****

**Information Technology**

**Purchase Agreement # ­­­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_**

This Agreement to furnish certain “Goods and Services,” is made by and between The Regents of the University of California, a California public corporation (“UC”) on behalf of the University of California, **Irvine,** and ENTER SUPPLIER/COMPANY NAME (“Supplier”). This Agreement is binding only if it is negotiated and executed by an authorized representative with the proper delegation of authority.

# Statement of Work

Supplier agrees to provide Enter general description of the goods/services (the “Goods and Services”) as more fully described in the Information Technology Statement of Work Attachment referencing this Agreement number, and the Incorporated Documents, at the prices set forth therein. Unless otherwise provided in the Agreement, UC will not be obligated to purchase a minimum amount of Goods and/or Services from Supplier.

# Term of Agreement/Termination

a) The term of the Agreement will be from enter beginning dateand through enter ending dateand is subject to earlier termination as provided below. It may be extended upon the agreement of the parties.

b) UC may terminate the Agreement for convenience by giving Supplier at least **30** calendar days' written notice.

c) UC or Supplier may terminate the Agreement for cause by giving the other party at least **15** days' notice to cure a breach of the Agreement (Cure Period). If the breaching party fails to cure the breach within the Cure Period, the non-breaching party may immediately terminate the Agreement.

# Purchase Order; Advance Payments

Unless otherwise provided in the Agreement, Supplier may not begin providing Goods and/or Services until UC approves a Purchase Order for the Goods and/or Services. UC does not make payments in advance of the completion of delivery of Goods and Services.

# Invoicing Method, Settlement Method and Terms

Invoicing Method

Notwithstanding the provisions of Article 3 of the Terms and Conditions of Purchase (T&C’s), Supplier will be required to use the following Invoicing Method:

All invoices must clearly indicate the following information:

California sales tax as a separate line item;

Shipping costs as a separate line item;

UC Purchase Order or Release Number;

Description, quantity, catalog number and manufacturer number of the item ordered;

Net cost of each item;

Any pay/earned/dynamic discount;

Reference to original order number for all credit memos issued;

Settlement Method and Terms

Notwithstanding the provisions of Article 3 of the Terms and Conditions of Purchase, the Settlement Method and Terms will be as follows: **NET 30**

# Notices

As provided in the UC Terms and Conditions of Purchase, notices may be given by email, which will be considered legal notice only if such communications include the following text in the Subject field: FORMAL LEGAL NOTICE – [insert, as the case may be, Supplier name or University of California]. If a physical format notice is required, it must be sent by overnight delivery or by certified mail with return receipt requested, at the addresses specified below.

To UC, regarding confirmed or suspected Breaches as defined under Appendix – Data Security:

|  |  |
| --- | --- |
| **Name** | Josh Drummond |
| **Phone** | (949) 824-9574 |
| **Email** | jdrummon@uci.edu |
| **Address** | UCI, Office of Information Technology, Irvine, CA 92697-1175 |

To UC, regarding Breaches or Security Incidents as defined under Appendix – Business Associate:

|  |  |
| --- | --- |
| **Name** | Systemwide Privacy Official |
| **Address** | 1111 Franklin Street, Oakland, CA 94607 |

To UC, regarding contract issues not addressed above:

|  |  |
| --- | --- |
| **Name & Title** | Enter UC contact name and title. |
| **Department** | Enter UC department name. |
| **Phone** | Enter UC contact phone. |
| **Email** | Enter UC contact email. |
| **Address** | Enter UC contact address. |

To Supplier:

|  |  |
| --- | --- |
| **Name & Title** | Enter Supplier contact name and title. |
| **Company** | Enter Supplier company name. |
| **Phone** | Enter Supplier contact phone. |
| **Email** | Enter Supplier contact email. |
| **Address** | Enter Supplier contact address. |

# Intellectual Property, Copyright and Patents (see UC Terms and Conditions, Article 7)

The Goods and Services **do** involve Work Made for Hire.

The Goods and Services **do not** involve Work Made for Hire.

# Patient Protection and Affordable Care Act (see UC Terms and Conditions, Article 23)

This Agreement **does** involve temporary or supplementary staffing; Supplier acknowledges the PPACA warranties in Article 23 of the UC Terms and Conditions.

