

Standard Purchase Agreement

This Standard Purchasing Agreement ("Agreement") is entered into between Northern Kentucky University ("University") and _____ ("Contractor"). University and Contractor may be referred to singularly as a "Party" and collectively as the "Parties."

1. **TERM:** The term of this Agreement ("Initial Term") will begin on _____ and end on _____, unless terminated earlier pursuant to the terms of this Agreement. This contract includes _____ renewal(s) for _____ years(s) each a ("Renewal Term"). Renewals will require a contract amendment form and approval by each Party.

2. **SERVICES:** Insert a brief description of the goods and/or services to be provided by Contractor pursuant to this Agreement.

← Check here if an RFP, bid, offer, proposal, quotation or other similar document(s) (collectively, "Attachment(s)") is/are being added as part of this Agreement. Any such Attachment(s) is/are hereby incorporated by reference and collectively constitute the ("Services"). This Agreement and any Attachment(s) are meant to be complementary. In the event of any inconsistency between the Attachment(s) and this Agreement, this Agreement will prevail. The order of precedence of the Attachments shall be as follows:

- a. _____
- b. _____
- c. _____
- d. _____

3. **COMPENSATION:** Check one box only:

This is a fixed price contract. University will pay Contractor the amount of \$_____.

This is not a fixed price contract. University will pay Contractor an amount not to exceed \$_____ (based on an hourly fee and/or other method of calculation as follows:

_____).

This is not a fixed price contract and will be performed on a service-order basis. University will pay Contractor an amount not to exceed \$_____ (based on service order form(s) to be completed and signed by the Parties, a version of which will be provided to Contractor by University). University will engage Contractor on an "as-needed if needed" basis and does not guarantee the purchase of any quantity or dollar amount of Services.

4. **PAYMENT TERMS:** Contractor shall submit detailed invoices to University describing the Services rendered, the times when such Services were performed, compensable expenses and the amount due. University will pay undisputed amounts within thirty (30) days of receiving invoices. The Contractor shall only provide services for performance of the Work or any part thereof upon authorization from the University. The Contractor shall submit to the University within five (5) business days of satisfactory completion of the Work an invoice for its services to accomplish the Work. The invoice shall at a minimum: Clearly identify the Contractor, a unique invoice number, date the invoice was created, date the service(s) was performed, University's Purchase Order number, and a line itemization of each service performed with its related charge and total amount due. University shall make all reasonable efforts to pay valid invoices within thirty (30) days of receipt. University reserves the right to dispute any invoice it receives from Contractor which in the University's sole discretion it deems as invalid. University must notify Contractor in writing not less than fifteen (15) days after receipt of such an invoice that it intends to dispute. University and Contractor shall make all reasonable efforts to resolve any disputed invoice.

5. **CONTRACTOR'S STATUS AND RESPONSIBILITIES:** In performing the Services, Contractor will be deemed an independent contractor and not University's agent or employee. This Agreement will not be construed to create any partnership, joint venture or other similar relationship between the Parties. As an independent contractor,

Form No: NKU-2023-01

Contractor will be solely responsible for determining the means and methods for performing the Services. Contractor shall perform the Services in strict accordance with this Agreement and in accordance with the highest standards of care, skill, diligence and professional competence applicable to contractors engaged in providing similar services.

6. **INTELLECTUAL PROPERTY:** Contractor represents that it has all intellectual property rights necessary to enter into and perform its obligations in this Agreement.
7. **OWNERSHIP OF WORK PRODUCT:** All work product, including any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by Contractor in the performance of its obligations under this Agreement will be deemed works for hire and the exclusive property of University. Contractor shall deliver all such materials to University upon completion, termination or cancellation of this Agreement. Any programs, data or other materials furnished by University for use by Contractor in connection with the Services performed under this Agreement will remain University's property.
8. **INDEMNITY:** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the University, and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, provided that any such claim, loss, damage or expense: (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (b) is caused in whole or in part by any willful negligent act or omission of the Contractor, any Trade Contractor or material supplier, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. This basic obligation to indemnify shall not be construed to nullify or reduce other indemnification rights which the University would otherwise have. The Contractor shall also indemnify and hold harmless the University and its agents and employees from any claims relating to the Work brought against the University by any subcontractor unless such claims are due to the gross negligence or willful misconduct of the University. In any and all claims against the University, or any of their agents or employees, by any employee of the Contractor, any subcontractor, any one directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation acts, disability benefit acts or other employee acts.
9. **INSURANCE:** The Contractor shall obtain and maintain the minimum insurance coverages set forth below. By requiring such minimum insurance, University shall not be deemed or construed to have assessed the risk that may be applicable to the Contractor. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. The Contractor is not relieved of any liability or other obligations assumed or pursuant to the contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

