

REQUEST FOR PROPOSAL

by

**The University of Texas System,
acting through The University of Texas System Supply Chain Alliance,**

for

selection of a

PREFERRED SUPPLIER of INBOUND FREIGHT MANAGEMENT SERVICES

RFP No. UTS/A46

**Submittal Deadline: August 20, 2014
@ 3:00 PM, CST**

Issued: July 22, 2014

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SECTION 1

INTRODUCTION

1.1 Description of The University of Texas System

The University of Texas System is comprised of System Administration and 15 institutions of higher education with campuses across the State of Texas whose missions are devoted to world class healthcare, teaching, research, and public service (collectively, “**UT System**”). UT System currently has six health institutions and nine academic facilities, making it one of the larger education systems in the United States. With an operating budget of \$14.6 billion, UT System has a current student enrollment exceeding 216,000. UT System employs more than 87,000 faculty and staff, making UT System one of the largest employers in the State of Texas.

UT System is comprised of the following institutions:

- The University of Texas Southwestern Medical Center (UTSW)
- The University of Texas Medical Branch at Galveston (UTMB)
- The University of Texas Health Science Center at Houston (UTHSCH)
- The University of Texas Health Science Center at San Antonio (UTHSCSA)
- The University of Texas MD Anderson Cancer Center (UTMDACC)
- The University of Texas Health Science Center at Tyler (UTHSCT)
- The University of Texas at Arlington (UTA)
- The University of Texas at Austin (UT Austin)
- The University of Texas at Brownsville (UTB)
- The University of Texas at Dallas (UTD)
- The University of Texas at El Paso (UTEP)
- The University of Texas – Pan American (UTPA)
- The University of Texas of the Permian Basin (UTPB)
- The University of Texas at San Antonio (UTSA)
- The University of Texas at Tyler (UTT)

UT System has established the University of Texas System Supply Chain Alliance (the “**Alliance**”) to conduct and coordinate strategic purchasing initiatives across UT System. The Alliance is also affiliated with various Texas institutions of higher education. Through collaborative relationships, the Alliance seeks to combine supply chain and contracting activities and obtain best value goods and services while reducing total acquisition costs. The Alliance has created a team of supply chain professionals (the “**Strategic Sourcing Team**”) that has been tasked with executing Alliance purchasing initiatives. The Strategic Sourcing Team assembles a team of subject matter experts (“**SMEs**”) from participating institutions to assist in the development of each sourcing event and the evaluation of suppliers during the procurement process. SMEs are involved from the sourcing event’s inception and work with the Alliance and UT System to select the best value supplier(s). Any agreement resulting from this Request for Proposal, UTS/A46 (this “**RFP**”) will be extended and marketed to all UT System institutions. Various non-UT System institutions that are affiliated with the Alliance may participate, too, in any agreement resulting from this RFP.

By participating in this RFP, proposer(s) (collectively, "**Proposer**") agrees to extend all goods, services and pricing to any Alliance member or affiliate (collectively, "**Institutional Participant**") that wishes to participate in any contract entered into with Proposer.

1.2 Objective of this Request for Proposal

UT System, acting through the Alliance, is soliciting proposals in response to this RFP from qualified suppliers, for the inbound freight management services more specifically described in **Section 5.4 ("Scope of Work")** of this RFP (collectively, the "**Services**"). The successful Proposer(s) to whom business may be awarded is referred to in this RFP as the "**Preferred Supplier.**"

Specifically this RFP process should:

- Provide a comprehensive and guaranteed pricing structure for the Services;
- Leverage the aggregate purchasing volumes of Institutional Participants;
- Achieve cost savings for Institutional Participants;
- Improve overall customer satisfaction; and
- Enhance relationships between Preferred Supplier and Institutional Participants.

UT System's goal is to team with one or more Preferred Suppliers and develop a relationship that will produce a win-win for all parties. UT System hopes to work with the Preferred Supplier(s) to establish practical business processes and procedures that will foster a strong working relationship.

Proposer should provide solutions involving historically underutilized business suppliers, where possible (ref. **Section 2.5** of this RFP).

Proposer is invited to submit a proposal, including innovative and non-traditional suggestions, to establish a strategic business alliance with UT System that will maximize the resources of both organizations to most effectively meet the requirements specified in this RFP.

1.3 Scope of Opportunity

Based on historical spend data provided by UTMB, UTSW and UT Austin (the institutions that may participate in any agreement resulting from this RFP), the in-bound shipping expenses incurred by these three institutions is estimated at \$14.5 million annually. Other institutions ultimately may join in this sourcing event, which presumably would increase the estimate of shipping expenses to which this RFP relates. This is only an estimate of possible future volume. No contract resulting from this RFP will guarantee a specific volume of services to a Preferred Supplier.

THE ABOVE FIGURES ARE ESTIMATES ONLY. SERVICES PURCHASED ON THE BASIS OF ANY AGREEMENT RESULTING FROM THIS RFP MAY INVOLVE MORE OR LESS THAN THE ESTIMATES PROVIDED. UT SYSTEM DOES NOT REPRESENT, WARRANT OR GUARANTY THAT PARTICIPANTS WILL PURCHASE ANY PARTICULAR DOLLAR VALUE OR ANY PARTICULAR QUANTITY OF SERVICES, AND UT SYSTEM SPECIFICALLY DISCLAIMS ANY SUCH REPRESENTATIONS, WARRANTIES AND GUARANTIES.

SECTION 2

NOTICE TO PROPOSER

2.1 Submittal Deadline

UT System will accept proposals submitted in response to this RFP until **3:00 PM**, Central Standard Time, on **August 26, 2014** (the “**Submittal Deadline**”).

2.2 UT System Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following UT System contact person (the “**UT System Contact**”):

Nancy Martinez, Sourcing Specialist
UT System Supply Chain Alliance
Phone: 713-563-5656
Email: njmartinez@mdanderson.org

UT System specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications forwarded to the UT System Contact. The UT System Contact must receive all questions or concerns no later than **5:00 PM**, Central Standard Time, on **August 12, 2014**. UT System will use a reasonable amount of time to respond to questions or concerns. It is UT System’s intent to respond to all appropriate questions and concerns; however, UT System reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

Successful Proposer, if any, selected by UT System in accordance with the requirements and specifications set forth in this RFP, will be the Proposer that submits a proposal in response to this RFP, on or before the Submittal Deadline, that is most advantageous to UT System.

Proposer is encouraged to propose terms and conditions offering the maximum benefit to UT System in terms of (1) products and services to be provided and (2) total overall cost to participating institutions. Proposers should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available.

An evaluation team from UT System will evaluate proposals. The evaluation of proposals and the selection of Preferred Supplier will be based on the information provided by Proposer in its proposal. UT System may give consideration to additional information if UT System deems such information relevant.

The criteria to be considered by UT System in evaluating proposals and selecting Preferred Supplier, will be those factors listed below:

2.3.1 Threshold Criteria Not Scored

- 2.3.1.1 Ability of UT System to comply with laws regarding Historically Underutilized Businesses; and
- 2.3.1.2 Ability of UT System to comply with laws regarding purchases from persons with disabilities.

2.3.2 Scored Criteria

- 2.3.2.1 cost of the goods and services;
- 2.3.2.2 reputation of Proposer and of Proposer's goods or services;
- 2.3.2.3 quality of Proposer's goods or services;
- 2.3.2.4 extent to which the goods or services meet UT System's needs;
- 2.3.2.5 Proposer's past relationship with UT System;
- 2.3.2.6 the total long-term cost of acquiring Proposer's goods or services ; and
- 2.3.2.7 Proposer's exceptions to the terms and conditions set forth in **Section 4** of this RFP.

2.4 Key Events Schedule

Issuance of RFP	July 22, 2014
Pre-Proposal Conference (ref. Section 2.6 of this RFP)	August 5, 2014 10:00 AM, Central Standard Time
Deadline for Questions/Concerns (ref. Section 2.2 of this RFP)	5:00 PM, Central Standard Time on August 12, 2014
Submittal Deadline (ref. Section 2.1 of this RFP)	3:00 PM, Central Standard Time on August 26, 2014
Selection of Finalists	Late September 2014
Finalists Interviews and Negotiations	October 2014
Anticipated Contract Award(s)	November 2014

IMPORTANT NOTICE: The Key Events Schedule represents many sourcing and contracting activities occurring within a short period of time. Proposer is asked in advance to make the following resources available to expedite the selection and contracting process:

1. If selected as a finalist, Proposer may be required to attend an interview session that includes a face-to-face meeting with an advance notice of no more than one week. The anticipated location of this activity is Houston, Texas.
2. If selected for contract award, Proposer should have its chief legal and business officers available for commencement of contract negotiations with 72 hours of notice of award. Such negotiations may take place face-to-face in order to expedite the contracting phase. The anticipated location of this activity is Houston, Texas. Proposer is requested to reference **Section 4.1** of this RFP and provide any exceptions as part of Proposer's RFP response.

Proposer should not underestimate the necessity of complying with the Key Events Schedule and critical activities listed above. UT System reserves the right to revise the Key Events Schedule at any time.

2.5 Historically Underutilized Businesses

- 2.5.1 All agencies of the State of Texas are required to make a good faith effort to assist historically underutilized businesses (each a “**HUB**”) in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, Preferred Supplier subcontracts any of its performance hereunder, Preferred Supplier must make a good faith effort to utilize HUBs certified by the Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency. Proposals that fail to comply with the requirements contained in this **Section 2.5** will constitute a material failure to comply with advertised specifications and will be rejected by UT System as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any agreement or contractual arrangement resulting from this RFP. Proposer acknowledges that, if selected by UT System, its obligation to make a good faith effort to utilize HUBs when subcontracting hereunder will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting hereunder by Proposer is subject to review by UT System to ensure compliance with the HUB program.
- 2.5.2 UT System has reviewed this RFP in accordance with Title 34, *Texas Administrative Code*, Section 20.13 (a), and has determined that subcontracting opportunities are probable under this RFP.
- 2.5.3 A HUB Subcontracting Plan (“**HSP**”) is required as part of Proposer’s proposal. The HSP will be developed and administered in accordance with UT System’s Policy on Utilization of Historically Underutilized Businesses attached as **APPENDIX TWO** and incorporated herein for all purposes.

*Each Proposer must complete and return the HSP in accordance with the terms and conditions of this RFP, including **APPENDIX TWO**. Proposals that fail to do so will be considered non-responsive to this RFP in accordance with Section 2161.252, Texas Government Code.*

Preferred Supplier will not be permitted to change its HSP unless: (1) Preferred Supplier completes a newly modified version of the HSP in accordance with the terms of **APPENDIX TWO** that sets forth all changes requested by Preferred Supplier, (2) Preferred Supplier provides UT System with such modified version of the HSP, (3) UT System approves the modified HSP in writing, and (4) all agreements or contractual arrangements resulting from this RFP are amended in writing by UT System and Preferred Supplier to conform to the modified HSP.

- 2.5.4 Proposer must submit one (1) signed copy of the HSP to UT System at the same time as it submits its proposal to UT System (ref. **Section 3.1** of this RFP). The signed copy of the HSP (the “**HSP Packet**”) must be submitted electronically utilizing the Ariba® e-sourcing tool as more particularly described in **Section 3.1** of this RFP. Proposer must ensure that the HSP Packet is submitted according to the electronic instructions provided in this RFP.

Any proposal submitted in response to this RFP that is not accompanied by an HSP Packet meeting the above requirements will be rejected by UT System and remain unopened, as that proposal will be considered non-responsive due to material failure to comply with advertised specifications. Furthermore, UT System will open a Proposer's HSP Packet prior to opening the proposal submitted by Proposer, in order to ensure that Proposer has submitted a signed copy of the Proposer's HSP Packet as required by this RFP. A Proposer's failure to submit a signed copy of the completed HSP Packet as required by this RFP will result in UT System's rejection of the proposal submitted by that Proposer as non-responsive, due to material failure to comply with advertised specifications; such a proposal will remain unopened and will be disqualified and not reviewed by UT System (ref. **Section 1.5** of **APPENDIX ONE** to this RFP).

Note: The requirement that Proposer provide a signed and completed HSP Packet under this **Section 2.5.4** is separate from and does not affect Proposer's obligation to provide UT System with its proposal as specified in **Section 3.1** of this RFP.

2.6 Pre-Proposal Conference

UT System will hold a pre-proposal conference at **10:00 AM**, Central Standard Time, on **August 5, 2014**. Proposers may attend the conference in one of the following two formats:

in person attendance located in the One Mid Campus Building at 7007 Bertner Ave. Suite **TBD**, TX 77030 (located in the Texas Medical Center); or

webinar broadcast via the Internet utilizing the "Go-to-Meeting" webinar conference service.

The Pre-Proposal Conference will allow all Proposers an opportunity to ask the Alliance, the Strategic Sourcing Team, and UT System HUB representatives relevant questions and clarify provisions of this RFP. Proposer should notify the UT System Contact **by no later than August 1, 2014**, whether it will attend the Pre-Proposal Conference, by emailing the UT System Contact at njmartinez@mdanderson.org. Proposer must clearly state in which format it will attend. If the Proposer elects to attend the Pre-Proposal Conference in the webinar format, UT System will provide complete details and instructions (including personal computer requirements). If Proposer elects to attend the Pre-Proposal Conference in person, there will be a strict limit of two (2) individuals per Proposer.

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Electronic Submission Notice

Submittal of proposals in response to this RFP will be conducted entirely electronically, utilizing the Ariba® e-sourcing tool. To register for participation in this RFP, please email or call the UT System Contact for further instruction. An original signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and electronically uploaded as instructed. Proposals must be completed and received by UT System on or before the Submittal Deadline (ref. **Section 2.1** of this RFP).

3.2 Proposal Validity Period

Each proposal must state that it will remain valid for UT System's acceptance for a minimum of one hundred eighty (180) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.3 Terms and Conditions

3.3.1 Proposer must comply with the requirements and specifications contained in this RFP, the General Terms and Conditions (ref. **Section 4** of this RFP), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of goods and services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

3.3.1.1 Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP);

3.3.1.2 General Terms and Conditions (ref. **Section 4** of this RFP);

3.3.1.3. Proposal Requirements (ref. **APPENDIX ONE**); and

3.3.1.4 Notice to Proposer (ref. **Section 2** of this RFP).

3.4 Submittal Checklist

Proposer is instructed to complete, sign, and upload into the Ariba® e-Sourcing tool, the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, UT System may reject the proposal:

3.4.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**).

3.4.2 Responses to questions and requests for information in the Specifications, Additional Questions and Scope of Work Section (ref. **Section 5** of this RFP).

- 3.4.3 Signed and Completed Pricing Affirmation (ref. **Section 6** of this RFP).
- 3.4.4 Signed and completed copy of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFP and **APPENDIX TWO**).
- 3.4.5 Responses to Proposer's Survey (ref. **Section 5.5** of this RFP).
- 3.4.6 Proposer's Price Schedule (ref. **Section 6** and **Attachment A** of this RFP).

SECTION 4
GENERAL TERMS AND CONDITIONS

4.1 General Information regarding Structure of Transaction and Terms and Conditions

The structure of the transaction UT System intends to enter into as a result of this RFP will be substantially similar to the following: (1) one Preferred Supplier Agreement (“**PSA**”) between UT System and Preferred Supplier; and (2) several Institutional Participation Agreements (each an “**IPA**”) signed by participating Alliance members and affiliates (collectively, the “**Agreement**”).

The terms and conditions contained in the attached Sample Preferred Supplier Agreement (ref. **APPENDIX THREE**) or, in the sole discretion of UT System, terms and conditions substantially similar to those contained in **APPENDIX THREE**, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Preferred Supplier Agreement, Proposer must submit a list of the exceptions as part of its proposal in accordance with **Section 5.3** of this RFP. Proposer’s exceptions will be reviewed by UT System and may result in disqualification of Proposer’s proposal as non-responsive to this RFP. If Proposer’s exceptions do not result in disqualification of Proposer’s proposal, UT System may consider Proposer’s exceptions when UT System evaluates the Proposer’s proposal.

SECTION 5
SPECIFICATIONS, ADDITIONAL QUESTIONS AND SCOPE OF WORK

5.1 General

The requirements and specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below.

5.2 Minimum Requirements

5.2.1 Proposer must pay to the Alliance a quarterly administrative fee of 2% of the Total Net Sales made under the Agreement (ref. **Section 6.2** of this RFP).

5.3 Additional Questions Specific to this RFP and Scope of Work

Proposer must submit the following information as part of Proposer's proposal:

- 5.3.1 In its proposal, Proposer must indicate whether it will consent to include in the Agreement the "Access by Individuals with Disabilities" language that is set forth in **APPENDIX FOUR**, Access by Individuals with Disabilities. If Proposer objects to the inclusion of the "Access by Individuals with Disabilities" language in the Agreement, Proposer must, as part of its proposal, specifically identify and describe in detail all of the reasons for Proposer's objection. NOTE THAT A GENERAL OBJECTION IS NOT AN ACCEPTABLE RESPONSE TO THIS QUESTION.
- 5.3.2 In its proposal, Proposer must respond to each item listed in **APPENDIX FIVE**, Electronic and Information Resources ("EIR") Environment Specifications. **APPENDIX FIVE** will establish specifications, representations, warranties and agreements related to the EIR that Proposer is offering to provide to UT System. Responses to **APPENDIX FIVE** will be incorporated into the Agreement and will be binding on Preferred Supplier.
- 5.3.3 In its proposal, Proposer must respond to each item listed in **APPENDIX SIX**, Security Characteristics and Functionality of Proposer's Information Resources. **APPENDIX SIX** will establish specifications, representations, warranties and agreements related to the EIR that Proposer is offering to provide to UT System. Responses to **APPENDIX SIX** will be incorporated into the Agreement and will be binding on Preferred Supplier.
- 5.3.4 If Proposer takes exception to any terms or conditions set forth in **Section 4** of this RFP, Proposer must submit a list of the exceptions.
- 5.3.5 Proposers will provide answers to the questions listed in the Proposer's Survey ("**Proposer's Survey**") (ref. **Section 5.5** of this RFP) to the best of Proposer's knowledge, as responses may be incorporated into the Agreement. The questions in the Proposer's Survey will provide UT System with additional information about Proposer and various efficiencies and economies of scale that Proposer may provide to participating institutions.

5.4 Scope of Work

The details noted below will form the basis for the Scope of Work to be included in the Agreement concluded between UT System and Preferred Supplier.

5.4.1 General Description. The following outlines the essential service requirements for the Scope of Work. Proposer acknowledges and understands that this RFP provides a general description of the work to be performed and is not intended to be all inclusive. Proposer must be familiar with the requirements and general conditions that are essential to provide the Services, consistent with industry best practices and in accordance with all licensing, regulations, and professional standards.

The Agreement resulting from this RFP will provide Institutional Participants with access to the Services at discounted prices and is intended to permit all parties to reduce procurement and transaction costs and improve business processes.

Preferred Supplier is expected to provide at least the following Services:

- inbound freight management services to all UT System institutions using a methodology that will accomplish significant savings capable of being validated through monitoring and auditing of reports;
- a detailed, pre-implementation assessment by Preferred Supplier of each Institutional Participant's freight spend data that will involve working with each Institutional Participant to gather the required data, analyzing current freight spend, and reporting on potential savings, based on Preferred Supplier's discounted freight solution;
- management of current freight supplier relationships for on-boarding of the Preferred Supplier's freight management program;
- integration, at no additional cost to Institutional Participants, of Preferred Supplier's freight management systems with the variety of ERP systems, software, ordering methods, tools, technologies and formats (e.g., PeopleSoft, SciQuest, EDI, XML, cXML) used by Institutional Participants;
- secure data transmissions to and from each Institutional Participant;
- summary invoicing for each Institutional Participant;
- allocation to any order of all shipping costs associated with that order (and preferably to each order's funding source), and a report of related data on a daily basis to each Institutional Participant;
- royalty-free access to Preferred Supplier's freight management program and any associated software;
- provision of essential on-site training of and consultation with each Institutional Participant's Purchasing, Accounts Payable, and other functions, and operation of an

ongoing problem-resolution process, all at no additional cost to Institutional Participants;

- detailed, ongoing reporting to each Institutional Participant regarding its spend and savings under the inbound freight management program;
- constant monitoring and auditing to ensure that discounted freight charges are correctly applied;
- managing of freight supplier relationships, and managing change required by the program.

5.4.2 Preferred Supplier-Alliance Account Support Team

Preferred Supplier will provide a Senior Management Account Representative with the authority and responsibility for the overall success of the Agreement within the Preferred Supplier's organization. Preferred Supplier also will designate a Program Manager assigned to the Alliance account responsible for: (i) receiving and providing ongoing communications by and between the Preferred Supplier and UT System; (ii) monitoring the overall implementation of the Agreement at each Institutional Participant and providing updates to the UT System Contract Administrator; (iii) identifying and fostering process improvements; (iv) serving as the liaison to engage resources with Preferred Supplier's organization to troubleshoot and resolve problems; (v) organizing Quarterly Business Reviews ("QBRs"); monitoring Key Performance Indicators ("KPIs") and providing early warning notices to Preferred Supplier's management team and the UT System Contract Administrator.

UT System will designate the individual who will serve as the UT System Contractor Administrator.

5.4.3 Invoicing and Payment

Preferred Supplier will invoice the Institutional Participants, not UT System or the Alliance.

Each Institutional Participant is solely responsible for the payment of any purchase orders or P-Card Transaction ("PCT") it issues, and no Institutional Participant will have any liability whatsoever relating to a purchase order or PCT issued by another Institutional Participant.

Institutional Participant will remit payments of invoices issued under the Agreement on a Net 30 Days basis, subject to requirements of the Texas Prompt Payment Act.

Preferred Supplier will resolve all order and invoice discrepancies within five (5) business days after written notification or, if because of their nature, the discrepancies cannot be resolved within that time frame, Preferred Supplier will take all of the steps the Institutional Participant's purchasing department deems necessary.

5.4.4 Pricing Structure. Pricing established in Proposer's response to this RFP (**ref. Attachment A and the Proposer's Survey**) will remain firm and fixed through at least December 31, 2015. Thereafter, for each subsequent calendar year, Preferred Supplier

and the UT System Contract Administrator will agree in writing on the pricing for such year in advance. *[Additional parameters on price changes may be specified in the Agreement, taking into account the details of the pricing methodology proposed in Proposer's RFP response.]*

5.4.5 Match of Other State Pricing. If Preferred Supplier agrees, in any other contract it concludes with the State of Texas after the effective date of the Agreement, to provide pricing for services identical to the Services, and such pricing is lower than that specified in **Attachment A**, Preferred Supplier immediately will extend the lower pricing to Institutional Participants. Further, at the time of annual review, these lower prices will be incorporated into and documented in a revised price schedule.

5.4.6 Current Annual Contract Metrics. Attached as **Exhibit A** are the annual inbound freight metrics for the following institutions:

- UTSW
- UTMB
- UT Austin

Tab 1 includes the annual freight metrics for the above institutions. Tab 2 includes the top combined freight suppliers for the above institutions. Tab 3 includes the top 400 freight suppliers for each of the above institutions. Please note that this represents the annual inbound freight metrics for these named institutions, and does not represent 100% of the annual inbound freight utilized by UT System as a whole.

5.4.7 Preferred Supplier Relationship Management

Preferred Supplier and the UT System Contract Administrator will meet once each quarter to conduct a Quarterly Business Review ("**QBR**") as further described in **APPENDIX THREE – 400**.

5.4.8 Initial Contract Term and Extensions

It is anticipated that the term of the Agreement would be ten (10) years, consisting of an initial term of seven years, with a three-year renewal option by UT System.

5.5 Proposer's Survey

Proposer must complete the Proposer's Survey.

The Proposer's Survey contains a list of additional questions the Proposer will answer when responding to this RFP. If Proposer needs to submit additional supporting information, refer to the supporting information in responses to the Proposer's Survey and attach supporting materials in a logical and clear manner. Any supporting information must be included in electronic form via the Ariba® e-Sourcing tool and must follow the following naming convention: (<Proposer Name> - <Question Number> - Response - <File Name>).

Finally, Proposer is encouraged to specify any special certifications, awards, or other industry recognizable achievements that might set it apart from its competitors.

SECTION 6
PRICING SCHEDULE AND AFFIRMATION

6.1 Pricing Schedule

Proposer must submit as **Attachment A**, as part of its proposal, detailed prices for the Services described in **Section 5.4** (Scope of Work) of this RFP. The prices must include all charges associated with providing the full scope of work.

6.2 Pricing Affirmation

THE FOLLOWING FORM MUST BE COMPLETED, SIGNED AND SUBMITTED WITH THE PROPOSER'S PROPOSAL. FAILURE TO DO SO WILL RESULT IN THE REJECTION OF YOUR PROPOSAL.

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System

Ref.: Preferred Supplier of Inbound Freight Management Services

RFP No.: UTS/A46

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish inbound freight management services upon the pricing terms quoted below.

The prices quoted in **Attachment A** to this RFP will be Proposer's guaranteed pricing.

Proposer agrees that if Proposer is awarded an agreement under this RFP, it will provide to UT System a quarterly administrative fee of 2% of the Total Net Sales made by Preferred Supplier under the Agreement. *[Note to Proposer: this will be addressed in the Agreement's Scope of Work.]* "**Total Net Sales**" means the total dollar amount of all sales of the Services that are made by Preferred Supplier to Institutional Participants, less credits, returns, taxes, and unpaid invoices. The administrative fee will be used by UT System to provide support for implementation, administration, monitoring, and management of the Agreement.

Subject to the requirements of the Texas Prompt Payment Act (Chapter 2251, *Texas Government Code*), UT System's standard payment terms for services are "Net 30 days." Proposer will provide the following prompt payment discount:

Prompt Payment Discount: _____% _____ days/net 30 days.

Proposer certifies and agrees that all prices proposed in Proposer's proposal have been reviewed and approved by Proposer's executive management.

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)
Name: _____
Title: _____
Date: _____

APPENDIX ONE

PROPOSAL REQUIREMENTS

SECTION 1 GENERAL INFORMATION

1.1 Purpose

UT System is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing goods and services in accordance with the terms, conditions and requirements set forth in this RFP. This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by UT System.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the goods and services to be performed, the detailed requirements of the goods and services to be provided, and the conditions under which such goods and services are to be performed. Proposer also certifies that it understands that all costs relating to preparing a response to this RFP will be the sole responsibility of Proposer.

PROPOSER IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

1.2 Inquiries and Interpretations

UT System may in its sole discretion respond in writing to written inquiries concerning this RFP and post its response as an Addendum to all parties recorded by UT System as participating in this RFP. Only UT System's responses that are made by formal written Addenda will be binding on UT System. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by UT System prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFP for all purposes.

Proposers are required to acknowledge receipt of each Addendum by selecting "acknowledge" in the Addendum section of the RFP in Ariba. Each Addendum must be acknowledged by Proposer prior to the Submittal Deadline and should accompany Proposer's proposal.

1.3 Public Information

Proposer is hereby notified that UT System strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

UT System may seek to protect from disclosure all information submitted in response to this RFP until such time as a final agreement is executed.

Upon execution of a final agreement, UT System will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act (Government Code, Chapter 552.001, et seq.)*. Proposer will be

advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, *Government Code*.

1.4 Type of Agreement

Preferred Supplier, if any, will be required to enter into an agreement with UT System in a form that (i) includes terms and conditions substantially similar to those set forth in **Section 4** of this RFP, and (ii) is otherwise acceptable to UT System in all respects.

1.5 Proposal Evaluation Process

UT System will select Preferred Supplier by using the competitive sealed proposal process described in this Section. UT System will open the HSP Packet submitted by a Proposer prior to opening Proposer's proposal in order to ensure that Proposer has submitted the completed and signed HUB Subcontracting Plan (also called the HSP) that is required by this RFP (ref. **Section 2.5.4** of the RFP). All proposals submitted by the Submittal Deadline accompanied by the completed and signed HSP required by this RFP will be opened. Any proposals that are not submitted by the Submittal Date or that are not accompanied by the completed and signed HSP required by this RFP will be rejected by UT System as non-responsive due to material failure to comply with advertised specifications. After the opening of the proposals and upon completion of the initial review and evaluation of the proposals, UT System may invite one or more selected Proposers to participate in oral presentations. UT System will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Preferred Supplier.

UT System may make the selection of Preferred Supplier on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, UT System may make the selection of Preferred Supplier on the basis of negotiation with any of Proposers. In conducting such negotiations, UT System will avoid disclosing the contents of competing proposals.

At UT System's sole option and discretion, UT System may discuss and negotiate all elements of the proposals submitted by selected Proposers within a specified competitive range. For purposes of negotiation, UT System may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, UT System will defer further action on proposals not included within the competitive range pending the selection of Preferred Supplier; provided, however, UT System reserves the right to include additional proposals in the competitive range if deemed to be in the best interests of UT System.

After submission of a proposal but before final selection of Preferred Supplier is made, UT System may permit a Proposer to revise its proposal in order to obtain Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes, will be binding on Proposer. UT System will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. UT System is not obligated to select Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to UT System overall, as determined by UT System.

UT System reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Proposers, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, if deemed to be in the best interests of UT System. Proposer is hereby notified that UT System will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by UT System.

1.6 Proposer's Acceptance of Evaluation Methodology

By submitting a proposal, Proposer acknowledges (1) Proposer's acceptance of [a] the Proposal Evaluation Process (ref. **Section 1.5 of APPENDIX ONE**), [b] the Criteria for Selection (ref. **2.3** of this RFP), [c] the Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP), [d] the terms and conditions set forth in **Section 4** of this RFP, and [e] all other requirements and specifications set forth in this RFP; and (2) Proposer's recognition that some subjective judgments must be made by UT System during this RFP process.

1.7 Solicitation for Proposal and Proposal Preparation Costs

Proposer understands and agrees that (1) this RFP is a solicitation for proposals and UT System has made no representation written or oral that one or more agreements with UT System will be awarded under this RFP; (2) UT System issues this RFP predicated on UT System's anticipated requirements for the related goods and services, and UT System has made no representation, written or oral, that any particular scope of services will actually be required by UT System; and (3) Proposer will bear, as its sole risk and responsibility, any cost that arises from Proposer's preparation of a proposal in response to this RFP.

1.8 Proposal Requirements and General Instructions

- 1.8.1 Proposer should carefully read the information contained herein and submit a complete proposal in response to all requirements and questions as directed.
- 1.8.2 Proposals and any other information submitted by Proposer in response to this RFP will become the property of UT System.
- 1.8.3 UT System will not provide compensation to Proposer for any expenses incurred by Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer, unless otherwise expressly agreed in writing. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by UT System, at UT System's sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of this RFP. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFP.
- 1.8.6 UT System makes no warranty or guarantee that an award will be made as a result of this RFP. UT System reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete

any requirement or specification from this RFP when deemed to be in UT System's best interest. UT System reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to UT System, at UT System's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.

- 1.8.7 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by UT System, in UT System's sole discretion.

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

Proposals must include responses to the questions referenced in Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP).

1.9.2 Execution of Offer

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) as part of its proposal. The Execution of Offer must be signed by a representative of Proposer duly authorized to bind Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by UT System, in its sole discretion.

1.9.3 Pricing Affirmation

Proposer must complete and return the Pricing Affirmation (ref. **Section 6** of this RFP), as part of its proposal.

UT System will not recognize or accept any charges or fees that are not specifically stated in the Pricing Affirmation.

1.9.4 Submission

Proposer should submit all proposal materials via the Ariba® e-sourcing tool. Proposer should ensure that all documents are submitted electronically in accordance with the instructions in **Section 3.1** of this RFP.

Proposer must also submit the HUB Subcontracting Plan (also called the HSP) as required by this RFP (ref. **Section 2.5** of the RFP.)

UT System will not, under any circumstances, consider a proposal that is received after the Submittal Deadline or which is not accompanied by the completed and signed HSP that is required by this RFP.

UT System will not accept proposals submitted by telephone, proposals submitted by Facsimile ("**FAX**") transmission, or proposals submitted by hard copy (i.e., paper form) in response to this RFP.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to UT System. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without UT System's consent, which will be based on Proposer's submittal of a written explanation and documentation evidencing a reason acceptable to UT System, in UT System's sole discretion.

By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and submitting a proposal, Proposer certifies that any terms, conditions, or documents attached to or referenced in its proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP and (b) do not place any requirements on UT System that are not set forth in this RFP or in the Appendices to this RFP. Proposer further certifies that the submission of a proposal is Proposer's good faith intent to enter into the Agreement with UT System as specified herein and that such intent is not contingent upon UT System's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

SECTION 2

EXECUTION OF OFFER

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.

- 2.1** By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between UT System and Proposer; (3) UT System has made no representation or warranty, written or oral, that one or more contracts with UT System will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
 - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the related goods and services.
 - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform under the Agreement.
 - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
 - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in Section 4 of this RFP, under which Proposer will be required to operate.
 - 2.1.6 If selected by UT System, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
 - 2.1.7 If selected by UT System, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
 - 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that UT System will rely on such statements, information and representations in selecting Preferred Supplier. If selected by UT System, Proposer will notify UT System immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
 - 2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UT SYSTEM, INDEMNIFY, AND HOLD HARMLESS UT SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY

OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.

2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

- 2.2 By signature hereon, Proposer offers and agrees to comply with all terms, conditions, requirements and specifications set forth in this RFP.
- 2.3 By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and Proposer may be removed from all proposal lists at UT System.
- 2.4 By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at UT System's option, may result in termination of any resulting contract or agreement.
- 2.5 By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- 2.6 By signature hereon, Proposer certifies that the individual signing this document and the documents made a part of this RFP, is authorized to sign such documents on behalf of Proposer and to bind Proposer under any agreements and other contractual arrangements that may result from the submission of Proposer's proposal.
- 2.7 By signature hereon, Proposer certifies as follows:
- "Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."
- 2.8 By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint

venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and any member of the Board of Regents of the University of Texas System or an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to UT System in writing; (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. Section 669.003, *Government Code*). All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before UT System enters into a contract or agreement with Proposer.

- 2.9** By signature hereon, Proposer certifies that in accordance with Section 2155.004, *Government Code*, no compensation has been received for its participation in the preparation of the requirements or specifications for this RFP. In addition, Proposer certifies that an award of a contract to Proposer will not violate Section 2155.006, *Government Code*, prohibiting UT System from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Pursuant to Sections 2155.004 and 2155.006, *Government Code*, Proposer certifies that Proposer is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.
- 2.10** By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 2.11** By signature hereon, Proposer represents and warrants that all products and services offered to UT System in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.
- 2.12** Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time UT System makes an award or enters into any contract or agreement with Proposer.
- 2.13** If Proposer will sell or lease computer equipment to UT System under any agreements or other contractual arrangements that may result from the submission of Proposer's proposal then, pursuant to Section 361.965(c), *Health & Safety Code*, Proposer certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, *Health & Safety Code* and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, *Texas Administrative Code*. Section 361.952(2), *Health & Safety Code* states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

214 Proposer should complete the following information:

If Proposer is a Corporation, then State of Incorporation: _____

If Proposer is a Corporation then Proposer's Corporate Charter Number: _____

RFP No.: UTS/A-37

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name/Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

APPENDIX TWO

UT SYSTEM POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES

[Note: the Alliance should include the most recent edition, obtained from the UT System HUB Office, of the System's Policy on Utilization of Historically Underutilized Businesses.]

APPENDIX THREE

SAMPLE PREFERRED SUPPLIER AGREEMENT

for

INBOUND FREIGHT MANAGEMENT SERVICES

between

THE UNIVERSITY OF TEXAS SYSTEM

and

University of Texas Agreement Number: _____

This Preferred Supplier Agreement, dated effective as of _____, 2014 ("**Effective Date**"), is made by and between **The University of Texas System** ("**UT System**"), a state agency and institution of higher education authorized under the laws of the State of Texas, and _____ ("**Preferred Supplier**"), a _____ corporation, Federal Tax Identification Number _____, with its principal offices located at _____.

This Agreement specifies the terms and conditions applicable to the supply by Preferred Supplier of certain inbound freight management services to UT System and institutional participants, all as further described below.

Now, therefore, the parties, intending to be legally bound, agree as follows:

SECTION 1 – Definitions

"**Alliance**" means The University of Texas System Supply Chain Alliance, a group purchasing organization established by UT System to conduct and coordinate strategic purchasing initiatives across UT System. UT System health and academic institutions are members of the Alliance. The Alliance is also affiliated with other institutions of higher education that have executed an Alliance affiliate agreement.

"**Services**" means the services described in **Rider 100**, Scope of Work.

“Institutional Participant” means an Alliance member or affiliated institution of higher education, as designated by the Alliance, that has executed an Institutional Participation Agreement in connection with this Agreement.

“Institutional Participation Agreement” or **“IPA”** means the Institutional Participation Agreement attached to this Agreement as **Rider 300** and incorporated for all purposes, to be executed by each Institutional Participant.

“UT Party” means, as applicable, UT System and/or the Institutional Participants.

“UT System Contract Administrator” means the Director of the Alliance, who will be the initial contact for all contractual concerns related to this Agreement.

SECTION 2 – Term:

The term of this Agreement will begin on the Effective Date and expire _____ [*initial fixed term of seven years*], unless earlier terminated in accordance with the provisions of this Agreement. UT System will have the option to extend the term of this Agreement for an additional three-year period, upon written notice given to Preferred Supplier at least 90 days in advance of the renewal term.

The Parties acknowledge that, prior to any scheduled expiration of this Agreement, UT System may conduct a competitive procurement for the purchase of services comparable to the Services, for the period following expiration. If Preferred Supplier is not selected as the source for the succeeding period, Institutional Participants may need to transition over a period of time to purchasing the services primarily from the new source, rather than from Preferred Supplier. In such event, in order to allow for an orderly transition, Institutional Participants may wish to continue purchasing from Preferred Supplier for a limited period of time after the anticipated expiration of this Agreement. As a result, Preferred Supplier agrees that, notwithstanding any other provision of this Agreement:

- Preferred Supplier will make the Services available for purchase by Institutional Participants after _____, 2021 (or the anticipated expiration date under any extended term of this Agreement), for a transitional period of six months (the **“Transition Period”**), on the same terms and conditions set forth in this Agreement.
- The Administrative Fee provided for in **Rider 100** (Scope of Work) will apply to all Services purchased hereunder during the Transition Period, and all related obligations of Preferred Supplier under this Agreement (such as to report sales volumes to UT System) will continue during such period.
- The Administrative Fee will apply to all future payments made by Institutional Participants for purchases of Services initiated during this Agreement, including the Transition Period, even if such payments are made following expiration of this Agreement.
- All incentive / rebate trigger amounts that may be established in this Agreement for any calendar year will be pro-rated automatically on a straight-line basis, to account for partial calendar years during which this Agreement exists, including the Transition Period.

SECTION 3 – Amendment:

No change, modification, alteration, or waiver of this Agreement will be effective unless it is set forth in a written agreement that is signed by UT System and Preferred Supplier.

SECTION 4 – Performance by Preferred Supplier:

Preferred Supplier will perform its obligations under this Agreement to the satisfaction of UT Party. Time is of the essence in connection with this Agreement. UT Party will not have any obligation to accept late performance or waive timely performance by Preferred Supplier. Preferred Supplier will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for its performance hereunder.

SECTION 5 – Family Code Child Support Certification:

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

SECTION 6 – Eligibility Certifications:

Pursuant to Sections 2155.004 and 2155.006, *Texas Government Code*, Preferred Supplier certifies that it has not received compensation for participation in the preparation of the Request for Proposal related to this Agreement and is not ineligible to receive the award of or payments under this Agreement; and acknowledges that this Agreement may be terminated and payment withheld if these certifications are inaccurate.

Pursuant to Section 361.965, Texas Health and Safety Code, Preferred Supplier also certifies that it is in full compliance with the State of Texas Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, Texas Health and Safety Code, and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, Texas Administrative Code. Preferred Supplier acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

SECTION 7 – Tax Certification:

If Preferred Supplier is a taxable entity as defined by Chapter 171, Texas Tax Code (“**Chapter 171**”), then Preferred Supplier certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Preferred Supplier is exempt from the payment of those taxes, or that Preferred Supplier is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

SECTION 8 – Payment of Debt or Delinquency to the State:

Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Preferred Supplier agrees that any payments owing to Preferred Supplier under this Agreement may be applied directly toward any debt or delinquency that Preferred Supplier owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

SECTION 9 – Loss of Funding:

Performance by UT Party under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “**Legislature**”) and/or allocation of funds by the Board of Regents of The University of Texas System (the “**Board**”). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then UT Party will issue written notice to Preferred Supplier and UT Party may terminate this Agreement without further duty or obligation hereunder, other than payment for goods and services already delivered or provided to Institutional Participant. Preferred Supplier acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UT Party.

SECTION 10 – Force Majeure:

None of the parties to this Agreement will be liable or responsible to another for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character (“**force majeure occurrence**”). Provided, however, in the event of a force majeure occurrence, Preferred Supplier agrees to use its best efforts to mitigate the impact of the occurrence so that UT Party may continue to provide healthcare services during the occurrence.

SECTION 11 – Notices:

Except as otherwise provided in this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be sent via registered or certified mail, overnight courier, confirmed facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below), and notice will be deemed given (i) if mailed, when deposited, postage prepaid, in the United States mail, (ii) if sent by overnight courier, one business day after delivery to the courier, (iii) if sent by facsimile (to the extent a facsimile number is set forth below), when transmitted, and (iv) if sent by email (to the extent an email address is set forth below), when received:

If to UT System:

Office of Business Affairs
 The University of Texas System
 201 W. 7th Street
 Attn: Executive Vice Chancellor for Business Affairs
 Austin, Texas 78701-2982
 Fax: 512-499-4289
 Email: Lloyd@utsystem.edu

with copy to:

The University of Texas System Supply Chain Alliance
 Mid Campus Building
 7007 Bertner Ave., Suite 11.2339
 Houston, TX 77030
 Attention: Director
 Fax : 713-792-8084
 Email:jfjoshua@mdanderson.org

If to Preferred Supplier:

 Attn: _____

Fax: _____
 Email: _____

If to an Institutional Participant: The contact information for Institutional Participant as set forth in its IPA.

with copy to:

Office of Business Affairs
 The University of Texas System
 201 W. 7th Street
 Attn: Executive Vice Chancellor for Business Affairs
 Austin, Texas 78701-2982
 Fax: 512-499-4289
 Email: LegalNotices@utsystem.edu

and

The University of Texas System Supply Chain Alliance
 Mid Campus Building
 7007 Bertner Ave., Suite 11.2339
 Houston, TX 77030
 Attention: Director
 Fax: 713-792-8084
 Email: jfjoshua@mdanderson.org

or such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

SECTION 12 – Preferred Supplier's Obligations.

12.1 Preferred Supplier represents that it has the knowledge, ability, skills, and resources to perform its obligations hereunder.

12.2 Preferred Supplier will maintain a staff of properly trained and experienced personnel to ensure satisfactory performance hereunder. Preferred Supplier will cause all persons connected with the Preferred Supplier directly in charge of performance hereunder to be duly registered and/or licensed under all applicable federal, state and municipal, laws, regulations, codes, ordinances and orders, including the rules, regulations and procedures promulgated by the Board or Institutional Participants, and those of any other body or authority having jurisdiction (collectively, "**Applicable Law**").

12.3 Preferred Supplier represents, warrants and agrees that (a) it will use commercially reasonable efforts to perform hereunder, in a good and workmanlike manner and in accordance with commercially reasonable standards of Preferred Supplier's profession or business, and (b) all good and services provided hereunder will be of the quality that prevails among similar businesses engaged in providing similar products and services in major United States urban areas under the same or similar circumstances.

12.4 Preferred Supplier warrants and agrees that all Services supplied under this Agreement will be accurate and free from any material defects. Preferred Supplier's performance hereunder will at no time be in any way diminished by reason of any approval by UT Party nor will Preferred Supplier be released from any liability by reason of any approval by UT Party, it being agreed that UT Party at all times is relying upon Preferred Supplier's skill and knowledge in performing hereunder. Preferred Supplier will, at its own cost, correct all material defects in Services supplied under this Agreement, as soon as practical after Preferred Supplier becomes aware of the defects. If Preferred Supplier fails to

correct such material defects within a reasonable time, then UT Party may correct the defect at Preferred Supplier's expense. This remedy is in addition to, and not in substitution for, any other remedy for the defect that UT Party may have at law or in equity.

12.5 Preferred Supplier will call to the attention of UT Party, in writing, all information in any materials supplied to Preferred Supplier (by UT Party or any other party) that Preferred Supplier regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.

12.6 Preferred Supplier represents that if (i) it is a corporation or limited liability company, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Preferred Supplier has been duly authorized to act for and bind Preferred Supplier; or (ii) if it is a partnership, limited partnership, limited liability partnership, or limited liability company then it has all necessary power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder, and the individual executing this Agreement on behalf of Preferred Supplier has been duly authorized to act for and bind Preferred Supplier.

12.7 Preferred Supplier will provide the warranties more particularly described in Section ____ of **Rider 100**, Scope of Work.

12.8 Preferred Supplier represents and warrants that neither the execution and delivery of this Agreement by Preferred Supplier nor Preferred Supplier's performance hereunder will (a) result in the violation of any provision [i] if a corporation, of Preferred Supplier's articles of incorporation or by-laws, [ii] if a limited liability company, of its articles of organization or regulations, or [iii] if a partnership, of any partnership agreement by which Preferred Supplier is bound; (b) result in the violation of any provision of any agreement by which Preferred Supplier is bound; or (c) to the best of Preferred Supplier's knowledge and belief, conflict with any order or decree of any court or other body or authority having jurisdiction.

SECTION 13 – State Auditor's Office:

Preferred Supplier understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "**Auditor**"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), Education Code. Preferred Supplier agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Preferred Supplier will include this provision in all contracts with permitted subcontractors.

SECTION 14 –Governing Law:

Travis County, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement and all of the rights and obligations of the parties thereto and all of the terms and conditions thereof will be construed, interpreted and applied in accordance with and governed by and enforced under the internal laws of the State of Texas.

SECTION 15 – Breach of Contract Claims:

15.1 To the extent that Chapter 2260, Texas Government Code, as it may be amended from time to time ("**Chapter 2260**"), is applicable to this Agreement and is not preempted by other Applicable Law, the dispute resolution process provided for in Chapter 2260 will be used, as further described herein, by UT Party and Preferred Supplier to attempt to resolve any claim for breach of contract made by Preferred Supplier:

15.1.1 Preferred Supplier's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Preferred Supplier will submit written notice, as required by subchapter B of Chapter 2260, to UT Party in accordance with the notice provisions in this Agreement. Preferred Supplier's notice will specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that UT Party allegedly breached, the amount of damages Preferred Supplier seeks, and the method used to calculate the damages. Compliance by Preferred Supplier with subchapter B of Chapter 2260 is a required prerequisite to Preferred Supplier's filing of a contested case proceeding under subchapter C of Chapter 2260. The UT Party's chief business officer, or another officer of UT Party as may be designated from time to time by UT Party by written notice thereof to Preferred Supplier in accordance with the notice provisions in this Agreement, will examine Preferred Supplier's claim and any counterclaim and negotiate with Preferred Supplier in an effort to resolve the claims.

15.1.2 If the parties are unable to resolve their disputes under Section 4.11.1.1, the contested case process provided in subchapter C of Chapter 2260 is Preferred Supplier's sole and exclusive process for seeking a remedy for any and all of Preferred Supplier's claims for breach of this Agreement by UT Party.

15.1.3 Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by UT Party nor any other conduct, action or inaction of any representative of UT Party relating to this Agreement constitutes or is intended to constitute a waiver of UT Party's or the state's sovereign immunity to suit and (ii) UT Party has not waived its right to seek redress in the courts.

15.2 The submission, processing and resolution of Preferred Supplier's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, thereafter enacted or subsequently amended.

15.3 UT Party and Preferred Supplier agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.

SECTION 16 – Compliance with Law:

Preferred Supplier will perform hereunder in compliance with all Applicable Law. Preferred Supplier represents and warrants that neither Preferred Supplier nor any firm, corporation or institution represented by Preferred Supplier, nor anyone acting for such firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Preferred Supplier's

response to UT System's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process.

SECTION 17 – UT Party's Right to Audit:

At any time during the term of this Agreement and for a period of four (4) years thereafter UT System or a duly authorized audit representative of UT System, or the State of Texas, at its expense and at reasonable times, reserves the right to audit Preferred Supplier's records and books directly related to charges paid for all products and services provided under this Agreement. The right will not extend to any fixed fee component of the charges or to any services performed more than one year prior to the date of request for review. In the event such an audit by UT System reveals any errors or overpayments by UT System which error or overpayment is confirmed by Preferred Supplier, Preferred Supplier will refund UT System the full amount of such overpayments within thirty (30) days of such audit findings, or UT System, at its option, reserves the right to deduct such amounts owing to UT System from any payments due Preferred Supplier

SECTION 18 – Access to Documents:

To the extent applicable to this Agreement, in accordance with Section 1861(v)(l)(i) of the Social Security Act (42 U.S.C. 1395x) as amended, and the provisions of 42 CFR Section 420.300, et seq., Preferred Supplier agrees to allow, during and for a period of not less than four (4) years after this Agreement term, access to this Agreement and its books, documents, and records; and contracts between Preferred Supplier and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives.

SECTION 19 – Insurance:

19.1 Preferred Supplier, consistent with its status as an independent contractor, will carry and will cause its subcontractors to carry, at least the following insurance, with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code, having an A.M. Best Rating of A-VII or better, and in amounts not less than the following minimum limits of coverage:

19.1.1 Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000:

Employers Liability - Each Accident	\$1,000,000
Employers Liability - Each Employee	\$1,000,000
Employers Liability - Policy Limit	\$1,000,000

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which services are to be performed for Institutional Participant.

19.1.2 Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit	\$1,000,000
Damage to Rented Premises	\$ 300,000
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 Preferred Supplier's and subcontractor's liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

- 19.1.3** Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 single limit of liability per accident for Bodily Injury and Property Damage. Contractors transporting hazardous materials must provide the MCS-90 endorsement and CA9948 Broadened Pollution Liability endorsement on the Business Auto Liability policy. Policy limits must be in line with Federal requirements.
- 19.1.4** Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate with a deductible of no more than \$10,000, and will be excess over and at least as broad as the underlying coverage as required under **Sections 19.1.1** Employer's Liability; **19.1.2** Commercial General Liability; and **19.1.3** Business Auto Liability. Inception and expiration dates will be the same as the underlying policies. Drop-down coverage will be provided for reduction or exhaustion of underlying aggregate limits and will provide a duty to defend for any insured.
- 19.1.5** Directors' and Officers' Liability Insurance with limits of not less than \$1,000,000 per claim. The coverage will be continuous for the duration of this Agreement and for not less than twenty-four (24) months following the expiration or termination of this Agreement.

19.2 Preferred Supplier will deliver to Institutional Participant:

- 19.2.1** Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all required insurance policies after the execution and delivery of this Agreement and prior to the performance by Preferred Supplier under this Agreement. Additional evidence of insurance will be provided verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.
- 19.2.2** **All insurance policies** (with the exception of workers' compensation, employer's liability and professional liability) will be endorsed and name The Board of Regents of The University of Texas System, The University of Texas System, and Institutional Participant as Additional Insureds for liability caused in whole or in part by Preferred Supplier's acts or omissions with respect to its on-going and completed operations up to the actual liability limits of the required insurance policies maintained by Preferred Supplier. The Commercial General Liability Additional Insured endorsement including on-going and completed operations coverage will be submitted with the Certificates of Insurance. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage.
- 19.2.3** Preferred Supplier hereby waives all rights of subrogation against The Board of Regents of The University of Texas System, The University of Texas System and Institutional Participant. **All insurance policies** will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The University of Texas System, The University of Texas System and Institutional Participant. No policy will be canceled until after thirty (30) days' unconditional written notice to Institutional Participant. **All insurance policies**

will be endorsed to require the insurance carrier providing coverage to send notice to Institutional Participant thirty (30) days prior to any cancellation, material change, or non-renewal relating to any insurance policy required in this **Section 19**.

19.2.4 Preferred Supplier will pay any deductible or self-insured retention for any loss. Any self-insured retention must be declared to and approved by Institutional Participant prior to the performance by Preferred Supplier under this Agreement. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

19.2.5 Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, faxed, or emailed to the Institutional Participant contact identified in the Institutional Participation Agreement.

19.3 Preferred Supplier's or subcontractor's insurance will be primary to any insurance carried or self-insurance program established by Institutional Participant or The University of Texas System. Preferred Supplier's or subcontractor's insurance will be kept in force until all obligations under this Agreement have been fully performed and accepted by Institutional Participant in writing, except as provided in this **Section 19.3**.

19.3.1 Directors and Officers Liability insurance coverage written on a claims-made basis requires Preferred Supplier to purchase an Extended Reporting Period Endorsement, effective for 24 months after the expiration or cancellation of this policy.

SECTION 20 – Indemnification:

20.1 TO THE FULLEST EXTENT PERMITTED BY LAW, PREFERRED SUPPLIER WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UT PARTY, AND HOLD HARMLESS UT PARTY AND ITS AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY "**INDEMNITEES**") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY "**CLAIMS**") BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM PREFERRED SUPPLIER'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT, AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF PREFERRED SUPPLIER, ANYONE DIRECTLY EMPLOYED BY PREFERRED SUPPLIER OR ANYONE FOR WHOSE ACTS PREFERRED SUPPLIER MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

20.2 IN ADDITION, PREFERRED SUPPLIER WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UT PARTY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY PREFERRED SUPPLIER, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF PREFERRED SUPPLIER, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UT PARTIES WILL PROMPTLY

NOTIFY PREFERRED SUPPLIER AND PREFERRED SUPPLIER WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UT PARTIES AGREE TO REASONABLY COOPERATE WITH PREFERRED SUPPLIER. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

SECTION 21 – Ethics Matters; No Financial Interest:

Preferred Supplier and its employees, agents, representatives and subcontractors have read and understand UT System's Conflicts of Interest Policy available at <http://www.utsystem.edu/policy/policies/int160.html>, UT System's Standards of Conduct Guide available at <http://www.utsystem.edu/systemcompliance/>, and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither Preferred Supplier nor its employees, agents, representatives or subcontractors will assist or cause UT Party's employees to violate UT System's Conflicts of Interest Policy, provisions described by UT System's Standards of Conduct Guide, or applicable state ethics laws or rules. Preferred Supplier represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

SECTION 22 – Assignment of Overcharge Claims:

Preferred Supplier hereby assigns to UT Party any and all claims for overcharges associated with this Agreement arising under the antitrust laws of the United States, 15 U.S.C.A., Sec. 1 et seq., or arising under the antitrust laws of the State of Texas, Business and Commerce Code, Sec. 15.01, et seq.

SECTION 23 – Assignment and Subcontracting:

Except as specifically provided in any Historically Underutilized Business Subcontracting Plan (“HSP”) attached as **Rider 500** and incorporated for all purposes, neither Preferred Supplier's interest in this Agreement, its duties and obligations under this Agreement nor fees due to Preferred Supplier under this Agreement may be subcontracted, assigned, delegated or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (1) not be binding on UT Party; and (2) be a breach of this Agreement for which Preferred Supplier will be subject to any remedial actions provided by Texas law, including Chapter 2161, Texas Government Code, and 34 Texas Administrative Code (“TAC”) Section 20.14. UT Party may report nonperformance under this Agreement to the Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, “TPSS”) in accordance with 34 TAC Chapter 20, Subchapter F, Vendor Performance and Debarment Program. The benefits and burdens of this Agreement are, however, assignable by UT Party.

SECTION 24 – Historically Underutilized Business Subcontracting Plan:

24.1 If an HSP is attached to this Agreement, Preferred Supplier agrees to use good faith efforts to subcontract the scope of work in accordance with the HSP. Preferred Supplier agrees to maintain business records documenting its compliance with the HSP and to submit a monthly compliance report to UT Party in the format required by the TPSS. Submission of compliance reports will be required as a condition for payment under this Agreement. If UT Party determines that Preferred Supplier has failed to subcontract as set out in the HSP, UT Party will notify Preferred Supplier of any deficiencies and give Preferred Supplier an opportunity to submit documentation and explain why the failure to comply with the HSP should not be attributed to a lack of good faith effort by Preferred Supplier. If UT Party determines that Preferred Supplier failed to implement the HSP in good faith, UT Party, in addition to any other remedies, may report nonperformance to the TPSS in accordance with 34 TAC Chapter 20,

Subchapter F, Vendor Performance and Debarment Program. UT Party may also revoke this Agreement for breach and make a claim against the Preferred Supplier.

24.2 If at any time during the term of this Agreement, Preferred Supplier desires to change the HSP, before the proposed changes become effective (1) Preferred Supplier must comply with 34 TAC Section 20.14; (2) the changes must be reviewed and approved by UT Party; and (3) if UT Party approves changes to the HSP, this Agreement must be amended in accordance with Section 2.5.3 to replace the HSP with the revised subcontracting plan.

24.3 If UT Party expands the scope of this Agreement through a change order or any other amendment, UT Party will determine if the additional scope of work contains probable subcontracting opportunities not identified in the initial solicitation for the scope of work. If UT Party determines additional probable subcontracting opportunities exist, Preferred Supplier will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of 34 TAC Section 20.14 before (1) this Agreement may be amended to include the additional scope of work; or (2) Preferred Supplier may perform the additional scope of work. If Preferred Supplier subcontracts any of the additional subcontracting opportunities identified by UT Party without prior authorization and without complying with 34 TAC Section 20.14, Preferred Supplier will be deemed to be in breach of this Agreement under Section 4.19 and will be subject to any remedial actions provided by Texas law including Chapter 2161, Texas Government Code, and 34 TAC Section 20.14. UT Party may report nonperformance under this Agreement to the TPSS in accordance with 34 TAC Chapter 20, Subchapter F, Vendor Performance and Debarment Program.

SECTION 25 – Payment and Invoicing:

Institutional Participant agrees to pay fees due under this Agreement in accordance with the Texas Prompt Payment Act (“**Act**”), Chapter 2251, *Texas Government Code*. Pursuant to the Act, payment will be deemed late on the 31st day after the later of: 1) the date the performance is completed, or 2) the date Institutional Participant receives an invoice for the related goods or services. Institutional Participant will be responsible for interest on overdue payments equal to the sum of: 1) one percent, plus 2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year (Institutional Participant’s fiscal year begins September 1) that does not fall on a Saturday or Sunday. Institutional Participant will have the right to verify the details set forth in Preferred Supplier’s invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Preferred Supplier at mutually convenient times; (b) examining any reports with respect to the related goods or services; and (c) other reasonable action.

Section 51.012, *Texas Education Code*, authorizes UT Party to make any payment through electronic funds transfer methods. Preferred Supplier agrees to receive payments from UT Party through electronic funds transfer methods, including the automated clearing house system (also known as ACH). Prior to the first payment under this Agreement, UT Party will confirm Preferred Supplier’s banking information. Any changes to Preferred Supplier’s banking information will be communicated by Preferred Supplier to UT Party in writing at least thirty (30) days in advance of the effective date of the change.

SECTION 26 – Limitations:

The parties to this Agreement are aware that there are constitutional and statutory limitations on the authority of UT Party (a state agency) to enter into certain terms and conditions of this Agreement, including, but not limited to, those terms and conditions relating to disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of

legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "**Limitations**"), and terms and conditions related to the Limitations will not be binding on UT Party except to the extent authorized by the laws and Constitution of the State of Texas.

SECTION 27 – Affirmative Action:

Preferred Supplier agrees that either a written copy of Preferred Supplier's Civil Rights "Affirmative Action Compliance Program" or, if Preferred Supplier is not required to have such a written program, the reason Preferred Supplier is not subject to such requirement, is attached to this Agreement as **Rider 600** and incorporated for all purposes.

SECTION 28 – OSHA Compliance:

Preferred Supplier represents and warrants that all services furnished under this Agreement meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-598) and its regulations in effect or proposed as of the date of this Agreement.

SECTION 29 - Certifications of Nonsegregated Facilities and Equal Employment Opportunities Compliance:

Preferred Supplier certifies that, except for restrooms and wash rooms and one (1) or more lactation rooms each of which is segregated on the basis of sex: (1) it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained; (2) it will not maintain or provide for its employees any segregated facilities at any of its establishments; and (3) it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. Preferred Supplier agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Agreement. The term "**segregated facilities**" means any waiting rooms, work area, rest rooms and wash rooms, entertainment areas, transportation, or housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin, because of habit, local custom, or otherwise. Preferred Supplier further agrees that, except where it has contracts prior to the award with subcontractors exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause, Preferred Supplier will retain such certifications for each one of its subcontractors in Preferred Supplier's' files, and that it will forward the following notice to all proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES - A Certification on Nonsegregated Facilities must be submitted prior to the award of any subcontract exceeding \$10,000.00 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e. quarterly, semiannually, or annually).

Preferred Supplier understands that the penalty for making false statements regarding the subject matters of this Section is prescribed in 18 U.S.C. 1001.

SECTION 30 – Premises Rules:

If this Agreement requires Preferred Supplier's presence on UT Party's premises or in UT Party's facilities, Preferred Supplier agrees to cause its representatives, agents, employees and permitted subcontractors (if any) to become aware of, fully informed about, and in full compliance with all applicable UT Party rules and policies, including, without limitation, those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions; consideration for students, patients and their families as well as employees; parking; and security.

SECTION 31 – Debarment:

Preferred Supplier confirms that neither Preferred Supplier nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States ("U.S.") federal government procurement or nonprocurement programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs issued by the U.S. General Services Administration. "**Principals**" means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Preferred Supplier will provide immediate written notification to UT Party if, at any time prior to award, Preferred Supplier learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when UT Party executes this Agreement. If it is later determined that Preferred Supplier knowingly rendered an erroneous certification, in addition to the other remedies available to UT Party, UT Party may terminate this Agreement for default by Preferred Supplier.

SECTION 32 – Office of Inspector General Certification:

Preferred Supplier acknowledges that UT Party is prohibited by federal regulations from allowing any employee, subcontractor, or agent of Preferred Supplier to work on site at UT Party premises or facilities if that individual is not eligible to work on federal healthcare programs such as Medicare, Medicaid, or other similar federal programs. Therefore, Preferred Supplier will not assign any employee, subcontractor or agent that appears on the List of Excluded Individuals issued by the United States Office of the Inspector General ("**OIG**") to work on site at UT Party premises or facilities. Preferred Supplier will perform an OIG sanctions check quarterly on each of its employees, subcontractors and agents during the time such employees, subcontractors and agents are assigned to work on site at UT Party premises or facilities. Preferred Supplier acknowledges that UT Party will require immediate removal of any employee, subcontractor or agent of Preferred Supplier assigned to work at UT Party premises or facilities if such employee, subcontractor or agent is found to be on the OIG's List of Excluded Individuals. The OIG's List of Excluded Individuals may be accessed through the following Internet website: <http://www.dhhs.gov/progorg/oig/cumsan/index.htm>.

SECTION 33 – Termination:

33.1 In the event of a material failure by either party to perform in accordance with the terms of this Agreement ("**default**"), the other, non-defaulting party may terminate this Agreement upon thirty (30) days' written notice of termination setting forth the nature of the material failure. The termination will not be effective if the material failure is fully cured prior to the end of the 30-day period. No such termination will relieve the defaulting party from liability for the underlying default or breach of this Agreement or any other act or omission.

33.2 UT System may terminate this Agreement, without cause, upon written notice to Preferred Supplier; provided, however, this Agreement will not terminate until the later of (1) 90 days after receipt of notice of termination, or (2) the date that performance is complete under all purchase orders issued by Institutional Participant to Preferred Supplier prior to receipt of notice of termination. Institutional Participant may not issue any purchase orders after receipt of notice of termination. Termination of this Agreement will not relieve any party from liability for its default under or breach of this Agreement or any other act or omission of that party. In the event that this Agreement is terminated, then within thirty (30) days after termination, Preferred Supplier will reimburse UT Party for all fees paid by UT Party to Preferred Supplier that were (a) not earned by Preferred Supplier prior to termination, or (b) for goods or services that UT Party did not receive from Preferred Supplier prior to termination.

33.3 UT System or Institutional Participant may terminate an IPA, without cause, upon written notice to Preferred Supplier; provided, however, the IPA will not terminate until the later of (1) thirty (30) days after receipt of notice of termination, or (2) the date that performance is complete under all purchase orders issued by Institutional Participant to Preferred Supplier prior to receipt of notice of termination. Institutional Participant may not issue any purchase orders after receipt of notice of termination. Termination of an IPA will not relieve any party from liability for its default under or breach of the IPA or any other act or omission of that party. In the event that an IPA is terminated, then within thirty (30) days after termination, Preferred Supplier will reimburse Institutional Participant for all fees paid by Institutional Participant to Preferred Supplier that were (a) not earned by Preferred Supplier prior to termination, or (b) for goods or services that Institutional Participant did not receive from Preferred Supplier prior to termination.

SECTION 34 – Authority:

The individuals executing this Agreement on behalf of each party have been duly authorized to act for and bind the party they represent.

SECTION 35 – Survival of Provisions:

Expiration or termination of this Agreement will not relieve either party of any obligations under this Agreement that by their nature survive such expiration or termination.

SECTION 36 – Confidentiality; Press Releases; Public Information:

36.1 Confidentiality and Safeguarding of UT Party Records. Under this Agreement, Preferred Supplier may (1) create, (2) receive from or on behalf of UT Party, or (3) have access to, UT Party's records or record systems (collectively, "**UT Party Records**"). However, it is expressly agreed that UT Party will not provide to Preferred Supplier, and Preferred Supplier will never seek to access, any UT Party Records that contain personally identifiable information regarding any individual that is not available to any requestor under the *Texas Public Information Act*, Chapter 552, Texas Government Code, including "directory information" of any student who has opted to prohibit the release of their "directory information" as that term is defined under the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g ("**FERPA**") and its implementing regulations. Preferred Supplier represents, warrants, and agrees that it will: (1) hold UT Party Records in strict confidence and will not use or disclose UT Party Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by UT Party in writing; (2) safeguard UT Party Records according to reasonable administrative, physical and technical standards (such as standards established by the National Institute of Standards and Technology and the Center for Internet Security, as well as Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which

Preferred Supplier protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that UT Party Records are safeguarded and the confidentiality of UT Party Records is maintained in accordance with all Applicable Laws and the terms of this Agreement; and (4) comply with UT Party Rules regarding access to and use of UT Party's computer systems, including UTS 165 at <http://www.utsystem.edu/bor/procedures/policy/policies/uts165.html>. At the request of UT Party, Preferred Supplier agrees to provide UT Party with a written summary of the procedures Preferred Supplier uses to safeguard and maintain the confidentiality of UT Party Records.

36.2 Notice of Impermissible Use. If an impermissible use or disclosure of any UT Party Records occurs, Preferred Supplier will provide written notice to UT Party within one (1) business day after Preferred Supplier's discovery of that use or disclosure. Preferred Supplier will promptly provide UT Party with all information requested by UT Party regarding the impermissible use or disclosure.

36.3 Return of UT Party Records. Preferred Supplier agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all UT Party Records created or received from or on behalf of UT Party will be (1) returned to UT Party, with no copies retained by Preferred Supplier; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any UT Party Records, Preferred Supplier will provide UT Party with written notice of Preferred Supplier's intent to destroy UT Party Records. Within five (5) days after destruction, Preferred Supplier will confirm to UT Party in writing the destruction of UT Party Records.

36.3 Disclosure. If Preferred Supplier discloses any UT Party Records to a subcontractor or agent, Preferred Supplier will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Preferred Supplier by this **Section 36**.

36.4 Press Releases. Preferred Supplier will not make any press releases, public statements, or advertisement referring to this Agreement, or release any information relative to this Agreement for publication, advertisement or any other purpose, without the prior written approval of UT Party.

36.5 Public Information. UT Party 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 UT Party, Preferred Supplier will make any information created or exchanged with UT Party pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by UT Party that is accessible by the public.

36.6 Termination. In addition to any other termination rights set forth in this Agreement, and any other rights at law or equity, if UT Party reasonably determines that Preferred Supplier has breached any of the restrictions or obligations set forth in this Section, UT Party may immediately terminate this Agreement without notice or opportunity to cure.

36.7 Duration. The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.

SECTION 37 – Tax Exemption

UT Party may be an agency of the State of Texas or other non-profit entity and may be exempt from certain state taxes under various exemption statutes, including Texas Sales & Use Tax in accordance with Section 151.309, *Tax Code*, and Title 34 *Texas Administrative Code* ("TAC") Section 3.322. Notwithstanding its exemption from certain state taxes, UT Party will be responsible for any taxes

(except corporate income taxes, franchise taxes, and taxes on Preferred Supplier's personnel, including personal income tax and social security taxes) from which UT Party is not exempt. Preferred Supplier will provide reasonable cooperation and assistance to UT Party in obtaining any tax exemptions to which UT Party is entitled.

SECTION 38 – Undocumented Workers:

The *Immigration and Nationality Act* (8 *United States Code* 1324a) ("**Immigration Act**") makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the Form I-9 Employment Eligibility Verification Form ("**I-9 Form**") as the document to be used for employment eligibility verification (8 *Code of Federal Regulations* 274a). Among other things, Preferred Supplier is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by law. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Preferred Supplier employs unauthorized workers during performance of this Agreement in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by law, UT Party may terminate this Agreement in accordance with Section 4.31. Preferred Supplier represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

SECTION 39 – No Required Quantities or Minimum Amounts:

Preferred Supplier understands that this Agreement does not obligate UT Party to purchase any specific amount of goods or services from Preferred Supplier under this Agreement or otherwise. For example, this Agreement does not establish any minimum quantity or minimum dollar amount of goods or services that UT Party must purchase from Preferred Supplier during the term of this Agreement.

SECTION 40 – Access by Individuals with Disabilities:

Preferred Supplier represents and warrants ("**EIR Accessibility Warranty**") that the electronic and information resources and all associated information, documentation, and support that it provides under this Agreement (collectively, the "**EIRs**") comply with the applicable requirements set forth in Title 1, Chapter 213, *Texas Administrative Code*, and Title 1, Chapter 206, Rule §206.70, *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M, *Government Code*). To the extent Preferred Supplier becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Preferred Supplier represents and warrants that it will, at no cost to UT Party, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event Preferred Supplier fails or is unable to do so, UT Party may terminate this Agreement, and Preferred Supplier will refund to UT Party all amounts UT Party has paid under this Agreement within thirty (30) days after the termination date.

SECTION 41 – Background Checks:

Preferred Supplier will not knowingly assign any individual to provide services on a UT Party's campus if the individual has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. If requested by any UT Party to comply with its policy,

Preferred Supplier will perform appropriate criminal background checks on each individual who will provide such services on the UT Party's campus.

SECTION 42 – Entire Agreement; Modifications:

This Agreement supersedes all prior agreements, written or oral, between Preferred Supplier and UT System and will constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by UT System and Preferred Supplier.

SECTION 43 – Captions:

The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.

SECTION 44 – Waivers:

No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.

SECTION 45 – Binding Effect:

This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.

SECTION 46 – Limitations of Liability:

Except for UT Party's obligation (if any) to pay Preferred Supplier certain fees and expenses, UT Party will have no liability to Preferred Supplier or to anyone claiming through or under Preferred Supplier by reason of the execution or performance of this Agreement. Notwithstanding any duty or obligation of UT Party to Preferred Supplier or to anyone claiming through or under Preferred Supplier, no present or future affiliated enterprise, subcontractor, agent, officer, director, employee, representative, attorney or regent of UT Party, or anyone claiming under UT Party has or will have any personal liability to Preferred Supplier or to anyone claiming through or under Preferred Supplier by reason of the execution or performance of this Agreement.

SECTION 47 – Relationship of the Parties:

For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, Preferred Supplier is an independent contractor and is not a state employee, partner, joint venturer, or agent of UT Party. Preferred Supplier will not bind nor attempt to bind UT Party to any agreement or contract. As an independent contractor, Preferred Supplier is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers' compensation insurance.

SECTION 48 – Severability:

In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.

SECTION 49 – External Terms:

This Agreement completely supplants, replaces, and overrides all other terms and conditions or agreements, written or oral (“**External Terms**”), concerning Preferred Supplier’s performance under this Agreement. Such External Terms are null and void and will have no effect under this Agreement, regardless of whether UT Party or any of its employees, contractors, or agents consents or agrees to External Terms. External Terms include any shrinkwrap, clickwrap, browsewrap, web-based terms and conditions of use, and any other terms and conditions displayed in any format that UT Party, or its employees, contractors, or agents are required to accept or agree to before or in the course of accessing or using any goods or services provided solely by Preferred Supplier.

SECTION 50 – Conflicts:

In the event of a conflict between the terms and conditions of this Agreement and those of an IPA, the terms of this Agreement will control and govern.

SECTION 51 – Attachments:

The Riders listed below are attached to and fully incorporated into this Agreement as substantive parts of this Agreement:

- Rider 100** – Scope of Work
- Rider 200** – Pricing Schedule
- Rider 300** – Institutional Participation Agreement Form
- Rider 400** – Supplier Relationship Management
- Rider 500** – HUB Subcontracting Plan
- Rider 600** – Affirmative Action Compliance Program

Having agreed to the foregoing terms, and with the intention of being legally bound, the parties have executed this Agreement on the dates shown below.

THE UNIVERSITY OF TEXAS SYSTEM

[PREFERRED SUPPLIER]

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX THREE- 300

INSTITUTIONAL PARTICIPATION AGREEMENT

By entering into this Institutional Participation Agreement (“**Institutional Participation Agreement**”), the undersigned institution (“**Institutional Participant**”) agrees to the terms and conditions set forth in the Preferred Supplier Agreement between The University of Texas System and _____, Agreement Number UTSSCA_____ dated effective _____, 2014 (the “**Preferred Supplier Agreement**” or “**PSA**”). All of the terms and conditions of the PSA are incorporated into this Institutional Participation Agreement for all purposes. Unless otherwise specified in this Institutional Participation Agreement, all defined terms used in this Institutional Participation Agreement have the same meaning as assigned to those terms in the PSA.

By entering into this Institutional Participation Agreement, Institutional Participant is authorized to take full advantage of all of the benefits and provisions set forth in the PSA including, but not limited to, the benefits listed below, which are specified in detail in the PSA:

Benefits from Preferred Supplier Agreement:

To obtain a broad range of office products and services at discounted prices.

Institutional Participant’s Responsibilities

To the extent authorized by applicable law and relevant rules and regulations of UT System and Institutional Participant, Institutional Participant will use commercially reasonable efforts to perform the following responsibilities:

- Identify Preferred Supplier as the "preferred supplier" for inbound freight management services.
- Organize and share benefits of the PSA at one or more “kick-off” events.
- Facilitate and promote at least one (1) Preferred Supplier products show per year, involving the Services available for purchase under the PSA.
- Assist in the organization of technical presentations by Preferred Supplier.
- Permit Preferred Supplier, at its sole cost, to create and distribute sales and technical materials involving the Services available for purchase under the PSA and that may include updates on: pricing, new services information, technical developments, and special promotions. All such communications will be subject to prior approval by Institutional Participant.
- Periodically provide information to Preferred Supplier on current and projected projects by Institutional Participant that might provide opportunities for supply of Preferred Supplier’s Services under the PSA.
- On an ongoing basis, make Institutional Participant’s end-users aware of the business relationship with Preferred Supplier and value-generation opportunities.
- Conduct quarterly business reviews to review reports and commitments.
- Facilitate resolution of customer/supplier conflicts.

Institutional Participant's notice address and contact information is:

The University of Texas at _____
Street Address: _____
Fax: _____
Email: _____
Attention: _____

Institutional Participant designates the following contacts who will be responsible for facilitating this Institutional Participation Agreement:

INSTITUTIONAL PARTICIPANT: Primary Contact:

Name: _____
Title: _____
Telephone: _____
Fax: _____
Email: _____

INSTITUTIONAL PARTICIPANT: HUB Contact:

Name: _____
Title: _____
Telephone: _____
Fax: _____
Email: _____

Preferred Supplier designates the following contact who will be responsible for facilitating this Institutional Participation Agreement:

PREFERRED SUPPLIER Primary Contact:

Name: _____
Title: _____
Telephone: _____
Fax: _____
Email: _____

Insurance Paperwork. The insurance provisions of this Agreement require certain certificates and endorsements to be mailed, faxed, or emailed to Institutional Participant. Contact information for the Institutional Participant's representative authorized to receive such certificates and endorsements is as follows:

Name: _____
Title: _____
Address: _____

Fax: _____
Email: _____

Institutional Participant agrees to the terms of this Institutional Participation Agreement:

The University of Texas _____

By: _____

Printed Name and Title: _____

Signature: _____

Street: _____

City: _____ State: _____ Zip: _____

Date: _____

Upon activation of this Institutional Participation Agreement, Institutional Participant's Primary Contact will receive notification of activation via email. Please return signed completed form to the UT System Supply Chain Alliance Strategic Sourcing Team at utsscainfo@mdanderson.org.

APPENDIX THREE - 400

SUPPLIER RELATIONSHIP MANAGEMENT

1.0 Supplier Relationship Management (“SRM”) Program Requirements

Quarterly Business Reviews (“QBRs”) of Preferred Supplier’s performance under this Agreement will be conducted by the UT System Contract Administrator on behalf of UT System beginning six (6) months after the Effective Date of this Agreement and then every three (3) months thereafter. Institutional Participants may elect to establish a local level SRM program by separate agreement with Preferred Supplier.

2.0 Quarterly Business Reviews

2.1 QBRs will consist of two major components:

- (a) Key Performance Indicators: Preferred Supplier’s performance will be determined as measured against the Service Level for each Performance Measure set forth in **Table 1** below.
- (b) Business Relationship Indicators: The Business Relationship Indicators (defined and set forth in **Table 2** below) are designed to confirm that the objectives and goals of the relationship between Preferred Supplier and the Alliance remain aligned and moving in a mutually beneficial direction.

Table 1: Key Performance Indicators

Performance Measure	Service Level	Variance from Service Level	Maximum Score	Definition and Measurement
Adherence to Implementation Schedule	90%	>1%-≤5%	15	Preferred Supplier will meet the milestones and deliverables established by Preferred Supplier and Institutional Participant. Total number of milestones and deliverables met aggregated across all Institutional Participants, compared to the total number of milestones and deliverables not met in terms of business days.
		>5%-≤10%	10	
		>10%-≤15%	5	
		>15%	0	

Number of matched exceptions being passed on to Institutional Participants to work through each quarter	TBD/Institutional Participant	$\leq 1\%$ - $\leq 5\%$	20	Total number of matched exceptions being passed on to all Institutional Participants six months after each implementation schedule.
		$>5\%$ - $\leq 10\%$	15	
		$>10\%$ - $\leq 15\%$	10	
		$>15\%$	0	
Invoice Accuracy	98%	$\leq 1\%$	20	Proportion of invoices reflecting accurate contract pricing, as confirmed by Alliance audit
		$>1\%$ - $\leq 5\%$	5	
		$>5\%$	0	
Administrative Fees & Incentive Payments	Not more than 5 days late	Y	10	Paid accurately and on time within contract schedules
		N	0	
Customer Satisfaction	90% of metric	$\leq 3\%$	35	Preferred Supplier will attain customer satisfaction score of 90% or greater. Survey content and distribution to be agreed with Preferred Supplier to ensure appropriate measures recorded.
		$>3\%$ - $\leq 8\%$	25	
		$>8\%$ - $\leq 15\%$	15	
		$>15\%$	0	

Table 2: Business Relationship Indicators

Performance Measure	Goal	Definition
Campus Outreach	Number and type of communications and events as defined in the Strategic Action Plan	Implement targeted communications and educational programs for end-users and purchasing personnel at each Institutional Participant to: a) foster cooperation and collaboration, b) increase understanding of the value of this Agreement, and c) create greater awareness of savings and savings opportunities.
Number of vendors signed on at each Institutional Participant	TBD	Total number of vendors participating in the program compared to the total number of vendors eligible to participate; aggregated

		across all Institutional Participants
Savings	TBD	Total savings actually achieved to savings target
Process Changes, Improvements and Innovation	TBD	Report on any operating changes, improvements and impact to Institutional Participants

2.2 Business Relationship Indicators

Within sixty (60) days after the Effective Date of this Agreement, Preferred Supplier will submit for approval to the UT System Contractor Administrator a written Strategic Action Plan to achieve goals 1 through 6 in **Table 2**, above. At a minimum the Strategic Action Plan will define the specific strategies, tasks, responsibilities, reports, and timelines to be executed to achieve each goal.

2.3 QBR Meeting Reports and Metrics

Preferred Supplier will prepare and deliver to the UT System Contract Administrator for review at each QBR a report of the Key Performance Indicators and Business Relationship Indicators. The Key Performance Indicator report will be provided both in the aggregate, reflecting the total score for all Institutional Participants, and also will be reported separately for each Institutional Participant.

An advance copy of the Key Performance Indicator Report will be sent to the UT System Contract Administrator no less than ten (10) days prior to the scheduled QBR meeting date.

All report requirements may be modified by Institutional Participants within Preferred Supplier's reasonable capabilities to meet local requirements and service levels. Metrics may be revised upon mutual agreement between Preferred Supplier and the UT System Contract Administrator or the applicable Institutional Participant.

3.0 Preferred Supplier Evaluation and Rating

No less than once each quarter the UT System Contract Administrator will prepare and present to Preferred Supplier a scorecard of Preferred Supplier's performance based on their measured results under each of the KPIs for the preceding quarter. The scorecard will be presented and reviewed by Preferred Supplier and the UT System Contract Administrator during each QBR.

After the initial Agreement implementation period of six (6) months starting on the Effective Date, Preferred Supplier must obtain a minimum composite score of 65 with implementation activities, or a score 50 without implementation activities, from UT System for each quarter during the remaining term of this Agreement.

4.0 Corrective Action Plan

The UT System Contract Administrator will notify Preferred Supplier during a QBR if Preferred Supplier receives a composite score of less than 65 with implementation activities, or a score 50 without implementation activities, during the previous quarter or a score of Zero (0) for any KPI.

Within fifteen (15) calendar days after receipt of such notice, Preferred Supplier will provide the UT System Contract Administrator with a written corrective action plan (“**CAP**”) acceptable to the UT System Contract Administrator to address such unacceptable scores. At a minimum, the CAP will address Preferred Supplier’s performance issues resulting in unacceptable score(s) and contain a root cause analysis of the problems causing such performance issue, proposed solutions to those problems, proposed process modifications to prevent recurrence of such problems, a time frame for Preferred Supplier’s implementation of the proposed solutions and process modifications, and the person(s) who will be responsible for Preferred Supplier’s implementation of the CAP. The CAP will be presented to the UT System Contract Administrator for concurrence prior to implementation. Concurrence with the CAP by the UT System Contract Administrator will not be unreasonably withheld or delayed. Concurrence with the CAP will not constitute a waiver by UT System of any rights regarding remedies.

5.0 Liquidated Damages

If Preferred Supplier’s implementation of the CAP does not result in a minimum composite score of 65 or greater with implementation activities (or a score 50 or greater without implementation activities), or if two (2) or more KPIs remain with a score of zero (0), measured over a period of 90 days following the implementation of the CAP, Preferred Supplier will pay UT System \$10,000 per quarter until such time as the composite score is 65 or greater with implementation activities (or a score 50 or greater without implementation activities) and no more than one KPI has a score of Zero (“0”). This \$10,000 charge will not be construed as a penalty but as liquidated damages designed to cover the additional administrative and management cost incurred by UT System and its institutions to monitor the Preferred Supplier’s performance during the period of correction.

6.0 Corrective Action and Remedies

If Preferred Supplier’s implementation of the CAP does not result in a minimum composite score of 65 or greater with implementation activities (or a score 50 or greater without implementation activities) or if two (2) or more KPI’s remain with a score of Zero (“0”) during each subsequent calendar quarter, UT System may, at its sole discretion:

- Permit Preferred Supplier to resubmit a further Corrective Action Plan, or
- Exercise other remedies available under this Agreement or applicable law.

APPENDIX FOUR

ACCESS BY INDIVIDUALS WITH DISABILITIES

Access by Individuals with Disabilities. Preferred Supplier represents and warrants (“**EIR Accessibility Warranty**”) that the electronic and information resources and all associated information, documentation, and support that it provides under this Agreement (collectively, the “**EIRs**”) comply with the applicable requirements set forth in Title 1, Chapter 213, *Texas Administrative Code*, and Title 1, Chapter 206, Rule §206.70, *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M, *Government Code*). To the extent Preferred Supplier becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Preferred Supplier represents and warrants that it will, at no cost to UT Party, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event Preferred Supplier fails or is unable to do so, UT Party may terminate this Agreement, and Preferred Supplier will refund to UT Party all amounts UT Party has paid under this Agreement within thirty (30) days after the termination date.

APPENDIX FIVE

ELECTRONIC AND INFORMATION RESOURCES ENVIRONMENT SPECIFICATIONS

The specifications, representations, warranties and agreements set forth in Proposer's responses to this **APPENDIX FIVE** will be incorporated into the Agreement.

Basic Specifications

If the EIR will be hosted by UT Party, please describe the overall environment requirements for the EIR (size the requirements to support the number of concurrent users, the number of licenses and the input/output generated by the application as requested in the application requirements).

- A. Hardware: If Proposer will provide hardware, does the hardware have multiple hard drives utilizing a redundant RAID configuration for fault tolerance? Are redundant servers included as well?
- B. Operating System and Version:
- C. Web Server: Is a web server required? If so, what web application is required (Apache or IIS)? What version? Are add-ins required?
- D. Application Server:
- E. Database:
- F. Other Requirements: Are any other hardware or software components required?
- G. Assumptions: List any assumptions made as part of the identification of these environment requirements.
- H. Storage: What are the space/storage requirements of this implementation?
- I. Users: What is the maximum number of users this configuration will support?
- J. Clustering: How does the EIR handle clustering over multiple servers?
- K. Virtual Server Environment: Can the EIR be run in a virtual server environment?

If the EIR will be hosted by Proposer, describe in detail what the hosted solution includes, and address, specifically, the following issues:

- A. Describe the audit standards of the physical security of the facility; and
- B. Indicate whether Proposer is willing to allow an audit by UT Party or its representative.

If the user and administrative interfaces for the EIR are web-based, do the interfaces support Firefox on Mac as well as Windows and Safari on the Macintosh?

If the EIR requires special client software, what are the environment requirements for that client software?

Manpower Requirements: Who will operate and maintain the EIR? Will additional UT Party full time

employees (FTEs) be required? Will special training on the EIR be required by Proposer's technical staff? What is the estimated cost of required training.

Upgrades and Patches: Describe Proposer's strategy regarding EIR upgrades and patches for both the server and, if applicable, the client software. Included Proposer's typical release schedule, recommended processes, estimated outage and plans for next version/major upgrade.

Security

1. Has the EIR been tested for application security vulnerabilities? For example, has the EIR been evaluated against the Open Web Application Security Project ("**OWASP**") Top 10 list that includes flaws like cross site scripting and SQL injection? If so, please provide the scan results and specify the tool used. UT Party will not take final delivery of the EIR if UT Party determines there are serious vulnerabilities within the EIR.
2. Which party, Proposer or UT Party, will be responsible for maintaining critical EIR application security updates?
3. If the EIR is hosted, indicate whether Proposer's will permit UT Party to conduct a penetration test on UT Party's instance of the EIR.
4. If confidential data, including HIPAA or FERPA data, is stored in the EIR, will the data be encrypted at rest and in transmittal?

Integration

1. Is the EIR authentication Security Assertion Markup Language ("**SAML**") compliant? Has Proposer ever implemented the EIR with Shibboleth authentication? If not, does the EIR integrate with Active Directory? Does the EIR support SSL connections to this directory service?
2. Does the EIR rely on Active Directory for group management and authorization or does the EIR maintain a local authorization/group database?
3. What logging capabilities does the EIR have? If this is a hosted EIR solution, will UT Party have access to implement logging with UT Party's standard logging and monitoring tools, RSA's Envision?
4. Does the EIR have an application programming interface ("**API**") that enables us to incorporate it with other applications run by the UT Party? If so, is the API .Net based? Web Services-based? Other?

Will UT Party have access to the EIR source code? If so, will the EIR license permit UT Party to make modifications to the source code? Will UT Party's modifications be protected in future upgrades?

Will Proposer place the EIR source code in escrow with an escrow agent so that if Proposer is no longer in business or Proposer has discontinued support, the EIR source code will be available to UT Party.

Accessibility Information

1. Please complete the Voluntary Product Accessibility Template (“**VPAT**”) found at <http://www.itic.org:8080/dotAsset/5644ecd2-5024-417f-bc23-a52650f47ef8.doc> and submit the VPAT with Proposer’s proposal.】

APPENDIX SIX

SECURITY CHARACTERISTICS AND FUNCTIONALITY OF PREFERRED SUPPLIER'S INFORMATION RESOURCES

The specifications, representations, warranties and agreements set forth in Proposer's responses to this **APPENDIX SIX** will be incorporated into the Agreement.

"Information Resources" means any and all computer printouts, online display devices, mass storage media, and all computer-related activities involving any device capable of receiving email, browsing Web sites, or otherwise capable of receiving, storing, managing, or transmitting Data including, but not limited to, mainframes, servers, Network Infrastructure, personal computers, notebook computers, hand-held computers, personal digital assistant (PDA), pagers, distributed processing systems, network attached and computer controlled medical and laboratory equipment (i.e. embedded technology), telecommunication resources, network environments, telephones, fax machines, printers and service bureaus. Additionally, it is the procedures, equipment, facilities, software, and Data that are designed, built, operated, and maintained to create, collect, record, process, store, retrieve, display, and transmit information.

"UT Party Records" means records or record systems that Proposer (1) creates, (2) receives from or on behalf of UT Party, or (3) has access, and which may contain confidential information (including credit card information, social security numbers, and private health information ("**PHI**") subject to Health Insurance Portability and Accountability Act ("**HIPAA**") of 1996 (Public Law 104-191), or education records subject to the Family Educational Rights and Privacy Act ("**FERPA**").

General Protection of UT Party Records

1. Describe the security features incorporated into Information Resources to be provided or used by Proposer pursuant to this RFP.
2. List all products, including imbedded products that are a part of Information Resources and the corresponding owner of each product.
3. Describe any assumptions made by Proposer in its proposal regarding information security outside those already listed in the proposal.

Complete the following additional questions if the Information Resources will be hosted by Proposer:

4. Describe the monitoring procedures and tools used for monitoring the integrity and availability of all products interacting with Information Resources, including procedures and tools used to, detect security incidents and to ensure timely remediation.
5. Describe the physical access controls used to limit access to Proposer's data center and network components.
6. What procedures and best practices does Proposer follow to harden all systems that would interact with Information Resources, including any systems that would hold or process UT Party Records, or from which UT Party Records may be accessed?

7. What technical security measures does the Proposer take to detect and prevent unintentional, accidental and intentional corruption or loss of UT Party Records?
8. Will the Proposer agree to a vulnerability scan by UT Party of the web portal application that would interact with Information Resources, including any systems that would hold or process UT Party Records, or from which UT Party Records may be accessed? If Proposer objects, explain basis for the objection to a vulnerability scan.
9. Describe processes Proposer will use to provide UT Party assurance that the web portal and all systems that would hold or process UT Party Records can provide adequate security of UT Party Records.
10. Does Proposer have a data backup and recovery plan supported by policies and procedures, in place for Information Resources? If yes, briefly describe the plan, including scope and frequency of backups, and how often the plan is updated. If no, describe what alternative methodology Proposer uses to ensure the restoration and availability of UT Party Records.
11. Does Proposer encrypt backups of UT Party Records? If yes, describe the methods used by Proposer to encrypt backup data. If no, what alternative safeguards does Proposer use to protect backups against unauthorized access?
12. Describe the security features incorporated into Information Resources to safeguard UT Party Records containing confidential information.

Complete the following additional question if Information Resources will create, receive, or access UT Party Records containing PHI subject to HIPAA:

13. Does Proposer monitor the safeguards required by the HIPAA Security Rule (45 C.F.R. § 164 subpts. A, E (2002)) and Proposer's own information security practices, to ensure continued compliance? If yes, provide a copy of or link to the Proposer's HIPAA Privacy & Security policies and describe the Proposer's monitoring activities and the frequency of those activities with regard to PHI.

Access Control

1. How will users gain access (i.e., log in) to Information Resources?
2. Do Information Resources provide the capability to use local credentials (i.e., federated authentication) for user authentication and login? If yes, describe how Information Resources provide that capability.
3. Do Information Resources allow for multiple security levels of access based on affiliation (e.g., staff, faculty, and student) and roles (e.g., system administrators, analysts, and information consumers), and organizational unit (e.g., college, school, or department)? If yes, describe how Information Resources provide for multiple security levels of access.
4. Do Information Resources provide the capability to limit user activity based on user affiliation, role, and/or organizational unit (i.e., who can create records, delete records, create and save reports, run reports only, etc.)? If yes, describe how Information Resources provide that capability. If no, describe what alternative functionality is provided to ensure that users have need-to-know based access to Information Resources.

5. Do Information Resources manage administrator access permissions at the virtual system level? If yes, describe how this is done.
6. Describe Proposer's password policy including password strength, password generation procedures, password storage specifications, and frequency of password changes. If passwords are not used for authentication or if multi-factor authentication is used to Information Resources, describe what alternative or additional controls are used to manage user access.

Complete the following additional questions if Information Resources will be hosted by Proposer:

7. What administrative safeguards and best practices does Proposer have in place to vet Proposer's and third-parties' staff members that would have access to the environment hosting UT Party Records to ensure need-to-know-based access?
8. What procedures and best practices does Proposer have in place to ensure that user credentials are updated and terminated as required by changes in role and employment status?
9. Describe Proposer's password policy including password strength, password generation procedures, and frequency of password changes. If passwords are not used for authentication or if multi-factor authentication is used to Information Resources, describe what alternative or additional controls are used to manage user access.

Use of Data

Complete the following additional questions if Information Resources will be hosted by Proposer:

1. What administrative safeguards and best practices does Proposer have in place to vet Proposer's and third-parties' staff members that have access to the environment hosting all systems that would hold or process UT Party Records, or from which UT Party Records may be accessed, to ensure that UT Party Records will not be accessed or used in an unauthorized manner?
2. What safeguards does Proposer have in place to segregate UT Party Records from system data and other customer data and/or as applicable, to separate specific UT Party data, such as HIPAA and FERPA protected data, from UT Party Records that are not subject to such protection, to prevent accidental and unauthorized access to UT Party Records ?
3. What safeguards does Proposer have in place to prevent the unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access, or disclosure of UT Party Records?
4. What procedures and safeguards does Proposer have in place for sanitizing and disposing of UT Party Records according to prescribed retention schedules or following the conclusion of a project or termination of a contract to render UT Party Records unrecoverable and prevent accidental and unauthorized access to UT Party Records? Describe the degree to which sanitizing and disposal processes addresses UT Party data that may be contained within backup systems. If UT Party data contained in backup systems is not fully sanitized, describe processes in place that would prevent subsequent restoration of backed-up UT Party data.

Data Transmission

1. Do Information Resources encrypt all UT Party Records in transit and at rest? If yes, describe how Information Resources provide that security. If no, what alternative methods are used to safeguard UT Party Records in transit and at rest?

Complete the following additional questions if Information Resources will be hosted by Proposer:

2. How does data flow between UT Party and Information Resources? If connecting via a private circuit, describe what security features are incorporated into the private circuit. If connecting via a public network (e.g., the Internet), describe the way Proposer will safeguard UT Party Records.

3. Do Information Resources secure data transmission between UT Party and Proposer? If yes, describe how Proposer provides that security. If no, what alternative safeguards are used to protect UT Party Records in transit?

Notification of Security Incidents

Complete the following additional questions if Information Resources will be hosted by Proposer:

1. Describe Proposer's procedures to isolate or disable all systems that interact with Information Resources in the event a security breach is identified, including any systems that would hold or process UT Party Records, or from which UT Party Records may be accessed.

2. What procedures, methodology, and timetables does Proposer have in place to detect information security breaches and notify UT Party and other customers? Include Proposer's definition of security breach.

3. Describe the procedures and methodology Proposer has in place to detect information security breaches, including unauthorized access by Proposer's and subcontractor's own employees and agents and provide required notifications in a manner that meets the requirements of the state breach notification law.

Compliance with Applicable Legal & Regulatory Requirements

Complete the following additional questions if Information Resources will be hosted by Proposer:

1. Describe the procedures and methodology Proposer has in place to retain, preserve, backup, delete, and search data in a manner that meets the requirements of state and federal electronic discovery rules, including how and in what format UT Party Records are kept and what tools are available to UT Party to access UT Party Records.

2. Describe the safeguards Proposer has in place to ensure that systems (including any systems that would hold or process UT Party Records, or from which UT Party Records may be accessed) that interact with Information Resources reside within the United States of America. If no such controls, describe Proposer's processes for ensuring that data is protected in compliance with all applicable US federal and state requirements, including export control.

3. List and describe any regulatory or legal actions taken against Proposer for security or privacy violations or security breaches or incidents, including the final outcome.

ATTACHMENT A

PRICE SCHEDULE

[I presume this will consist of the attachment you provided to me in PDF format.]

Pre-Proposal Conference

Inbound Freight Sourcing Event

1-877-226-9790

Participant Code: 7277429

August 5, 2014

Agenda

 Introduction

 UT System Supply Chain Alliance Overview

 Inbound Freight Sourcing Event Overview

 UT System HUB Program Overview

- HUB Subcontracting Plans

 Ariba e-Sourcing Platform

 Questions & Answers

 Sourcing Event Contact

 Key Reminders

ALLIANCE OVERVIEW

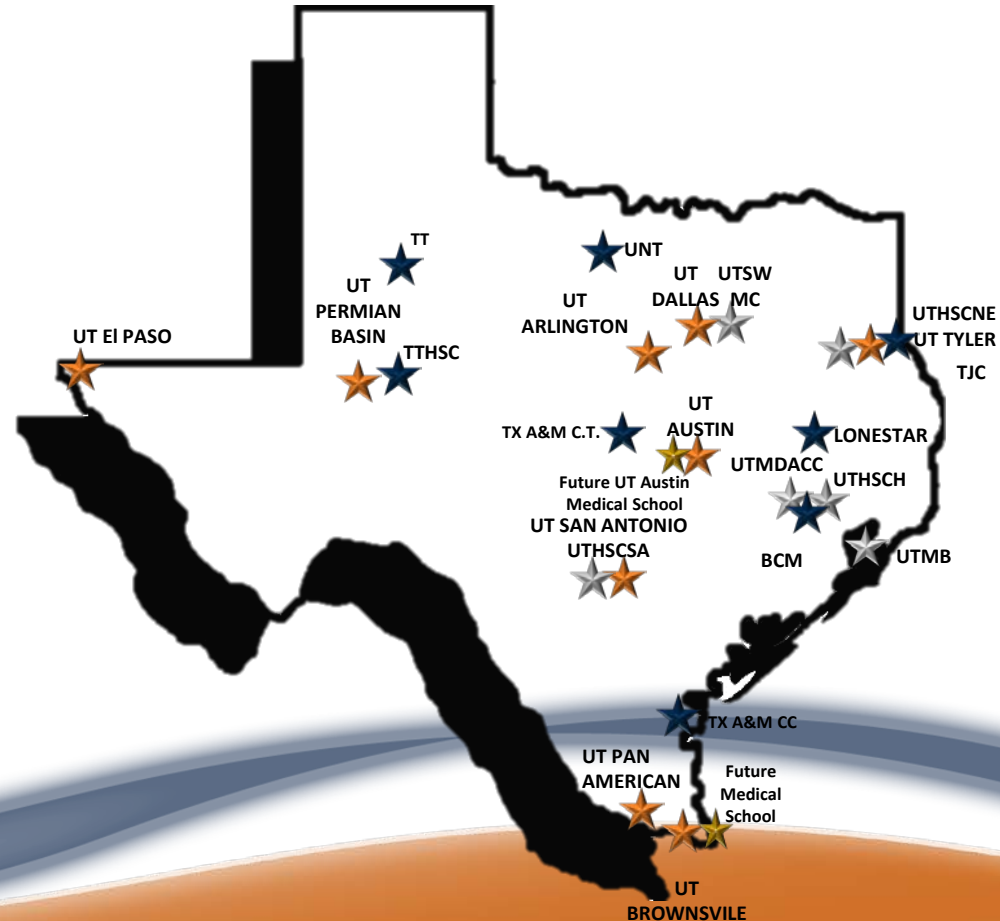


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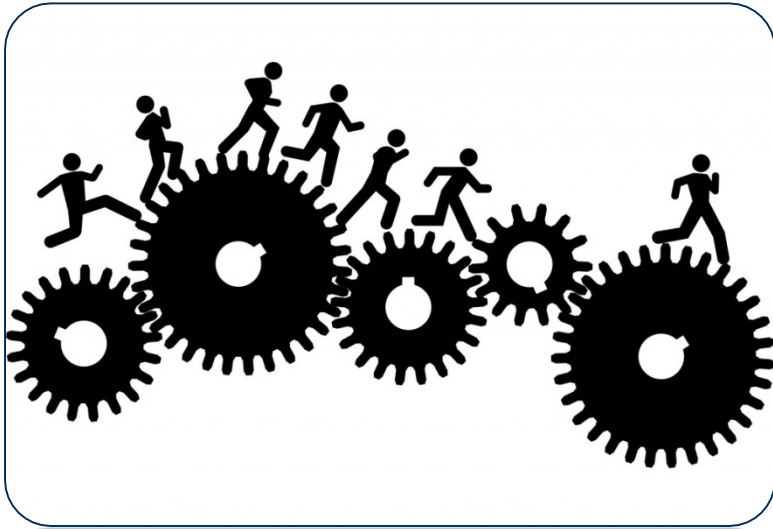


Alliance Facts

- **Established by UT System in 2007**
- **Focused on Academic Health and Higher Education Institutions in Texas**
 - 15 UT Members – 6 Health, 9 Academic
 - 10 Affiliates – 3 Health, 7 Academic
- **Historically Underutilized Businesses (HUBs)**
 - \$34M Annualized HUB Spend
- **Combined Spend to Market**
 - >\$1B Supplies & Services



Key Successes



FY15 will mark the 8th year of operations for the Alliance

The Alliance has 43 strategic supplier agreements and 1 GPO collaboration

Alliance contracts generate over \$250M in annual spend

Alliance contracts create a potential savings opportunity of over \$100M

Annualized spend with HUBs is \$34M

Uniqueness of Alliance Contracts

- **Commitment to deliver spend to Preferred Suppliers**
- **Institutional accountability for non-compliant spend**
- **Marketing and promotion of Preferred Suppliers**
- **Strategic Services Group – Advocates for both institutions and Preferred Suppliers**
- **Lower cost structure for Preferred Supplier to do business**



Inbound Freight Sourcing Event Overview



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Scope of Opportunity

- 👥 The current aggregate spend by UT System institutions and affiliates for Inbound Freight is approximately \$14.5 million annually.
- 👥 The new Contract will have a base term of up to 7 years subject to the competitiveness of the proposal we receive.

Desired Sourcing Event Outcomes

- 👥 Comprehensive and guaranteed service and pricing structure
- 👥 Meet our HUB and Small Business Goals
- 👥 Achieve cost savings for participants
- 👥 Improve overall customer satisfaction
- 👥 Team with Preferred Supplier(s) to develop positive long term mutual benefiting solutions

Sourcing Event Key Dates

Date	Time	Event
July 22, 2014	4:00 PM	Issue RFP Documents
August 5, 2014	10:00 AM	Pre-Proposal Meeting
August 12, 2014	5:00 PM	Deadline to Submit Questions for clarification to RFP requirements - Section 2.2 of this RFP
August 26, 2014	3:00 PM	Proposal Submittal Deadline
Late September, 2014		Selection of Finalists
October, 2014		Finalists Interviews and Negotiations
November, 2014		Anticipated Contract Awards(s)

Sourcing Event Overview

- Section 1-Introduction
- Section 2 - Notice to Proposer
- Section 3 - Submission of Proposal
- Section 4 - General Terms & Conditions
- Exceptions uploaded in Ariba in Section 5.2.2
- Section 5 - Scope of Work
- Section 5.5 - Proposer's Survey
- Section 6 – Pricing Schedule
- Download & return signed Pricing Affirmation document

Sourcing Event Overview

- Appendix 1 – Proposal Requirements
 - Download & return signed Execution of Offer
- Appendix 2 – HUB
- Appendix 3 – Preferred Supplier Agreement
- Appendix 3 – 300 - Institutional Participation Agreement
- Appendix 3 – 400 - Supplier Relationship Management
- Appendix 4 – Access by Individual with Disabilities
- Appendix 5 – Electronic and Information Resources
 - Voluntary Product Accessibility Template (“VPAT”)
- Appendix 6 – Security Characteristics and Functionality
- Attachment A – Price Schedule
- Exhibit A – Annual Inbound Freight Metrics

HISTORICALLY UNDERUTILIZED BUSINESSES



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Completing the HUB Subcontracting Plan*

- UT System Policy #137 requires a “good-faith effort” to include minority and woman-owned businesses in all of our procurement opportunities.
- All firms or individuals, both HUB and non-HUB, in-state or out-of-state, who propose on UT System opportunities, valued over \$100,000 are required to submit a HUB Subcontracting Plan with their RFP.
- Responses that do not include an HSP will be rejected as a material failure to comply with advertised specifications in accordance with the request for proposal.
- HUB Goal for this RFP is 24.6%

Completing the HUB Subcontracting Plan

Option One

If you are not subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources, complete the following sections:

- a) Section 1 – Respondent and Requisition Information
- b) Section 2A – No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
- c) Section 3 – Self Performance Justification – Check “No” and provide an explanation in the box provided.
- d) Section 4 – Affirmation

Completing the HUB Subcontracting Plan

Option Two

If all of your subcontracting opportunities will be performed using only HUB vendors, complete the following sections:

- a) Section 1 - Respondent and Requisition Information
- b) Section 2A – Yes, I will be subcontracting portions of the contract
- c) Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors
- d) Section 2C – Yes
- e) Section 4 – Affirmation
- f) Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity
- g) Attach HUB certification documents

Completing the HUB Subcontracting Plan*

Option Three

If you are subcontracting with HUB vendors and Non-HUB vendors, and the total percentage of subcontracting with HUB vendors meets or exceeds the HUB Goal the contracting agency has identified in “Agency Special Instructions/Additional Requirements”, complete the following:

- a) Section 1 - Respondent and Requisition Information
- b) Section 2A – Yes, I will be subcontracting portions of the contract
- c) Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
- d) Section 2(C) – No
- e) Section 2(D) – Yes
- f) Section 4 – Affirmation
- g) Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity
- h) Attach HUB certification documents

Completing the HUB Subcontracting Plan

Option Four

If you are subcontracting with HUB vendors and Non-HUB vendors (or only Non HUB vendors) and will not meet the HUB Goal , complete the following:

- a) Section 1 - Respondent and Requisition Information
- b) Section 2A – Yes, I will be subcontracting portions of the contract
- c) Section 2B – List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
- d) Section 2C – No
- e) Section 2D – No
- f) Section 4 – Affirmation
- g) Good Faith Effort (Attachment B) – Complete this attachment for each subcontracting opportunity
- h) Attach HUB certification documents

Progress Assessment Report (PAR)

- The PAR is required with each payment application and is a condition of payment.
- The Par must include all 1st and 2nd tier HUB subcontractors reflected on the HUB Subcontracting Plan.
- The PAR must include all HUB Vendor Identification Numbers (VID) and Employer Identification Numbers (EIN) if applicable

Required Documents

- Letter of HUB Commitment
- HSP completed depending on your firms circumstances (i.e. Option 1-4)
- Changes to the plan must be approved by the HUB Coordinator and if approved a revised HSP will be submitted
- Any requests for payment will include the Progress Assessment Report (PAR) form or no payment will be made until the form is complete

Before Submission

Send the HSP to the HUB Coordinator for a preliminary review at least 4 days prior to the due date.

Historically Underutilized Businesses

Cynthia Booker

UT System Administration
Office of HUB Development

Office: 409-772-1353

Fax: 409-772-1388

cbooker@utsystem.edu

- 👤 All HUB Plans should be reviewed prior to submittal
- 👤 Responses that do not include an HSP will be rejected as a material failure to comply with advertised specifications in accordance with the request for qualifications

HUB Subcontractor Training Presentation can be found at:

<http://www.cpa.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

ARIBA e-SOURCING PLATFORM



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MD Anderson Supplier Portal

www.mdanderson.org/suppliers

THE UNIVERSITY OF TEXAS
MD Anderson Cancer Center
Making Cancer History®

International Center | English | myMDAnderson | Request an Appointment

About Us | Locations | Events | Newsroom | How You Can Help | Careers | Clinical Trials | Contact Us

Patient and Cancer Information | Education and Research | Keyword Search

Home » Doing Business » Vendors & Suppliers » Supplier Registration

About Us

- Vendors & Suppliers
 - Supplier Registration
 - Terms & Conditions
 - Contact Information
 - HUB & Federal Small Business

Supplier Registration

MD Anderson utilizes a third-party application, Ariba, for our Supplier Registration and eSourcing process. If you experience any technical difficulties during the registration process, please contact the Ariba support desk toll-free at 1-866-218-2155 or send an e-mail to help.sourcing@ariba.com.

It is important to keep in mind that registration through the Ariba site is the first step in doing business with MD Anderson. Registration approval does not connote a preferred supplier status or indicate that your company is on a preferred list. It is a requirement to participate in our eSourcing events.

Once you have been approved, you will be invited to participate in any current RFP that matches your company commodities.

- Quick Registration Guide
- Step-by-Step Registration Instructions (pdf)
- Frequently Asked Questions
- HUB Subcontracting Plan Tip Sheet (doc)

[New Supplier Registration](#) | [Supplier Portal Login](#)

Access your supplier account or for new supplier registration.

Resources for Vendors & Suppliers

- Supplier Registration
- Current Bids
- HUB & Federal Small Business Program
- Owner's Design Guidelines
- Vendors/suppliers who do business
- Vendor Protest Policy (pdf)
- Fraud, Waste, and Abuse Policy (UTMDACC Institutional Policy # ADM0157) (pdf)

If you are a new supplier, click to register.

For registered supplier, click Supplier Portal Login

Ariba Technical Support

Ariba Technical Support – for help with username, password, etc.

help.sourcing@ariba.com

Toll Free: 1-866-218-2155 available 24/7 excluding major holidays

UT MDACC Ariba Contact

SupplyChainHelpdesk@mdanderson.org

phone: (713) 745-7997



RFP Q & A

Contact Information



Nancy Martinez
Sourcing Specialist
713.563.5656
njmartinez@mdanderson.org

Kyle Barton
Contract Manager
713.745.8339
kdbarton@mdanderson.org

Our Online Community:

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Key Reminders

- All questions need to be sent in Ariba by August 12, 2014 by 5:00PM (Local Time-Houston, Texas)
- Addendums will be published in Ariba. Addendum will include:
 - Pre-proposal meeting PowerPoint
 - List of attendees (online & in person) from Pre-proposal meeting
 - HUB Commodities document
 - Questions & Answers
 - Additional questions or information communicated about the RFP
- Complete Your Hub Subcontracting Plan
- Complete & Sign The Execution Of Offer
- Deadline for RFP submittal is August 26, 2013 by 3:00 PM (Local Time-Houston, Texas)

THANK YOU FOR YOUR PARTICIPATION!



SUPPLY CHAIN ALLIANCE
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Creating Value Through Collaboration

Attendee(s)			
eShipGlobal	Srini Vasan	Scott Wheeler	Tegrin Bridgeforth
Fastrans Logistics, Inc.	Wendy Matheney	Gary Zucker	
FDSI Logistics	John Hudson	Paul Willette	Dan Dedels
OptiFreight	Brad Wilson	April Wadlinger	Charlene Mengel
Purpose Transportation, LLC	Sarah Irvan	Greg Crawford	
TRIOSE, Inc.	Malissa Page	Sherri Fulp	Denese Keltz
UT System	Nancy Martinez	Kyle Barton	Cynthia Booker
Vantage Point Logistics	Eric Mcglade	Don Carroll	

INBOUND FREIGHT MANAGEMENT PROPOSER'S SURVEY

1.0 Company Profile

- 1.1 Please provide your company's main address, phone and fax number.
- 1.2 Please provide your company's FEIN.
- 1.3 Please provide your company's DUNS number.
- 1.4 Please provide your company's main contact person for the RFP.
- 1.5 What is your company's legal structure?
- 1.6 List all individuals, groups, corporations, etc. that hold 25% or greater equity in the company. Please list their respective percentage of ownership.
- 1.7 Provide any details of all past or pending litigation arising from your company furnishing an item or service similar to that described in this RFP.
- 1.8 Has your company, or any of its parents or subsidiaries, ever had a Bankruptcy Petition filed in its name, voluntarily or involuntarily? If yes, specify date, circumstances, and resolution.
- 1.9 Is your Company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, specify details, circumstances, and prospects for resolution.
- 1.10 Provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts with and/or has previously provided services of equal type and scope within the past five (5) years. Reference list to include, company name, contact person, and telephone number, description of products and services provided, and length of business relationship. Reference sites should be comparable to the Services required by Alliance and should be contacted by the Proposer in advance of the Proposal response to ensure that they are available to provide a reference.
- 1.11 If requested, please indicate your company's agreement to provide the company's audited financial statement for the last two (2) years.
- 1.12 Is your company a State of Texas HUB firm and/or a Small Business (as defined by the US Small Business Administration)? If so, please list all HUB/Small Business categories your company is qualified under.
- 1.13 Please provide the number of current total customers utilizing your services.
- 1.14 Please provide the number of current healthcare customers.
- 1.15 Please provide the volume currently managed through your program.

2.0 Account Management

- 2.1 Please provide a detailed staffing plan(s) including agents, management and support personnel.
- 2.2 Will your company assign individual, dedicated account managers as necessary during implementation?
- 2.3 What is the average response time for an account manager(s) to respond to initial requests?

- 2.4 Is your support line that is dedicated to the Alliance based in the United States?
- 2.5 Please detail your company's problem resolution process for customer complaints and concerns. Please include problem escalation process.
- 2.6 Please provide an explanation of your cargo claims management services.
- 2.7 How do you track all filed claims and bring them to resolution?
- 2.8 Please explain training and consulting services that your company would recommend and provide for UT System?
- 2.9 What major carrier(s) are utilized by your program?
- 2.10 Please explain how your company monitors carriers in the program to make certain that they are performing at all levels.
- 2.11 Please provide a list of your primary contracted carriers for LTL, FTL, Vanline, Flatbed, etc.
- 2.12 How can a customer track a shipment utilizing your company's service?
- 2.13 Do you provide shipment tracking in real time 24/7? If so, briefly describe the service.

3.0 Project Implementation

- 3.1 Please provide your company's project implementation plan for on-boarding a new contractual relationship/project of this size and scope? Explain what is required of your company and what is required of each UT System institution.
- 3.2 Provide specific examples of comparable implementation processes.
- 3.3 What is the average time frame to successfully implement your company's program once a contract has been finalized?
- 3.4 What Institutional Participant resources that are typically required to get the program implemented? Please provide detail.
- 3.5 What Institutional Participant resources are needed to continue the maintenance of the program once fully implemented?
- 3.6 Describe your capabilities to support all UT Alliance members.

4.0 Supplier Program

- 4.1 Please define what your company considers a compliant supplier.
- 4.2 How many compliant suppliers do you currently have in your program?
- 4.3 Please provide the number of vendors with any exceptions on your program.
- 4.4 Please describe how you bring suppliers on line with your program. What are the processes, documentation and procedures you use to ensure supplier compliance?
- 4.5 What does your company do when a supplier does not abide by the instructions to ship in your program?

- 4.6 How do you validate that a supplier will comply with your program?
- 4.7 What is the ramp up timeframe to reach 100% supplier compliance? For example, how long will it take to achieve 50%, 75% and 100% compliance?
- 4.8 Are there any fees or costs associated with your supplier compliance program? If so, please provide your list of fees.
- 4.9 What process do you go through with suppliers that refuse to ship in your program?
- 4.10 What is your strategy for increasing the number of vendors participating in your program?
- 4.11 How do you identify/exclude suppliers and/or contracts with negotiated free shipping?

5.0 Reporting

- 5.1 Can your company provide reports that would include but not limited to the following attributes:
 - A. Institution
 - B. Freight Spend by Supplier
 - C. Freight Savings
- 5.2 Please indicate any other standard reports available and recommended for UT System along with the frequency the reports can be provided.
- 5.3 Are the reports available real-time via an Internet website or portal?
- 5.4 Can the reports be downloaded into a usable format, i.e. Excel?
- 5.5 Does your company currently provide custom reporting capabilities?
- 5.6 Does your company provide supplier benchmarks? Please provide examples and identify the baseline of your benchmarks.
- 5.7 Will your company provide assistance at no cost onsite to gather the required data for benchmarking?
- 5.8 Please list any additional fees or costs associated with your company's reports?

6.0 Invoicing

- 6.1 Please explain your invoicing process.
- 6.2 Can your company provide a paper invoice if required?
- 6.3 Can invoices be sent in XML format via internet or via EDI?
- 6.4 Please provide detail of your freight invoicing process.
- 6.5 Can your company allocate all shipping costs associated with an order to that order's funding source and provide that data on a daily basis to each Institutional Participant? Can this be done for an order with multiple funding sources?
- 6.6 What is needed from an institution for your company to provide departmental or funding source freight cost allocation? Please describe the process.

- 6.7 Please explain your audit process to verify billing accuracy.
- 6.8 How do you seek any credits for the members utilizing your program?
- 6.9 How does your company audit for hidden freight costs?
- 6.10 Do you monitor the freight terms that the members should be receiving?
- 6.11 How do you address Procurement-Card (p-card) transaction purchases?
- 6.12 How do you address pre-pay transactions?
- 6.13 How do you identify and mitigate double billing for shipments?
- 6.14 Can your company provide summary invoicing for each participant UT Alliance member?
- 6.15 Please explain your experience and capabilities to deploy an e-commerce solution to each of these environments:
 - SciQuest
 - Oracle Supplier Network
 - PeopleSoft Direct Connect

7.0 Pricing and Rebates

- 7.1 Please provide detail on your pricing structure. Detail should include all costs associated with your in-bound freight management program.
- 7.2 Is your pricing structure capable of being validated through auditing and monitoring of reports?
- 7.3 Will your company allow for quarterly or semi-annual review and revision of the contract discount pricing?
- 7.5 For what period of time is your company willing to offer fixed discount pricing?
- 7.6 How does your company manage pricing?
- 7.7 Will your company provide a not-to-exceed percentage increase guarantee?
- 7.8 Does your company have a freight management program fee? If yes, please provide detail regarding your company's program fee.
- 7.9 Please provide your discount structure for small parcel shipments (next day, 2nd day, express saver, ground, etc.).
- 7.10 How do fluctuating fuel charges (i.e., fuel surcharges) affect the pricing proposed?
- 7.11 Will your company guarantee cost savings? If yes, please explain the guarantee.
- 7.12 Please describe your company's approach to structuring an incremental sales volume growth rebate or incentive.
- 7.13 Will your company offer an early start-up or transition incentive if awarded a contract? If so, please describe your company's proposed early start-up or transition incentive program.
- 7.14 For the time-frame of this agreement, what price adjustments can your company guarantee?

8.0 Value Add

- 8.1 Please explain in detail your company's freight mode optimization program offering.
- 8.2 Please list any federal or federal sponsored entities that your company currently does business with.
- 8.3 What is the process you use to evaluate savings opportunities?
- 8.4 Describe your capability to conduct a pre-implementation assessment at each participating institution and report savings opportunity based on current freight spend.
- 8.5 Please indicate any additional "value added" services or programs not otherwise asked or disclosed herein that should be considered during the evaluation process.
- 8.6 Briefly describe your company's advantage in the marketplace. Please provide only information not previously asked or disclosed herein.
- 8.7 Describe how your company would proactively approach generating additional cost savings for the Alliance's spend going forward. Please provide only information not previously asked or disclosed herein.
- 8.8 Please state how your company will maintain its competitive "best value" price and non-price offering long-term.

9.0 Green Purchasing and Sustainability

- 9.1 Green Initiative – Provide a brief description of your company's environmental initiatives
- 9.2 Please list and describe the types of sustainability reports your company could provide.
- 9.3 Environmental Sustainability – Please complete the following
 - A. What Policies are in place to monitor and manage your supply chain regarding environmental issues? Please check the items that apply.
 - We apply environmental criteria when making purchasing decisions.
 - We specify sustainable products and or locally manufactured products
 - We specify products using Electronic Products Environmental Assessment Tool (EPEAT) standards
 - We partner with sustainable suppliers or utilize suppliers who share in the sustainability commitment
 - Our Director of Sustainability is researching industry best procurement practices
 - B. What type of sustainable packaging/shipping materials do you use? Please check the items that apply.
 - Our packaging/shipping materials are recyclable
 - Our packaging/shipping materials are reusable
 - Our packaging/shipping materials are bio-degradable
 - Our packaging/shipping materials are made from 100% post-consumer recycled materials
 - We offer a take back program for our packing materials.
 - C. Does your company have a Green Transportation Plan for your operation? Please check the items that apply.
 - We encourage carpooling, public transportation, and using other alternative modes of transportation
 - We subsidize public transportation for employees

- We are developing a Green Transportation Plan
- We have an established Green Transportation Plan (Describe below)
- We offer flexible hours, telecommuting or a compressed work week
- We utilize teleconference, video conference, WebEx or GoTo Meetings
- We purchase carbon offsets
- We own electric, hybrid, or E-85 fueled vehicles
- We rent hybrid vehicles

D. What does your company do to minimize the environmental costs associated with shipping? Please check the items that apply.

- We are evaluating what the company can do to minimize the environmental costs associated with shipping
- We combine deliveries with customer visits
- We consolidate deliveries
- We use bike couriers for local delivery
- We utilize electronic communications and electronic transfer of documents. E-mail, fax and Portable Document Format (PDF)
- We use eco-friendly courier's packaging/shipping materials that include post-consumer waste recycled materials and are recyclable
- Our packaging and shipping materials are reused until they eventually get recycled
- We have established a sustainability plan that minimizes the need for shipping (Describe below)
- We update mailing lists to minimize unwanted mailings
- We specify products that can be purchased within a 500 mile radius of the delivery location

E. Does your company have an environmental policy statement? Please check the items that apply.

- We are developing an environmental policy statement
- Our environmental policy statement consists of a commitment to promote environmental stewardship
- Our environmental policy statement describes our company's Sustainability Initiative
- We have formed an oversight committee to ensure the success of our environmental policy
- Our environmental policy statement describes how our company explores opportunities to work with communities, governments and non-governmental and professional organizations to help articulate, teach and advance the principles of sustainability

F. Has your company ever been cited for non-compliance of an environmental or safety issue? Please check the item that applies.

- No, my company HAS NOT been cited for non-compliance of an environmental or safety issue
- Yes, my company HAS been cited for non-compliance of an environmental or safety issue. If yes, specify the date, circumstances, and resolution.

G. What programs do you have in place, or planned for promoting resource efficiency? (i.e., an environmental or waste audit)? Please check the items that apply.

- We recycle consumables, reduce waste and practice energy reduction when possible
- We are developing a recycling program
- We utilize a formal energy management system
- We are a member of various environmental organizations
- We have formed a Sustainability Committee to identify sustainable solutions for our company
- We have a company-wide Recycling Program
- Our Director of Sustainability initiates and supports sustainability efforts
- We have performed an environmental or waste audit
- We are recognized by peers and environmental organizations for providing leadership in sustainability

We are a carbon-neutral company

H. Does your company have web-based materials available documenting your “Green” initiatives?
Please check the items that apply.

- We are developing web-based documentation of “Green” initiatives
- Our website includes “Green” reference information
- Our website contains an environmental policy statement
- Our website includes materials that document company’s “Green” initiatives
- Our website contains our company’s Sustainability Report

SECTION 6
PRICING SCHEDULE AND AFFIRMATION

6.1 Pricing Schedule

Proposer must submit as **Attachment A**, as part of its proposal, detailed prices for the Services described in **Section 5.4** (Scope of Work) of this RFP. The prices must include all charges associated with providing the full scope of work.

6.2 Pricing Affirmation

THE FOLLOWING FORM MUST BE COMPLETED, SIGNED AND SUBMITTED WITH THE PROPOSER’S PROPOSAL. FAILURE TO DO SO WILL RESULT IN THE REJECTION OF YOUR PROPOSAL.

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System
Ref.: Preferred Supplier of Inbound Freight Management Services
RFP No.: UTS/A46

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish inbound freight management services upon the pricing terms quoted below.

The prices quoted in **Attachment A** to this RFP will be Proposer’s guaranteed pricing.

Proposer agrees that if Proposer is awarded an agreement under this RFP, it will provide to UT System a quarterly administrative fee of 2% of the Total Net Sales made by Preferred Supplier under the Agreement. *[Note to Proposer: this will be addressed in the Agreement's Scope of Work.]* **“Total Net Sales”** means the total dollar amount of all sales of the Services that are made by Preferred Supplier to Institutional Participants, less credits, returns, taxes, and unpaid invoices. The administrative fee will be used by UT System to provide support for implementation, administration, monitoring, and management of the Agreement.

Subject to the requirements of the Texas Prompt Payment Act (Chapter 2251, *Texas Government Code*), UT System’s standard payment terms for services are “Net 30 days.” Proposer will provide the following prompt payment discount:

Prompt Payment Discount: _____%_____days/net 30 days.

Proposer certifies and agrees that all prices proposed in Proposer’s proposal have been reviewed and approved by Proposer’s executive management.

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)
Name: _____
Title: _____
Date: _____



RFP Submittal Deadline: **August 26, 2014** at **3:00PM**
(Houston, TX. Time)

ADDENDUM 1
REQUEST FOR PROPOSAL
UTS/A46
INBOUND FREIGHT
MANAGEMENT

Addendum Issue Date: **August 12, 2014**

DIRECT QUESTIONS TO: Nancy Martinez, Telephone (713) 563-5656 or via the Ariba System

ACKNOWLEDGEMENT OF THIS ADDENDUM 2 IS REQUIRED IN ACCORDANCE WITH **SECTION 1.2 OF APPENDIX ONE**, TO THE RFP. THIS RFP ADDENDUM IS A FURTHERANCE OF RFP **UTS/A46** AND IS NOT A CONTRACT OR OFFER TO CONTRACT.

Item One:

The Pre-Proposal Conference Presentation (August 5, 2014) is attached hereto.

Item Two:

The Pre-Proposal Conference Attendee List (August 5, 2014) is attached hereto.

Item Three:

Exhibit A, Tab 3 has been updated to include the top 400 freight suppliers with the annual spend for UTSW, UTMB, and UT Austin.

Item Four:

A discrepancy was identified with Attachment A that was uploaded on July 22, 2014 through Ariba. The following identified changes made to Attachment A Price Schedule:

1. Additional entries have been added.
2. The column "Commodity" has been added.
3. The column "Value" has been added.
4. Items over 100 lbs. have been removed.

Item Five:

Supplier Questions and Answers

1. What carriers is the UT system currently using for the Inbound Freight Management Program?
Does the UT System have direct contracts with LTL and Parcel carriers?

A: We currently use FedEx, UPS, Lonestar, DHL, and other carriers. UT System does not have a direct contract with LTL (less than truckload) or parcel carriers, however, we do utilize a state contract.

2. The Freight Charge Analysis sheet, shows shipments of 1.1 lbs to as much as 2,480 lbs. Presumably, these are examples of prior shipments, will there be any Truck Load Shipments or will all shipment be LTL and/or Parcel?

A: The Price Schedule that was uploaded as Attachment A are examples of the most common shipments that came to our campuses. Almost all shipments will be LTL or Parcel. Truck load shipments are a rare occurrence.

3. On the same sheet, we don't see where any products are listed. How do we know the commodity, DIMS, and value in order to provide pricing?

A: While we do not have the dimensional weight for all the products listed, we will list the commodity and value. We removed from the price schedule any package over 100 lbs.

4. If we could get more clarification on the freight provided
a. Volume

A: UTMB was the only institution able to provide this data for the time period March 2014 – July 2014, as illustrated below.

Time Period March 2014 - July 2014			
Supplier	Monthly Average	Daily Average	Total
UPS	2,390	109	11,952
FedEx	2,413	110	12,063
FedEx Ground	923	42	4,614

5. Please provide clarity around the royalty fee clause?

A. Royalty-free access refers to the Alliance not having to pay any fees or taxes to utilize any software or web-based program you are proposing under this RFP.

6. How is the 24.6% HUB Goal determined?

A: The Goal was determined by a State Wide Disparity Study conducted in 2009 and updated thereafter.

The 24.6% is based on payments made by the prime contractor to HUB subcontractors (i.e., the percentage of the contract the proposer anticipates subcontracting to HUB firms).

7. Who is the incumbent?

A: There is not an incumbent. Currently no UT Institution utilizes an inbound freight management service. This will be a Contract for UT System.

8. Are these the only type of shipments or will there be truckload, blanket wrap, International, etc.?

A: For the purposes of the RFP, it will not include truckload, blanket wrap or international shipments. There could be individual institutions that may require these types of shipments. As they would be on an infrequent base, these shipments will be negotiated directly with that Institution.

9. Is it safe to assume all products for the Pricing Schedule is cartoned?

A: Yes, all products for the Pricing Schedule are cartoned.

10. Can you generate orders electronically?

A: Yes.

11. In Exhibit A the UT Austin Freight Amount is listed as \$10,377,787.88 and the number of packages is listed as 208,775. Is this accurate?

The average cost per package data shows a significant difference between UT Austin and the other two institutions.

A: This is accurate; these are gross figures that include suppliers that provide “free” shipping.

12. Please provide additional detail on the total freight amounts above, if available.

- a. What percent of the freight amounts are Small Package, LTL and Truckload?
- b. What percent of the freight amounts are “prepay and add” shipments where your carrier lists the total freight charges on your product invoice?
- c. What percentage of the freight amounts has your freight cost embedded in the product invoice so you have no visibility to your freight charges?
- d. What percentage of the freight amounts are paid directly to your carriers vs. paid to your suppliers?

A: We do not have detailed data specific to these questions, however, I would estimate that more than 90% of the freight amounts are paid directly to suppliers.

13. Are P-Card Purchases included in the freight amounts found in Exhibit A? If not included, can you provide us with a report or the amount or percentage of annual P-Card Purchases?

A: To the best of our knowledge, P-Card purchases are not included in the freight amounts. We would estimate annual P-Card Purchases to be an additional 15%.

14. In Section 1.1 it states that “Various non-UT System institutions that are affiliated with the Alliance may participate, too, in any agreement resulting from this RFP.” what [type of] institutions are being referred to? Are they all higher education and/or healthcare institutions?

A: This refers to our Affiliate members made up of 3 healthcare and 8 academic institutions.

Baylor College of Medicine
Lone Star College System
Stephen F. Austin
Texas A&M University
Texas A&M University – Galveston
Texas A&M University – Central Texas
Texas A&M University – Corpus Christi
Texas Tech University

Texas Tech University of Health Sciences Center
Tyler Junior College
University of North Texas

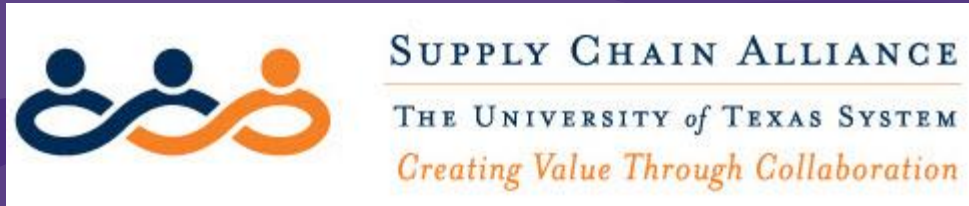
15. Does this RFP include any FF&E (furniture, fixtures and equipment) shipments for renovation or new construction? If yes, can you provide an estimate of that traffic volume and frequency?
- A: These types of shipments are included in the scope of work; however, we do not have the estimated volume and frequency at this time.
16. After awarding the contract in November 2014, does the UT System have any idea of key implementation milestones/time frames?
- A: This will be coordinated with each Institutional Participant and the awarded Supplier.

All other terms, conditions and requirements set forth in RFP UTS/A-46 remain unchanged and in effect.

END OF ADDENDUM 1

Vantage Point Logistics

A Superior Approach to Freight Management



Don Carroll
dcarroll@vantagepointlogistics.com
614.208.8758
October 29, 2014



VANTAGE POINT
LOGISTICS, INC.

