

Benedictine University

GOODS AND SERVICES AGREEMENT

This Agreement for goods and services is made and entered into on _____ (“Effective Date”) by and between Benedictine University an Illinois not-for-profit Corporation (“University”), with an address at 5700 College Road, Lisle IL 60532-0900, and _____, _____, with a business office at _____ (“Vendor”).

WHEREAS the Vendor sells or provides certain goods and/or services, and

WHEREAS the University desires to purchase such goods and services, as further described herein, and

NOW THEREFORE, in consideration of these premises and the mutual promises and agreements hereinafter set forth, the parties hereby agree as follows:

1. Goods/Services

- 1.1 Vendor agrees to sell to the University certain goods and/or provide services as are more fully described in Exhibit A to this Agreement.
- 1.2 Vendor will provide services upon request of the University. Vendor shall provide all labor, material, equipment, machinery, and other items necessary for provision of services.
- 1.3 Any safety risk incident to the performance of Services is expressly accepted and assumed by Vendor.

2. Vendor Obligations

2.1 Vendor Warrants that:

- (a) Its products are free from defects in both material and workmanship for a period of one (1) year from the date of purchase. If a product is found to be defective in either material or workmanship or both material and workmanship, the Vendor will either replace the product or refund the purchase price to the University.
- (b) It will provide Services in a timely workmanlike and professional manner through qualified personnel in accordance with the terms of this Agreement and all applicable professional standards and practices. Vendor agrees to promptly re-perform any Services which are not provided as warranted, provided that re-performance is possible and appropriate;
- (b) To the best of its knowledge as of the Effective Date, the Goods sold and/or the Services performed under this Agreement do not violate or in any way infringe upon the rights of third parties in the United States;
- (c) It has the legal right to enter into and to perform its obligations under this Agreement and that it has and shall keep all required permits and licenses renewed and up to date as required to provide the Services hereunder;
- (d) It has not given and will not give any commissions, kickbacks, expensive entertainment, or other inducements of more than minimal value to any employee of the University in connection with this Agreement;
- (e) It will not knowingly be involved in any illegal or unethical activities, and that it will comply with any federal, state, or local law associated with the provision of goods and services.

3. Pricing and Payment

- 3.1 **Pricing:** Vendor agrees to provide the goods and/or services described in Exhibit A to this Agreement at the price(s) set forth therein.
- 3.2 **Invoicing:** The University agrees to pay, in full, any invoice submitted by Vendor within forty-five (45) days after receipt, unless the University disputes any amount contained on an invoice. The University agrees to provide written notice to the Vendor of its dispute of any amount on an invoice within thirty (30) days after the University receives the invoice. The University and Vendor agree to use their best efforts to resolve such dispute as soon as possible within sixty (60) days following written notification of the dispute by the University to the Vendor. In the event of a conflict between this Agreement and any Invoice, the terms and conditions of this Agreement shall take precedence.

4. Term and Termination

- 4.1 **Term:** This Agreement shall be effective on the Effective Date and shall continue for a period of one (1) year unless earlier terminated as provided herein.
- 4.2 **Termination:** Either party may terminate this Agreement with thirty (30) days prior written notice.
- 4.3 **Survival:** The obligations of the Vendor relating to indemnification, warranties, audit, confidentiality, privacy, use of name or logo, insurance, and attorney’s fees shall survive the expiration or termination of this Agreement.

5. Indemnification; Insurance

- 5.1 **Infringement Indemnification:** Vendor shall defend and settle at its own expense any action brought against the University to the extent that it is based on a claim that services furnished by the Vendor infringe or misappropriate any patent, trademark, copyright, trade secret, or other proprietary right in the United States and

Vendor will pay and costs fees and damages finally awarded against the University in any such action. Vendor shall be given prompt written notice of any such alleged infringement or violation and shall be afforded the opportunity of sole defense of any such allegation.

5.2 Insurance: Vendor agrees to maintain insurance coverage throughout the duration of this Agreement and through the third anniversary of the termination of this agreement, as set forth in Exhibit B.

6. Relationship of the Parties

6.1 Independent Contractors: The University and Vendor are independent contractors and neither party is an agent or employee of the other and nothing in this Agreement is intended to imply or create anything to the contrary.

6.2 No Third Party Beneficiaries: It is understood and agreed that nothing contained in this Agreement shall confer a benefit on persons who are not parties to this Agreement. The parties agree that there are no intended third party beneficiaries of this Agreement.

7. General

7.1 No Guarantee. Nothing contained herein shall be construed as a guarantee, representation, or warranty by University to Vendor as to volume, revenue or profit under this Agreement.

7.2 Use of Name/Logo. Under no circumstances shall Vendor use the name, logo, service marks, trademarks, or other protected property of the University, without the prior written consent of the University. Any violation of this provision shall be a material breach of this Agreement and cause for termination thereof.

7.3 Notices. All notices and communications required or permitted to be given hereunder shall be in writing and shall be made by United States Certified mail, return receipt requested. All notices shall be effective upon receipt at the address provided in accordance with this section:

To Benedictine University:

Benedictine University
Office of the President
5700 College Road
Lisle, IL 60532-0900

To Vendor:

7.4 Governing Law: This Agreement shall be interpreted and construed in accordance with the laws of the State of Illinois, which law shall prevail in the event of any conflict of laws.

7.5 Attorney's Fees: In any dispute arising out of or in connection with this Agreement, or in the activities contemplated hereby, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

7.6 Waiver: The failure of either party to exercise any right or strictly enforce any provisions of this Agreement shall not be construed as a waiver or relinquishment of such provision or right.

7.7 Severability: In the event that a court of competent jurisdiction determines that a provision or any portion thereof, contained in this Agreement is unenforceable, then such provision shall be deemed stricken, and the remaining portions or provisions shall remain in full force and effect.

7.8 Entire Agreement: This Agreement including all Exhibits, represents the entire agreement of the parties hereto. In the event that Vendor enters into terms of use agreements or other agreements, policies or understandings, whether on Vendor's invoice, proposal, website, electronic, click-through, verbal or in writing, with University's employees, such agreements shall be null, void and without effect, and the terms of this Agreement shall apply. The University will not be bound to any other terms and conditions set forth in any documents, agreements or policies posted on Vendor's website unless such terms and conditions are also set forth in this Agreement. Any change, amendment, or modification to this Agreement must be in writing and signed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives as of the day and year first above written.

Benedictine University

By: _____
Name: _____

Date: _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A
To The
GOODS AND SERVICES AGREEMENT
Between
Benedictine University and

EXHIBIT B
to the GOODS AND SERVICES AGREEMENT
between Benedictine University and
INSURANCE SPECIFICATIONS

Vendor agrees to keep in full force and effect and maintain at its sole cost and expense the following policies of insurance during the entire duration of the Agreement:

(a) Types and Limits of Insurance.

- (1) Workers Compensation and Employers Liability Insurance:
 - (i) Statutory Workers Compensation Insurance including occupation disease in accordance with the law; and
 - (ii) Employers Liability Insurance with minimum liability limits of \$500,000 per employee by accident/ \$500,000 per employee by disease/\$500,000 policy limit by disease.
- (2) Commercial General Liability and Umbrella Liability Insurance providing coverage for bodily injury and property damage arising out of the work to be performed on behalf of the University.
Bodily Injury and Property Damage Liability - \$5,000,000 each occurrence.
Personal Injury and Advertising Liability - \$1,000,000 per person or per organization
General Policy Aggregate - \$5,000,000
Products Liability/Completed Operations Aggregate - \$1,000,000
- (3) Commercial Business Automobile Liability Insurance including coverage for all owned, non-owned, and hired vehicles providing coverage for bodily injury and property damage liability with combined single limits of not less than \$1,000,000.
The limits of liability specified above may be satisfied through a combination of primary, umbrella, or excess liability policies, provided that the coverage under such umbrella or excess liability policies is at least as broad as the primary coverage.
- (4) Professional Liability including coverage for wrongful acts, errors and omissions arising out of the Services engaged under this Agreement, with an occurrence or per claim limit of not less than \$1,000,000 and annual aggregate limit of not less than \$3,000,000.
If the coverage required hereunder is written on a "claims-made" basis, Vendor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Agreement and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under the Agreement is completed.
- (5) Commercial Employee Dishonesty (also referred to as Fidelity) Bond covering all Vendor's officers and employees with a Bond limit of not less than \$1,000,000 per claim and \$1,000,000 annual aggregate.
- (6) Cyber/Network liability- Limit of 3 million per occurrence/network breach for any loss of data, loss of use or damage to network

- (b) **Other types and Limits of Insurance.** The University reserves the right to request additional types and limits of insurance.
- (c) **Security.** Such insurance companies shall maintain a rating of not less than A- and be at least a financial size category of VII in the most recent publication of Best's Policyholder Guide.
- (d) **Additional Insured Requirements.** The Commercial General Liability policy as required herein shall be endorsed to name Benedictine University and all subsidiaries and their respective officers, directors, agents, servants, and employees as "Additional Insured" for any and all liability occurring at any time arising out of or incidental to this Agreement.