

University of North Texas System Purchase Order Terms and Conditions (PO T&Cs)

When the University of North Texas System or a component institution ("University") sends you a Purchase Order (PO), it incorporates the following terms and conditions:

ACCEPTANCE; CONTRACT DOCUMENTS

1. Vendor will be deemed to have accepted this PO when it (i) sends notice of acceptance in writing, (ii) starts to perform the services in accordance with the terms of this PO, (iii) delivers any or all of the goods covered by this PO, or (iv) accepts payment, whichever occurs first. University may withdraw this PO at any time before it is accepted by Vendor.
2. Any Proposal, Scope of Work, Quote, Bid, invoice, acknowledgement, or other document issued by Vendor in connection with this purchase will be for the purposes of describing in greater detail the goods and/or services (as applicable) to be provided and will not be considered to be Vendor's exceptions to these terms.
3. The University's failure to object to provisions contained in Vendor's documents shall not be deemed a waiver of the Terms and Conditions set forth herein. These Terms and Conditions shall constitute the entire terms of agreement between the parties, and any amendment thereof must be in a writing signed by University.
4. In the event of a conflict between these PO T&Cs and a separate contract entered into by the parties, the documents and provisions shall govern in the following order:
 - (a) first, any contract or agreement signed by both parties, and
 - (b) second, the general terms and conditions of these PO T&C's.

SHIPPING; DAMAGES FOR LATE DELIVERY; DEFECTIVE GOODS

5. Goods that are to be shipped shall be shipped F.O.B. destination unless otherwise specified by the University. Any shipments that are sent C.O.D. without the University's written consent will not be accepted and will be made at Vendor's risk.
6. Vendor shall promptly advise the University of any delay, or anticipated delay, in delivery or performance, and Vendor shall pay the University for any losses sustained or costs incurred by the University as a result of a late delivery or performance, unless otherwise agreed to by the parties in writing.
7. All goods shall be received subject to the University's right of inspection and rejection. Defective goods or goods not in accordance with the University's specifications will be held for Vendor's instruction at Vendor's risk and, if Vendor so directs, will be returned at Vendor's expense. If inspection discloses that part of the goods received are not in accordance with the University's specifications, the University shall have the right to a refund and to cancel any unshipped portion. University's payment for goods prior to inspection is without prejudice to any and all claims that the University may have against Vendor, including but not limited to warranty claims.

PAYMENT; ELECTRONIC FUNDS TRANSFER; TAX EXEMPT

8. Payment will be made net 30 days after receipt of goods/service and/or invoice, whichever is later. If, under the stipulations of the Prompt Payment Law found in Texas Government Code Chapter 2251, interest is determined to be due to the Vendor then the interest rate shall be in accordance with Chapter 2251 of the Texas Government Code. Vendor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur. Payment shall be made in U.S. dollars.
9. Vendor agrees to receive payment in electronic form (Automated Clearing House (ACH), Single Use Account (SUA), or Purchasing Credit Card (PCard)), and payments will be made in accordance with law. All invoices must reference a valid UNT System PO, and invoices and any required supporting documents must be submitted to Invoices@UNTSystem.edu.
10. University may adjust its payment to account for invoice errors, shortages, or defects in the good and/or service, or other failure of Vendor to meet the requirements of the PO.
11. University is exempt from the payment of taxes and can provide documentation confirming its tax-exempt status.

TERM; TERMINATION

12. The effective date of the PO shall be as stated in the PO; if no effective date is specified in the PO then the effective date will be the Purchase Order date.
13. University may at any time, upon written notice to Vendor, terminate this PO without cause. University will pay Vendor all reasonable costs incurred up to the date of termination, and University shall not be liable for any early termination charges. Under no circumstances will University pay Vendor for anticipatory or lost profits.
14. The Texas Constitution prohibits obligations beyond the current annual appropriations. This PO may be canceled in whole or in part, without further duty or obligation, at any time and without penalty if legislative and/or University funds are not appropriated beyond the current fiscal year (which is September 01 through August 31 of any given year) for the goods or services obligated on this PO.

