**Directions for Fee-For-Service**

**UAB Purchasing Services from a Company**

**Please ensure all of the following sections are completed:**

1. **First Paragraph of the agreement**
   * Indicate the Contractor providing services.
2. **Article I Statement of Work/Scope of Work (Attachment A)**
   * The scope of work (*Attachment A*) must include a detailed description of the services/work to be provided by the Contractor. This should not state the reasons why the department is submitting the contract.
3. **Article II Payment for Work/Fee Schedule (Attachment B)**
   * The Fee Schedule (*Attachment B*) must include the anticipated payment disbursement periods.
   * The Fee Schedule (*Attachment B*) must also include a breakdown of costs.
     1. If purchasing services, please indicate how the method of paying the Contractor has been determined. If UAB will pay the Contractor a “lump sum” no matter how much of the scope of work the Contractor completes, please indicate the lump sum amount. If the Contractor will be paid at a rate per unit, please list the hourly, daily, weekly, etc., rate for cost of the services. If the Contractor will be paid via another unit, please provide the other unit rate (for example, a certain amount per class for a vendor that is teaching classes).
     2. If purchasing goods, please specify the number of items being bought, a per item price, and total amount.
   * Fill in the not to exceed amount.
4. **Article IV Period of Performance**
   * Indicate the time range of services.
5. **Article V Termination**
   * Days of written notice of termination.
6. **Article XII Notices**
   * Fill in the Contractor’s full mailing address.

**The University of Alabama at Birmingham**

**FEE-FOR-SERVICE AGREEMENT**

This Fee-for-Service Agreement (“Agreement”) is by and between The Board of Trustees of The University of Alabama for The University of Alabama at Birmingham, a constitutionally created public corporation of the State of Alabama, (“University”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”), and is subject to the terms and conditions set forth herein below.

**ARTICLE I: STATEMENT OF WORK.** By entering into this Agreement, the Contractor agrees to perform the scope of work outlined in **Attachment A** (the “Work”).

**ARTICLE II: PAYMENT FOR WORK.** The University will pay the Contractor for the Work performed, based on the Fee Schedule detailed in **Attachment B**, which is incorporated into and made a part of this Agreement. Total compensation under this Agreement shall not exceed $\_\_\_\_\_\_\_\_\_\_\_\_, without written agreement of the parties.

**ARTICLE III: PAYMENT SCHEDULE.** The University shall make payment(s) to the Contractor, for Work performed, within (30) days of receipt of invoice, unless contested by the University.

**ARTICLE IV: PERIOD OF PERFORMANCE.** The performance of this Agreement shall begin on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and shall not extend beyond \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, except by written agreement of the parties.

**ARTICLE V: TERMINATION.** Performance under this Agreement may be terminated by the University upon \_\_\_\_\_ days’ written notice. The Contractor may terminate performance if circumstances beyond its control preclude continuation of the Work. Upon notice of termination by the University, the Contractor will cease Work immediately and will be entitled to be reimbursed for any costs and non‑cancelable commitments incurred in the performance of the Work, prior to the receipt of notice of termination from the University. Reimbursement shall not exceed the total cost specified in Article II, unless provided otherwise by written agreement of the parties.

**ARTICLE VI: CONFIDENTIAL INFORMATION.**

1. Confidential Information. “Confidential Information” shall mean any and all information, including data, (i) provided to or otherwise made available to Contractor by University in connection with Contractor’s performance of this Agreement, whether in electronic or other written format, provided by oral means, seen by Contractor through its presence on University campus or during its or its subcontractor’s performance of this Agreement or otherwise made available to Contractor during the performance of this Agreement or by being provided access to University computer and operating systems; (ii) created by Contractor from information owned or controlled by University; or (iii) created, acquired or assimilated by Contractor in the performance of services pursuant to this Agreement. All Confidential Information shall remain the exclusive property of University.
2. Use and Non-Disclosure of Confidential Information. During the term of this Agreement and for five (5) years after it is terminated or otherwise expires, and except as otherwise required by law or as permitted by this Agreement, Contractor shall not use Confidential Information or disclose Confidential Information to any third party; provided, however, that Contractor may disclose any Confidential Information to its affiliates and representatives who: (i) need to know the Confidential Information for the purpose of fulfilling the terms of this Agreement; (ii) are advised by Contractor of the terms of this Agreement; and (iii) are bound by restrictions regarding disclosure and use of Confidential Information no less restrictive than those set forth herein. Contractor agrees to protect Confidential Information using the same degree of care it uses to protect its own confidential information, but in any event, not less than a reasonable degree of care.
3. Exceptions to Confidential Information. Confidential Information shall not include information that:
4. is generally available to the public, through no fault of Contractor or its affiliates or their representatives and without breach of this Agreement;
5. is already in the possession of the Contractor prior to receiving it, or being given access to it, for the Work, without restriction and prior to any disclosure hereunder;
6. is or has been lawfully disclosed to Contractor or its affiliates by a third party without obligation of confidentiality to University;
7. is legally required to be disclosed by law, or to a regulatory agency or pursuant to an order of competent jurisdiction; provided Contractor shall provide immediate verbal and written notice to University in order that University may have an opportunity to seek a protective order to limit the scope of such compelled disclosure; or
8. is released from confidentiality obligations by the express prior written consent of the owner of the Confidential Information.

