

Iowa State University - General Terms and Conditions

1. Goods/Services. Contractor shall timely provide to University goods/services that conform with the specifications, scope of work and requirements of this Contract.

2. Payment Terms.
 - (a) Invoices; Payment. Contractor shall submit invoices to University either by mailing them to Iowa State University Accounts Payable, 1520 Administrative Services Building, 2221 Wanda Daley Drive, Ames, IA 50011-1004 or by e-mailing them to invoices@iastate.edu. Contractor shall ensure its invoices include sufficient detail to support the payment being requested, reflect any payment discount terms and reference the contract number or purchase order number provided by University to Contractor. Unless agreed otherwise, University shall pay an invoice within forty-five days of receiving the invoice. If University does not timely pay an invoice, Contractor shall notify University that payment has not been received and provide University fifteen days to pay the invoice. If University does not pay Contractor after fifteen days, then Contractor may charge University interest at the rate set forth in Iowa Code §8A.514(3).
 - (b) Disputed Invoices. If University disputes an invoice submitted by Contractor, University shall notify Contractor and may withhold payment of the disputed invoice until the dispute is resolved. The parties shall continue to perform their obligations under this Contract until the dispute is resolved, including paying undisputed portions of invoices. If requested by University, Contractor shall issue an amended invoice identifying the undisputed portion of an invoice so it can be paid. Each party shall provide the other with all relevant documentation in an effort to resolve the dispute as quickly as possible, with a goal of resolving all disputes associated with payments within sixty days.
 - (c) Set Off Rights. Contractor acknowledges that, pursuant to Iowa Code §421.17(27), payments owed to Contractor by University under this Contract may be applied directly toward any debt Contractor owes any state or local government entity in the State of Iowa.
 - (d) Taxes. University is generally exempt from federal, state and local taxes, including State of Iowa sales and use taxes (Iowa Code §423.3(31)) and federal excise taxes. University shall furnish tax exemption certificates upon Contractor's request. Contractor shall not charge University for any taxes for which University is exempt.

Contractor states it is either: (i) registered with the Iowa Department of Revenue and collects and remits Iowa sales and use taxes as required by the Code of Iowa Chapter 423; or (ii) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in the Code of Iowa §§ 423.1(47) & (48). If this statement is untrue, ISU may terminate this Contract as set forth in the Termination section of this Contract.

3. Confidential Information.

- (a) Definitions.

"**Confidential Information**" means the following items disclosed or received in connection with this Contract: (i) student records; (ii) personnel records; (iii) medical records; (iv) consumer records; (v) social security numbers; (vi) credit card numbers, bank account numbers and similar identifiers for financial accounts; (vii) Audit Reports; (viii) information disclosed by Discloser to Recipient in tangible form that is marked "confidential" or "proprietary" or similar legend; and (ix) information disclosed orally by Discloser to Recipient that is orally designated as confidential or proprietary at the time of disclosure

and that is designated as such in writing within two weeks of such disclosure. The term "Confidential Information" shall not be deemed to include information that (i) is or becomes a matter of public knowledge through no act or omission of Recipient; (ii) was in Recipient's lawful possession prior to the disclosure without restriction on disclosure; (iii) is lawfully disclosed to Recipient by a third party that lawfully and rightfully possesses such information without restriction on disclosure; or (iv) information that Recipient can document resulted from its own research and development, independent of receipt of the disclosure from Discloser.

"Discloser" means the party providing the Confidential Information.

"Recipient" means the party receiving the Confidential Information.

"PII" means personally identifiable information, such as the following items, disclosed or received in connection with this Contract: (i) Confidential Information that can be used, either alone or when combined with other information, to identify a specific student, employee, patient, consumer or other individual; (ii) social security numbers; and (iii) credit card numbers, bank account numbers and similar identifiers for financial accounts.