WARRANTY

15. Vendor warrants that all equipment, goods, and services furnished are free from liens and encumbrances, and are free from defects in design, material, and workmanship. In addition, Vendor warrants the equipment, products, and services are suitable for and will perform in accordance with industry standards and the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the University in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the University. Vendor is responsible for the work done by its subcontractors and/or third parties.

PUBLICITY; CONFIDENTIALITY; PUBLIC INFORMATION

16. Vendor shall not do any publicity (including but not limited to advertisement(s), news release(s), and/or public announcement(s)) nor make any denial nor confirmation regarding any aspect of this PO (including but not limited to any goods, services, program, or other item or activity covered by the PO) without the University's prior written approval. Upon the University's request, or in any event, upon the completion, cancellation, or termination of this PO, Vendor shall return to the University all information or property identified as confidential or proprietary that was generated by Vendor pursuant to the performance of this PO and/or delivered to Vendor pursuant to the performance of this PO.
17. University shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to University in an electronic format.

INDEPENDENT CONTRACTOR; PROPERTY RIGHTS; MARKS

18. With respect to this PO and any goods and services provided hereunder, the Vendor is and shall be deemed to be an independent contractor and not an agent or employee of the University. Unless otherwise provided in writing by the parties, Vendor shall not have the authority to make any statement, representation, or commitment of any kind, or take any action which shall be binding on the University.
19. Vendor agrees that all writings or other materials produced by Vendor, and/or Vendor's employees or agents, relating to the work under this PO shall be deemed "works made for hire" as that term is defined in the U.S. Copyright Act, that all rights thereto shall be owned by the University, and that Vendor shall not assert any claim thereto. In the event works are not considered "works made for hire" as that term is defined in the U.S. Copyright Act, Vendor assigns any and all intellectual property rights, including but not limited to copyrights to any such works, to University, and Vendor agrees to execute any documentation necessary to effect this assignment.
20. Nothing in this PO constitutes a license to use the name or marks of the University. Any use of the University name or marks requires the express written permission of the University.

REQUIRED POSTING OF CONTRACTS TO WEBSITE

21. Vendor acknowledges and agrees that University is required by Section 2261.253 of the Texas Government Code to post each contract it enters into for the purchase of goods or services from a private vendor on its Internet website, including any terms and conditions otherwise marked confidential and/or proprietary.

ON-CAMPUS INSURANCE REQUIREMENTS & RULES

22. If this PO requires the presence of Vendor's employees, agents, subcontractors or suppliers on University premises, Vendor agrees to maintain and to cause its agents, subcontractors, or suppliers to maintain the following insurance coverages for at least the following specified limits:
- (a) Workers' Compensation: Statutory Limits
 - (b) Employer's Liability limits of \$1,000,000 per accident and employee;
 - (c) Commercial General Liability (including contractual liability): \$1,000,000 per occurrence, \$2,000,000 aggregate;
 - (d) Product/Completed Ops: \$1,000,000 aggregate;
 - (e) Auto Liability: \$1,000,000 combined single limit.

All policies (except Workers' Compensation) shall name the University as an Additional Insured. All policies must be written on a primary basis; non-contributory with any other insurance coverage and/or self-insurance carried by the University. A Waiver of Subrogation Clause in favor of the University is required on all policies. Vendor may not void, suspend, cancel or reduce coverage or limits noted in this section, except after a thirty (30) day written notice is provided to University. Certificates of insurance verifying the foregoing requirements shall be provided to the University prior to commencement of any services under this PO.

23. If this PO requires the presence of Vendor's employees, agents, subcontractors or suppliers on University premises, Vendor shall cause such parties to comply with all applicable rules of the University, including without limitation those relative to environmental quality, safety, and fire protection.

NO ASSIGNMENT

24. Vendor may not assign, transfer, or subcontract this PO or any rights or obligations hereunder without the University's prior written consent. Any purported assignment, transfer or subcontract shall be void and ineffective.