Coverages:

1. Commercial General Liability – ISO form CG 00 01 or its equivalent. Coverage to include:
 - Premises and Operations Personal Injury/Advertising Injury
 - Products/Completed Operations
 - Liability assumed under an Insured Contract (including tort liability of another assumed in a business contract)
 - Independent Contractors
2. Automobile Liability – Coverage to include:
 - Owned Vehicles
 - Leased Vehicles
 - Hired Vehicles
 - Non-Owned and Employee Non-Owned Vehicles
 - Personal Injury Protection (where applicable)
3. Workers' Compensation and Employers' Liability – Workers' Compensation (Coverage A) and Employers' Liability (Coverage B)
4. Liquor Liability – If the vendor is operating a business that distributes, sells, or serves alcoholic beverages or if their activities require a liquor license, they must maintain liquor liability insurance that includes Northern Kentucky University and its Board of Regents/Trustees, officers, employees, agents, and volunteers as additional insureds.
5. Third Party Fidelity or Crime Insurance (if applicable) – If the vendor is operating on University premises this coverage is required. NOTE: If the vendor is an individual or sole proprietor with no employees, this coverage cannot be obtained and will not be required. Coverage shall include employee dishonesty, including endorsement client's property (ISO endorsement CR 04 01 or equivalent). If a crime insurance policy is not used, third party fidelity coverage shall be provided for in limits as stated below:
 1. The coverage shall be issued with limits of 50% of the contract value or \$100,000 – whichever amount is greater.
 2. The coverage shall include coverage for all employees of the Contractor.
 3. The coverage shall not include coverage for extended theft and mysterious disappearance.
 4. The coverage shall not contain a condition requiring an arrest and conviction

Limits Required:

Commercial General Liability	
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000
Damage to Rented Premises	\$50,000
Medical Payments (Any One Person)	\$5,000
Liquor Liability (if applicable)	
Each Occurrence	\$1,000,000
Aggregate	\$1,000,000
Automobile Liability	
Bodily Injury/Property Damage (Each Accident)	\$1,000,000
Personal Injury Protection (if applicable)	Statutory
Workers' Compensation	
Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers' Liability)	\$500,000 \$500,000 \$500,000
Crime Coverage (if applicable)	
	50% of the contract value or \$100,000, whichever is greater

Additional Requirements:

Commercial General Liability (CGL)

Commercial General Liability (CGL) must include coverage for liability arising from products completed operations and liability assumed under an insured contract.

If the CGL insurance has a general aggregate limit then ISO endorsement CG 25 04 (03/97 Edition) or its equivalent must be added. The Designated Location(s) General Aggregate Limit must be maintained for the duration of the agreement, and the limit must be twice the minimum required occurrence limit.

Contractor shall name Northern Kentucky University and its Board of Regents/Trustees, officers, employees, agents, and volunteers as Additional Insureds on ISO endorsement CG 20 26 or its equivalent.

The CGL policy shall contain no endorsement or modification limiting the scope of coverage for liability assumed under a contract, or liability arising from pollution.

All Policies

- Must be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by University.
- Must include a Waiver of Subrogation Clause.

Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, or canceled except after thirty (30) days' prior written notice has been given to the University, except when cancellation is for non-payment of premium; then ten (10) days' prior notice may be given. Such notice shall be sent directly to University Representative's Name and Address. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the University of any cancellation, suspension, or non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect

- 10. INSPECTION AND ACCEPTANCE OF SERVICES:** University reserves the right to inspect the Services provided under this Agreement at all reasonable times and places during the Term. If any of the Services do not conform to the requirements set forth in this Agreement, University may (i) require Contractor to perform the Services again in conformity with such requirements, with no additional charge to University; or (ii) equitably reduce

payment due Contractor to reflect the reduced value of the Services performed. These remedies do not limit other remedies available to University in this Agreement or otherwise available at law.