This Agreement **does not** involve temporary or supplementary staffing, Supplier is not subject to the PPACA warranties in Article 23 of the UC Terms and Conditions.

# Prevailing Wages (see UC Terms and Conditions, Article 24)

This Agreement involves a Public Works project. Supplier **is** required to pay prevailing wages when providing the Services.

This Agreement does not involve a Public Works project. Supplier **is not** required to pay prevailing wages when providing the Services.

# Fair Wage/Fair Work (see UC Terms and Conditions, Article 25)

Services will be performed:

on a UC campus or leased location. Supplier **shall** comply with UC Fair Wage/Fair Work policy when providing the Services. (see <https://www.ucop.edu/procurement-services/for-suppliers/fwfw-resources-suppliers.html>)

not on a UC campus or leased location. Supplier **does not** need to comply with UC Fair Wage/Fair Work policy when providing the Services.

# Federal Funding (see UC Terms and Conditions, Article 11)

The source of funds used to pay Supplier’s fees for this Agreement:

are from a federally-funded contract. The Contract Number is: Enter Contract Number or N/A

are from a federally funded by a grant or cooperative agreement. The grant or cooperative agreement number is: Enter Grant/Cooperative Agreement Number or N/A

Does not involve federal funding.

# Restriction Relating to Consulting Services or Similar Contracts – Follow-on Contracts

If the Goods and/or Services involve consulting services, Supplier understands and agrees that Supplier cannot later submit a bid or be considered for any contract work to perform “required, suggested, or otherwise deemed appropriate” service flowing out of the consultation Services from this Agreement (*see* Public Contract Code Section 10515).

# Insurance

Deliver the PDF version of the Certificate of Insurance to UC’s Buyer, by email with the following text in the Subject field: CERTIFICATE OF INSURANCE – ENTER SUPPLIER NAME.

# Records about Individuals

Records created pursuant to the Agreement that contain personal information about individuals (including statements made by or about individuals) may become subject to the California Information Practices Act of 1977, which includes a right of access by the subject individual. While ownership of confidential or personal information about individuals is subject to negotiated agreement between UC and Supplier, records will normally become UC’s property, and subject to state law and UC policies governing privacy and access to files. When collecting the information, Supplier must inform the individual that the record is being made, and the purpose of the record. Use of recording devices in discussions with employees is permitted only as specified in the Statement of Work.

# Incorporated Documents

The following “Incorporated Documents” are incorporated and made a part of the Agreement by reference as if fully set forth herein, listed in the order of precedence following the Agreement:

* 1. Information Technology Statement of Work Attachment
  2. UC Terms and Conditions of Purchase\*, dated **12/14/2021**

(\*UCTC available at https://www.ucop.edu/procurement-services/policies-forms/index.html)

* 1. University of California’s Appendix – Data Security & Privacy (“Appendix-DS”) \*\*\*
  2. University of California’s HIPAA Business Associate (“HIPAA-BAA”) \*\*\*
  3. University of California’s Appendix – General Data Protection Regulation (“GDPR”) \*\*\*
  4. Other (Specify): List other documents to be included.

**\*\*\*Dept – be sure to include your UISL’s review of the OIT Software Questionnaire or OIT Security’s Risk Assessment**

**as an attachment to the KFS requisition, so that Procurement can determine if additional Appendices are required.**

# Entire Agreement

This Agreement and the Incorporated Documents contain the entire agreement between the parties and supersede all prior written or oral communications or agreements with respect to the subject matter herein.

The Agreement is signed below by the parties’ duly authorized representatives.

**This Agreement can only be signed by an authorized representative with the proper delegation of authority.**

|  |  |
| --- | --- |
| **THE REGENTS OF THE**  **UNIVERSITY OF CALIFORNIA** | **ENTER SUPPLIER NAME** |
|  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature, Department Budgetary Officer Date | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature of Supplier and/or Company Representative Date |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name, Title  ( Check this box if your program **is** under the School of Medicine. If this box is unchecked, we will delete this extra signature block) | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name, Title |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature, School of Medicine/COHS Signatory Date |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name, Title  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature, Procurement Services Signatory Date |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name, Title |  |

**Once complete, please upload the Word version of this draft to your KFS requisition.**

**The assigned Team member will assist you with getting it ready for signatures.**

**Thank you.**

STATEMENT OF WORK ATTACHMENT

TO INFORMATION TECHNOLOGY PURCHASE AGREEMENT # \_\_\_\_\_\_\_\_\_\_

This Statement of Work # enter # of SOW (“SOW”) is issued pursuant to Purchase Agreement # \_\_\_\_\_\_\_\_\_\_ between UC and Supplier (“Agreement”).