NON-WAIVER

25. The University's failure to insist on Vendor's strict performance of the terms and conditions of this PO shall not be construed as a waiver by University of performance in the future.

ACCESS TO INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION OR STUDENT INFORMATION

26. Vendor agrees to comply with all applicable data privacy requirements. If Vendor is a business associate as that term is defined under the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), then Vendor agrees to execute the University Business Associate Agreement. If Vendor has access to, or will have access to, students' educational records, Vendor shall limit its employees' access to the records to those persons for whom access is essential to the performance of this PO. Vendor shall, at all times and in all respects, comply with the terms of the Family Educational Rights and Privacy Act of 1974, as amended.

INDEMNIFICATION

27. Vendor agrees to indemnify and hold harmless the University, its Regents, employees, and agents from any claim, damage, liability, injury, expense or loss (including attorney's fees) arising out of Vendor's performance, direct or indirect, under this PO. Indemnification shall survive termination. In addition, Vendor warrants the material purchased hereunder does not infringe any letters patent granted by the United States and Vendor shall defend, indemnify and hold harmless the University, its Regents, employees and agents from and against all claims arising from infringement or alleged infringement of any patent, copyright, trademark or other intellectual property rights of a third party arising out of, in connection with, or resulting from this PO or the goods and/or services provided through this PO.
28. Vendor shall, at its own expense, defend any suit or proceeding brought against University based on any claim that any good manufactured by Vendor and furnished pursuant to this PO infringes a United States patent. In the event such good is held to constitute such an infringement and its use is enjoined as a result of any such suit or proceeding, Vendor shall, at its expense and sole option, either: (1) procure for University the right to continue using the good; or (2) modify the good so that it becomes non-infringing; or (3) replace the good with a non-infringing good; or (4) remove the good and refund the purchase price, less reasonable depreciation.

HAZARDOUS MATERIALS

29. The Texas Hazard Communication Act (Chapter 502 of the Texas Health and Safety Code) requires chemical manufacturers and distributors to provide Safety Data Sheets (SDS's) for hazardous materials sold. Products covered by this Act must either be accompanied by an SDS or, if the SDS is sent separately, direct the SDS to the University safety office and reference the PO number. Such products must be labeled in compliance with the law. If the product is not covered under the Act, a statement of exemption must be provided.

GOVERNING LAW; VENUE; LIMITATIONS

30. This PO shall be construed and enforced under and in accordance with the laws of the State of Texas, U.S.A., without regard to principles of conflict of law and excluding the provisions of the CISG. The parties expressly opt out of the CISG. State and federal courts of proper jurisdiction and venue sitting in Texas shall have exclusive jurisdiction over any claim arising out of this PO and each party consents to the exclusive jurisdiction of such courts. Venue for any suit filed against University shall be subject to § 105.151 of the Texas Education Code.
31. University is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions which may include those terms and conditions relating to: liens on University property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will not be binding on University, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

FORCE MAJEURE

32. Neither party shall be liable for delay in the performance of its obligations and responsibilities due to causes beyond its control such as, but not limited to, war, embargo, national emergency, insurrection or riots, pandemic or epidemic, government instruction or order, acts of the public enemy, fire, flood, or other natural disaster, provided that said party has taken reasonable measures to notify the other party, in writing, of the delay. Failure of subcontractors and the inability to obtain materials shall not be considered an excusable delay. If due to such cause, Vendor should be unable to meet all of its delivery commitments for items ordered hereunder as they become due, Vendor shall not discriminate against the University or in favor of any other customer in making deliveries of such items. However, if the University

believes that the delay or anticipated delay in Vendor's deliveries may impair its ability to meet its production schedules or may otherwise interfere with its operation, the University may, at its option and without liability to Vendor, cancel outstanding deliveries hereunder wholly or in part.

BREACH OF CONTRACT CLAIMS AGAINST UNIVERSITY

33. Chapter 2260 of the Texas Government Code establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260 of the Texas Government Code is applicable to this PO 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, shall be used by the parties to attempt to resolve any claim for breach of contract against University that cannot be resolved in the ordinary course of business.