- 11. **RISK OF LOSS:** All work performed by Contractor pursuant to this Agreement will be at Contractor’s exclusive risk until final and complete acceptance of the work by University. In the case of any loss or damage to the work prior to University’s acceptance, such loss or damage will be Contractor’s responsibility. Delivery of any goods to University pursuant to this Agreement must be FOB destination.
- 12. **COMPLIANCE:** Contractor shall observe and abide by all applicable local, state and federal laws (including without limitation the Jeanne Clery Act), regulations and University policies and procedures. Contractor certifies that is has not been debarred, suspended, or declared ineligible as defined in the Federal Acquisition Regulation (FAR 48 C.F.R Ch. 1 Subpart 9.4). Contractor will immediately notify the University if the Contractor is placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors.
- 13. **CONFIDENTIALITY; DATA PROTECTION** Neither Party shall disclose any confidential information obtained from the other Party without such Party’s prior written approval. As applicable, Contractor shall maintain and process all information it receives in compliance with all applicable data protection/privacy laws and regulations and University policies.
- 14. **PUBLICITY:** Contractor shall not use University’s name, logo or other likeness in any press release, marketing material or other announcement without University’s prior written approval.
- 15. **SUBCONTRACTORS:** If Contractor is permitted to subcontract any of the Services, Contractor shall ensure that each subcontractor complies with all provisions of this Agreement. Contractor will remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of the Services.
- 16. **BONDS:** If applicable to the Services and this Agreement, Contractor shall secure payment and/or performance bonds in accordance with the Common Wealth of Kentucky Government Code upon executing this Agreement.
- 17. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Agreement.
- 18. **DEFAULT:** A Party will be in default of this Agreement if such Party fails to comply with any obligation in this Agreement and such failure continues for ten (10) days after receiving written notice from the non-defaulting Party. In the event of default, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Agreement as of the date specified in the notice, and may seek other relief as provided by law.
- 19. **TERMINATION FOR CONVENIENCE:** The University may terminate the Contract in accordance with the provisions of KRS 45A.210 and 200KAR 5:312. University will only be liable for payment for Services received prior to the effective date of such termination.
- 20. **NOTICE:** Any notice required or permitted by this Agreement must be in writing and addressed to the Party at the address set forth below, or such other address as is subsequently specified in writing. Notices will be effective as of the date: (i) delivered by hand, (ii) delivered by national courier service or Registered/Certified Mail, postage prepaid, return receipt requested, or (iii) received by facsimile.

To University:
Dept. Name: _____
Attn: _____
Address: _____

with a copy to:
Procurement Services
Attn: Director of Procurement
1 Nunn Dr, AC 617
Highland Heights, KY 41099

To Contractor:

Attn: _____
Address: _____

with a copy to:

Attn: _____
Address: _____

- 21. **GOVERNING LAW AND JURISDICTION:** This Contract and all issues and disputes arising out of this Contract shall be governed by the laws of the Commonwealth of Kentucky without consideration of its conflicts of laws principles. Any legal action on the Contract shall be brought in the Franklin Circuit Court and shall be tried by the Court sitting without a jury.
- 22. **FUNDING CONTINGENCY:** University’s performance under this Agreement may be dependent upon appropriation of funds by the Commonwealth (“Legislature”) and/or allocation of funds by University’s Board of Regents (“Board”). If the Legislature fails to appropriate the necessary funds or the Board fails to allocate the necessary funds, University may terminate this Agreement without liability by providing written notice to Contractor.
- 23. **WAIVER:** Waiver by either Party of a breach or violation of any provision of this Agreement will not operate as a waiver of any subsequent breach.
- 24. **SURVIVAL:** Termination or expiration of this Agreement will not affect the Parties’ rights or obligations that,

by their nature and context, are intended to survive termination or expiration.

25. **ELECTRONIC DELIVERY:** Execution and delivery of this Agreement by exchange of email containing the signature of a Party will constitute a valid and binding execution and delivery of this Agreement by such Party.
26. **LIMITATIONS:** Terms and conditions of this Agreement will only be binding on University to the extent permitted by the Constitution and laws of the Commonwealth of Kentucky.
27. **NO FRAUD VIOLATIONS:** Contractor affirms that it has not been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds and that it does not employ officers or employees that have been convicted of, or pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds.
28. **FORCE MAJEURE:** The performance of this Agreement is subject to acts of God, including fire, storms, and floods; war; orders, requisitions or necessity of the government; domestic and/or international threats or acts of terrorism; disasters; riots; rebellions; strikes or other labor disputes; civil disorder; epidemics, pandemics, such as COVID-19 or any disease having a similar effect; any other national or regional emergency; curtailment of transportation facilities beyond the Parties' control; or any other cause not enumerated herein but which is beyond the reasonable control of the Party whose performance is affected and which makes it illegal, impossible, or impracticable for such Party to perform its duties and obligations under this Agreement (collectively, a "Force Majeure Event"). A Party may suspend performance of this Agreement during the occurrence of a Force Majeure Event if it is unable in good faith to perform its duties and obligations under this Agreement due to that Force Majeure Event. Additionally, if a Force Majeure Event lasts longer than thirty (30) continuous days then this Agreement may be terminated by the Party affected by such a Force Majeure Event, provided however, that the Parties are liable for and shall be required to perform the duties and obligations that arose prior to such Force Majeure Event.
29. **MISCELLANEOUS PROVISIONS (29 – 37):** The University and Contractor respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither University nor Contractor shall assign this Agreement without the prior written consent of the other.
30. The Contractor represents and warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for the Contractor) to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation individual or firm (other than a bona fide employee working solely for the Contractor) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
31. University is an equal opportunity institution and, as such, encourages the use of Minority Business Enterprises ("MBEs") in the provision of construction related services. MBEs should have a fair and equal opportunity to compete for dollars spent by the Commonwealth of Kentucky to procure construction-related services. Competition ensures that prices are competitive and a broad vendor base is available.
32. Foreign corporations are defined as corporations that are organized under laws other than the laws of the commonwealth of Kentucky. Foreign corporations doing business within the commonwealth of Kentucky are required to be registered with the Secretary of State, New Capitol Building, Frankfort, Kentucky and must be in good standing. The Foreign Corporate Proposer, if not registered with the Secretary of State at the time of the bid submittal, shall be required to become registered and be declared in good standing prior to the issuance or receipt of a contract.
33. All Attachments referenced herein are attached hereto and incorporated herein by reference.
34. The Contractor, as defined in KRS 45A.030 (9) agrees that the University, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission of the Commonwealth of Kentucky, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this Contract for the purpose of financial audit or program review. Furthermore, any books, documents, papers, records, or other evidence provided to the University, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission of the Commonwealth of Kentucky which are directly pertinent to the Contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the Contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information that would otherwise be subject to public release if a state government agency were providing the service. (22 Ky.R. 1510; eff. 5-16-96; 30 Ky.R. 682; 1468; eff. 1-5-2004.)
35. Any waiver by either party of any provision or condition of this Contract shall not be construed or deemed to be a waiver of any other provision or condition of this Contract, nor a waiver of a subsequent breach of the same provision or condition.

Form No: NKU-2023-01

- 36. If any section, subsection, sentence or clause of this Contract shall be deemed to be illegal, invalid or unenforceable for any reason, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of other sections of this Contract.
- 37. This Contract and any Exhibits to this Contract represent the entire understanding and agreement between the parties hereto and supersedes any and all prior agreements, whether written or oral, that may exist between the parties concerning the Work. Any modifications to this Contract shall be in writing and shall be signed by the University and the Contractor.
- 38. **Modification of this Contract requires approval from Procurement Services**

Insurance Requirements Waiver – IF the Insurance Requirements are not applicable to the Services or if University otherwise chooses to waive such requirements for purposes of this Agreement, the appropriate University representative from the Department of Procurement Services and may waive the requirements by initialing here: _____ Otherwise, Contractor must satisfy the Insurance Requirements specified in this Agreement.

Northern Kentucky University:	Contractor:
Signature: _____	Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____