

**UNIVERSITY OF DENVER USE ONLY – DELETE THIS PAGE AFTER READING**

**INSTRUCTIONS FOR USE**

The Office of General Counsel (OGC) has drafted the attached **General Terms & Conditions** for use in accordance with these **Instructions for Use**. This page should be deleted prior to providing the General Terms & Conditions to a potential vendor.

OGC approves use of this Template Agreement by University Business Officers and their designees only. Template Agreements must be processed through the University's Contract Management System, Crimson Commerce, per the University's Contract Management Policy, FINA 2.10.030, but will receive expedited review. Use of this Template Agreement will not require review by OGC under the following conditions:

- This Template Agreement may only be used to contract for **goods or services from an entity or individual under \$75,000**.
- The Scope of Work and/or Schedule of Deliverables must include:
  - o A list of deliverables with sufficient detail to confirm receipt of deliverables in accordance with the payment schedule.
  - o The amount of compensation to be paid.
  - o A payment schedule.
- This Template Agreement **may not be used without further review by OGC** if it:
  - o Contains unique risks to the University, including risk of harm to individuals or damage to property.
  - o Provides unsupervised vendor access to University premises.
  - o Provides for vendor access to University data, including but not limited to, student data and employee data.
  - o Involves University intellectual property, copyright, patent, trademarks, word marks, or logos.
  - o Is with a foreign entity or involves work performed outside the United States.
  - o Involves minors.

Other departments or divisions of the University may require review in accordance with University policies and procedures, e.g. University Financial Services, Enterprise Risk Management, University Information Technology, University HIPAA official. Please contact OGC if you are not sure whether your Template Agreement requires additional review.

Any requests for revisions, amendments, or modifications to the Template Agreement, not including formatting or typographical errors that are not inconsistent with the substance, must be submitted in accordance with the University's Contract Management Policy **University of Denver**.

**University of Denver  
General Terms and Conditions**

**These General Terms and Conditions (“Terms”) apply to the purchase of goods or services by the University of Denver (“DU”) from the supplier of the goods or services (“Supplier”) (each a “Party”, together “Parties”).**

1. **Offer/Acceptance.** Contractor shall provide the services specified in the Supplier’s statement of work, bid, quote, or proposal (“SOW”), attached hereto as Attachment A ("Services"). These Terms shall supersede and control over any Supplier form(s) or part(s) thereof included or attached to any bid, proposal, offer, acknowledgement, or otherwise, in the event of inconsistencies or contradictions, regardless of any statement to the contrary in such form(s) or parts thereof.
2. **Changes.** If price, terms, shipping date, or any other expressed condition of the SOW cannot be achieved or met by Supplier, Supplier must notify DU as soon as practicable and must seek DU’s acceptance of any variation in writing prior to performance, shipment, or delivery. Any changes to the SOW, additional charges, or price increases shall be negotiated in advance by the Parties and agreed to in writing signed by both Parties. If a change causes an increase or decrease in cost and/or time required for performance of the services and/or delivery of the goods, an equitable adjustment shall be made, and the SOW shall be modified accordingly.
3. **Price.** Prices for conforming goods specified in the SOW (collectively, the “Goods”) or services described in the SOW (the “Services”) shall include any applicable transportation charges, insurance costs, shipping and handling fees and taxes; however, Supplier shall not include sales tax on the goods or services pursuant to the terms set forth in the Taxes Section herein.

DU shall pay Supplier for all amounts due for acceptable Goods or Services as outlined in the SOW within 45 days and a correct notice of amount due.

- Payment Plus (Payable Immediately)
- ACH Net 30 (Payable in 30 Days)
- Checks Net 45 (Payable in 45 Days)

4. **Delivery.** Supplier hereby agrees to on-time delivery of the goods and/or the services based upon the timeline set forth in the SOW. If the SOW does not specify a delivery date (“the Delivery Date”) or timeline, Supplier shall provide the goods and/or services as if time is of the essence. Changes, modifications, or any delay resulting from DU that prevents Supplier from achieving the Delivery Date shall not constitute a breach of these Terms by Supplier.

If Supplier anticipates a delay in the delivery of the goods and/or services, Supplier shall, as soon as practicable, notify DU. Such notification shall not, however, constitute a change to the delivery terms of the SOW. If Supplier fails to deliver the goods and/or services by the Delivery Date, or Supplier fails to deliver conforming goods and/or services, DU may purchase substitute goods and/or services elsewhere and charge Supplier for any additional expense incurred relating to the purchase of such substitute goods and/or services.

Supplier shall deliver all goods and/or services in accordance with the SOW. If delivery of the goods and/or services is not complete by the Delivery Date, DU may, without liability, and in addition to its other rights and remedies, terminate the SOW, by notice effective when received by Supplier, to goods and/or services not yet delivered or rendered. Acceptance of any part of the Goods or Services shall not bind DU to accept any future shipments nor deprive it of the right to return Goods and/or Services already accepted.