BANKRUPTCY FILING

34. In the event (i) of a voluntary or involuntary filing of bankruptcy by or against Vendor or (ii) a receiver or trustee is appointed for all or substantially all of the property or assets of Vendor or (iii) Vendor makes a general assignment for the benefit of creditors, then University shall be entitled to cancel any unfilled part of this PO without any liability whatsoever on the part of University.

INFORMATION TECHNOLOGY

35. The terms in Attachment B, which is attached hereto and incorporated herein by reference, apply as necessary to the purchase of any goods or services.

SEVERABILITY

36. The provisions of this PO are separate and divisible, and if any court determines any provision of this PO to be void and/or unenforceable the remaining provision or provisions shall remain. In addition, the invalid or unenforceable provision shall be modified so as to conform to the greatest extent possible to the original intent of such provision.

STATE LAW VERIFICATIONS

37. If this PO is subject to Texas Government Code Section 2271.002 then Vendor hereby represents, verifies, and warrants that it does not boycott Israel and will not boycott Israel during the term of the PO. If this PO is subject to Texas Government Code Section 2274.002 then Vendor hereby represents, verifies, and warrants that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not discriminate against a firearm entity or firearm trade association during the term of the PO. If this PO is subject to Texas Government Code Section 2276.002 then Vendor hereby represents, verifies, and warrants that it does not boycott energy companies, and it will not boycott energy companies during the term of the PO.

UNIVERSITY RIGHT TO AUDIT; STATE AUDITOR RIGHT TO AUDIT

38. At any time during the term of this PO and for a period as required by law, the State of Texas, the University, and other federal, state, and local agencies may have jurisdiction over this PO, and may have the right to audit Vendor's records and books as relate to this PO.
39. Vendor, upon prior reasonable notice to Vendor, will provide to University, during normal business hours and for a reasonable period of time, access to and the right to examine and photocopy Vendor records, papers, books, and documents relating to this PO.
40. Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the PO or indirectly through a subcontract under the PO. Acceptance of funds directly under the PO or indirectly through a subcontract under the PO acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
41. In the event any audit reveals any errors/overpayments by University, Vendor shall refund the University the full amount of such overpayments within thirty (30) days of such audit findings or the University, at its option, may deduct such amounts owing the University from any payments due to Vendor. If needed for an audit, original or independently certified copies of off-site records will be provided to auditors at Vendor's expense within two (2) weeks of written request.

COMPLIANCE WITH LAW AND UNIVERSITY RULES

42. All services performed, work accomplished and/or equipment provided by Vendor will comply with and will be performed in accordance with applicable sections of the NFPA Life Safety Code 101 as required by Title 28, Part 1, Chapter 34, Subchapter C, Rule 34.303 of the Texas Administrative Code, the current National Electrical Code, OSHA standards, current ANSI standards and applicable Texas state and federal statutes. Vendors providing a venue for a

University special event, a summer camp, or other University sponsored function shall provide proof of compliance with local fire codes applicable to the venue within one year preceding the scheduled event.

43. Vendor warrants that, as of the date of this PO, any and all goods furnished by Vendor or services performed by Vendor under the provisions of this PO comply with federal, state, and local laws and regulations of the United States applicable to such goods and provision of such services by Vendor, and Vendor shall continue to comply with any amendments thereto which may come into effect prior to the time such goods are furnished or services are performed.

U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY PROGRAM

44. If this PO is for services then, as a condition to the contract, Vendor shall utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:
- (a) all persons employed during the contract term to perform duties within Texas; and
 - (b) all persons (including subcontractors) assigned by the Vendor to perform work pursuant to the PO. Acceptance of this PO certifies compliance with the E Verify Program. If this certification is falsely made, the services may be terminated immediately without prior notification to Vendor nor liability and/or penalty to University. Vendor shall be responsible for any costs incurred by University to replace the terminated services.

EXPORT LAWS

45. Notwithstanding any provision of this PO, any obligation of Vendor hereunder to provide hardware, software, deliverable data, other technical information or services, or access to the University's facilities to its employees, representatives, consultants or agents shall be subject to applicable Export Laws.

