

STANDARD UT DALLAS TERMS AND CONDITIONS

Unless otherwise specified in a fully executed Agreement, acceptance by a Counterparty of payment, work(s), and/or services from UTD constitutes acceptance by that Counterparty of the following Terms and Conditions:

1. FEES, PAYMENT

- The University of Texas at Dallas (“UTD”), a Texas state agency and component institution of higher education of the University of Texas System, is exempt from Texas Sales & Use Tax on goods and services in accordance with **§151.309, Tax Code**, and **Title 34 Texas Administrative Code §3.322**. UTD is not required to provide a tax exemption certificate to establish its tax-exempt status.
- Subject to and in accordance with Chapter 2251, Government Code, UTD will pay Counterparty Fees and Expenses, if any, only as specified in the underlying Agreement, **no later than thirty (30) days** after the later of;
 - 1) performance of the Services; or
 - 2) receipt of invoice and travel receipts.
- In accordance with **§51.012, Education Code**, at UTD’s option, Counterparty will receive payments from UTD through electronic funds transfer methods.
 - Counterparty is therefore required to provide Counterparty’s bank information in writing on Counterparty letterhead signed by an authorized representative of Counterparty.
 - UTD will confirm Counterparty’s bank information before the first payment.
 - Changes to Counterparty’s bank information must be communicated 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 Counterparty.

2. WARRANTIES AND REPRESENTATIONS

a) COMPLIANCE WITH LAWS AND UTD POLICY:

- Counterparty and its agents (including officers’ employees, representatives and permitted subcontractors) (*collectively referred to as “**Counterparty**”*) commit to compliance with all applicable federal, state and local laws, and the **Rules and Regulations of the Board of Regents of University of Texas**, and the policies of UTD for services performed on UTD premises.
 - Rules:* <http://www.utsystem.edu/bor/rules/>
 - Policies:* <http://www.utsystem.edu/bor/procedures/policy/>
- Counterparty represents that neither Counterparty, nor anyone acting for or represented by Counterparty, has; 1) violated the antitrust laws of the State of Texas (ref. Chapter 15, Business and Commerce Code), or federal antitrust laws.

b) ETHICS MATTERS; NO FINANCIAL INTEREST:

- Counterparty certifies that they have read, understand, and shall abide by the following UTD Policies:
 - Conflicts of Interest Policy: <http://www.utsystem.edu/board-of-regents/policy-library/policies/uts180-conflicts-interest-commitment-outside-activities>,
 - Standards of Conduct Guide: : <https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide>,
 - Texas state ethics laws and rules: <https://www.utsystem.edu/offices/systemwide-compliance/ethics>.
- Further, Counterparty shall not assist or cause UTD, Regents, officers, employees, agents or representatives (“*UTD Parties*”) to violate Ethics Guidance.
- Additionally, Counterparty represents and warrants that any direct or indirect financial interest by Counterparty or related personnel in the underlying Agreement between Counterparty and UTD, has been fully disclosed per UTD Policies above.

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3. CONFIDENTIALITY AND SAFEGUARDING OF UTD RECORDS; PRESS RELEASES; PUBLIC INFORMATION

- Unless specified in the underlying Agreement, Counterparty may not (1) create, (2) receive from or on behalf of UTD ("UTD"), or (3) have access to, records or record systems ("UTD Records").
- UTD will not provide to Counterparty, and Counterparty shall never seek to access, any UTD Records that contain personally identifiable information regarding any individual that is not available to any requestor under the Texas Public Information Act ("TPIA"), Chapter 552, Government Code, including "directory information" of any student who has opted to prohibit the release of their "directory information" as that term is defined under the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations.
 - a) **PRESS RELEASES:**
Counterparty shall not make any press releases, public statements, or advertisement referring to the engagement of Counterparty and UTD, or release any information regarding UTD for publication, advertisement or any other purpose without the prior written approval of UTD.
 - b) **TEXAS PUBLIC INFORMATION ACT ("TPIA"):**
Counterparty shall, at no charge to UTD, provide any information created or exchanged with UTD (not otherwise exempt from disclosure under TPIA) available in accordance with Texas Government Code §552.002 and §2252.907.

4. TRANSFER PROHIBITED

- Counterparty's interest in the underlying Agreement may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, without the express written consent of UTD.