**ARTICLE VII: REPORTS.** The Contractor shall furnish the University such written reports/results of the Work, at designated times, as may be required by the University.

**ARTICLE VIII: USE OF NAMES.** Neither party will use the name of the other or the name of any of the other’s employees in any form of publicity without the written permission of the other. In the case of the University, permission of the University Media Relations Office is required.

**ARTICLE IX: ASSIGNMENT.** The Contractor may not assign, delegate or subcontract the duties and obligations of this Agreement without the express, written consent of the University. All assignees, delegates or subcontractors will be bound by the requirements of this Agreement.

**ARTICLE X: THIRD-PARTY BENEFICIARY.** This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns. No third-party beneficiary rights or benefits whatsoever are expressly or impliedly provided herein.

**ARTICLE XI: INDEPENDENT CONTRACTOR.** At all times during the performance of the Work that is the subject of this Agreement, the relationship of the Contractor to the University shall be that of independent contractor. Neither the Contractor, nor any officer, employee nor agent of the Contractor shall be entitled to any benefit of employment by the University. Neither party is authorized to act as the agent of the other, nor shall either party be bound by the acts of the other. Contractor and its officers, employees, and agents will adhere to UAB Policies found on <http://financialaffairs.uab.edu>.

**ARTICLE XII: NOTICES.**  Any notices required or permitted by this Agreement shall be in writing and shall be delivered by hand, by facsimile, or by United States mail, postage prepaid to:

University of Alabama at Birmingham

University Contracts

801 Financial Services Building, Box B10

1720 2nd Ave, Birmingham, AL 35294-0106

[INSERT CONTRACTOR’S FULL MAILING ADDRESS]

**ARTICLE XIII: REPRESENTATIONS AND WARRANTIES BY CONTRACTOR.** If Contractor is a corporation or a limited liability company, Contractor warrants, represents, covenants, and agrees that 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 Alabama, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.

**ARTICLE XIV: NO BENEFIT CERTIFICATION.** By accepting this Agreement, Contractor certifies that no University employee or official, and no family members of a University employee or official, will receive a benefit from this University payment, except as has been previously disclosed, in writing, to the University.

**ARTICLE XV: DEBARMENT AND EXCLUSION.** Contractor represents and warrants that Contractor and any of its directors, officers, employees, or agents providing services under this Agreement: *(a)* are not “sanctioned persons” under any federal or state program or law; *(b)* have not been listed in the current Cumulative Sanction List of the Office of Inspector General for the United States Department of Health and Human Services for currently sanctioned or excluded individuals or entities; *(c)* have not been listed on the General Services Administration’s List of Parties Excluded individuals or entities; *(d)* have not been listed on the General Services Administration’s List of Parties Excluded from Federal Programs; and (e*)* have not been convicted of a criminal offense related to health care. Contractor shall immediately notify University in the event that Contractor is no longer able to make such representations, and University may upon five (5) business days’ written notice terminate this Agreement.

**ARTICLE XVI: ALABAMA TAX CERTIFICATION (APPLICABLE TO AGREEMENTS FOR THE PURCHASE OR LEASE OF TANGIBLE PERSONAL PROPERTY).** In accordance with Section 41-4-116 of the Code of Alabama, by accepting this Agreement, Contractor certifies that Contractor is appropriately registered to collect and remit sales, use, and lease tax on all taxable sales and leases of personal property in Alabama and that Contractor is not barred from bidding for or entering into a contract pursuant to Section 41-4-116 and that Contractor acknowledges that University may declare the Agreement void if this certification is false.

