



Agreement

THIS PROFESSIONAL SERVICES AGREEMENT (the "Agreement") is entered into effective as of the 25th day of June, 2020 (the "Effective Date") by and between University of North Texas, a non-profit Texas based institution of higher learning (the "University") with the Tax ID number of [REDACTED] and Vivature, Inc., a Texas corporation ("Vivature") with the Tax ID number of [REDACTED]

WHEREAS, Vivature and the University have agreed to establish an independent contractor relationship wherein Vivature will provide contract services to the University; and

WHEREAS, the purpose of this Agreement is to set forth the terms and conditions under which Vivature will furnish, and the University will accept, contract services.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The University wishes to enter into a COVID Testing Program (the "Program") utilizing equipment, supplies and services (the "Testing Resources") offered by third parties as facilitated by Vivature. This Program allows for the University to receive the Testing Resources for its athletic training room and student health center to perform COVID Antigen test and various other medical tests as set forth herein.
2. Vivature shall receive orders directly from the University for the Testing Resources necessary to perform the Program. These requests may be submitted to Vivature at any time during the effective dates of the Agreement. There shall be no limit on the number of times the University shall be able to make such a request.
 - a. Testing kits are offered in case quantities of 300 testing cassettes per case.
 - b. All orders must be placed in case quantities.
 - c. A requirement of the Program will include a minimum order of each of the following units as part of the conditions the manufacture requires to provide an analyzer (Sophia-2). ***Below is the minimum commitment per analyzer:***
 - 750 Covid Test Minimum Order for duration of agreement**
 - Starter kit (1 unit per year) - \$350.00 per year
 - COVID Test Cassette (750 cassettes for the duration of the agreement) - \$76 per cassette; \$48,000.00
 - *** Each Covid test ordered above the 750 minimum is sold to the university at \$52 per cassette
 - No minimum requirement for Flu Tests @ \$9.00 each
 - No minimum requirement for Strep test cassettes at \$8.00 each
 - No minimum requirement for RSV test cassettes at \$17.00 each
 - No minimum requirement for Lyme test cassettes at \$30.00 each
3. Vivature will facilitate placing the University's order with the Testing Resources' manufacturer (the "Manufacturer") to be shipped by it pursuant to the shipping information provided by the University. Vivature will pay for the full cost charged by the Manufacturer for the Testing Resources pursuant to the terms of Section 5 to this Agreement. Once the order has been placed with the Manufacturer, the University will be responsible for all costs associated with the order, including shipping, re-stocking, any applicable taxes or any other associated fees.
4. The University may use the Testing Resources upon their receipts as the University desires and subject to its exclusive control. Any warranties offered by the Manufacturer associated with the purchased Testing Resources may be utilized as per the Manufacturer's specifications and description. The University acknowledges that Vivature is solely facilitating the relationship between the University and the



Agreement

Manufacturing unless expressly set forth herein. VIVATURE IS NOT RESPONSIBLE FOR THE DELIVERY, PERFORMANCE OR APPEARANCE OF ANY TESTING RESOURCES ORDERED INCLUDING THE ANALYZER AS DEFINED IN SECTION 7 OR PURCHASED BY THE UNIVERSITY NOR HAS IT MADE ANY WARRANTIES, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OR FITNESS FOR PERFORMANCE OF THE TESTING RESOURCES.

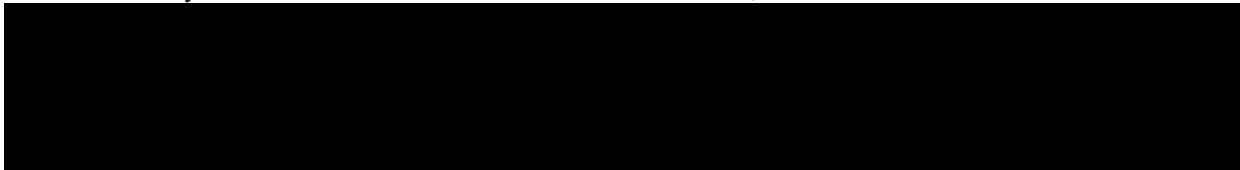
- 5. PAYMENT - The University shall pay for all Testing Resources; the University must pay Vivature in full for any invoice prior to Vivature placing and/or shipping any order on behalf of the University.
- 6. TERM - The COVID testing solution and underlying Program as set forth in this Amendment shall last for a term of no less than 24 months from the date the first order for Testing Resources is received by the University. During this 24-month period all testing supplies for this supplied analyzer shall be exclusively purchased thru Vivature.
- 7. Manufacturer shall provide the University a COVID TESTING analyzer (the "Analyzer") that is required to perform the processing of the tests. The Analyzer is being provided to the school at no cost, but shall remain the property of the Manufacturer who may demand return of such equipment at any time. In the event the Agreement naturally expires or otherwise is terminated for any reason, the Analyzer must be returned to the Manufacturer in proper working order, unless a warranty claim has been filed pursuant to the Manufacturer's requirements. **The Analyzer requires a \$1,300.00 deposit** (the "Deposit") that is refundable upon the completion of this Agreement. The University shall exercise due care in the use, storage and shipment of the Analyzer. All shipping cost of the Analyzer will be the sole burden of the University for both delivery and return. The University shall forfeit the entire amount of the Deposit in the event the Analyzer is damaged, normal wear and tear excepted, or not returned.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date and year first above written.

