**IMPORTANT – This cover page must accompany all Agreements for Services Rendered to Alamo Colleges District.**

**Agreement for Services Rendered to Alamo Colleges District**

**by a Professional Other Than an Instructor**

**COVER PAGE**

**(Use the TAB key to skip from field to field)**

This form is intended to be used for professional services **rendered to** Alamo Colleges District by aprofessional, other than an instructor of students, not funded by a grant.

**This form should be used for the services of professionals not funded by a grant. Instructional professionals teaching students should not be contractors pursuant to IRS rulings requiring that they be employees, but may provide services in another capacity (e.g., faculty training, staff training, curriculum development, etc.) pursuant to this agreement or a Services Agreement – Low Risk. All form agreements are available at the OLS website.**

Prepared by:

Department:

Campus:

Phone:

Name and phone number of person to contact with questions, if different from above:

Contractor name(s):

Provide background and purpose of the Agreement:

**INSTRUCTIONS:**

1. Obtain the latest version of this form under Legal Department/Contract Forms at www.alamo.edu.
2. Fill in all pertinent information in the blank spaces provided at page one and Exhibit A. **Determine the exact legal name of the vendor from its IRS Form W-9**.

2. Have the vendor complete and sign a vendor application and W-9, if necessary.

3. This form is a vendor transaction agreement within the meaning of Procedures C.2.11.1 & C.2.11.2. This Agreement must be signed by Purchasing and may be initiated with the assistance of Purchasing.

4. If the agreement originates at a college campus, then send the agreement in Word® to your VPCS for approval. If the agreement originates at a district office, then send the agreement in Word® to your Vice Chancellor for approval. Your approver will review, resolve any issues with you and then forward the Agreement to Purchasing for processing.

5. Purchasing will forward the Agreement to Legal Services, which will review, potentially revise, and return the agreement approved as to form only to Purchasing, which in turn will forward the agreement to the vendor for the vendor’s review and signature. If the vendor has revisions, Purchasing will forward the vendor’s revisions to Legal Services for review, potential counter-proposals and return to Purchasing for further negotiation with vendor. Purchasing may elect to involve you in the negotiation. Once an agreed draft is negotiated, Legal Services will approve as to form and Purchasing will send it to the vendor for its signature.

6. Once the vendor’s signature is obtained, Purchasing will counter-sign, completing the Agreement, retain a copy for Contract Administration, and send additional file copies to you, the vendor and Legal Services .

If you have any questions, please contact:

Pat Meurin, Coordinator, Alamo Colleges District Office of Legal Services

(210) 485-0060

dst-legal@alamo.edu

Or

Purchasing & Contract Administration

(210) 485-0100

dst-purchasing@alamo.edu

|  |  |
| --- | --- |
|  | **PROFESSIONAL SERVICES AGREEMENT**  **BETWEEN**  **ALAMO COMMUNITY COLLEGE DISTRICT**  **AND**  **\_\_** |

This Agreement is entered into by and between Alamo Community College District, a political subdivision of the State of Texas (“Alamo Colleges District”) and \_\_ (“Contractor”), collectively sometimes referred to herein as “the Parties.”

**WHEREAS**, Alamo Colleges District is a public junior college district comprised of district services offices and five colleges, San Antonio College, St. Philip’s College, Palo Alto College, Northwest Vista College, and Northeast Lakeview College; and

**WHEREAS**, Alamo Colleges District wants to obtain the services described as “Project” at **Exhibit A** hereto for \_(College/District Office)\_; and

**WHEREAS**, Contractor specializes in such services and desires to provide such services to Alamo Colleges District.

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Alamo Colleges District and Contractor hereby agree as follows:

1. **DEFINED TERMS.**
   1. **“Project”** has the meaning defined in **Exhibit A** hereto. The Contractor hereby agrees to furnish the services specified in **Exhibit A**
   2. **“Project Coordinator”** means the employee of Alamo Colleges District designated in **Exhibit A** hereto who will manage the relationship between Alamo Colleges District and Contractor. The designated employee will be knowledgeable of the Project and be experienced in managing projects similar to the one established herein.
2. **PROJECT OBJECTIVE(S) AND SCOPE.**

The Project objective and scope is defined in **Exhibit A**. The Contractor hereby agrees to furnish the services specified on **Exhibit A.**