REPRESENTATIONS & CERTIFICATIONS

46. Vendor represents and warrants it is fully informed concerning, and in full compliance with, its obligations, if any, under the following:

- (1) Equal Employment Opportunities provisions of the Civil Rights Act of 1964, as amended;
- (2) Executive Order 11701, as amended;
- (3) Executive Order 11246, as amended;
- (4) Rehabilitation Act of 1973, as implemented by 41 CFR 60-741, as amended;
- (5) Vietnam Era Veterans Readjustment Act of 1974 as implemented by 41 CFR 60-300, as amended; and
- (6) Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended.

47. Vendor represents and warrants that:

- (a) if Vendor is a corporation or a limited liability company, it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas.
- (b) if Vendor is a corporation or a limited liability company, (i) it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code or (ii) the corporation or limited liability company is exempt from the payment of Franchise taxes or (iii) the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable, and that if this certification is false or inaccurate the University may, at its option, terminate this PO and withhold payment.
- (c) (i) in accordance with Section 2155.004 of the Texas Government Code, the individual or business entity named in this PO is not ineligible to receive the award of or payment under this PO and (ii) Vendor certifies that it does not employ, and will not employ, a former University officer or employee in violation of Texas Government Code section 572.069. Vendor acknowledges that this PO may be terminated and payment may be withheld if this certification is inaccurate.
- (d) pursuant to Section 403.055(h) of the Texas Government Code, any payments owing to Vendor under this PO may be applied to any debt or delinquent tax(es) that Vendor owes the State of Texas until such debt and/or delinquent tax(es) are paid in full.
- (e) under Section 231.006 of the Texas Family Code, a child support obligator who is more than 30 days delinquent in paying child support is ineligible to receive payment from state funds. Vendor certifies that Vendor is not a child support obligator who is more than 30 days delinquent in paying child support. Vendor acknowledges that this PO may be terminated and payment may be withheld if this certification is inaccurate.

48. Vendor certifies that neither it nor any of its Principals (officers, directors, owners, partners, key employees, principal investigators, researchers or management or supervisory personnel) is presently debarred, suspended, proposed for

debarment, declared ineligible or excluded from participation in this transaction or in any federal grant, benefit, contract or program (including but not limited to Medicare and Medicaid and Federal Health Care Programs) by any federal department or agency. (See Executive Orders 12549 and 12689, 45 CFR part 76, 48 CFR part 9; 42 USC sect. 1320a-7).

To the extent necessary to assure the accuracy of its certification, Vendor agrees to conduct searches of the List of Parties Excluded from Federal Procurement and Non-procurement Programs maintained by the General Services Administration (<http://epls.arnet.gov/>) and the List of Excluded Individuals and Entities maintained by the Department of Health and Human Services (<http://oig.hhs.gov>) prior to making its certification. Vendor acknowledges that the certification is a material representation of fact upon which the University is relying in entering into this transaction. Vendor agrees to provide immediate written notice to the University if it learns at any time that its certification was erroneous when submitted or if, during the term of this PO, it or any of its Principals, is debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in this transaction or in any federal grant, benefit, contract or program.

- (a) If subcontracting is permitted by this PO, Vendor agrees that it will include this clause, without modification, in all subcontracts and subprojects, and in all solicitations for subcontract and subproject proposals. Vendor agrees that debarment, suspension, proposed debarment or suspension, ineligibility or exclusion of Vendor, or any of its Principals or subcontractors, shall constitute cause for immediate termination of this PO by the University without liability or penalty to University.

FEDERAL COMPLIANCE TERMS

49. The terms in Attachment A, which is attached hereto and incorporated herein by reference, apply to the purchase of any goods and services by the University using federal funds. If Vendor is not aware of whether the funds are federal funds, then Vendor shall inquire with the University as to whether the funds are federal funds.

