Instructions for Use:

***Add the following sentence to the Agreement to which this Addendum is attached:***

***“***The parties agree to the provisions of The University of Texas System, Hotel Contract Addendum, which is attached and hereby incorporated for all purposes.***” The addition of this sentence must be initialed by both parties.***

***Yellow-shaded fields are for instructional purposes. Delete all yellow-shaded areas and these instructions prior to printing Addendum. Remove blue-shading when done.***

***When you are ready to submit the Addendum for review and approval, please send with the hotel contract packet to*** ***CNP@utsystem.edu***

- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

# THE UNIVERSITY OF TEXAS SYSTEM

**HOTEL CONTRACT ADDENDUM**

The following terms and conditions are incorporated into and form a part of the Agreement between **The University of Texas System** (University), on behalf of its <Insert Department Name> (Department) and **<Insert Hotel Name>** (Hotel) for the event scheduled <Insert Month Day-Day, Year> (**Event**).

**Financial Obligations and Limitations on Authority.** Hotel acknowledges that the University representative signing the Agreement and this Addendum only is authorized to obligate the University for payment of guest rooms, conference rooms, catering/food, equipment, auxiliary services and applicable cancellation and attrition charges. Hotel also acknowledges that the University representative is not authorized to waive, revise or expand upon the terms and conditions of this Addendum.

[Below clause optional – Must remain if Hotel will provide lodging to students.]

**Fire Safety Inspection.** Hotel certifies that it is in compliance with relevant provisions of the Texas Government Code, Section 417.008 Inspection authority of the State Fire Marshal; Texas Administrative Code 28 TAC 34.303; Texas Health and Safety Code, Title 9. Safety, Chapter 791, Fire Escapes, and Chapter 792, Smoke Detectors in Hotels; or locally adopted fire code, and that Hotel has had a fire safety inspection within the past twelve months. This Agreement may be terminated in its entirety, without penalty or recourse, by The University or by order of the Texas State Fire Marshal or the Fire Marshal with local jurisdiction, if this certification is inaccurate.

**Tax Exempt.** The University, an agency of the State of Texas, is exempt from State of Texas Sales Tax and Federal Excise Tax. Tax Exempt ID number 74-6000203.

(Below clause optional – Must remain if Department will be responsible for payment, including possibility of Cancellation or Attrition Charges.)

**Invoicing and Payment of Direct Bill Account.** Hotel shall review invoicing for Direct Bill Account to insure no State of Texas Sales Tax, Federal Excise Tax or other tax, from which University is exempt, is charged the Department. The outstanding balance of Department’s Direct Bill Account, excluding disputed charges, will be overdue on the 31st day after the later of: a) the completion of the Event or b) receipt of invoice by Department. Upon resolution of any disputed charges, the Hotel shall invoice such remaining charges to the Department. Payment of the revised charges shall be overdue on the 31st day after receipt of invoice by Department. The rate of interest that accrues on an overdue payment is defined in Texas Government Code, Chapter 2251.025, INTEREST ON OVERDUE PAYMENT, which is generally stated as Prime Rate (on July 1st) plus 1% effective the following September 1st.

[Optional – If the Hotel has a cancellation clause, please consider inserting the following clause to replace the Hotel’s cancellation clause. If the department chooses to accept the terms of the Hotel’s cancellation clause, you can agree to the Hotel’s cancellation clause, as long as the clause is within the department’s delegated authority.

**Cancellation.** The Hotel may suffer Damages attributable to lost revenue from canceled services should the Department cancel this Agreement. The Department agrees that the Hotel may assess Damages against the Department as Damages and not as a Penalty calculated per the table below, provided such Damages shall be reasonable and shall not exceed actual Damages.

In the event of Cancellation by Department without cause, the Hotel shall be required to make good faith efforts to mitigate its Damages by attempting to resell any canceled accommodations. The Hotel shall submit, within thirty (30) days after the Event date, an invoice of above Damages. The Department reserves the right to audit the Hotel records to determine the amount of actual liability resulting from the canceled Agreement. Notice of Cancellation must be received by the Hotel in writing.

Number of Days and Percentages in table can be revised.

|  |  |  |
| --- | --- | --- |
| Canceled # of Days Prior to the Event | % of Lost Guest Room Revenue | % of Lost Conf. Room, Catering, Equip., and/or Auxiliary Activities Revenue |
| 181 days or greater | 0% | 0% |
| 180 to 121 days | 20% | 10% |
| 120 to 61 days | 40% | 20% |
| 60 days to Event date | 80% | 40% |

[Optional The Cancellation Fee will be waived should the Department reschedule a similar event at the Hotel to arrive within <Insert #> months of the date of the canceled Event. ]

[Below Section optional.]

In the event the Hotel may be undergoing any substantial construction or renovation during the meeting dates that would materially affect the event, the Hotel shall promptly notify Department and Department shall have the right to cancel this Agreement without liability if, in Department’s reasonable judgment, such construction or renovation may tend to unreasonably affect the use of the facilities or the quality of service to be provided under this Agreement.

