

UTAH STATE UNIVERSITY
CONTRACT STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permits Utah State University (USU) to purchase certain specified services, and other approved purchases for the University.
2. **CONTRACT JURISDICTION:** The provisions of this contract shall be governed by the laws of the State of Utah.
3. **RECORDS ADMINISTRATION:** The CONTRACTOR shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the CONTRACTOR for costs authorized by this contract. These records shall be retained by the CONTRACTOR for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later.
4. **AUDIT OF RECORDS:** The CONTRACTOR agrees to allow University, State and Federal auditors, and University and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** CONTRACTOR represents that none of its officers or employees are officers or employees of Utah State University, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended, and USU Personnel Policy 307.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The CONTRACTOR shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the University to any agreements, settlements, liability, or understanding whatsoever, and agrees not perform any acts as agent for the University, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the CONTRACTOR by the University. The CONTRACTOR shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the University for these contract services. Persons employed by the University and acting under the direction of the University shall not be deemed to be employees or agents of the CONTRACTOR.
7. **INDEMNITY CLAUSE:** The CONTRACTOR agrees to indemnify, save harmless, and release Utah State University, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the CONTRACTOR'S officers, agents, volunteers, or employees, but not for claims arising from the University's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The CONTRACTOR agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the CONTRACTOR agrees to abide by Utah's Executive Order, dated June 30, 1989, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the University.

12. TERMINATION: Unless otherwise stated in the contract or special terms and conditions, this contract may be terminated, with or without cause, in advance of the specified expiration date, by either party, upon 30 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination

13. SALES TAX EXEMPTION: The Utah State University=s sales and use tax exemption number is 11895815-002-STC. The tangible personal property or services being purchased are being paid from Utah State University funds and used in the exercise of that entity=s essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.

14. WARRANTY : The contractor agrees to warrant and assume responsibility for each hardware, firmware, and/or software product (hereafter called the product) that it licenses, or sells, to Utah State University under this contract. The contractor acknowledges that the Uniform Commercial Code applies to this contract.

In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any *special purposes* that USU has relied on the contractors skill or judgment to consider when it advised USU about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the USU has not been warned.

15. AGREEMENT NOT ASSIGNABLE. This agreement is not assignable by either of the parties hereto, unless agreed to in writing by both parties to this contract.

16. MONITORING: The University reserves the right to monitor Contractor Services and facilities in accordance with the purposes of this agreement and may conduct site visits as deemed appropriate.

17. ENFORCEMENT COSTS: In the event of any breach of this agreement, the party at fault shall pay all costs of enforcing it, including attorneys fees.

18. INSURANCE: Contractor shall obtain and maintain in force, during the entire period of this contract at its own expense, the following insurance:

A. Worker's Compensation Insurance and Employers' Liability Insurance providing statutory benefits.

B. Commercial General Liability Insurance, including coverage for premises/operations, contractual (including this contract), and personal injury, including employees, with limits of not less than \$1,000,000 each occurrence, and \$2,000,000 aggregate. Before this contract is executed, certificates evidencing coverage's as specified above shall be furnished to the University. Such insurance certificates shall contain provisions that the University shall be an additional insured party, as primary coverage, and not contributing. **See vendor response.**

19. ENTIRE AGREEMENT: This agreement contains the entire understanding of the parties and no oral or other representations not contained herein shall be binding on the parties.

20. INVOICES: Invoices shall be furnished to the satisfaction of the University=s designated representative and shall be payable as provided. The work shall be delivered free from all claims, liens, and charges whatsoever, and before making payment, the University may require evidence that all parties furnishing labor and materials for the work have been paid. **UTAH STATE UNIVERSITY'S STANDARD TERMS ARE NET 30.**