Addendum attached hereto and incorporated herein for all purposes.

University of North Texas

Vivature, Inc.



Title: Sr. Director Procurement Services
Date: 8/7/2020

Executive Vice-President
Date: 8/7/2020

STANDARD ADDENDUM TO AGREEMENT

Contracts with the University of North Texas System and the University of North Texas (collectively, "UNT") are subject to the following terms and conditions, which are incorporated for all purposes into the Agreement to which they are attached. In the event of a conflict between the Agreement and this Addendum to Agreement, this Addendum shall govern. Any term or condition of the Agreement that is not superseded by a term or condition of this Addendum shall remain in full force and effect.

Payment. In accordance with Chapter 2251 of the Texas Gov't Code: (a) payment shall be made no later than thirty days following the later of (i) delivery of the goods or completion of the services and (ii) delivery of an invoice to UNT; and (b) interest, if any, on past due payments shall accrue and be paid at the maximum rate allowed by law. 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. Invoices and any required supporting documents must be presented to: University of North Texas – Business Service Center, 1112 Dallas Dr. Ste. 4000, Denton, TX 76205.

Eligibility to Receive Payment. By entering into and performing under this Agreement, Vendor certifies that under Section 231.006 of the Texas Family Code and under Section 2155.004 of the Texas Gov't Code, it is not ineligible to receive the specified payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Tax Exempt. UNT is exempt from the payment of taxes and will provide necessary documentation confirming its tax exempt status.

Breach of Contract Claims Against UNT. Chapter 2260 of the Texas Gov't Code establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260, Texas Gov't Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the parties to attempt to resolve any claim for breach of contract against UNT that cannot be resolved in the ordinary course of business.

Governing Law and Venue. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Texas. The Agreement is made and entered into, and is performable in whole or in part in Denton County, Texas, and venue for any suit filed against UNT shall be subject to the mandatory venue statute set forth in § 105.151 of the Texas Education Code.

No Excess Obligations. In the event this Agreement spans multiple fiscal years, UNT's continuing performance under this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Texas State Legislature. If the Legislature fails to appropriate or allot the necessary funds, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act, UNT shall issue written notice to Vendor that UNT may terminate the Agreement without further duty or obligation.

Travel Expenses. Reasonable travel, meals, and lodging expenses shall be charged in accordance with and shall not exceed State of Texas travel, meal, and lodging reimbursement guidelines applicable to employees of the State of Texas.

Delivery. Delivery shall be FOB Destination.

Insurance. UNT, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by UNT shall without further requirement, satisfy all insurance obligations of UNT under the Agreement.

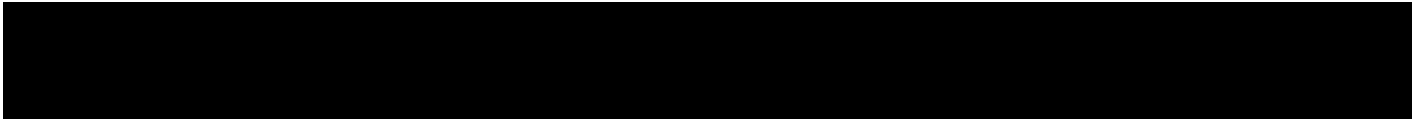
Public Information. UNT shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to UNT in an electronic format. The requirements of Subject J, Chapter 552, Texas Government Code, may apply to this contract and Vendor agrees that the contract can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter. Further, Vendor agrees (1) to preserve contracting information for the duration of the contract and according to UNT records retention requirements; (2) to promptly provide contracting information to UNT when requested; and (3) upon completion of the contract to provide, at no cost, all contracting information to UNT or to preserve all contracting information according to UNT's records retention requirements.

Required Posting of Contracts on Website. Vendor acknowledges and agrees that UNT is required by Section 2261.253 of the Texas Gov't 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.

Israel Non-Boycott Verification. If the Agreement is subject to Texas Gov't Code Section 2270.002, Vendor hereby represents, verifies, and warrants that it does not boycott Israel and will not boycott Israel during the term of the Agreement.

Limitations. UNT is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on UNT 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 UNT, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

Vivature, INC



Date: 8/7/2020

Date: 8/7/2020