- (b) Use. Recipient may use Confidential Information only if required to accomplish the purpose of this Contract. Recipient shall not use Confidential Information any other purpose or reverse engineer, decompile or disassemble Confidential Information without the prior written consent of Discloser.
- (c) Disclosure. Recipient shall not disclose Confidential Information to any third party, except as provided in this Contract or with written permission of Discloser. Recipient may disclose Confidential Information on a need-to-know basis to its employees, agents or contractors if Recipient requires them to abide by the terms of this Contract. If Recipient is legally required to disclose Confidential Information, Recipient shall notify Discloser no less than ten days prior to the disclosure (unless legally prohibited from doing so) to afford Discloser the opportunity to take legal action to prevent or limit the scope of such disclosure.
- (d) Standard of Care. Recipient shall take the same precautions to protect Confidential Information from unauthorized access, use or disclosure as Recipient employs with respect to its own confidential information of a like nature, but in no case shall Recipient employ less than reasonable precautions. If the Confidential Information contains PII, the precautions must include administrative, physical, and technical safeguards to protect the security and integrity of the PII in accordance with industry standards. If Recipient has access to or stores PII electronically, Recipient shall no less than annually obtain a SSAE 16(SOC2)/ISAE 3402 (Type 2) or similar third party audit report and an application penetration test of the system that will access or store PII ("**Audit Reports**"). Recipient shall promptly remediate any material deficiencies identified in the Audit Reports. Upon Discloser's request, Recipient shall provide Discloser with a copy of the Audit Reports.
- (e) Remediation of Unauthorized Disclosures. Recipient shall notify Discloser within 48 hours of learning of any loss or unauthorized access, use or disclosure of Confidential Information ("**Security Breach**"). Recipient shall: (i) designate and make available to Discloser a knowledgeable contact person with whom Discloser may communicate regarding the Security Breach, (ii) submit status reports to University on a daily basis or a frequency approved by Discloser and (iii) provide Discloser with information about the Security Breach as reasonably requested by Discloser. Recipient shall cooperate and coordinate with Discloser in addressing the response to the Security Breach.

If Recipient's breach of this Contract results in the loss or unauthorized access, use or disclosure of PII, Discloser may submit to Recipient an invoice for reasonable, documented costs Discloser incurs in connection with the Security Breach, including the following: (i) providing notification of the Security Breach to relevant government and industry self-regulatory agencies, credit bureaus, the media (if

required by applicable law) and individuals whose PII may have been lost, accessed, misused or disclosed (“**PII Subjects**”); (b) providing credit monitoring and/or identity restoration services to PII Subjects who elect the service for a period of one year after the date on which those individuals were notified of the Security Breach; (c) operating a call center to respond to questions from PII Subjects for a period of one year after the date on which those individuals were notified of the Security Breach; and (d) any fines or penalties levied against University.

- (f) Proprietary Rights. Unless stated otherwise in this Contract, Discloser retains all title and rights to its Confidential Information. Recipient shall not remove any copyright or trademark notice, proprietary legend or indication of confidentiality set forth on or contained in Confidential Information.
 - (g) Return of Confidential Information. Upon written request from Discloser, Recipient shall return to Discloser or destroy Confidential Information and any copies made by Recipient. If requested by Discloser, Recipient shall provide a certification that Confidential Information was destroyed (if applicable).
 - (h) FERPA. Contractor acknowledges University is an educational institution subject to the Family Educational Rights and Privacy Act (“**FERPA**”). If Contractor has access to records relating to students while performing its obligations under this Contract, Contractor agrees that it is a “**School Official**” (as that term is used in FERPA) and shall comply with all obligations of a School Official with respect to the access and disclosure of the records.
 - (i) HIPAA. If University determines Contractor may have access to data that is protected by the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”), the parties shall execute a Business Associate Agreement that complies with all then-applicable regulations promulgated pursuant to HIPAA.
4. Compliance with Law. Contractor shall obtain all necessary permits, licenses and other government approvals necessary to perform its obligations pursuant to this Contract, and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any government authority.
 5. Equal Employment Opportunity. Contractor shall not engage in discriminatory employment practices forbidden by federal and state laws, executive orders and rules and regulations of the Board of Regents-State of Iowa and University that pertain to equal employment opportunity and affirmative action. Contractor shall not discriminate against any employee or applicant for employment because of race, ethnicity, color, national origin, ethnicity, religion, age, sex, pregnancy, disability, genetic information, status as a U.S. veteran, marital status, sexual orientation, gender identity or other protected class. Contractor's noncompliance with this section will be a material breach of this Contract.
 6. Software Accessibility. If Contractor provides a software solution in connection with this Contract, Contractor shall ensure the software solution is compliant with Section 508 standards issued by the federal government (www.section508.gov/) and W3C.org Web Content Accessibility Guidelines (WCAG 2.0 Level AA) (www.w3.org/TR/WCAG20/) for accessibility for persons with disabilities for the minimum level of accessibility. University may request Contractor to provide audit and/or test results that document the software’s compliance and the testing methodology utilized.
 7. Hazardous Materials. Contractor shall ensure packaging, transportation and handling of hazardous materials is in accordance with applicable federal and state laws and regulations including, but not limited to, the Safety Data Sheets requirement of the Hazard Communication Standard issued by the Occupational Safety and Health Administration (29 CFR §1910.1200) and the Iowa Administrative Code.
 8. Export Control. Contractor shall comply with all U.S. export control laws and regulations, including but not limited to the **International Traffic in Arms Regulations** (ITAR), 22 CFR Parts 120 through 130, and the Export

Administration Regulations (EAR), 15 CFR Parts 730 through 774, in the performance of this Contract. In the absence of available license exemptions/exceptions, Contractor shall be responsible for obtaining the appropriate licenses or other authorizations, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance. Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.

Prior to disclosing or transferring to University any hardware, technical data, software or product utilizing any hardware, technical data or software which is subject to export controls under federal law, Contractor shall notify University in writing of the nature and extent of the export control. University shall have the right to decline any such technical data or product utilizing such data. In the event Contractor sends any such technical data or product that is subject to export control, without notice of the applicability of such export control, University has the right to immediately terminate this Contract.

9. Gratuities. Contractor shall not offer or make a gift to a University employee in violation of Iowa Code §68B.22.

10. Termination.

- (a) Termination Upon Expiration. This Contract will terminate upon expiration of the term of this Contract.
- (b) Termination Due to Contractor's Financial Status. University may immediately terminate this Contract by giving notice to Contractor if: (i) Contractor commences a voluntary case under bankruptcy law; (ii) anyone commences an involuntary case against Contractor under bankruptcy law that is not dismissed by 60th day after commencement; (iii) a court appoints a custodian (as that term is defined in bankruptcy law) for the Company or all or substantially all of its assets; (iv) Contractor makes an assignment of all or substantially all of its assets to a custodian (as that term is defined in bankruptcy law); or (v) Contractor fails to generally pay its undisputed debts as they become due or acknowledges in writing that it is unable to pay its debts. If any of these events occur, Contractor shall notify University with ten days of the event.
- (c) Termination Due to Contractor's Misrepresentations. University may immediately terminate this Contract by giving notice to Contractor if Contractor furnishes or furnished a statement, representation or certification in connection with this Contract or the bidding process that is materially false, deceptive, incorrect or incomplete.
- (d) Termination for Default. If Contractor fails to deliver timely goods or services, delivers non-conforming goods or services or is otherwise in material breach of this Contract ("Default"), University shall notify Contractor and request Contractor to remedy the Default within the period of time specified in the notice ("Cure Notice"). If Contractor does not remedy the Default to University's satisfaction within the period of time specified in the Cure Notice, University may terminate this Contract by giving notice to Contractor and may procure substitute goods or services from another source and charge the difference between the contracted price and the market price to the Contractor.
- (e) Termination Due to Non-appropriation. University may terminate this Contract if the Iowa legislature, federal government or sponsoring entity: (i) does not appropriate, grant or allocate sufficient funds for University to fulfill its obligations under this Contract; (ii) de-appropriates, re-allocates or withdraws funds University had intended to use to fulfill its obligations under this Contract; (iii) alters or eliminates the University program or project for which University procured the goods or services; or (iv) directs University to terminate this Contract. University shall give notice of the termination to Contractor no less than thirty days prior to the date of termination.
- (f) Termination without Cause. University may terminate this Contract for any reason. University shall give notice of the termination to Contractor no less than thirty days prior to the date of termination.