Objectives & Agenda

Objectives

- I. To articulate the key differentials and advantages of the Vantage Point Logistics inbound freight program.
- II. To demonstrate that the VPL program maximizes savings while providing the most detailed accounting allocation required for grant reimbursements

Agenda

- I. Company Information
- II. VPL Program Differentiators
- III. Process Overview
- IV. Supplier Management
- V. VPL Invoicing – Charge Allocation
- VI. Implementation
- VII. Reporting
- VIII. Incentives
- IX. Service Capabilities

Vantage Point Logistics

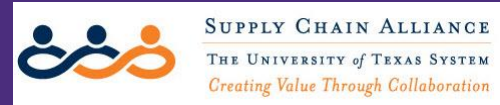
Company Information

- VPL leadership has over 40 years combined experience delivering freight savings to healthcare and higher education
- Our industry experience and insight has allowed us to develop a superior business model
- Advanced technology allows us to accommodate the more sophisticated billing requirements of higher education
- Our unique pricing model allows us to truly partner with our customers to drive savings



Vantage Point Logistics

Key Program Differentiators



- Guaranteed savings
 - Offering an unprecedented 30% savings vs. your current prepay-and-add cost

- Proven success in healthcare and higher education

- Advanced invoicing to accommodate higher education
 - VPL invoices specifically tailored to accommodate fund accounting requirements
 - Critical for maintaining grant requirements and reimbursements
 - Full SciQuest, PeopleSoft, Oracle and custom application integration

Vantage Point Logistics

Key Program Differentiators

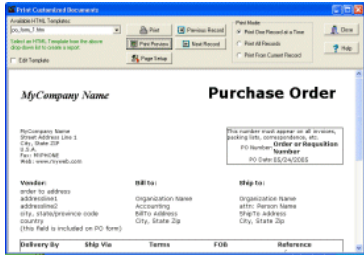


- Complete transparency of VPL's margins
 - VPL has pioneered the concept of “transaction” billing
 - This pricing model ensures VPL's incentives are in close alignment with our customers

- Multi carrier support
 - VPL can support both FedEx and UPS
 - Ensures maximum supplier participation and savings

- Simple and easy
 - 3-4 week implementation schedule designed to have minimal impact on your staff's scarce resources and time

Vantage Point Logistics Process Overview



Buyer creates PO



Vendor fills order



FedEx picks up package

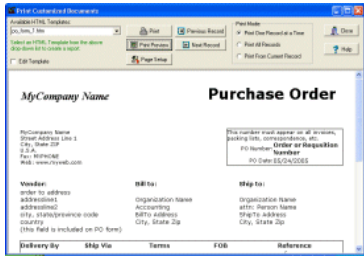


FedEx delivers package



Your Existing Process Does Not Change

Vantage Point Logistics Process Overview



Buyer creates PO



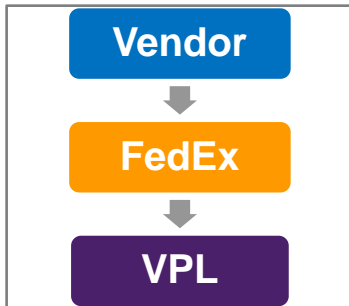
Vendor fills order



FedEx picks up package



FedEx delivers package



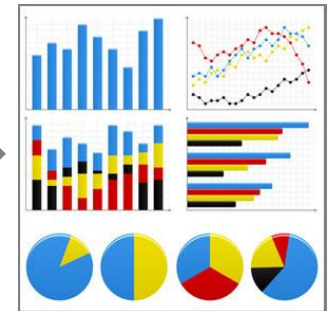
Vendor bills FedEx



VPL audits FedEx bill



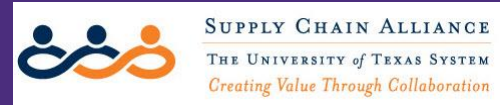
VPL uploads invoice



VPL provides reporting

Supplier Management

Supplier Participation and Set Up Process



Using a variety of proven set up processes, communication methods and best practices, VPL has access to over 7,000 suppliers in healthcare and higher education willing to participate with our program.

VPL will contact as close to 100% of your suppliers as possible that are charging freight utilizing the following methods:

- Direct supplier contact
- Phone contact
- Email and fax notifications
- FedEx Vendor Enablement Program (VEP)
- Deployment of best practices

Vendor set ups will continue for the lifetime of the program.

Supplier Management

Supplier Compliance Process

VPL will utilize the data provided by the customer in conjunction with VPL program data to monitor your suppliers' compliance with program. This ongoing process accomplishes several key objectives:

- Ensure all customer accounts are appropriately set up
- Expose hidden supplier fees (5-8% of perceived freight spend)
- Identify ongoing supplier set up opportunities
- Identify vendors requiring systems or training support

The VPL supplier compliance process provides an additional 15 - 20% savings to our customers.

Supplier Management

Dealing With Recalcitrant Suppliers



For suppliers currently unwilling to participate, VPL focuses our efforts on those suppliers who will bring the most aggregated savings to our customers. To overcome supplier objections we have developed a variety of strategies acting in unison:

- VPL engages supplier directly
- Provide guidance to GPO contracting teams
- FedEx Vendor Enablement Program (VEP)
- Provide training to customer contracting teams
- VPL Leadership Council

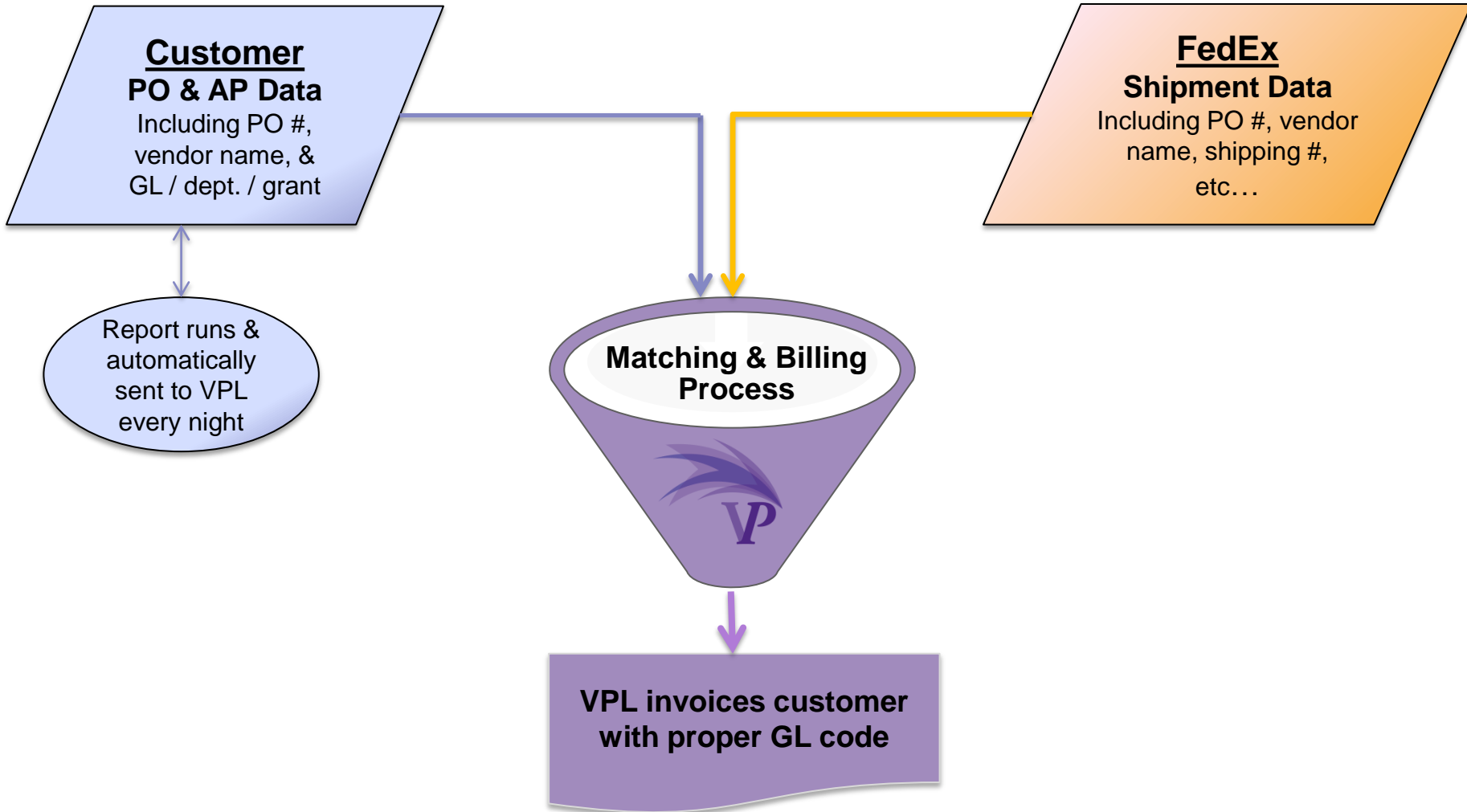
Utilizing these methods, the VPL team has moved hundreds of initially recalcitrant suppliers into a participating status.

The VPL invoicing process is a core strength of our program. We have designed our system to handle both healthcare and higher education.

- VPL creates a custom invoice for each customer, based on each customer's unique requirements.
- VPL charges are allocated based on the specific charge allocation on each PO line.
 - The VPL invoice process is specifically designed to handle the sophisticated “fund accounting” requirements associated with federal grants.
 - We do not provide just a PO# back to you which would require significant levels of effort by your AP to accurately post the charges.

- Our invoice process loads all the freight charges directly into your AP / GL system. Accounts payable does not have to manually enter or load VPL charges into your system.
- VPL has successfully integrated our invoice process for SciQuest, PeopleSoft, Oracle, Banner, etc...
 - Our technical team will customize an invoice to match each customer's established process, system and protocols.

Matching Data Flow



Service Methods

Charge Allocation – PO Sub Line Examples

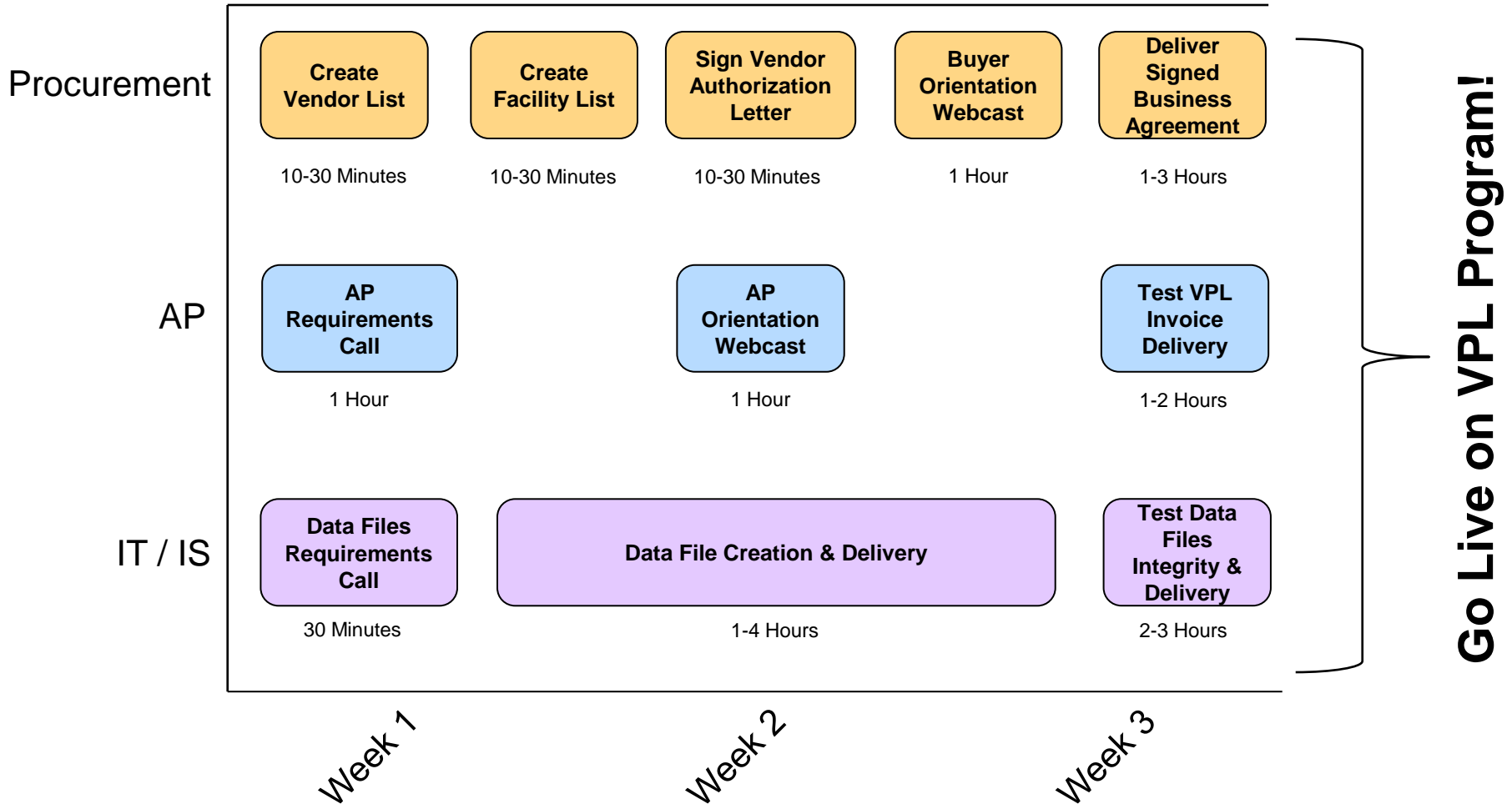


PO	SCO	SUPPLIER:	USA SCIENTIFIC	INVOICE	1306-43	DATE	9/5/2013		\$7.30				
			GL UNIT	NCA	DPA	FUND	FYR	PROGRAM	PROJECT	ACTIVITY	DEPARTMENT		
PO Line:	1	PO Sub Line:	1	TCCSF	43638636380	5571136	29753725	1	459	116905A	1	425016	\$3.65
PO Line:	1	PO Sub Line:	2	TCCSF	43638436380	5579136	21427433	1	944	119366A	1	425016	\$3.65
PO	SCO71346	SUPPLIER:	BIOLEGEND	INVOICE	1306-44	DATE	9/5/2013					\$17.65	
			GL UNIT	NCA	DPA	FUND	FYR	PROGRAM	PROJECT	ACTIVITY			
PO Line:	1	PO Sub Line:	1	TCCSF	43652936520	5012867	29321327	2	513	121653A	1		\$6.00
PO Line:	2	PO Sub Line:	1	TCCSF	43652536520	5011867	29317327	2	472	121653A	1		\$2.65
PO Line:	3	PO Sub Line:	1	TCCSF	43652636520	5012867	29308327	2	896	121653A	1		\$3.53
PO Line:	4	PO Sub Line:	1	TCCSF	43652536520	5013867	29306327	2	427	121653A	1		\$5.47
PO	SCO70676	SUPPLIER:	AMERICAN TYPE CULTURE COLLECTION	INVOICE	1306-45	DATE	9/5/2013					\$42.92	
			GL UNIT	NCA	DPA	FUND	FYR	PROGRAM	PROJECT	ACTIVITY		\$21.46	
PO Line:	1	PO Sub Line:	1	TCCSF	43652136520	5652269	69071081		085				
PO Line:	2	PO Sub Line:	1	TCCSF	43652136520	5654269	69082081		508				\$21.46
PO	SCO68420	SUPPLIER:	BIOLEGEND	INVOICE	1306-46	DATE	9/5/2013					\$17.64	
			GL UNIT	NCA	DPA	FUND	FYR	PROGRAM	PROJECT	ACTIVITY			
PO Line:	1	PO Sub Line:	1	TCCSF	43652536520	5015867	29346327	2	416	121653A	1		\$3.88
PO Line:	2	PO Sub Line:	1	TCCSF	43652436520	5014867	29318327	2	19	121653A	1		\$5.29
PO Line:	3	PO Sub Line:	1	TCCSF	43652436520	5014867	29341327	2	417	121653A	1		\$4.59
PO Line:	4	PO Sub Line:	1	TCCSF	43652336520	5019867	29301327	2	684	121653A	1		\$3.88
PO	SCO72655	SUPPLIER:	USA SCIENTIFIC	INVOICE	1306-47	DATE	9/5/2013					\$8.25	
			GL UNIT	NCA	DPA	FUND	FYR	PROGRAM	PROJECT	ACTIVITY			
PO Line:	1	PO Sub Line:	1	TCCSF	43638136380	5577790	23748749	5	83	110501B	1		\$3.05
PO Line:	2	PO Sub Line:	1	TCCSF	43638136380	5576790	23737749	5	337	110501B	1		\$3.05
PO Line:	3	PO Sub Line:	1	TCCSF	43638536380	5578790	23796749	5	429	110501B	1		\$2.15



VPL Implementation Timeline

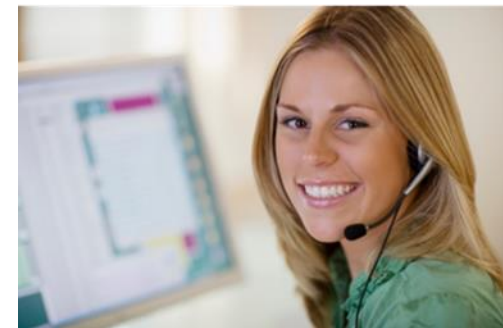
Realize Savings in Three Weeks or Less



Resource Management

VPL will engage our customers through our *Proactive Touch Point Program™* to ensure we earn your confidence and become a trusted partner.

- Touch-Point 1: Senior Account Manager
- Touch-Point 2: Monthly status calls
- Touch-Point 3: Quarterly business reviews
- Touch-Point 4: Problem Resolution Action Plan
- Touch-Point 5: VPL Partners



Reporting

Advanced Report Delivery

VPL has developed reporting and analytics capabilities to provide a customizable information experience for our customers.

Reports are “pushed” to authorized recipients via two methods:

- **Direct email inbox delivery each time a report updates**
- **Posting directly to your existing intranet communication platforms**

We offer a full range of preformatted reports as well as customized reporting to meet specific customer requirements.

AP Upload Report

Department Ordering Report

Savings Report

Invoice Report

Assessorial Charges Report

Service Level Audits Report

Detail Shipment Report

Opportunities Analysis Report

Supplier Fee Reports

Supplier Compliance Report

Mode Optimization Reports

Delivery Traffic Report

Incentives

Incremental Sales Growth

VPL will extend The University of Texas Supply Chain Alliance an aggressive rebate program. For all locations fully implemented:

- Within 6 months of the contract signature, VPL will pay the University of Texas Supply Chain Alliance a 5% admin fee on the VPL transaction charges.
- Within 12 months of the contract signature, VPL will pay the University of Texas Supply Chain Alliance a 4% admin fee on the VPL transaction charges.
- After months of contract signature, VPL will pay the University of Texas Supply Chain Alliance a 3% admin fee on the VPL transaction charges.

****This sales growth incentive pays for the life of the contract**

VPL will extend Supply Chain Alliance members an early start-up incentive. For all locations fully implemented within:

- 3 months of the contract signature, VPL will rebate our full transaction fee for all shipments in the first three months on the program and then a 5% rebate on the transaction fee for the next two years.
- 6 months of the contract signature, VPL will pay 4% rebate on the transaction fee for the first two years on the program.
- 9 months of the contract signature, VPL will pay 3% rebate on the transaction fee for the first two years on the program.
- 12 months of the contract signature, VPL will pay 2% rebate on the transaction fee for the first two years on the program.

Incentives

Guaranteed Savings

VPL will guaranty at least a 30% savings over your current prepay and add cost per shipment.

- VPL is the only company to provide a true guarantee of costs savings, based on empirical charges per shipment
- Our guarantee is not based on a discount off of carrier list price. A guarantee based on carrier list price:
 - Allows for an increase in customer cost each year
 - Does not actually guaranty customer savings vs. the suppliers!
- The only guarantee that matters is one that compares pre-program costs per shipment, with post implementation costs per shipment.

Service Capabilities

- Customized Billing for Higher Education & Healthcare
- Seamless AP Invoice Uploads
- Detailed Allocation
- Pricing Transparency
- Multi Carrier Support
- Sophisticated Inbound Mode Optimization
- Comprehensive Supplier Management
- Proactive Account Management
- LTL - Truckload
- Contract Compliance Audit (Pilot)
- Patronage Program



“Within the first month we could determine that the VPL invoicing process is as smooth as advertised, the anticipated savings are being realized and there is no disruption for our end users.” - Jim Hine , University of California – San Francisco



**Thank you for the opportunity
to present to you!**



**VANTAGE POINT
LOGISTICS, INC.**