of a public security or loan.]** Such notice will also advise Contractor that University may terminate this Agreement without further obligation to Contractor if (a) Contractor does not cure the violation on or before the 10th business day after the date the University provides the notice, (b) the University determines that Contractor has intentionally or knowingly failed to comply with a requirement of that Subchapter J, and (c) the University determines that Contractor has not taken adequate steps to ensure future compliance with the requirements of Subchapter J. For purposes of the above, Contractor has taken adequate steps to ensure future compliance with Subchapter J if: (1) Contractor produces contracting information requested by the University that is in the custody or possession of Contractor not later than the 10th business day after the date the University makes the request and (2) Contractor establishes a records management program to enable Contractor to comply with Subchapter J.**]**

**[Option: Include the following if under this Agreement the Contractor will be granted direct or remote access to or control of critical infrastructure in the State of Texas, excluding access specifically allowed by the University for product warranty and support purposes. For purposes of the following, “critical infrastructure” means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility. As used in the preceding, "cybersecurity" means the measures taken to protect a computer, computer network, computer system, or other technology infrastructure against unauthorized use or access. Contractor Certification Relating to Critical Infrastructure**.  Pursuant to [Chapter 2274, *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.htm) *(enacted by* [*SB 2116, 87th Texas Legislature, Regular Session (2021)*](https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=87R&Bill=SB2116), Contractor certifies (A) it is neither owned by nor is the majority of stock or other ownership interest of the Contractor held or controlled by (i) individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor of Texas as a threat to critical infrastructure under Section 2274.0103 of the *Texas Government Code* (a “designated country”) or (ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; and (B) it is not headquartered in China, Iran, North Korea, Russia, or a designated country. Contractor understands that the prohibitions set forth in the preceding sentence apply regardless of whether (1) Contractor’s or its parent company's securities are publicly traded or (2) Contractor or its parent company is listed on a public stock exchange as either (a) a Chinese, Iranian, North Korean, or Russian company or (b) a company of a designated country. Contractor acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.**]**

**[Option: Include if the Contractor or its subcontractors or third-party providers will be providing cloud computing services (CCSs) to the University or processing (including storing or transmitting) University data using CSSs.** **Contractor Compliance and Warranty Relating to Cloud Computing Services**. The Texas Department of Information Resources (**DIR**) has established and implemented a state risk and authorization management program providing a standardized approach for security assessment, authorization, and continuous monitoring of cloud computing services (**CCSs**) that process (including storing or transmitting) the data of Texas state agencies (**TX-RAMP**). The requirements of TX-RAMP include [Section 2054.0593 of the *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2054.htm#2054.0593)*,* [Title 1, Rule 202.77 of the *Texas Administrative Code*](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=202&rl=77)*,* andDIR’s TX-RAMP Manual.

Contractor represents and warrants that throughout the term of this Agreement it will comply with the requirements of TX-RAMP and that all CCSs subject to TX-RAMP will comply with the requirements of and be certified under TX-RAMP. The CCSs subject to TX-RAMP include those provided by Contractor either through this Agreement or in furtherance of this Agreement, including CCSs provided through Contractor’s subcontractors or third-party providers. A CCS used in furtherance of this Agreement includes a CCS that Contractor or its subcontractors or third-party providers use to process (including storing or transmitting) University data, even if the University itself does not access or use that CCS. Contractor’s subcontractors or third-party providers responsible solely for servicing or supporting a CCS provided by Contractor or another Contractor subcontractor or third-party provider shall not be required to provide evidence of TX-RAMP certification; instead, Contractor will be responsible for providing such evidence. The list of current TX-RAMP certified CCSs and DIR’s TX-RAMP Manual are set forth at <https://dir.texas.gov/txramp>. **[Option: Include if greater specificity is desired:** Contractor further represents and warrants that the only CCSs that it will provide either through this Agreement or in furtherance of this Agreement as provided above are the following:

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Contractor understands and agrees that the University may not enter into or renew a contract with Contractor to purchase CCSs that are subject to TX-RAMP unless Contractor demonstrates compliance with TX-RAMP requirements. Contractor acknowledges this Agreement may be terminated and payment withheld if Contractor does not comply with TX-RAMP or this Section.**]**

**[Alternate Option: Include if neither the Contractor nor its subcontractors or third-party providers will be providing cloud computing services (CCSs) to the University or processing (including storing or transmitting) University data using CSSs and the University wishes to document this in the Agreement. Contractor Representation and Warranty That Cloud Computing Services Will Not Be Provided**. Contractor represents and warrants that neither Contractor nor any Contractor subcontractors or third-party providers will provide cloud computing services either though this Agreement or in furtherance of this Agreement that process (include storing or transmitting) University data.**]**

**[Option: Include the following the Contractor will be authorized to access, transmit, use, or store data for the University under this Agreement.** **Data Security Controls.** Pursuant to [Section 2054.138 of the *Texas Government Code*](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2054.htm#2054.138), as Contractor will be authorized to access, transmit, use, or store data for the University, Contractor is required to meet the security controls the University determines are proportionate with the University's risk under this Agreement based on the sensitivity of the University's data. Contractor must periodically provide to the University evidence that Contractor meets the security controls required under this Agreement.**]**

**Addendum Controlling.** If there is a conflict between the terms and conditions of the agreement to which this Addendum is attached and this Addendum, this Addendum controls.

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| **Contractor:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **University:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |