

## **BLINN COLLEGE DISTRICT Addendum to AIA Contracts**

Vendor Name:                      ("Vendor")

Vendor Address: \_\_\_\_\_

The Blinn College District ("Blinn College") and the Vendor are this day entering into a contract and, for their mutual convenience, the parties are using the standard contract and/or purchase order form provided by the Vendor (referred to hereafter as the "Vendor's Contract Form").

This Addendum ("Addendum"), duly executed by the parties, is incorporated into the Vendor's Contract and made an integral part thereof. This Addendum and the Vendor's Contract Form shall be referred to hereafter collectively as the "Agreement."

The Vendor's Contract Form is, with the exceptions noted herein, generally acceptable to Blinn College District. Nonetheless, because certain standard clauses that may appear in the Vendor's Contract Form cannot be accepted by Blinn College District because of its status as an educational institution of the State of Texas and in consideration for the convenience of using provisions in the Vendor's Contract Form instead of negotiating a separate contract document, the parties agree that none of the provisions listed below, if they appear in the Vendor's Contract Form, shall have any effect or be enforceable against Blinn College District:

1. Requiring the Blinn College District to maintain any type of insurance either for the Blinn College District's benefit or for the Vendor's benefit.
2. Renewing or extending the Agreement beyond the contract term or automatically continuing the contract period from term to term.
3. Requiring or stating the terms of the Vendor's Contract Form shall prevail over the terms of the purchase order or this Addendum in the event of conflict.
4. Requiring the application of the law of any state other than Texas in interpreting or enforcing the Agreement, or resolving any dispute under the Agreement. The Agreement and the obligations of the parties shall be construed and enforced in accordance with the laws of the State of Texas.
5. Releasing the Vendor or any other entity or person from its legal liability, or limiting liability, for unlawful or negligent conduct or failure to comply with any duty recognized or imposed by applicable law.
6. Requiring any total or partial compensation or payment for lost profit or liquidated damages by Blinn College District if the Agreement is terminated before the end of the contract term.
7. Changing the time period within which claims can be made or actions can be brought under the laws of the State of Texas.
8. Binding Blinn College District to any arbitration provision or to the decision of any arbitration board, commission, panel or other entity.
9. Obligating Blinn College to pay costs of collection or attorneys' fees.
10. Requiring Blinn College District to provide warranties.
11. Obligating Blinn College District to indemnify, defend or hold harmless any party, unless allowed by the laws and Constitution of the State of Texas.

**Miscellaneous Provisions:**

**Use of Trademark:** Any Blinn College District trademark logo (institutional, division, department and/or athletic), verbiage, or wordmarks cannot be used in any capacity without permission from the Blinn College Office of Marketing and Communications. These items are property of the College and should not be placed on publications or in any medium (i.e., websites, social media, newsletters, fliers, posters, emails, etc). For questions concerning copyrighted materials and the use of Blinn trademark logos, verbiage and/or wordmarks, please contact the Office of Marketing and Communications at 979-830-4113.

**Copyrighted Material:** The Vendor represents that all content including but not limited to logos, trademarks, photos, illustrations, audio, video, writings, recordings, music, computer programs and other works which may be copyrighted that are provided, performed, presented or supplied by the Vendor are owned by the Vendor, or the Vendor has received explicit permission for use, and the material does not violate any United States copyright laws. The Vendor is responsible for acquiring all licenses and approvals for any copyrighted material used during the course of business with Blinn College District. If the Vendor takes photos or videos during the course of business with Blinn College District, the Vendor must receive permission from all individuals photographed or recorded to before the photos or videos are shown on any public platforms or webpages. This includes confirmation that each person in photos or videos that are going to be online understands that their face may be seen on the Internet. Vendor agrees to indemnify and hold Blinn College District harmless against all claims, including but not limited to claims of copyright or trademark infringement, violations of the rights of privacy, publicity, or defamation, arising out of use of the copyrighted material. Vendor's inclusion and use of the material performed, presented, provided, or supplied will not violate any rights of any kind or nature whatsoever of any third party.

Vendor shall provide proof of Copyright License Agreement to the Blinn College District upon the signing of this Agreement. Should Vendor fail to provide such proof, Blinn College District has full authority to terminate any and all Agreements with Vendor.