Supplier shall not perform any services that are not described in an accepted SOW without DU’s prior written authorization, and DU shall not be required to pay for such work that has not been so authorized. Supplier shall furnish DU with written reports and documentation as described in the SOW, herein or upon request. Supplier

agrees to furnish all labor, equipment, parts, material, tools, and services as are necessary and/or appropriate to provide the Services. Supplier shall maintain a sufficient quantity of the necessary equipment, parts, material, quantity, and tools to avoid delays in the completion of its work.

5. **Shipping.** If applicable, Supplier shall substantially pack, mark, and ship all goods in a manner to secure the lowest, reasonable transportation cost and in accordance with the shipping instructions contained in the SOW and the requirements of common carriers. Supplier shall be liable for any difference in shipping charges arising from its failure to follow shipping instructions. Supplier shall be solely responsible for properly packaging all goods and for procuring and maintaining, at its own expense, insurance coverage sufficient to cover the full replacement value of the goods during shipment. Title and risk of loss or damage to the goods shall remain with Supplier until delivery to, and acceptance by, DU at the designated delivery location. Supplier shall bear all risk of loss or damage arising from improper or inadequate packaging.
6. **Acceptance and Inspection.** DU's acceptance of goods or services is a condition precedent to payment. "Acceptance" means either (i) DU's written confirmation that the goods or services conform to the SOW, or (ii) DU's failure to provide written notice of non-acceptance within a reasonable time after delivery. Title and risk of loss remain with Supplier until DU accepts the goods or services. All items are subject to inspection and testing by DU and must conform to the SOW and be free from defects in design, materials, and workmanship. DU may reject non-conforming or defective goods or services, require correction at no cost, accept them at a reduced price, or terminate the order if correction is not timely. Supplier shall bear all risks and costs associated with rejected goods or services, including reimbursement for any amounts paid and related expenses.
7. **Warranties.** Where applicable, Supplier warrants the Goods delivered hereunder (i) are of merchantable quality and free from defects in labor, material and workmanship, (ii) shall conform to all specifications or other descriptions furnished and approved by the parties, including any drawings or specifications incorporated or referenced herein and with any samples furnished by the Supplier, (iii) comply with all applicable international, federal, state, and local laws, rules, and regulations, and (iv) shall be new and not refurbished or reconditioned, unless expressly agreed in writing by DU.

Where applicable, Supplier shall perform the Services in a professional manner, conforming to the highest standards of the industry and the performance criteria provided under the SOW, shall conform to all specifications or other descriptions furnished to an approved by the Parties, and in compliance with all requirements of applicable federal, state, and/or local laws, regulations, rules, and ordinances. The Services shall be performed by licensed, fully qualified, well-trained, and properly equipped personnel.

In addition, Supplier represents and expressly warrants as follows:

1. The SOW has been duly authorized, executed, and delivered; the SOW constitutes a valid and binding obligation of the Supplier and is fully enforceable against Supplier in accordance with these Terms; and the SOW is not in conflict with any other agreement by which Supplier may be bound.
  2. Supplier has inspected or has had the opportunity to inspect the relevant portions of DU's premises to the extent that Supplier deems necessary, and accordingly, Supplier accepts its responsibilities under the SOW with no representations or warranties whatsoever by DU relating to the premises.
  3. No part, equipment, goods, or material shall in any way degrade or compromise the operation of DU's premises.
8. **Termination For Cause.** DU may, by written notice of default to Supplier, terminate the SOW in whole or in part, should the Supplier fail to make satisfactory progress or fail to deliver within the time specified or fail to deliver in strict conformance to specifications or requirements set forth herein. In the event of such termination, DU reserves the right to purchase or obtain the goods or services elsewhere and the defaulting Supplier shall be liable for the difference between the prices set forth in the SOW and the actual cost thereof to DU. In such case,

the prevailing market price shall be considered the fair repurchase price. The rights and remedies of DU provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If, after notice of termination of the SOW under the provisions of this clause, it is determined for any reason that the Supplier was not in default under the provisions of this Section, the rights and obligations of the Parties shall be the same as if notice of termination had been issued pursuant to the Termination for Convenience Section below.

9. **Termination for Convenience.** DU may, by written notice stating the extent and effective date, terminate the SOW for convenience in whole or part, at any time. DU shall pay the Supplier full compensation for performance until such termination, the unit or pro-rata SOW price for any delivered and accepted portion of the Goods or Services. In no event shall DU be liable for any loss of profits on the SOW or portion thereof so terminated.
10. **Delays.** If DU determines that Supplier has been delayed in the work due to causes beyond the control and without the fault or negligence of the Supplier (“Force Majeure”), DU may extend the time for completion of the work called for by the SOW, when promptly applied for in writing by Supplier, and if such delay is due to failure of DU, not caused or contributed to by Supplier, to perform services or deliver property in accordance with the terms of the SOW, the time and price of the order shall be subject to change under the Changes Section herein. Sole remedy of Supplier in event of delay by failure of DU to perform shall, however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of delay. No allowance will be made for anticipated profits. The rights and remedies of DU provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law.
11. **Indemnification and Insurance.** In the event the Supplier, its employees, agents, or subcontractors, enter the premises occupied by or under the control of DU in the performance of the SOW, the Supplier agrees that it will be responsible to, and indemnify and hold harmless, DU, its board, officers, and employees, from any loss, costs, damage, expense or liability by reason of property damages or personal injury of whatsoever kind or character, arising out of, as a result of, or in connection with such performance occasioned by the negligence or other fault, by act or omission of the Supplier, its agents, employees, or subcontractors, and the Supplier agrees that it and its subcontractors will maintain general liability insurance in minimum amounts of \$1 Million per occurrence/\$2 Million aggregate including a minimum \$250,000 fire legal liability, with DU named "additional insured as respects its interest" in the description section of the certificate, and will maintain worker's compensation coverage in statutorily required amounts (either by insurance or, if qualified pursuant to law, through a self-insurance program) covering all employees performing this order on premises occupied by or under the control of DU.