# Description of the License/Subscription/Services

Provide describe the information technology license, program, subscription or other online services that the Supplier provides the UCI. If the Supplier’s product or solution has a specific title, please include that title but also describe what the product, software or solution does (i.e., what function it provides or performs).

# Term of SOW

This SOW will begin on enter beginning date (“Effective Date”)and continue through enter ending date (“Expiry Date”). This SOW may not be renewed or otherwise amended except through a Change Order pursuant to the Change Management section below.

1. **Scope of Agreement**
   1. If Supplier eliminates any functionality of any of the Goods and/or Services provided under this Agreement and subsequently offers that functionality in other or new products (whether directly or indirectly through agreement with a third party), then the portion of those other or new products that contain the functionality in question, or the entire product if the functionality cannot be separated out, will be provided to UC at no additional charge and under the terms of this Agreement, including technical support. If Supplier incorporates the functionality of the Goods and/or Services provided under this Agreement into a newer product and continues to offer both products, UC may, in its sole discretion, exercise the option to upgrade to the newer product at no additional cost. Regardless of whether the functionality of the Goods and/or Services is impacted, Supplier will notify UC of any name changes in any Goods and/or Services within the earlier of thirty (30) calendar days of such change or thirty (30) calendar daysof when UC asks whether Supplier has made any name changes in the Services.

UC and the users authorized by UC will have the right to access and use the Goods and/or Services at any location.

* 1. Supplier will be required to extend terms of this agreement to all UC locations. Supplier will make available to any UC location its improved pricing basis, terms or conditions resulting from increased usage or aggregation of activity by multiple UC locations. Any delay in payment or other operational issue involving one UC location will not adversely affect any other UC location. A separate Statement of Work may be negotiated between Supplier and the UC location prior to beginning services. Any amendments or material changes to the terms and conditions of this agreement should be coordinated with the originating UC location. All administrative issues (e.g. extensions, renewals, operational issues, fiduciary responsibility, payment issues, performance issues, liabilities and disputes) involving individual UC locations will be addressed, administered, and resolved by each UC location and the Supplier.

1. **Rights and License In and To UC Data**
   1. UC retains the right to use the Goods and/ or Services to access and retrieve Institutional Information (as defined in the UC Appendix – Data Security) stored on Supplier’s Services infrastructure at any time at UC’s sole discretion. If UC requests the Institutional Information from Supplier, Supplier will provide UC with copies within forty-eight (48) hours after receipt of a request from UC, and will cooperate with UC’s reasonable requests in connection with its response.
   2. Supplier will return all Institutional Information to UC in a commonly used, non-proprietary, and mutually agreed upon format.
2. **Service Levels**
   1. Supplier represents and warrants that the Goods and/or Services will be provided in a professional manner consistent with industry standards reasonably applicable to such Goods and/or Services.
   2. Supplier represents and warrants that the Goods and/or Services will be operational at least 99.99% of the time in any given month during the term of this Agreement, meaning that the outage or downtime percentage will be not more than .01%.
   3. If the Goods and/or Services’ availability falls below 99.99% in any month, Supplier will provide UC with a credit of that month’s bill for Goods and/or Services according to the table below.

|  |  |
| --- | --- |
| AVAILABILITY PERCENTAGE | PERCENTAGE OF CREDIT |
| 99.60% to 99.98% | 10% |
| 99.50% to 99.59% | 20% |
| 99.01% to 99.49% | 30% |
| 97.00% to 99.00% | 50% |
| 95.00% to 96.99% | 75% |
| Below 95.00% | 100% |