**Alternative Dispute Resolution:** The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the Vendor and Blinn College to attempt to resolve any claim for breach of contract made by the Vendor that cannot be resolved in the ordinary course of business. The Vendor shall submit written notice of a claim of breach of contract under this Chapter to the Executive Vice Chancellor of Blinn College District, who shall examine the Vendor's claim and any counterclaim and negotiate with the Vendor in an effort to resolve the claim.

**Cloud Computing State Risk and Authorization Management Program:** Pursuant to Section 2054.0593(d)-(f) of the *Texas Government Code*, relating to cloud computing state risk and authorization management program, Vendor represents and warrants that it complies with the requirements of the state risk and authorization management program and Vendor agrees that throughout the term of the contract it shall maintain its certifications and comply with the program requirements in the performance of the contract.

**Mandatory Venue:** Venue for any suit filed against Blinn College District shall be in the county in which the primary office of the chief executive officer of Blinn College is located. This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Texas without regard to its choice of law or conflicts

of law provisions.

**Loss of Funding:** Performance by Blinn College District under the Agreement may be dependent upon the appropriation and allotment of funds from federally funded programs and/or by the Texas State Legislature (the "Legislature"). In the event a curtailment of federally funded programs occurs, or in the event state appropriations are unavailable, then Blinn College District will issue written notice to the Vendor and Blinn College District may terminate the Agreement without further duty or obligation hereunder. The Vendor acknowledges that appropriation of funds is beyond the control of Blinn College District.

**Payment:** All payment for goods and services shall be governed by Chapter 2251, *Texas Government Code*.

**Non-Waiver:** The Vendor expressly acknowledges Blinn College District is an educational institution of the State of Texas and nothing in the Agreement will be construed as a waiver or relinquishment by Blinn College District of its right to claim such exemptions, privileges, and immunities as may be provided by law. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to Blinn College District under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities.

**Confidentiality:** Vendor acknowledges that Blinn College District is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement. The requirements of Subchapter J, Chapter 552, *Texas Government Code*, may apply to this bid or contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

**Force Majeure:** Neither party is required to perform any term, condition, or covenant of the Agreement, if performance is prevented or delayed by a natural occurrence, a fire, a pandemic, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.

**Termination:** The Blinn College District may terminate, for convenience, its obligations under the Vendor's Contract by giving 30 days' written notice to the Vendor. The Blinn College District may, upon written notice of default or breach to the Vendor, immediately terminate the Vendor's Contract if Vendor fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any terms or conditions of the Contract. If Blinn College District determines that an aspect of the Contract has materially or substantially changed, the Blinn College District may terminate the contract by providing 7 days' written notice to the Vendor.

Termination of the Vendor's Contract shall not release the Vendor from liability or obligation set forth in the contract that is expressly stated to survive termination, including, but not limited to, provisions regarding indemnification, records, audit, property rights, dispute resolution, and invoice and fee verifications. Termination is not an exclusive remedy, but exists in addition to any other rights and remedies provided in equity, under the laws of the State of Texas.

**Use of Purchase Orders:** To the degree that either or both of the parties hereto find it convenient to employ their standard forms of purchase order or acknowledgment of order in

administering the terms of this Agreement, it or they may do so but none of the terms and conditions printed or otherwise appearing on such form shall be applicable except to the extent that it specifies information required to be furnished by either party hereunder. The terms proposed by any such form are specifically objected to and shall not be used as a basis for any contract.

**Entire Agreement:** This Addendum and the Vendor's Contract Form constitute the entire Agreement between the parties and may not be waived or modified except by a written agreement signed by the parties.

**Savings Clause:** If a court of competent jurisdiction finds any provision of this Addendum and the Vendor's Contract Form illegal, ineffective or beyond contractual authority of either party, then the offending provision will be stricken and the remainder of the agreement between the parties will remain in effect.

**Notices:** All notices shall be mailed to the "Blinn College District, Executive Vice Chancellor, 902 College Avenue, Brenham, TX 77833".

To the extent the language in this Addendum conflicts with any language in the Vendor's Contract Form, the language in this Addendum will control.

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed, intending thereby to be legally bound.

**BLINN COLLEGE DISTRICT**

**Vendor**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: Mary Hensley, Ed.D.

NAME: \_\_\_\_\_

TITLE: Chancellor of the Blinn College District

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_