[Below clause optional – Must remain if Hotel’s agreement contains an Attrition clause.]

**Attrition.** In the event Department agrees to pay Attrition Charges, such charges shall be calculated as stated in the Agreement, shall be reasonable and shall not exceed actual Damages.

The Hotel shall be required to make good faith efforts to mitigate its Damages by attempting to resell any accommodations subject to attrition charges, thereby reducing Hotel’s Damages. On any Event day overall hotel occupancy is equal to or greater than <Insert %>( 70-80% is standard), the Department will receive credit for full achievement of the contracted accommodations for that day. The Department reserves the right to audit the Hotel records to determine the amount of actual Damages resulting from attrition.

[Below clause optional – Make a persuasive attempt to remove Deposit/Prepayment from agreement. This Clause must remain if Hotel’s agreement requires a Deposit/Prepayment. Deposit/Prepayment cannot exceed 50% of anticipated cost nor be made with State of Texas appropriated funds. Deposit/Prepayment cannot be made as security against possible damages, repairs or excessive clean-up.]

**Refund of Deposit/Prepayment.** In the event this Agreement is canceled by Hotel for reason not attributable to University or if canceled by University for default of performance by Hotel or Force Majeure, then within thirty (30) days after termination, Hotel will reimburse University for all advance payments paid by University to Hotel that were (a) not earned by Hotel prior to termination, or (b) for goods or services that the University did not receive from Hotel prior to termination.

**Indemnification.** To the extent authorized by the Constitution and laws of the State of Texas, and subject to the exercise by the Texas Attorney General of his/her statutory duties, University agrees to indemnify and hold Hotel harmless against any and all claims, demands, damages, liabilities and costs incurred by Hotel, which result from or arise in connection with the negligent acts or omissions of University or its employees, acting within the scope of their employment and in performance of obligations under this Agreement. The University shall not provide indemnification or be liable for the intentional or negligent acts or omissions of guests, invitees, and other persons not employed by the University.

Hotel agrees to indemnify and hold University and its respective officers, agents, and employees free and harmless from all liability, loss, damage, costs, and all other claims for expenses asserted against any of them which may arise from injuries to persons or property occasioned by the intentional or negligent acts or omissions of Hotel or its employees.

**Liability and Insurance.** It is the stated policy of the University not to acquire commercial general liability insurance for torts committed by employees of the University who are acting within the scope of their employment. Rather, Hotel must look to the Texas Tort Claims Act for relief with respect to property damage, personal injury, and death proximately caused by the wrongful act or omission or negligence of University or its employees, acting within the scope of their employment. The University does not provide insurance coverage or accept liability for the intentional or negligent acts or omissions of guests, invitees, and other persons not employed by the University.

Hotel will provide Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit $1,000,000

Personal & Advertising Injury $1,000,000

General Aggregate $2,000,000

Products - Completed Operations Aggregate $2,000,000

The required Commercial General Liability policy will be issued on a form that insures Hotel’s liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement. If Hotel is providing alcohol, Hotel should include liquor liability and name The University of Texas System and The University of Texas System Board of Regents as additional insureds and provide a waiver of subrogation.

**Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, war, riots, civil unrest, flood, fire, tsunami, volcano, sabotage, air space closure, ground stop(s), a U.S. Department of State Travel Warning or any other circumstances of like character (“force majeure occurrence”).

**Breach of Contract Claims.** To the extent that Chapter 2260, *Texas Government Code*, is applicable to the Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by University and Hotel to attempt to resolve any claim for breach of contract made by Hotel that cannot be resolved in the ordinary course of business. The chief business officer of University will examine Hotel's claim and any counterclaim and negotiate with Hotel in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of the Agreement by University nor any other conduct, action or inaction of any representative of University relating to the Agreement constitutes or is intended to constitute a waiver of University’s or the state's sovereign immunity to suit; and (ii) University has not waived its right to seek redress in the courts.

**Americans with Disabilities Act.** The Hotel shall provide, to the extent required by the Americans with Disabilities Act, such auxiliary aids and/or services as may be reasonably requested by Department, provided that Department gives reasonable advance written notice to the Hotel of such needs. Department shall be responsible for the cost of any auxiliary aids and services (including engagement of and payment of specialized service providers, such as sign language interpreters), other than those types and quantities typically maintained by the Hotel.

**Texas Family Code Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, Hotel certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

**Compliance with Laws.** Each party agrees to conduct all activities under the Agreement and Addendum in a manner that complies with all applicable federal, state and local laws.

**Venue; Governing Law.** The Agreement shall be construed, interpreted, applied and enforced under the laws of the State of Texas. Should a dispute arise under this Agreement, Travis County, Texas, shall be the proper place of venue.

**Public Information.** University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act* (**TPIA**), Chapter 552, *Texas Government Code*. In accordance with Section 552.002 of TPIA and Section 2252.907, *Texas Government Code*, and **at no additional charge to University, Hotel will make any information created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by University that is accessible by the public.**

**Certification regarding Boycotting Israel.** Pursuant to Chapter 2270, Texas Government Code, Contractor certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**Certification regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Contractor certifies Contractor is no engaged in Business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**Contractor Verification regarding Boycotting Energy Companies.** If (1) this agreement has a total value in excess of $100,000, and (2) Contractor is a for-profit business with at least ten (10) employees, then, if applicable, pursuant to Chapter 2274, *Texas Government Code (enacted by* [*SB 13, 87th Texas Legislature, Regular Session (2021))*](https://capitol.texas.gov/tlodocs/87R/billtext/html/SB00013F.htm), Contractor verifies (1) it does not boycott energy companies and (2) it will not boycott energy companies during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.

**Contractor Verification regarding Discrimination against Firearm Entities or Trade Associations.** If (1) this agreement has a total value in excess of $100,000 and will be paid wholly or partly from public funds, and (2) Contractor is a for-profit business with at least ten (10) employees, then, if applicable, pursuant to Chapter 2274, *Texas Government Code (enacted by* [*SB 19, 87th Texas Legislature, Regular Session (2021)*](https://capitol.texas.gov/tlodocs/87R/billtext/html/SB00019F.htm)*)*, Contractor verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.

**Contractor Certification Regarding COVID-19 Vaccination.** Pursuant to Section 161.0085, *Texas Health and Safety Code (enacted by* [*SB 968, 87th Texas Legislature, Regular Session (2021)*](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=SB968)*)*, Contractor certifies that it does not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor’s business. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**Federal Requirements for Telecommunications Equipment or Services.** Contractor represents that it will not provide covered telecommunications equipment or services, as defined in s CFR § 200.216, to University in the performance of this Agreement or any contract, subcontracts, or other contractual instrument resulting from this Agreement. In the event Contractor identifies covered telecommunications equipment or services, as defined in 2 CFR §200.216, used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of this Agreement, or Contractor is notified of such by a subcontractor at any tier or by any other source, Contractor shall report information about the contract, equipment item, and mitigation measures to University within one (1) business day, and provide University with an update within ten (10) business days that includes measures to prevent recurrence.

**Debarment and Suspension.** Under Presidential [Executive Order 12549](https://www.archives.gov/federal-register/codification/executive-order/12549.html) and [Executive Order 12689](https://www.archives.gov/federal-register/executive-orders/1989-bush.html), The University of Texas System may not contract with parties listed on the General Services Administration's [System for Award Management (SAM)](https://sam.gov/content/home/). SAM identifies (via active exclusions) entities that have been debarred, suspended, or excluded from receiving federal contracts, subcontracts, or federal assistance and benefits. In compliance with the Code of Federal Regulations (CFR) Section 180.300, the university includes suspension/debarment provisions in its purchase orders. By accepting the university’s purchase order, the supplier is certifying that, to the best of its knowledge, the supplier and/or any of its principals are not suspended or debarred. Contractor certifies that it is not subject to debarment or suspension by the U.S. government and the Texas government. Further, Contractor certifies that it is not subject to a vendor hold by the State of Texas. Contractor certifies that it is not subject to debarment or suspension by the Texas Comptroller

**Addendum Controlling.** In the event there is a conflict between the terms and conditions of the Agreement or any Attachments, Exhibits or Addendums thereto and this Hotel Contract Addendum, this Hotel Contract Addendum shall control.

<Insert Hotel> The University of Texas System,

on behalf of its <Insert Department>

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

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

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

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

**The following optional provisions may be added to the Addendum between the clauses “Refund of Deposit/Prepayment” and “Indemnification”.**

[Optional]

**Promotional Rates.** Hotel shall advise Department of any special promotional rates or packages to be offered by the Hotel during the Event, which are less than Department’s rates. Any “special” rate or weekend rate advertised will be made available to the Department’s group.

[Optional]

**Pre-Conference Planning Visits.** If pre-conference planning visits to the Hotel are necessary, the Hotel agrees to furnish complimentary accommodations to Department representative(s), on a space-available basis.

[Optional]

**Function Room Assignment Changes; Dishonored Reservations.** The Hotel may, with a minimum 72 hours written notice to Department, reassign function room space, provided such space is comparable to originally assigned space. If the Hotel cannot honor a guaranteed reservation for an attendee arriving as specified in the Agreement, the Hotel shall secure and assume the financial responsibility for ground transportation and equivalent or better accommodations at the nearest comparable hotel.

[Optional]

**Audio-Visual Requirement.** Department reserves the right to provide audio-visual equipment and labor for the Event. Should Department elect to provide its own audio-visual equipment and labor, there will be no fee beyond reasonable electrical charges incurred by the Hotel. Department and the Hotel agree that their audio-visual technicians will fully cooperate with each other.