DEFICIT REDUCTION ACT OF 2005

50. The Vendor agrees to comply with the Deficit Reduction Act of 2005, which is required when an entity receives \$5,000,000 in Medicaid revenue. The following apply to medical supplies, equipment and services provided the Vendor:

- (a) **The False Claims Act (FCA):** The federal False Claims Act (FCA) imposes civil penalties on individuals and companies who knowingly submit a false claim or statement to a federally funded program, or otherwise conspire to defraud the government, in order to receive payment. The term 'knowingly' is defined as a person, with respect to information; that has actual knowledge that a claim is false; who deliberately ignores facts which may reveal the truth or false information; or recklessly disregards the need to check the truth or accuracy of the information. The FCA extends to any payment requested of the federal government. More specifically, the FCA applies to billing and claims sent from University to any government payor including, but not limited to, Medicare and Medicaid. Under the FCA any individual or company that submits a false claim or statement to the government may be fined between \$5,500 and \$11,000 for each such claim submitted, regardless of the size of the false claim. The person or company may also be required to pay an additional fine of three times the value of any charges. The FCA also includes provisions intended to protect individuals who report suspected fraud. The FCA also protects individuals from being retaliated against, demoted, suspended, threatened, or harassed for making a report or other lawful acts to stop false claims. The FCA protects individuals who assist in an investigation, provide testimony, or participate in the government's handling of a false claim.
- (b) **Qui Tam Lawsuit (Whistleblower):** The FCA provisions are generally enforced by the U.S. Department of Justice. Any person with knowledge of false claims to the government may initiate a formal complaint or 'qui tam' lawsuit on behalf of the government. The plaintiff must notify the U.S. Department of Justice of all information regarding the fraudulent activity. The Department of Justice may elect to prosecute, limit, settle or dismiss the case. If the Department of Justice declines and does not otherwise limit or settle the case, the individual may still proceed with the case on their own, unless the allegation involves a state agency, but without the government's assistance, and at their own expense. A private legal action under the FCA must be brought within six years from the date that the false claim was submitted to the government.
- (c) **The Program Fraud Civil Remedies Act (PFCRA):** In addition to penalties of the FCA, persons or companies that commit fraud against the federal government by false claim or statement, can be assessed administrative money penalties. Specifically, PFCRA penalties of \$5,500 per false claim or

statement apply if a person or company submits a claim to the federal government that: the person or company knows or has reason to know is false, fictitious, or fraudulent; includes or is supported by written statements that asserts or omits a material fact, which causes the statements to be false, fictitious, or fraudulent, and for a material fact that is omitted, the person submitting the statement has a duty to include the omitted fact; or is for payment of property or services that are not provided as claimed. The \$5,500 penalty also applies if a person or company provides written back-up or materials relating to the claim in which the person or company asserts a material fact that is false, fictitious or fraudulent; or omits a fact that the individual had a duty to include, the omission causes the statement to be false, fictitious, or fraudulent, and the statement contains a certification of accuracy.

- (d) **Texas Medicaid Fraud Prevention Law (Texas FPL):** The Texas FPL is substantially similar to the federal False Claims Act. The actions that trigger civil and criminal penalties under the Texas FPL generally mirror those of the federal FCA, and include making a false statement of concealing information that affects the right to a Medicaid benefit or payment and conspiring to defraud the state by obtaining an unauthorized payment from the Medicaid program or its fiscal agent. In addition, under the Texas FPL, a person may also be liable if the person presents a claim for payment under the Medicaid program for a product or service that was rendered by an unlicensed provider or that has not been approved by the patient's treating healthcare practitioner. Like the federal FCA, the Texas FPL has a provision that permits private individuals ("whistleblowers") to bring an action on behalf of the state and receive a portion of the recovery if the case is successful. The private individual's share could be reduced or eliminated altogether, however, if the individual planned and initiated the activity upon which the lawsuit was based or if the individual is convicted of criminal conduct arising from the individual's role in the illegal activity. Like the federal FCA, the Texas FPL includes provisions to prevent employers from retaliating against employees for their involvement in Texas FPL actions.
- (e) **State Law Prohibiting Payment for Referrals:** Under Texas law, it is a state jail felony to intentionally or knowingly solicit, receive, offer, or pay any remuneration, including any kickback, bribe, or rebate, in return for: (i) referring an individual for, or arranging for the furnishing of any item or service for which payment may be made under the Medicaid program; or (ii) purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering of any good, facility, service, or item for which payment may be made under the Medicaid program.
- (f) **Ethical Conduct and Reporting Suspected Wrongdoing.** All vendors, employees of vendors, and individuals authorized to act on behalf of the University of North Texas System or its component institutions have an ongoing obligation to report suspected wrongdoing they believe, in good faith, has occurred or is occurring in relation to the procurement or performance of this PO, including illegal or fraudulent activity, conflicts of interest, financial misstatements, accounting irregularities, and violation of University of North Texas System regulation(s), the respective component institution's policies or standards of conduct, or federal or state law.
- (1) Suspected wrongdoing may be reported to the appropriate University of North Texas System or component institution official or compliance office or compliance hotline. Individuals can report suspected wrongdoing anonymously at <https://secure.ethicspoint.com/domain/media/en/gui/82892/index.html> for UNT System, UNT, and UNT Dallas. The Trust Line provides a way for employees and others to report suspected wrongdoing anonymously via telephone at 877.606.9187. Anonymous reports of suspected wrongdoing or noncompliance at UNT HSC can be made at https://app.convercent.us/en-US/LandingPage/7b3df88a-d0be-ed11-a85a-000d3afda91a?_id=1680036122572 or via telephone at 844.692.6025. Individuals are not required to report suspected wrongdoing to officials who they believe were or are engaged in the questionable behavior.
 - (2) Vendors, employees of vendors, and individuals who in good faith report suspected wrongdoing are protected from retaliation. Immediate action will be taken to address any attempted or actual retaliation. Suspected retaliation may be reported to the same officials and in the same manner as suspected wrongdoing.

INTERNATIONAL PURCHASES

51. For international purchases, Vendor agrees to the following:

- (a) **U.S. Trade and Export Regulations.** Vendor agrees not to take any action that would cause University to be in violation of regulations promulgated by the U.S. Treasury Department, including those administered and enforced by the Office of Foreign Asset Control (OFAC), and Vendor agrees not to take any action that would cause University to be in violation of regulations promulgated by the U.S. Department of State, including its International Traffic in Arms Regulation (ITAR). Vendor agrees to be responsible for clearing goods for export from the country of origin and for import into the country of delivery and for all related duties and tariffs.
- (b) **U.S. Foreign Corrupt Practices Act.** Vendor agrees that in connection with this PO it shall not offer, promise, or give, directly or indirectly, anything of value to any government official, political party, official, political candidate, or employee thereof or to any third party while knowing that such item of value or any portion thereof may be offered, promised, or given to a government official, political party official, political candidate, or employee thereof for the purpose of obtaining or retaining business. Vendor specifically agrees that in connection with this PO, it shall neither take nor omit to take any action, which would cause University to be in violation of the applicable laws of the United States, including the U.S. Foreign Corrupt Practices Act.
- (c) **No Third-Party Beneficiaries.** Nothing in this PO shall be construed as creating or giving rise to any rights in any third parties or any persons other than the parties hereto.

Attachment A

1. Federal Grant Provisions

Vendor agrees to comply with all applicable federal, state and local laws and regulations. If this PO utilizes federal grant funds, the provisions of OMB Circular A-110 Appendix A, as well as any additional statutory and administrative requirements, apply according to their terms. These requirements may include, but are not limited to, the following:

- 1.1. Equal Employment Opportunity-E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375 and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 1.2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c), as supplemented by Department of Labor regulations at 29 CFR part 3.
- 1.3. Davis-Bacon Act, as amended by (40 U.S.C. 276a to a-7).
- 1.4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations at 29 CFR part 5.
- 1.5. Rights to Inventions Made under a Contract or Order- 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Orders," and any implementing regulations issued by the awarding agency.
- 1.6. Clean Air Act (42 U.S.C. 7401 et. seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.
- 1.7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Attachment B

1. Information Technology Provisions

CYBERSECURITY TRAINING

- 1.1. If Vendor has access to a University computer system or database, Vendor shall complete cybersecurity training and verify completion of the training program to University in accordance with Texas Government Code Section 2054.5192.