**ARTICLE XVII: GOVERNING LAW.** The Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Alabama.

**ARTICLE XVIII: RESOLUTION OF DISPUTES.** The parties agree that any and all claims, controversies or disputes between the parties which arise out of or relate in any way to this Agreement or a breach hereof and which the parties are unable to resolve informally shall be submitted to non-binding mediation in Birmingham, Alabama. University, as a division of The Board of Trustees of the University of Alabama, is a state agency and cannot waive immunity conferred on it by *Ala. Const.* Art. I § 14. The exclusive forum in which a claim can be asserted against University is the State of Alabama Board of Adjustment. (See Code of Alabama §§ 41-9-60 through 41-9-74)

**ARTICLE XIX: LIABILITY.** University and Contractor shall each be responsible for any and all liability resulting from the acts and/or omissions of their respective employees, officers, directors, agents and contractors. Neither party shall be liable for any liability resulting from the acts and/or omissions of the other party’s employees, officers, directors, agents and contractors. University is not authorized to and does not indemnify, hold harmless, and cannot defend Contractor or any third party for any liability that may result from activities under this Agreement.

**ARTICLE XX: LOSS OF FUNDING.** Performance by University under the Agreement may be dependent upon the appropriation and allotment of funds by the Alabama State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, then University will issue written notice to Contractor and University may terminate the Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.

**ARTICLE XXI: LIMITATIONS.** The parties are aware that there are constitutional and statutory limitations on the authority of University (a state agency) to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on University’s property; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; dispute resolution; indemnities; and confidentiality (collectively, the “limitations”), and terms and conditions related to the limitations will not be binding on University except to the extent authorized by the laws and constitution of the State of Alabama.

**ARTICLE XXII: ENTIRE AGREEMENT MODIFICATIONS.** This Agreement supersedes all prior agreements, written or oral, between Contractor and University and will constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by University and Contractor.

**ARTICLE XXIII: NONDISCRIMINATION.** Contractor shall comply with all applicable Federal and State laws and regulations regarding non-discrimination.  Contractor further agrees that no person shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in the performance of this Agreement on the basis of race, color, national origin, sex, disability, or age, or any other characteristic protected by Federal or State law (“Protected Characteristics”).  Contractor shall not use Federal or State funds for programs that discriminate based on Protected Characteristics.

**ARTICLE XXIV: DIGITIAL ACCESSIBILITY.** Throughout the term of this Agreement, Contractor shall ensure that all digital content, including without limitation websites, mobile applications, online forms, documents, and other electronic information, provided to or created for the University pursuant to this Agreement shall adhere to the accessibility standards outlined in the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA or any higher digital accessibility standards mandated by Title II of the Americans with Disabilities Act (ADA) and its implementing regulations. Contractor shall provide the University with an Accessibility Conformance Report (ACR) for all digital content delivered under this Agreement. Contractor shall permit the University to conduct testing at periodic intervals to assess Contractor’s compliance with this provision, provided that the parties shall cooperate in good faith to arrange such testing and that the testing not impose an undue burden on Contractor’s operations. Contractor shall correct any failures to comply with the digital accessibility standards required by this provision as soon as reasonably possible. Contractor shall indemnify, defend, and hold harmless the University against all damages, costs, fees, fines, liabilities, loss, and expenses, including reasonable attorney’s fees, incurred by the University in connection with any third-party demand, claim, or legal or administrative agency action or proceeding arising from or related to an allegation that the digital content provided by or created by Contractor failed to meet the digital accessibility standards outlined in this provision.

**THE BOARD OF TRUSTEES OF**

# THE UNIVERSITY OF ALABAMA FOR

# THE UNIVERSITY OF ALABAMA AT BIRMINGHAM

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Attachment A**

**Scope of Work**

Note: This section must include a detailed description of the services to be provided by the Contractor. It should include the relevant information outlined below.

**1. Detailed Description of Work to be Performed by Contractor.**

**2. Deliverables.**

|  |  |
| --- | --- |
| **Deliverables** | **Party Responsible** |
|  |  |
|  |  |
|  |  |

**3. Anticipated Schedule for Completion/Anticipated Proposed Timeline of Activities.**

|  |  |  |
| --- | --- | --- |
| **Activity** | **Anticipated Completion/Due Date** | **Party Responsible** |
|  |  |  |
|  |  |  |
|  |  |  |

|  |  |
| --- | --- |
|  |  |
|  |  |

**Attachment B**

**FEE SCHEDULE**

Please provide the information requested below.

1. **Total amount payable under this Agreement:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. **Breakdown of fees payable under this Agreement:**

**Rate (select one):** **Amount:**

Lump Sum Payment for all Work \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Hourly \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Daily \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Weekly \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\***Other (please specify: \_\_\_\_\_\_\_\_\_) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Invoices will be paid:**

**Payment period: Amount per payment period:**

**­** \_\_\_\_\_\_\_\_Weekly ­­­­­­­­­­­­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_Monthly \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_Quarterly \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_Annually \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_Upon completion of task(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* ***Total compensation of $10,000 or more should be paid in multiple payments.***
* ***Compensation should not be paid in full prior to services rendered; at least 10% should be held until the day of the event/services rendered or upon invoice after completion of services.***