5. INSURANCE AND LIABILITY

- a) It is the stated policy of the State of Texas not to acquire commercial general liability insurance for torts committed by employees of the state who are acting within the scope of their employment. Rather, third parties must look to the Texas Tort Claims Act for relief with respect to property damage, personal injury, and death proximately caused by the wrongful act or omission or negligence of an employee acting within his scope of employment.
- b) Employees of The University of Texas System are provided Worker's Compensation coverage under a self-insuring, self-managed program as authorized by Chapter 503, Texas Labor Code.
- c) COUNTERPARTY ACKNOWLEDGES AND UNDERSTANDS THAT UTD DOES NOT MAINTAIN AND WILL NOT OBTAIN INSURANCE OF ANY TYPE TO PROTECT COUNTERPARTY AGAINST ANY LOSS, DAMAGE OR INJURY THAT MAY IN ANY WAY RESULT FROM COUNTERPARTY'S PERFORMANCE OF THE SERVICES. COUNTERPARTY HEREBY RELEASES UTD PARTIES FROM ANY AND ALL LIABILITY FOR ANY LOSS, DAMAGE, INJURY OR COSTS RELATING TO UTD'S PERFORMANCE, INCLUDING THE USE OR FITNESS FOR ANY PURPOSE OF UTD'S PERFORMANCE.

6. INDEMNITY

- COUNTERPARTY SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND UTD PARTIES, FROM AND AGAINST ALL LIABILITIES, DAMAGES, CLAIMS, DEMANDS, ACTIONS (LEGAL OR EQUITABLE), AND COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING CLAIMS), OF ANY KIND OR NATURE, ARISING FROM COUNTERPARTY'S PERFORMANCE OF THE SERVICES THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION, OR WILLFUL MISCONDUCT, OF COUNTERPARTY OR ANY COUNTERPARTY PARTIES FOR WHOSE ACTS COUNTERPARTY MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. UTD WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL IT SELECTS AT ITS OWN EXPENSE. IN ADDITION, COUNTERPARTY WILL INDEMNIFY, HOLD HARMLESS AND DEFEND UTD PARTIES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT TO THE AGREEMENT, SHALL BE CONSTRUED, INTERPRETED AND APPLIED IN ACCORDANCE WITH, GOVERNED BY AND ENFORCED UNDER, THE LAWS OF THE STATE OF TEXAS.

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7. MISCELLANEOUS

a) VENUE:

Collin County, Texas, will be the proper place of venue for suit on or in respect of the Agreement. The Agreement, all of its terms and conditions, all rights and obligations of the parties, and all claims arising out of or relating to the Agreement, will be construed, interpreted and applied in accordance with, governed by and enforced under, the laws of the State of Texas.

b) BREACH OF CONTRACT CLAIMS:

To the extent that Chapter 2260, Government Code, is applicable to the Agreement and not preempted by other applicable law, the Chapter 2260 dispute resolution process, shall be used by UTD and Counterparty to attempt to resolve any breach of contract claim made by Counterparty that cannot be resolved in the ordinary course of business. The chief business officer of UTD shall examine the claim, and any counterclaim, and negotiate with Counterparty in an effort to resolve those claims. Neither the execution of the Agreement, nor any other conduct, action or inaction of any UTD Party relating to the Agreement constitutes or is intended to constitute a waiver of UTD's or the state's sovereign immunity to suit. UTD has not and does not waive its right to seek redress in the courts.

c) PAYMENT OF DEBT OR DELINQUENCY TO THE STATE.

Pursuant to Sections 2107.008 and 2252.903, Government Code, Counterparty agrees that any payments owing to Counterparty under the Agreement may be applied directly to any debt or delinquency that Counterparty owes the State of Texas or any Texas agency, regardless of when the debt or delinquency arises, until paid in full.

d) CHILD SUPPORT CERTIFICATION.

Pursuant to §231.006, Family Code, Counterparty certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

e) STATEMENTS AND BOND.

If Services are performed on UTD premises, Counterparty shall upon UTD's prior written request provide financial statements, payment statements derived from sales tax reports, bonds and all requirements of Subchapter C, Chapter 2252, Government Code.

f) TEXAS STATE AUDITOR'S OFFICE (AUDITOR):

Acceptance of funds from UTD constitutes acceptance of authority of Auditor, to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), Education Code. Counterparty agrees to cooperate with Auditor in the conduct of an audit or investigation, including providing all records requested. Counterparty shall include this provision in all contracts with permitted subcontractors.

g) CRIMINAL BACKGROUND CHECK.

If requested by UTD, Counterparty shall submit to a criminal background check ("**CBC**"). UTD shall bear the expense of the CBC. The CBC may include verification of Counterparty's addresses and tax identification number. If requested by UTD, Counterparty shall provide information and documents for CBC submission. If Counterparty fails to timely submit the information or documents after request by UTD, UTD may refuse services and/or terminate any Agreement without liability.