* 1. Supplier represents and warrants that ninety-five percent (95%) of all transactions will process within no more than one (1) second, and no single transaction will take longer than five (5) seconds to process.
  2. If UC has concerns regarding Supplier’s service levels, UC may escalate these concerns to the following resource: If Supplier’s system response times fall below the warranted level for two (2) or more consecutive weeks, Supplier will provide UC with a credit in the amount of twenty percent (20%) of the Goods and/or Services fees for that month. If Supplier’s system response times fall below the warranted level for six (6) out of eight (8) consecutive weeks, Supplier will be considered to be in default, and UC may terminate the Agreement without penalty.
  3. Supplier will provide UC with a refund for all unachieved service levels no later than the tenth (10th) business day of the month following the month in which the service levels was not achieved.
  4. Supplier will provide UC with monthly reports documenting its compliance with the service levels detailed herein. Reports will include, but not be limited to, providing the following information:
  5. Monthly Goods and/or Services availability by percent time, dates and minutes that Services were not available, and identification of months in which agreed upon service levels were not achieved;
  6. Average transaction processing time per week, the fastest and slowest individual transaction processing time per week, the percent of transactions processed that meet the service levels stated herein, and identification of weeks in which agreed upon service levels are not met.
  7. UC retains the right to retain a third party to validate Supplier’s performance in meeting agreed upon service levels.

1. **Technical Support**

During the term of this Agreement Supplier will provide UC with ongoing technical support for the Goods and/or Services at no less than the levels and in the manner(s) specified herein.

* 1. Supplier will provide UC with ninety (90) calendar days advance written notice of proposed product changes as well as product road maps relating to the Goods and/or Services provided to UC under this Agreement.
  2. Supplier may not withdraw technical support for any Goods and/or Services without twelve (12) months advance written notice to UC, and then only if Supplier is withdrawing technical support from all of its customers.
     1. UC acquires the right to access and use technical support acquired under this Agreement at any location.
     2. UC will receive at its option the general help desk technical support offered by Supplier to its other customers. Irrespective of Supplier’s general technical support offerings, Supplier will provide UC at UC’s option with the following technical support:
     3. Supplier will provide technical support to UC for the purpose of answering questions relating to the Goods and/or Services, including (a) clarification of functions and features of the Goods and/or Services; (b) clarification of any documentation; (c) guidance in the operation of the Goods and/or Services; and (d) error verification, analysis, and correction, including the failure to produce results in accordance with the Documentation.
     4. Such assistance will be provided by Supplier twenty-four (24) hours a day, seven (7) days a week via a toll-free telephone number and live, online chat staffed by help desk technicians sufficiently trained and experienced to identify and resolve most support issues and who will respond to all UC requests for support within fifteen (15) minutes after receiving a request for assistance.
     5. Supplier will provide a current list of persons and telephone numbers for UC to contact to enable UC to escalate its support requests for issues that cannot be resolved by a help desk technician or for circumstances where a help desk technician does not respond within the time specified herein.
  3. The following provisions will be applicable to the correction of Goods and/or Services errors:
     1. If UC detects what it considers to be an error in the Goods and/or Services which causes it not to conform to, or produce results in accordance with, the Documentation, then UC will by telephone or e-mail notify Supplier of the error.
     2. Supplier will respond within two (2) hours to UC’s initial request for assistance in correcting or creating a workaround for a Goods and/or Services error. Supplier’s response will include assigning fully-qualified technicians to work with UC to diagnose and correct or create a workaround for the Goods and/or Services error and notifying UC’s representative making the initial request for assistance of Supplier’s efforts, plans for resolution of the error, and estimated time required to resolve the error.
     3. Within twenty-four (24) hours after UC first reports the error, Supplier will provide a correction or workaround acceptable to UC.
  4. The following provisions will set forth Supplier’s obligations to provide Enhancements. "Enhancements" means any improvements, modifications, upgrades, updates, fixes, revisions and/or expansions to the Goods and/or Services that Supplier may develop or acquire and incorporate into its standard version of the Goods and/or Services or that Supplier has elected to make generally available to its licensees. Enhancements will include any re-platformed Software, whether for different operating systems or hardware:
     1. Supplier will generally enhance and improve the Goods and/or Services for as long as UC elects to receive and pays for the Goods and/or Services.
     2. Supplier will provide to UC during the Agreement term, (a) any and all Enhancements which it develops with respect to the Goods and/or Services; (b) any and all Enhancements required by federal or state governmental, or professional regulatory mandates related to UC’s use of the Goods and/or Services; and (c) the Documentation associated with any Enhancements.
     3. Supplier will provide Enhancements to UC upon their general release and no later than the time when the first five percent (5%) of Supplier's customers receive those Enhancements.
     4. Except as otherwise provided in a signed addendum to this Agreement, nothing herein will obligate Supplier to enhance the Goods and/or Services in any particular respect or on any particular date. The decision as to whether and/or when, to enhance the Goods and/or Services will be within Supplier’s discretion.