In the event the Supplier, its employees, agents, or subcontractors, enter the premises occupied or under the control of DU in the performance of the SOW, the Supplier agrees, to the extent permitted by law, that Supplier personnel, or employees of Supplier's subcontractors assigned to provide any services or goods on-site at the DU premises or are given access to DU's network systems will have undergone a background check consistent with the requirements set forth in University Policy RISK 12.10.020 - Background Checks, conducted by Supplier. Supplier shall maintain records of background checks and suitability determinations for the term of the SOW and make them available to DU upon request.

12. **Confidentiality and Security.** Supplier may receive or have access to non-public information about DU, including but not limited to personal, financial, academic, proprietary, or institutional data (“Confidential Information”). Supplier acknowledges that all Confidential Information is the exclusive property of DU and agrees to maintain its confidentiality, use it solely for purposes of performing the SOW, and not disclose it without DU's prior written consent. Upon expiration or termination of the SOW, or upon DU's request,

Supplier shall return or securely destroy all Confidential Information in its possession, except as required by law. Supplier remains bound by this Section for any retained Confidential Information.

13. **Intellectual Property.** All work product, deliverables, materials, inventions, discoveries, designs, developments, improvements, trade secrets, know-how, and other intellectual property (whether or not patentable or copyrightable) conceived, created, authored, developed, or reduced to practice by Supplier (alone or jointly with others) in connection with the performance of the SOW shall be deemed “work made for hire” to the fullest extent permitted by law, with DU deemed the author and exclusive owner.

Supplier will retain ownership of its pre-existing intellectual property and any intellectual property that it acquires outside the scope of the SOW. If Supplier incorporates Supplier background intellectual property into the work product, Supplier hereby grants to DU a non-exclusive, royalty-free, irrevocable, perpetual, paid-up, world-wide license (with the right to sublicense), to use, reproduce, prepare derivative works, distribute, display, perform, sell, offer for sale, make, have made any such Supplier background intellectual property in connection with the work product.

**14. Miscellaneous.**

1. **Use of University’s Names; Advertising or Publication.** Neither Supplier nor any of its subcontractors or affiliates shall use, or cause or allow to be used, the name “University of Denver” or “DU” (alone or as part of another name, and in any language) or any logos, seals, insignia or other words, names, symbols, images or devices that identify DU or any DU school, unit, division, or affiliate (“DU Names”) in any advertising or promotional literature, electronic or otherwise, or in any publication whatsoever in connection with the goods, the services or the SOW, without prior written approval of DU.
2. **Site Access and Conduct.** Supplier shall comply with DU’s campus rules for access and safety. Supplier personnel must be properly identified, professional in conduct, and subject to removal by DU if unsafe or disruptive.
3. **Safety.** Supplier shall perform all services in compliance with OSHA and applicable building/fire codes. Supplier must immediately report accidents, hazards, or damage to DU. If DU learns that Supplier is engaged in unsafe practices, DU may suspend work.
4. **Non-exclusivity.** Nothing in the SOW shall be construed as limiting either party from contracting with another person or entity for the same or similar services covered by the SOW.
5. **Taxes.** DU is a Colorado nonprofit, tax-exempt corporation under Internal Revenue Code (IRC) Section 501(c)(3) and is specifically exempt from State of Colorado and local sales tax.
6. **Governing Law.** The SOW shall be governed by and construed in accordance with the laws of the State of Colorado without regard to its rules of conflict of laws. Supplier submits to the exclusive jurisdiction and venue in Colorado state and federal courts and waives any objection based on inconvenient forum. Notwithstanding the foregoing, DU may seek injunctive relief in any court of competent jurisdiction.
7. **Assignment.** Supplier shall not assign rights or delegate duties under the SOW or subcontract any part of the performance required under the SOW, without the express, written consent of the DU. Assignment of accounts receivable may be made only upon written notice furnished to DU.

The undersigned certifies that they have read, understand, and agree to be bound by these General Terms and Conditions. This signature shall remain valid and enforceable for the duration of the relationship between the parties, including renewals and extensions, unless replaced by a subsequent written agreement.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

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