CLOUD COMPUTING STATE RISK & AUTHORIZATION MANAGEMENT PROGRAM

- 1.2. If Vendor provides cloud computing services to University, as that term is defined in Texas Government Code Section 2157.007, Vendor represents and warrants that it complies with the requirements of the state risk and authorization management program, and Vendor agrees that throughout the term of the PO it shall maintain its certifications and comply with the program requirements in accordance with Texas Government Code Section 2054.0593(d)-(f).

DATA MANAGEMENT & SECURITY CONTROLS

- 1.3. Vendor agrees to safeguard University data according to all commercially reasonable administrative, physical, and technical standards, continually monitor its operations, and take any action necessary to assure University data is safeguarded in accordance with the terms of this PO. Vendor further agrees to comply with the [UNT System Information Security Handbook](https://technology.untsystem.edu/divisions/citc/cs/unt-system-information-security-handbook.php) (<https://technology.untsystem.edu/divisions/citc/cs/unt-system-information-security-handbook.php>) to ensure the confidentiality, integrity, and availability of the information or information processing provided, including providing evidence that information/data stored is recoverable and contingency plans are in place. In the event of a data breach due to Vendor's breach of security obligations or other event requiring notification under applicable law, Vendor agrees to comply with all notification requirements, and to indemnify and hold harmless and defend University against any claims or damages arising out of any breach of Vendor's security obligations under this PO.

ACCESSIBILITY

- 1.4. In accordance with Texas Government Code Chapter 2054, Subchapter M, and DIR implementing rules, University must procure Electronic and Information Resources that comply with Accessibility Standards. Vendor agrees to (1) deliver any tools, services, processes, or products in compliance with the Accessibility Standards found under Texas Administrative Codes 1 TAC 206 and 1 TAC 213; (2) upon request, provide the University with its accessibility testing results and written documentation verifying accessibility compliance with applicable federal and state laws regarding electronic and information resources accessibility requirements; and (3) promptly respond to and resolve accessibility complaints.

UNIVERSITY RIGHTS IN UNIVERSITY DATA

- 1.5. University retains all rights to, title to, and interest in University data, and Vendor's use and possession thereof is solely for University's behalf. University may access and copy any University data in Vendor's possession at any time, and Vendor shall facilitate such access and copying in non-proprietary electronic form (e.g. CSV, XML) promptly after University's request. Upon termination of the PO or upon request by University, Vendor shall promptly return University data to University, and erase, destroy, or render unreadable all University data from Vendor's computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the termination of the PO or request by University.

DE-IDENTIFIED DATA

- 1.6. In demonstrating the services, or in publications, marketing materials, or presentations, Vendor may only demonstrate, publish, market, present, or use de-identified University data. Vendor will ensure that all de-identified data released, even sequentially, does not inadvertently contain data that can be aggregated in such a manner as to reveal identities. No de-identified data may be shared without University's authorization or until Vendor ensures compliance with law.

SERVICE STANDARD

- 1.7. At a minimum: Vendor will use commercially reasonable efforts to make the services available 24 x 7, year-round, excluding downtime for maintenance and emergencies. Vendor will provide access to online support materials and will respond to requests for reasonable technical assistance via chat during its standard support hours, excluding federal public holidays in the United States and other Vendor announced holidays. If University is not able to use the service(s) for more than twenty-four (24) hours through no fault of its own and University has paid in advance, then University shall be entitled to a credit equal to the amount paid by University on a pro-rata basis for the period

of non-use or, if no credits are available or possible, then the term of the PO shall be extended automatically, at no cost to University for the number of days the service(s) was not available to University.

COMPUTER EQUIPMENT RECYCLING PROGRAM

- 1.8. Vendor certifies its compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.