1. **Additional Warranties:**
2. Goods and/or Services Warranty. Supplier represents and warrants that the Goods and/ or Services provided to UC under this Agreement will conform to, be performed, function, and produce results substantially in accordance with any documentation. Supplier will offer UC warranty coverage equal to or greater than that offered by Supplier to any of its customers.
3. Third Party Warranties and Indemnities. Supplier will assign to UC all third party warranties and indemnities that Supplier receives in connection with any Goods and/ or Services provided to UC. To the extent that Supplier is not permitted to assign any warranties or indemnities through to UC, Supplier agrees to specifically identify and enforce those warranties and indemnities on behalf of UC to the extent Supplier is permitted to do so under the terms of the applicable Third Party agreements.
4. Date/Time Change Warranty. Supplier represents and warrants to UC that the Goods and/ or Services provided will accurately process date and time-based calculations under circumstances of change including, but not limited to: century changes, daylight saving time changes, leap year changes and leap second changes. Supplier must repair any date/time change defects at Supplier’s sole expense.

# Key Personnel

Supplier’s Account Manager is listed below, is subject to UC approval, and hasoverall responsibility for managing the UC/Supplier relationship:

|  |  |
| --- | --- |
| **Name & Title** | Enter Supplier Account Manager name and title. |
| **Company** | Enter Supplier Company name. |
| **Phone** | Enter Supplier phone number. |
| **Email** | Enter Supplier email. |
| **Address** | Enter Supplier address. |

Subcontractors authorized to provide Goods and/or Services under this SOW:

|  |  |
| --- | --- |
| **Name of Subcontractor** | **Goods and/or Services the Subcontractor will provide** |
| Enter Subcontractor name or N/A. | Enter Subcontractor’s services or N/A. |

UC’S Project Manager, responsible for acceptance/rejection of project results/deliverables, is:

|  |  |
| --- | --- |
| **Name & Title** | Enter UC Project Manager Name and Title. |
| **Department** | Enter UC Department Name. |
| **Phone** | Enter UC phone number. |
| **Email** | Enter UC email address. |
| **Address** | Enter UC address. |

# Report Requirements

Identify any key reports that should be produced by Supplier or any critical reporting events. This can be included in the table above if preferred. If none, enter “N/A”.

Supplier agrees to provide other reports as reasonably requested by UC during the Term of the Agreement and any extension(s) to the Term at no additional cost to UC.

# Pricing

Supplier shall provide all Goods or Services at the following fees/prices:

Include the rates, fees or other costs associtated with this purchase. If the supplier provided a quote or Order Form that includes pricing, you may submit that with this SOW.

# Changes to the Services

UC may desire to change the Goods and/or Services following execution of an SOW. If so, UC will submit a written Amendment to Supplier describing the changes in appropriate detail. If an Amendment does not require Supplier to incur any additional material costs or expenses, then Supplier will make the modification within ten (10) business days of Supplier’s receipt of UC’s Amendment. If an Amendment does require that Supplier incur additional material costs or expenses, then Supplier in good faith will provide UC with a written, high level, non-binding assessment of the costs and expenses and the time required to perform the modifications required by the Amendment, within ten (10) business days of Supplier’s receipt of UC’s Amendment. UC will notify Supplier in writing within ten (10) business days after receipt of Supplier’s response to the Amendment as to whether UC wishes Supplier to implement the Amendment based on the response. UC will compensate Supplier for implementation of an Amendment in accordance with the terms and conditions of the relevant Amendment and Supplier’s response to the Amendment, if any. Supplier’s implementation of an Amendment will not delay the performance of Services and/or the delivery of deliverables not reasonably affected by an Amendment.

# No Mandatory Use

Because there is no mandatory use policy at UC, nothing in this Statement of Work will be construed to prevent UC from entering into similar agreements with any third parties including, without limitation, suppliers that may be in competition with Supplier.

[END OF STATEMENT OF WORK]

**Once complete, please upload the Word version of this draft to your KFS requisition.**

**The assigned Team member will assist you with getting it ready for signatures.**

**Thank you.**