1. **PROJECT DELIVERABLES.**

Contractor’s Project deliverables are set forth in **Exhibit A**. If Contractor employs or acts as booking agent for a particular person who is to perform the services (“Performer”), the name of the person providing the services must be specified at **Exhibit A.**

1. **SUPPLEMENTAL DELIVERABLES OR RATE CHANGES.** Additional services resulting from project modifications or changes will be performed at Contractor’s discretion with Alamo Colleges District’s written approval and will be invoiced at the then-current Contractor service rates.
2. **ACCESS**. The Parties agree to grant one another, their employees and agents assigned to the Project reasonable access to appropriate portions of one another’s facilities to the extent reasonably necessary to perform their obligations under this Agreement.
3. **COMMUNICATION**. The Parties agree to communicate in furtherance of the Project, including but not limited to setting mutually agreed upon hours in which Alamo Colleges District and Contractor will perform the Project Deliverables and notifying one another of any and all changes in personnel, operations, or policies that may affect the Project.
4. **POLICIES**. The Parties agree to advise one another, and their respective employee(s) assigned to the Project, of their responsibility for complying with one another’s existing rules and regulations, and of the content of same.
5. **COMPLIANCE.**

**8.1 Applicable Law; FERPA**. CONTRACTOR agrees to comply with all applicable law, including, without limitation, to ensure that its activities hereunder do not cause ALAMO COLLEGES DISTRICT to fail to comply with all applicable federal statutes and regulations, including, without limitation, the Family Educational Rights and Privacy Act, 20 United States Code 1232g, 34 CFR Part 99 (“FERPA”). Any exchange by the parties of student record information protected by FERPA (which includes information generated by Contractor for inclusion in a student record) shall commit the receiving party to limit the use of such information to the purposes for which the disclosure was made, to refrain from any re-disclosure except in compliance with 34 CFR 99.3 and either with the specific written permission of Alamo Colleges District, or in strict compliance with any explicit permission granted to Contractor in the Agreement or separately by the eligible student, and to require the return or certified secure destruction by Contractor of all such information, including any copies that may reside in system backups, temporary files, or other storage media, as soon as the intended purpose for such disclosure ends. Contractor agrees to immediately report any and all Alamo Colleges District student record data security breaches via electronic mail directly to the appropriate Alamo Colleges District personnel.

**8.2 Non-Discrimination.** Parties agree to have in place and abide by a policy prohibiting discrimination, harassment, and retaliation on the basis of any legally protected criteria, including, without limitation, race, color, gender/sex, sexual preference, religion, age, disability, genetic information, national origin, veteran status, income level, limited English proficiency or political affiliation. The Parties agree not to deny or discriminate on the basis of any legally protected criteria in the provision of any service or benefit, including, without limitation, access to any educational program or use of any facility.

**8.3 Licenses, Permits, Taxes and Fees**. Contractor warrants that it will obtain, maintain in effect,

and pay the cost for all licenses, permits, or certifications that may be necessary for Contractor’s

performance of this Agreement. Contractor will be responsible for the payment of all taxes,

excises, fees, payroll deductions, employee benefits (if any), fines, penalties or other payments

required by federal, state, or local law or regulation in connection with Contractor’s performance

of this Agreement.

**8.4** **Covenants Pertaining to Any Contractor Employees Working at Alamo Colleges District**

**Premises**. Contractor agrees to the following regarding any employees assigned to work at Alamo Colleges District’s premises on a regular basis. Contractor agrees to comply with the record-keeping and all other requirements of applicable laws, including, without limitation, the Fair Labor Standards Act (“FLSA”) and the Immigration Reform and Control Act of 1986. Contractor agrees to properly classify its workers for purposes of the FLSA and the Internal Revenue Code and timely pay wages and compensation for their services rendered. Contractor agrees to perform criminal background checks and to implement and enforce a written policy for a drug-free workplace providing for drug and alcohol testing for reasonable cause during employment, complying with all applicable requirements, including obtaining the worker’s authorization. Contractor represents and warrants that any worker it assigns to the Project shall have passed the criminal background check and any drug testing conducted. Contractor agrees to certify in writing at the request of Alamo Colleges District its compliance with any of its obligations in this Agreement.