- (g) Contractor Termination Duties. Unless stated otherwise in this Contract, Contractor shall upon termination of this Contract: (i) cease all work under this Contract and remove Contractor's property from University's premises if applicable; (ii) cease using University trademarks, service marks and similar items; (iii) cease using and return to University within thirty days of termination the materials, data, or other personal property provided by University to Contractor; (iv) transfer to University within thirty days of termination the work product produced by Contractor under this Contract; (v) submit invoices to University within thirty days of termination for any goods or services provided to University prior to termination but not previously invoiced; and (vi) refund to University within thirty days of termination any payments made by University to Contractor for goods not delivered or services not rendered by Contractor and any pre-payments made by University to Contractor for services that would have been obligated to perform after the termination date if this Contract had not been terminated.
- (h) University Termination Duties. Unless stated otherwise in this Contract, University shall upon termination of this Contract pay to Contractor undisputed invoices for goods and services provided prior to the termination of this Contract unless University is prohibited from doing so by the Iowa legislature, federal government or sponsoring entity. University shall have no obligation to pay future amounts due under this Contract.
- (i) Surviving Provisions. The terms of this Agreement that, by their nature, would continue beyond the termination of this Agreement will survive termination.

11. Indemnification. Contractor shall indemnify and hold harmless University, the Board of Regents-State of Iowa, the State of Iowa and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to legal fees, arising out of or resulting from:

- (a) The material non-performance, non-compliance or breach of the terms of this Contract;
- (b) Any negligent or wrongful act or omission of Contractor or its subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable; or
- (c) Any infringement by Contractor of a copyright, trademark, patent or other intellectual property right.

Contractor's indemnification obligation will not be limited by the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under workers' compensation, disability benefits or other employee benefit acts.

12. Governmental Immunity. The Iowa Tort Claims Act, Iowa Code Chapter 669, limits the liability of University, the Board of Regents-State of Iowa, the State of Iowa (collectively, the "State Entities") and their officers, employees and agents. In addition, Article VII, Section 1 of the Constitution of the State of Iowa prohibits State Entities from being responsible for the debts or liabilities of any individual, association or corporation. Any provision in this Contract will be deemed modified to limit the liability of the State Entities and their officers, employees and agents as set forth in these laws. University reserves any immunities, defenses or other limitations on liability to which University is entitled by law.

13. Force Majeure. If a Force Majeure Event prevents a party from complying with an obligation under this Contract, the inability to comply will not constitute a breach of this Contract. "**Force Majeure Event**" means an event beyond the reasonable control of the party and incapable of being avoided by the party through the exercise of reasonable care. "Force Majeure Event" specifically excludes increases in prices, changes in economic conditions, financial difficulties of the party, strikes or labor unrest within the party's workforce or delay or failures to perform by the party's subcontractor unless the subcontractor's delay or failure is caused by a Force Majeure Event. If a Force Majeure Event occurs, the noncomplying party shall promptly notify the other party of the Force Majeure Event, its effect on the party's performance, and how long the noncomplying party expects it to last. The noncomplying

party shall update that information as reasonably necessary. During a Force Majeure Event, the noncomplying party shall use reasonable efforts to limit damages to the other party and to resume its performance under this Contract. If Contractor's performance is delayed more than thirty days, then University may terminate this Contract by giving notice to Contractor.

14. Assignment. Except with the prior consent of University, Contractor shall not assign, convey or transfer this Contract or any rights, obligations or remedies in this Contract. If Contractor fails to comply with this section or sells its business to a third party, University may immediately terminate this Contract by giving notice to Contractor.
15. Subcontractors. University acknowledges Contractor may wish to contract with a subcontractor for the performance of some of Contractor's obligations under this Contract. If Contractor did not previously identify the subcontractor in a proposal submitted by Contractor to University in connection with this Contract, Contractor must obtain written approval from University prior to the subcontractor starting work for this Contract. Contractor shall enter into a contract with the subcontractor that contains provisions preserving the rights of University and requiring the subcontractor to perform its work in compliance with this Contract. Contractor shall remain responsible for goods delivered and services performed under this Contract and for the acts and omissions of the subcontractor. Contractor shall be responsible for payment to its subcontractors.
16. Targeted Small Business. University encourages Contractor to use certified Iowa Targeted Small Businesses in the performance of this Contract. If requested by University, Contractor shall submit to University a report at the completion of this Contract indicating the extent of Targeted Small Business participation.
17. Responsibility for Those Performing the Work. Contractor shall be responsible for the acts and omissions of Contractor's employees and subcontractors, their agents and employees, and all other persons under contract with Contractor, while performing the duties and responsibilities associated with this Contract. Contractor shall enforce strict discipline and good order and shall not assign to perform work on this Contract any unfit or incompetent person. Contractor shall remove incompetent or incorrigible individuals from working on this Contract, including individuals identified by University. Contractor shall not re-assign a removed individual to work on this Contract without the prior written consent of University.
18. Entire Contract. This Contract is the entire contract between the parties. Unless otherwise specified in this Contract, this Contract supersedes all prior contracts or agreements between University and Contractor for the goods and services provided in this Contract.
19. Amendments. No modification of this Contract will be effective unless it is in writing and signed by the parties.
20. Severability. If a court determines a provision of this Contract is unenforceable, the provision shall be amended to the minimum extent necessary to render it enforceable. If such amendment is not possible, then the provision shall be disregarded and the remainder of this Contract shall remain in effect. If, however, amending or disregarding the provision deprives a party of a material benefit intended to be conferred by this Contract, then this Contract shall be deemed terminated.
21. Governing Law. The law of the State of Iowa, without giving effect to its conflict of law rules, governs all adversarial proceedings brought by one party against the other party arising from this Contract. The parties shall institute adversarial proceedings in a court of competent jurisdiction in the State of Iowa.
22. Cumulative Remedies; Failure to Enforce. Except as otherwise stated in this Contract, the remedies provided in this Contract are in addition to any other remedies a party may have at law or in equity. A failure by University to enforce an obligation or exercise a right or remedy under this Contract will not preclude University from enforcing the obligation or exercising the right or remedy on other occasions.

23. Non-Exclusive. This Contract is not exclusive. University may select other contractors to provide goods or services similar or identical to the goods or services provided by Contractor to University, and Contractor may provide to other clients goods and services similar or identical to the goods or services provided by Contractor to University.
24. Relationship of Parties. The parties are independent contractors. This Contract does not create a partnership, franchise, joint venture, agency, or fiduciary or employment relationship between the parties. There are no third-party beneficiaries to this Contract.
25. Use of Name or Intellectual Property. Contractor shall not use the name, trademarks, service marks or logos of University or the name of any University employees in any publicity, advertisement or endorsement or as a business reference without the prior written consent of University.
26. University Property. All materials, tools, plans designs, specifications, equipment and other property provided by University to Contractor in connection with this Contract remains the property of University (“**University Property**”). Contractor shall safely store and properly maintain University Property and shall only use University Property as necessary to perform its obligations under this Contract. Contractor shall return University Property to University (or its designee) as set forth in this Contract in the condition in which Contractor received it except for reasonable wear and tear unless the University Property has been incorporated into the goods or services procured by University from Contractor or has been consumed in the performance of Contractor’s work under this Contract.
27. Access to Contractor Records/Audits. Contractor shall retain all records relating to this Contract during the term of this Contract and for a period of seven years after the termination of this Contract unless legally required to retain for a longer period. Contractor shall make the records available at all reasonable times for inspection and audit by University, the Auditor of the State of Iowa or any other auditor or representative University deems appropriate. If an inspection or audit discloses incorrect billings or improprieties, University may charge Contractor for the cost of the inspection or audit and pursue appropriate reimbursement.
28. Cooperation with Sponsor Requirements. If University is using funds received from the federal government or other sponsoring entity to procure the goods and services in this Contract, University may need information, documentation, certifications and similar items from Contractor or may need to permit a representative of the federal government or sponsoring entity to access Contractor’s facilities in order to fulfill University’s obligations to the federal government or sponsoring entity. If requested to provide these items or access, Contractor shall timely provide the items and access.
29. Notice. All notices under this Contract shall be in writing and shall be deemed to have been given: (i) upon hand delivery; (ii) the next business day after sending by a nationally recognized overnight carrier with written confirmation of receipt or (iii) if sent by email, when the recipient acknowledges having received the email. Both parties shall address notices to the contract administrator of the other party.
30. Electronic Signatures. The parties consent to the use of electronic signatures in connection with the signing of this Contract. The parties agree the electronic signatures shall be legally binding with the same force and effect as manually executed signatures if they are made using a technology designed for electronic signatures (e.g., DocuSign).