**8.5** **Data Security and Notification**. Contractor’s performance under this Agreement may include access to and review of confidential, personally identifying information about Alamo Colleges District’s employees, students, and/or vendors. Contractor agrees to use best practices to maintain data security to prevent identity theft, and to promptly report in writing any red flags to the Program Administrator, the Vice Chancellor for Finance and Administration, or the Project Coordinator for this Agreement. Contractor agrees, in the event of a data security breach, to clearly state what personally identifiable information has been improperly accessed, to explain the measures taken to prevent future breaches, and to pay for the reasonable costs of appropriate notification and credit monitoring.

Contractor represents and warrants that should the Payment Card Industry Data Security Standards (“PCI-DSS”) apply to any goods or services provided pursuant to this Agreement, Contractor shall maintain payment card information and process payment card transactions in compliance with the standards of the PCI Security Standards Council (<https://www.pcisecuritystandards.org/index.shtml> ).   If applicable, Contractor shall provide Alamo Colleges District a current certificate of PCI compliance upon award and annually thereafter for the duration of this Agreement.  Contractor agrees to indemnify and hold harmless Alamo Colleges District, its Board of Trustees, officers, employees, agents, contractors and assigns (collectively, “Protected Parties”) from and against any and all complaints, claims, causes of action, liabilities, suits, damages, judgments, penalties, fines, assessments, settlements, losses and expenses (including legal fees, expert witness fees and other legal expenses and court costs) imposed upon, incurred by, or asserted against Protected Parties resulting from or related to any loss of Alamo Colleges District customer credit card or identity information managed, retained or maintained by Contractor, including, without limitation, fraudulent or unapproved use of such card or identity information.  Contractor agrees to notify Alamo Colleges District of any security breach involving the aforementioned data within one business day after discovery.

**8.6** **Records.** Contractor agrees to retain its records for a minimum of four (4) years following

termination of this Agreement, unless there is an ongoing dispute under the Agreement, in which case such retention period shall extend until final resolution of the dispute. Contractor’s “Records” include any and all information, materials and data of every kind and character generated as a result of the work under this Agreement. Examples of Records include, without limitation, billings, books, general ledger, cost ledgers, invoices, production sheets, documents, correspondence, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, federal and state tax filings for issue in question, and any and all other agreements, sources of information and matters that may in Alamo Colleges District’s judgment have any reasonably pertain to any matters, rights, duties or obligations under the Agreement.

**8.7 Right to Audit.** Contractor grants Alamo Colleges District, any applicable grantor, or their

designees the right to audit, examine or inspect (“Audit”), at Alamo Colleges District’s election, all of Contractor’s records relating to the performance of this Agreement during its term and subsequent retention period. Alamo Colleges District agrees that it will exercise this right only during regular business hours. Contractor agrees to allow access to all of Contractor’s Records, its facilities, and its current or former employees, deemed reasonably necessary by the auditor, to perform such Audit. Contractor also agrees to provide adequate and appropriate workspace necessary to conduct Audits.

**8.8 Release of Information**. Alamo Colleges District is a governmental entity in the State of Texas. Documents submitted pursuant to this Agreement become a government record. Access by the public to government records is governed by the Texas Public Information Act (“PIA”). In the event a request is made for information designated as proprietary, Alamo Colleges District may determine in its sole discretion whether sufficient legal justification exists for withholding the information and whether an opinion should be requested from the Texas Attorney General. If an opinion is requested from the Texas Attorney General, Alamo Colleges District will notify Contractor, in accordance with PIA, to assert any arguments Contractor may have in opposition to release of the information. In the event Contractor requests judicial intervention, the party so requesting shall indemnify Alamo Colleges District for its costs (including attorney's fees) associated with the judicial action. Under no circumstances will Alamo Colleges District be liable for any costs, damages, or claims of any nature, related to release or disclosure of any information contained in documents submitted pursuant to this Agreement.

* 1. **Prohibition Against Boycotting the State of Israel**. If the Agreement is valued at $100,000

or more and Contractor has at least 10 employees, then Contractor hereby certifies, represents and warrants that neither Contractor nor any of its affiliates presently does, and during the term of this Agreement will any of them, boycott the State of Israel, by, without limitation, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations with the State of Israel, or with a person or entity doing business within the State of Israel or in any territory controlled by the State of Israel, but this requirement shall not be enforced for so long as it may be enjoined by a court of competent jurisdiction.

**8.10 Prohibition Against Boycotting Energy Companies.** If the Agreement is valued at $100,000

or more and Contractor has at least 10 employees, then Contractor hereby verifies that is does not presently, nor during the term of this Agreement will it, any of them, boycott energy companies, as those terms are defined in Texas Government Code Chapter 2274.

**8.11 Prohibition Against Discriminating Against Firearm Entities or Firearm Trade**

**Associations.** If the value of non-sole-source procurement(s) under this agreement equals or exceeds $100,000, Contractor verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and will not discriminate during the term of the Agreement against a firearm entity or firearm trade association, as those terms are defined in Texas Government Code Chapter 2274.

**8.12 Debarment.** Contractor hereby certifies that it is not a company identified on the Texas

Comptroller’s list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State (the “Foreign Organization List”). Contractor by its signature certifies that Contractor is not debarred from participation in grants or contracts by the U.S. government or the State of Texas, is not indebted to the State of Texas or Alamo Colleges District. In the event that Contractor is added to the Foreign Organization List or becomes debarred from participation in grants or contracts by the U.S. government or the State of Texas at any time during the term of this Agreement, Contractor shall promptly provide notice to Alamo Colleges District. Alamo Colleges District may, at its discretion, terminate the Agreement immediately upon receipt and verification of information, by any means, of such status.

**8.13 Professional.** Contractor hereby agrees to perform the professional services contracted

hereunder to the best of Contractor’s ability and in full compliance with the legal, regulatory and professional requirements of Contractor’s profession, including, without limitation, professional knowledge and skills, confidentiality and record keeping. Contractor by its signature certifies that Contractor currently holds any specified professional license specified at **Exhibit A** in good standing with eligibility for renewal and will maintain that licensure status throughout the term of this Agreement.

**8.14 Policies.** Contractor agrees to abide by all applicable Alamo Colleges District’s policies, including, without limitation, those relating to financial ethics, accountability and parking.

1. **INTELLECTUAL PROPERTY RIGHTS, CONSENTS, LICENSES & ASSIGNMENTS.** If Contractor’s services involve creating images of persons, including, without limitation, serving as a photographer or videographer, Contractor shall obtain, deliver to Alamo Colleges District during the Term of this Agreement and maintain for a period of 5 years thereafter all legally required consents of such persons to the creation and unrestricted use of their images, including, without limitation, by Alamo Colleges District (“Consents”). If Contractor services hereunder include developing materials customized for use by Alamo Colleges District, Contractor warrants its full title and right to grant any intellectual property licensed or materials delivered to Alamo Colleges District under this Agreement free and clear of any claim of any third party. Contractor consents to Alamo Colleges District making a recording, by whatever means and upon whatever media, of any verbal, audio or video report or presentation made in the performance of the Services ("Recording''). Unless Contractor’s services hereunder are limited to those of a speaker or performer, such Recordings may be used for all purposes. If Contractor’s services hereunder are limited to those of a speaker or performer, the Recording may be used by Alamo Colleges District only internally and for no more than 120 days. Unless Contractor’s services hereunder are limited to those of a speaker or performer, Contractor grants to Alamo Colleges District a perpetual non-exclusive license to use all (i) Recordings and (ii) materials delivered hereunder in which Contractor or any Employees own or may claim any intellectual property rights, including the right to create derivative works, fully paid by the compensation payable to Contractor hereunder. Notwithstanding the foregoing, Speakers and Performers may further limit the use of Recordings or prohibit recording entirely by limitation added to **Exhibit A**.Notwithstanding the foregoing, Alamo Colleges District may acquire exclusive intellectual property rights by specification at to **Exhibit A.**
2. **LIABILITY, RISK AND INSURANCE**.

**10.1 Partial Release of Liability of Alamo Colleges District**. CONTRACTOR HEREBY RELEASES ALAMO COLLEGES DISTRICT FROM ALL LIABILITY ARISING UNDER THIS AGREEMENT OR RELATING TO USE OF ANY ALAMO COLLEGES DISTRICT PROPERTIES, INCLUDING, BUT NOT LIMITED TO, LIABILITY RESULTING FROM ALAMO COLLEGES DISTRICT’S NEGLIGENCE, WHETHER CONTRIBUTORY, SOLE, OR JOINT, ARISING OUT OF OR RELATED TO THIS AGREEMENT, **with the sole exception of direct but not consequential contractual damages resulting from breach of this Agreement**.

**10.2** **Indemnification of Alamo Colleges District and Affiliates and Release of Affiliates.** CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS Alamo Colleges District, its Board of Trustees, officers, employees, agents, contractors and assigns (“Protected Parties”) from and against, and to pay to Protected Parties on demand the amount of, any and all costs resulting from any complaints, claims, liabilities, suits, damages, judgments, penalties, fines, settlements, losses and expenses (including legal fees, expert witness fees and other legal expenses and court costs), of whatsoever kind and nature, imposed upon, incurred by, or asserted against Protected Parties in any way related to or resulting from the execution, enforcement, or performance of this Agreement, or from Contractor’s use of Alamo Colleges District’s facilities (“Claims”). Contractor’s duty to indemnify, defend, and hold harmless Protected Parties includes, but is not limited to, Claims resulting from bodily injury or death of persons, or from damage to property and the resulting loss of its use, regardless of the ownership of such property and the identity of such persons, EVEN IF CAUSED IN PART BY THE NEGLIGENCE OF THE PROTECTED PARTY CLAIMING INDEMNITY, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF THAT PROTECTED PARTY. Without limiting the generality of the foregoing, Contractor warrants its full title and right to grant any license granted or materials delivered to Alamo Colleges District under this Agreement free and clear of any claim of any third party, and does hereby indemnify Alamo Colleges District from and against any liability to third parties claiming intellectual property rights in any material so licensed or otherwise infringed and from any associated costs of any kind whatsoever.

CONTRACTOR HEREBY RELEASES Protected Parties other than Alamo Colleges District from any and all Claims arising under this Agreement, EVEN IF CAUSED, IN WHOLE OR IN PART, BY ANY ACT OR OMISSION, INCLUDING, WITHOUT LIMITATION, THE NEGLIGENCE, GROSS NEGLIGENCE OR STRICT LIABILITY, OF ANY PROTECTED PARTY, with the sole exception of direct but not consequential contractual damages resulting from breach of this Agreement.

Alamo Colleges District is a state governmental unit that is prohibited by law from indemnifying other parties pursuant to applicable Texas Attorney-General opinions. Notwithstanding anything appearing elsewhere to the contrary, there shall be no special assumption of liability, and no indemnification or “holding harmless” of Contractor, or any other party, by Alamo Colleges District, regardless of how characterized.

**10.3 Insurance**.

**10.3.1** Alamo Colleges District maintains insurance coverage for claims or causes of action brought for which immunity has been waived under the provisions of the Texas Tort Claims Act.

**10.3.2** Contractor shall obtain at its own cost insurance with coverage of its activities pursuant to this Agreement at the following minimum levels of coverage:

WORKERS’ COMPENSATION STATUTORY

Must include coverage for alternate employers and borrowed servants

EMPLOYER’S LIABILITY

Each Accident (bodily injury) $1,000,000

Policy Limit (bodily injury by disease) $1,000,000

Each Employee (bodily injury by disease) $1,000,000

GENERAL COMMERCIAL LIABILITY

General Aggregate $2,000,000

Each Occurrence (bodily injury/property damage) $1,000,000

Each Occurrence (personal injury/advertising injury) $1,000,000

Each Occurrence (Damage to Premises Rented to You) $1,000,000

All coverage must be primary and non-contributory

BUSINESS AUTOMOBILE LIABILITY

(if service vehicle operated on property owned or controlled by ACCD)

Combined Single Limit (bodily injury/property damage) $1,000,000

Must include all owned, non-owned and hired vehicle

UMBRELLA/EXCESS LIABILITY

Each Occurrence $1,000,000

POLLUTION ON-SITE LIABILITY (if services present risk)

Each Occurrence $1,000,000

PROFESSIONAL LIABILITY (Errors & Omissions) (if services present risk)

Each Occurrence $1,000,000

**Contractor shall, at the time of execution of this agreement, provide Alamo Colleges District with a copy of a certificate of insurance evidencing all applicable required policies which must list “Alamo Community College District” as a NAMED ADDITIONAL INSURED and beneficiary of contractual indemnification coverage and waiver of subrogation.**

**11. PAYMENT**. The entire Project cost shall not exceed the amount set forth in **Exhibit A**.

**11.1** Alamo Colleges District will pay approved invoices, which must include the purchase order number, date of service, name of college, and a description of service, within forty-five (45) days of receipt at the address set forth in **Exhibit A**.

**11.2** Within ten (10) days after termination of this Agreement, Contractor will submit a final invoice (“Final Invoice”) which will set forth all amounts due and remaining unpaid to Contractor and upon approval of the Final Invoice by Alamo Colleges District, Alamo Colleges District will pay (“Final Payment”) to Contractor the amount due under the Final Invoice under the terms established by Texas law. Notwithstanding the foregoing, under Section 231.006, Family Code, the vendor or applicant (Contractor) certifies that the individual or business entity named in this contract, proposal or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. If Contractor is an entity and becomes delinquent in the payment of any Texas Margin Tax due, then any payments due to Contractor may be withheld until such delinquency is remedied.

**11.3** Notwithstanding any provision to the contrary, Alamo Colleges District will not be obligated to make any payment to Contractor if Contractor is in breach or default under this Agreement.

**12. TERM AND TERMINATION**. The Term of this Agreement is set forth at **Exhibit A** hereto. The Term may be extended thereafter by written agreement signed by both parties.

**12.1 Termination without Cause.** Alamo Colleges District may terminate this Agreement for convenience without any liability therefore by delivering written notice to Contractor no later than thirty (30) days prior to termination. Contractor’s fees due on termination without cause will be prorated based on the portion of authorized work completed.

**12.2 Material Breach; Insolvency.** This Agreement may be terminated by Alamo Colleges District for breach of any material terms or conditions of this Agreement by Contractor, which breach is not corrected by Contractor within ten (10) calendar days after written notice thereof is given to Contractor, or immediately should Contractor become insolvent.

**12.3 Current Revenues Only**. Alamo Colleges District commits only its current revenues hereunder, as required by Texas law. The Alamo Colleges District Board retains the continuing right to terminate the Agreement without liability for said termination at the expiration of each budget period during its initial and renewal terms. The Alamo Colleges District Board will make best efforts to obtain and appropriate funds to meet Alamo Colleges District’s obligations under the Agreement, consistent with the maintenance of reasonable reserves.

**13. GENERAL TERMS.**

**13.1** **Independent Contractors.** Contractor and Alamo Colleges District understand and agree that each performs tasks, the details of which the other does not have legal right to control and no such control is assumed by this Agreement. This Agreement does not create an employment relationship, partnership, or joint venture between Contractor, its employees, and Alamo Colleges District. Neither party nor its employees shall be deemed employees of the other for any purpose whatsoever, and neither shall be eligible to participate in any benefit program provided by the other. Nothing in this Agreement shall be construed to create any borrowed servant, joint employment or leased employee status. Contractor represents and warrants that it is not a professional employer organization under the Texas Labor Code.

**13.2 Notices.** All notices given pursuant to this Agreement shall be in writing, with delivery receipted,

effective on receipt. Notice mailed through the US Postal Service shall be by first class mail, postage prepaid, registered or certified with return receipt requested. Notice may also be delivered in person to the intended addressee with receipt, or sent by receipted email or receipted overnight delivery service. Email notice shall always be a permitted option, and shall be mandatory during the pendency of any epidemic or pandemic affecting the city or county of the notice address of either party, or during any period during which either party has implemented limited office staffing or a temporary work-from-home program by reason of an emergency declared by authorities with jurisdiction over that area. All email notices given pursuant to this Agreement shall be effective upon receipt, rebuttably presumed received with evidence of sending, and irrebuttably presumed received with evidence of email confirmation of receipt. The notice addresses of the Parties are stated in **Exhibit A** and maybe changed by giving 5 business days of notice.

**13.3 Choice of Law.** This Agreement is made and is to be performed in Bexar County, Texas, and will be interpreted and governed by the Constitution and the internal laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this agreement shall be in Bexar County, Texas.

**13.4** **Successors and Assigns**. This Agreement shall be binding on and shall inure to the benefit of the Parties, and their respective heirs, legal representatives, successors and assigns. No right or interest in this Agreement shall be assigned or delegation of any obligation made by Contractor without the prior written permission of Alamo Colleges District, which shall be given or withheld in the reasonable discretion of Alamo Colleges District. Any unconsented attempted assignment or delegation by Contractor shall be wholly void and totally ineffective for all purposes. Unless otherwise specified in **Exhibit A**, Contractor is not required to perform the Project with the services of any particular employee.

**13.5** **Entire Agreement.** This Agreement represents the entire agreement between the Parties with respect to the subject matter herein. No representations, warranties, promises, guarantees, undertakings, or agreements, oral or written, express or implied, have been made by Alamo Colleges District with respect to the subject matter herein except as expressly stated herein.

**13.6 Amendments.** Amendments or modifications may be made to this Agreement only by setting the same forth in a written document duly executed by the Parties.

**13.7 Force Majeure.** Any party shall be temporarily excused from performance otherwise due hereunder only to the extent that, and for so long as, such performance is rendered impossible by reason of factors beyond that party’s control and not occasioned by the negligence of the party or its affiliates, including, without limitation, epidemic. Any party experiencing or anticipating a force majeure event shall promptly notify the other party in writing thereof.

**13.8 Severability.** This Agreement is to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any party or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the extent of such invalidity or unenforceability does not destroy the basis of the bargain among the Parties as expressed herein, and the remainder of this Agreement and the application of such provision to other parties or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

**13.9 Gender and Number.** Whenever required by the context, as used in this Agreement, the singular number shall include the plural and the neuter shall include the masculine or feminine gender, and vice versa.

**13.10 Captions.** The Section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent or for any purpose, to limit or define the text of any Section.

* 1. **Exhibits.** Any and each Exhibit to this Agreement is incorporated herein for all purposes.

**13.12 Drafters.** Each party to this transaction has been afforded the opportunity to negotiate the terms of this Agreement, and to consult legal counsel regarding same; therefore, the Parties waive and disclaim the application of any principle of contract interpretation that would construe any ambiguity herein against either party as drafter hereof.

**13.13 No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant or condition hereof, as third party beneficiaries or otherwise, and all of the terms, covenants and conditions hereof shall be for the sole and exclusive benefit of the parties hereto and their successors and permitted assigns.

**13.14 Dispute Resolution.** In the event of any dispute, claim, question, or disagreement arising out of or relating to this Agreement, the parties agree to do all of the following before commencing legal action.  First, the parties shall use their best good-faith efforts to settle such disputes, claims, questions, or disagreement.  To this effect they shall first consult and negotiate with each other in good faith, recognizing their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties.   If such consultation and negotiation does not fully resolve the issue, the parties agree to promptly engage in non-binding mediation in Bexar County, Texas.  If such mediation does not fully resolve the issue, then either party may thereafter seek legal recourse in equity and/or at law.  Notwithstanding the foregoing, either party may commence litigation for injunctive relief without having complied fully with these dispute resolution procedures, but only to require the other party to mediate, to preserve the status quo pending resolution of an issue, or to protect a vital interest of that party or of an affiliate.

Authorized signatures below constitute acceptance of the terms and conditions set forth in this Agreement.

**ALAMO COMMUNITY COLLEGE DISTRICT: CONTRACTOR:**

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

Date Date

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

Title: \_Assistant Director of Purchasing \_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EXHIBITS: Exhibit A - Project Details

**EXHIBIT A TO AGREEMENT TO PROVIDE SERVICES TO ALAMO COLLEGES DISTRICT**

1. Exact Legal Name of Contractor:
2. Professional license held, or “not applicable”:
3. Term of Agreement:
4. Project Description:
5. College / DSO:
6. ACD Representative, tel. & email:
7. Project Interim Payment Milestones

(description of milestone)\_\_ - $\_

(description of milestone)\_\_ - $\_

(description of milestone)\_\_ - $\_

Maximum Total Amount Payable to Contractor: $\_

1. Detailed Contractor Deliverables:

Contractor agrees to \_.

1. Notice Addresses:

Notices to Alamo Colleges District:

Attention: \_

\_(College or DSO)\_

\_

Tel:

Email: \_@alamo.edu

With Copy to:

Attention:

(College or DSO)

Tel:

Email: \_@alamo.edu

1. Notices to Contractor:

\_

\_

\_

Tel: \_

Email: \_

11. Contractor shall submit all invoices to Alamo Colleges District at the following address:

Email:

12. Any location requirements for the Project: \_\_

13. Other Requests/Requirements/Conditions/Exclusions & detailed professional requirements: