



# The Texas A&M University System

## Contract for Collection of Accounts

**Form approved by Office of General Counsel. No changes may be made without prior approval of Office of General Counsel. Upon execution by SYSTEM MEMBER, forward this form to the Office of General Counsel to be sent to the Attorney General's Office. After execution by the Attorney General, the contract will be returned to the SYSTEM MEMBER to be executed by COLLECTOR. COLLECTOR should NOT execute this contract prior to Attorney General approval!**

This Contract ("Contract") is made and entered into by and between [REDACTED], a member of The Texas A&M University System and a state agency ("SYSTEM MEMBER") and [REDACTED], ("COLLECTOR").

SYSTEM MEMBER has one or more of the following: Perkins Accounts (formerly National Defense/National Direct Student Loans), Health Profession and Nursing Loan Programs, Federally Insured Student Loans, Book Store Charges, Board Accounts, Accounts and Notes Receivable, Student Accounts, Short-Term Loans, Emergency Tuition Fund Loans, Housing Accounts/Dormitory Rent, Returned Checks, Tuition Loans and other forms of delinquent accounts receivable including overawards and overpayments not reimbursed which it desires collected and COLLECTOR desires to collect such unpaid accounts as may be referred to COLLECTOR by SYSTEM MEMBER. This Contract incorporates by reference the Request for Proposals issued by [NAME OF SYSTEM MEMBER], dated [REDACTED], 20 [REDACTED], and the proposal submitted by COLLECTOR to [NAME OF SYSTEM MEMBER]. In the event of any conflict, the provisions of this Contract prevail.

**I. TERM.** The term of this Contract is from [REDACTED], 20 [REDACTED], to [REDACTED], 20 [REDACTED]. Upon the expiration of this Contract and if both parties agree, this Contract may be renewed upon the same terms and conditions, so long as the initial term and any subsequent renewal periods do not exceed five (5) years. This Contract may be terminated at the option of either party by written notice given at least thirty (30) calendar days prior to the date of termination. SYSTEM MEMBER reserves the right of immediate cancellation due to non-performance of, or non-adherence with any term or condition of this Contract. If this Contract terminates, or if COLLECTOR goes out of business, no longer performs such collection services, or files a petition under the Bankruptcy Code, then COLLECTOR shall immediately cease all collection efforts on SYSTEM MEMBER'S accounts and return to SYSTEM MEMBER, within sixty (60) calendar days of any such event, all records relating to its collection activity on behalf of SYSTEM MEMBER as well as all funds collected from debtors on behalf of SYSTEM MEMBER. COLLECTOR will not be entitled to a collection fee on monies received for any account after any expiration or termination of this Contract.

**II. COLLECTION FEES.** COLLECTOR'S compensation for services rendered under the terms of this Contract will be a maximum of [REDACTED] % of the total amount collected for the first referral. The collection fee for second and all other referral accounts will be a maximum of [REDACTED] % of the total amount collected. Accounts sent to COLLECTOR for the first time are first referrals. These percentages, represent a contingency fee, and the effective add on rate will be determined by the SYSTEM MEMBER. To the extent allowed by the debtor's signed agreement or as otherwise authorized by law, this collection fee is to be collected in addition to the balance due. The percentage collection fee shall be based on the money actually collected which is past due and which is deposited in the SYSTEM MEMBER'S bank account. Such fee will be the sole consideration paid COLLECTOR by the SYSTEM MEMBER regardless of the type of account or collection effort. In accordance with Section 2107.003 of the *Texas Government Code*, in no event shall the collection fee exceed 30% of the full amount of the obligation regardless of how the fee is calculated. COLLECTOR will accept Federal Perkins loans with a loan start date between October 1981 and June 1987 at a rate of 20% (effective). These loans are recognized by the Department of Education as capped accounts and the debtor may not be charged more than 25% (add-on). In the event the Department of Education establishes maximum collection fee percentages for the Perkins Loans, the said agency agrees to collect the debt at the rate established by the Department of Education. SYSTEM MEMBER will not be liable for any cost or expense incurred by COLLECTOR in the collection of accounts, including the collection of accounts over and above the percentage commission allowed in this section. The SYSTEM MEMBER will be responsible only for the specified commission and no other expenses incurred by COLLECTOR. No collection fees will be paid to COLLECTOR on either: (1) accounts on which SYSTEM MEMBER receives payment prior to any collection efforts being performed by COLLECTOR; or (2) accounts which are deferred, postponed or canceled by SYSTEM MEMBER in its sole discretion.

**III. DUTIES OF COLLECTOR:** COLLECTOR agrees to:

1. Accept for collection and pursue diligent collection efforts, in accordance with the terms and conditions set forth in this Contract, regarding the accounts which SYSTEM MEMBER chooses to refer to it for collection without regard to the amount of the account.
2. Implement thorough collection procedures, including telephone calls, mail efforts, and skip tracing wherever necessary, in order to achieve a maximum recovery of any referred delinquent accounts. COLLECTOR warrants that COLLECTOR'S collection efforts must be conducted through proper and lawful means without threats, intimidation, or harassment of the debtor in full compliance with the Fair Debt Collection Practices Act (FDCPA), Telephone Consumer Protect Act (TCPA) and any other applicable federal, state, or local laws and regulations. COLLECTOR'S employees and agents, when communicating with any individual with respect to a debt, either by telephone, correspondence, or otherwise, shall truthfully state who they are and who they are employed by, and not, in any manner, mention The Texas A&M University System ("TAMUS") or any TAMUS member or component except in explaining to whom the debt is owed.
3. Represent, warrant, and certify that COLLECTOR:
  - a. Complies with (1) the Family Education Rights and Privacy Act ("FERPA", 20 U.S.C. Section 1232g); (2) the Gramm-Leach-Bliley Act ("GLB", Public Law No. 106-102); (3) the Health Insurance Portability and Accountability Act ("HIPAA", Public Law No. 104-191), and any other applicable federal or state law in controlling classified or sensitive information. Such information that COLLECTOR may create, obtain, access, receive or store shall be held in the strictest confidence and shall be used solely for collection efforts and for no other purpose. COLLECTOR shall not disseminate any information received from SYSTEM MEMBER to any third party unless (1) required by law, (2) required or permitted by this Contract, or (3) permitted by express, written consent from SYSTEM MEMBER, but in no event shall SYSTEM MEMBER consent to such a release without a written summary of the procedures COLLECTOR uses in releasing such information to insure COLLECTOR is in full compliance

with (1) all applicable privacy laws; (2) reasonable administrative, physical, and technical standards (e.g. Standards for Safeguarding Customer Information, 16 C.F.R. Part 314); and (3) SYSTEM MEMBER rules, policies, and procedures regarding such information.

- b. Continually monitors its operations and takes any action necessary to assure classified or sensitive information is safeguarded in accordance with the terms of this Contract and as required by applicable federal or state law or regulation.
  - c. In the event an impermissible use or disclosure of any such information occurs, will provide (1) written notice to SYSTEM MEMBER within one (1) business day after COLLECTOR'S discovery of such use or disclosure and (2) all information SYSTEM MEMBER requests concerning such impermissible use or disclosure. SYSTEM MEMBER may immediately terminate this Contract without notice or opportunity to cure if SYSTEM MEMBER determines that COLLECTOR has breached the terms of this paragraph.
  - d. Return or destroy, at SYSTEM MEMBER'S direction, within 30 days after the expiration or earlier termination of this Contract for any reason, all information provided by SYSTEM MEMBER to COLLECTOR under this Contract, including all SYSTEM MEMBER information provided to COLLECTOR'S employees, subcontractors, agents, or other affiliated persons or entities (COLLECTOR Affiliates"). COLLECTOR will require all COLLECTOR Affiliates to agree in writing to comply with all of COLLECTOR'S obligations and responsibilities under this paragraph as if such persons or entities were the COLLECTOR, and COLLECTOR will be responsible for ensuring such compliance by such COLLECTOR Affiliates. COLLECTOR'S obligations under this paragraph shall survive the expiration or earlier termination of this Contract for any reason.
  - e. Acknowledges that COLLECTOR will be handling SYSTEM MEMBER'S covered accounts, as those accounts are defined under 16 C.F.R. 681.1. COLLECTOR certifies that it has a compliant Identity Theft Prevention, Detection and Mitigation Program in place, as required under 16 C.F.R. 681.1, and will handle SYSTEM MEMBER'S covered accounts in accordance with this Program.
4. Comply with all applicable provisions of Title IV of the Higher Education Act of 1965, as amended and as set forth in 34 CFR §668.25, with respect to any collection of student loans.
5. Reports:
- a. Acknowledgment. Provide SYSTEM MEMBER a letter acknowledging each account received for collection within ten (10) business days of receipt which will further reflect the principal, interest, late charges, collection costs, and total amount placed for collection.
  - b. Debtor Status Report. Provide a quarterly Debtor Status Report on all accounts placed. The Report must be issued on the tenth (10) business day of March, June, September, and December. Individual or cumulative Debtor Status Reports may be requested at any time and must be issued within five (5) business days.
  - c. Fiscal Year Report. Provide by November 1st of each year a Fiscal Year Report based on data generated by COLLECTOR to assist SYSTEM MEMBER in preparing information required by State and Federal governmental entities and agencies.
6. Correspondence:
- a. When utilizing correspondence, use only correspondence of which the format has been approved by SYSTEM MEMBER. Samples of all correspondence will be submitted to SYSTEM MEMBER for written approval and upon approval may be used during the collection process by COLLECTOR. COLLECTOR will copy SYSTEM MEMBER on all correspondence sent to a third party regarding any account placed with COLLECTOR by SYSTEM MEMBER. SYSTEM MEMBER reserves the right to rescind any previously provided approval.
  - b. Prepare and mail delinquency notices in compliance with due diligence requirements of the U.S. Department of Education and the Department of Health and Human Services.
  - c. Prepare and mail payment notices to each debtor at monthly, bi-monthly, quarterly, semi-annual, or annual intervals as may be instructed by SYSTEM MEMBER.
  - d. Prepare and mail to each debtor in repayment status a notice of grace period expiration, in accordance with then current due diligence requirements for such accounts.
7. Remit by ACH or by check to the SYSTEM MEMBER by the tenth (10th) day of each month monies collected during the preceding calendar month. Monies should be remitted on a gross or net basis depending on the SYSTEM MEMBER'S preference. COLLECTOR will take care to insure all debtor checks have been cleared on or before such date. An itemization of the payments received for each account including debtor' s name, student ID number, account number, amount collected and whether or not the account has been closed should also be sent to the SYSTEM MEMBER by the tenth (10) of the month.
8. Not charge a collection fee for cancellations, deferments, or postponements approved by SYSTEM MEMBER.
9. Not share in funds collected by the SYSTEM MEMBER as a result of exercise or enforcement by the SYSTEM MEMBER of any statutory rights (including but not limited to enforcement of hospital liens), its right to offset monies owed the debtor by the State of Texas or the SYSTEM MEMBER or its rights to hold the grades, degree or transcript or bar the readmission of the debtor. The SYSTEM MEMBER will notify COLLECTOR of any monies received pursuant to exercise of these rights.
10. Make every effort to collect accounts prior to making recommendations to file suits on such accounts; however, COLLECTOR has no authority to file suit on any account referred by SYSTEM MEMBER. The filing and prosecution of lawsuits will be in accordance with policies established by the Attorney General of the State of Texas.
11. Not accept any compromise settlement on any account without prior written approval of SYSTEM MEMBER.
12. Immediately suspend collection efforts either temporarily or permanently on any account upon notification by SYSTEM MEMBER.
13. Maintain company records on such accounts in a manner as to be auditable, and allow audit by SYSTEM MEMBER or its representatives any time during normal business hours. COLLECTOR further understands that acceptance of funds under this Contract 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 Section 51.9335(c), *Texas Education Code*. COLLECTOR agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. COLLECTOR will include this provision in all contracts with permitted subcontractors. COLLECTOR will not destroy any of the records and documents relating to SYSTEM MEMBER accounts until it has received written permission to do so from SYSTEM MEMBER, but in no event less than seven (7) years after a particular debtor file is closed. To the extent applicable to the Contract, in accordance with Section 1861(v)(D)(i) of the Social Security Act (42 U.S.C. 1395x) as amended, and the provisions of 42 CFR Section 420.300, et seq., COLLECTOR agrees to allow, during and for a period of not less than seven (7) years after the Contract term, access to this Contract and its books, documents, and records; and contracts between COLLECTOR 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.

14. **INDEMNIFY, DEFEND AND HOLD HARMLESS THE STATE OF TEXAS, TAMUS, SYSTEM MEMBER AND THEIR OFFICERS, AGENTS AND EMPLOYEES FROM ANY AND ALL LIABILITY, LOSS, DAMAGE OR EXPENSE INCLUDING REASONABLE ATTORNEY'S FEES AND INVESTIGATIVE EXPENSES THEY MAY INCUR WHICH RESULT FROM ANY CLAIMS AGAINST THEM, INDIVIDUALLY OR SEVERALLY FOR ANY ACTS OR OMISSIONS BY COLLECTOR OR ITS OFFICERS, AGENTS OR EMPLOYEES IN THE PERFORMANCE OF THIS CONTRACT.**
15. Not assign this Contract, in whole or in part, without the prior written consent of SYSTEM MEMBER.
16. Be responsible for ensuring accounts are updated to reflect the amount actually past due. COLLECTOR shall return an account to SYSTEM MEMBER as soon as the delinquency has been paid. COLLECTOR must exercise special care to ensure the entire principal with interest and penalties assessed and collection fees, as authorized by the debtor's signed agreement or as otherwise authorized by law, have been paid before informing the debtor that the debt is paid in full.
17. Reimburse SYSTEM MEMBER for any amount which becomes uncollectible or which is lost due to any act or omission of COLLECTOR or its officers, agents, or employees. Such acts or omissions may include, but are not limited to, accepting a compromise settlement for less than the total amount due without authorization of SYSTEM MEMBER, acknowledging a payment constitutes payment in full when in fact the loan or account is not paid in full, and failing to immediately refer any Notice of Bankruptcy to SYSTEM MEMBER within three working days of receipt..
18. Immediately suspend action either temporarily or permanently on any account, in whole or in part, referred for collection upon notification to do so by SYSTEM MEMBER, or upon notice of bankruptcy of the debtor, and to return accounts to SYSTEM MEMBER upon request. Accounts referred to COLLECTOR by SYSTEM MEMBER must be returned to SYSTEM MEMBER if there is no payment activity for twelve (12) consecutive calendar months since date of last transaction.
19. Forward in full to SYSTEM MEMBER any amounts received by COLLECTOR which are in excess of monies due and payable with an explanation that the amount is an overpayment. COLLECTOR is not entitled to a collection fee for overpayments and shall not retain any portion of an overpayment.
20. Promptly cancel and return to SYSTEM MEMBER all accounts on which collection activity has ceased or accounts which are requested to be returned by SYSTEM MEMBER. COLLECTOR agrees to return accounts with a record of any contacts made with the debtor including current address, telephone number, and any other information that will aid in the future collection of the account. The transmission of such information is part of the service to SYSTEM MEMBER that COLLECTOR agrees to perform.
21. Appoint in writing at least one representative who will have primary responsibility and authority for SYSTEM MEMBER'S accounts.
22. Provide written acknowledgment within three (3) business days of receipt of complaints or inquiries transmitted to COLLECTOR by SYSTEM MEMBER which arise out of COLLECTOR'S performance of this Contract, indicating the measures undertaken to resolve the complaint or respond to the inquiry with a time frame for resolution.
23. Cease any further collection effort on any account COLLECTOR either fails or refuses to return to SYSTEM MEMBER as required by any provision of this Contract and consider the account under the control of SYSTEM MEMBER. COLLECTOR is responsible for all costs, fees, and expenses incurred by SYSTEM MEMBER in its efforts either in or out of court to obtain the return of accounts. COLLECTOR is also responsible for any claims or damages which may arise from its failure or refusal to return accounts in a timely fashion.
24. Acknowledge the right of SYSTEM MEMBER to assign or refer accounts to the U.S. Department of Education or any other entity, commercial or governmental, for collection, and COLLECTOR, upon written notification of such assignment or referral from SYSTEM MEMBER, will close and return the account and will remit any payments received after the date of closing without charging a collection fee.
25. Represent and warrant that COLLECTOR is in compliance with Tex. Finance Code Chapter 392, and shall provide a copy of its surety bond on file with the Texas Secretary of State to SYSTEM MEMBER upon request.
26. Represent and warrant that COLLECTOR is and will remain in good standing and comply with all applicable law, and provide a certificate of good standing from the Texas Comptroller, if a corporation, or a certificate of authority from the Texas Secretary of State.
27. Under §231.006, Texas Family Code, COLLECTOR certifies that it is not ineligible to receive any payment to be made pursuant to this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
28. Under Section 2155.004, *Texas Government Code*, COLLECTOR certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
29. Represent and warrant that COLLECTOR has the authority to do business in Texas and shall provide a Certificate evidencing same upon its execution of this Contract. Further, by its signature below, COLLECTOR certifies that, to the best of its knowledge, it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code, it is exempt from the payment of those taxes, or it is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

30. Under Sections 2107.008 and 2252.903, *Texas Government Code*, COLLECTOR agrees that any payments owing to COLLECTOR under this Contract may be applied directly toward any debt or delinquency that COLLECTOR 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.
31. COLLECTOR expressly acknowledges that SYSTEM MEMBER is an agency of the State of Texas and nothing in this Contract will be construed as a waiver or relinquishment by SYSTEM MEMBER of its right to claim such exemptions, privileges, and immunities as may be provided by law.
32. COLLECTOR confirms that neither COLLECTOR 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). COLLECTOR shall provide immediate written notification to the SYSTEM MEMBER if, at any time prior to award, COLLECTOR 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 the SYSTEM MEMBER executes the Contract. If it is later determined that COLLECTOR knowingly rendered an erroneous certification, in addition to the other remedies available to the SYSTEM MEMBER, the SYSTEM MEMBER may terminate the Contract for default by COLLECTOR.
33. COLLECTOR acknowledges that the SYSTEM MEMBER is prohibited by federal regulations from allowing any employee, subcontractor, or agent of COLLECTOR to work on site at the SYSTEM MEMBER’S 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, COLLECTOR shall 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 the SYSTEM MEMBER’S premises or facilities. COLLECTOR shall 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 the SYSTEM MEMBER’S premises or facilities. COLLECTOR acknowledges that the SYSTEM MEMBER will require immediate removal of any employee, subcontractor or agent of COLLECTOR assigned to work at their 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.oig.hhs.gov/fraud/exclusions/exclusions\\_list.asp](http://www.oig.hhs.gov/fraud/exclusions/exclusions_list.asp).
34. COLLECTOR agrees that a written copy of COLLECTOR’S Civil Rights "Affirmative Action Compliance Program" will be provided simultaneously with the Contract and incorporated for all purposes, or if COLLECTOR is not required to have such a written program, the reason COLLECTOR is not subject to such requirement will be provided in writing.
35. COLLECTOR represents and warrants that all articles and services furnished under the Contract 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 the Contract.
36. By executing this Agreement, and pursuant to Chapter 2270, *Texas Government Code*, COLLECTOR certifies that COLLECTOR and any subcontractor of COLLECTOR (1) does not currently boycott Israel; and (b) will not boycott Israel during the Term of this Contract. COLLECTOR acknowledges this Contract may be terminated if this certification is inaccurate.
37. By executing this Agreement, and pursuant to Subchapter F, Chapter 2252, *Texas Government Code*, COLLECTOR certifies that COLLECTOR and any subcontractor of COLLECTOR (1) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. COLLECTOR acknowledges this Contract may be terminated if this certification is inaccurate.
38. By executing this Agreement, COLLECTOR and each person signing on behalf of COLLECTOR certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.
39. Under Section 2155.0061, *Government Code*, the vendor certifies that the individual or business entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
40. Public Information.
  - (a) COLLECTOR acknowledges that SYSTEM MEMBER is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
  - (b) Upon SYSTEM MEMBER’s written request, COLLECTOR will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, *Texas Government Code*, to SYSTEM MEMBER in a non-proprietary format acceptable to SYSTEM MEMBER. As used in this provision, “public information” has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which SYSTEM MEMBER has a right of access.
  - (c) COLLECTOR acknowledges that SYSTEM MEMBER may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.
  - (d) The requirements of Subchapter J, Chapter 552, *Texas Government Code*, may apply to this agreement and the COLLECTOR agrees that the agreement can be terminated if the COLLECTOR knowingly or intentionally fails to comply with a requirement of that subchapter.
41. COLLECTOR represents and warrants that the electronic and information resources and all associated information, documentation, and support that it provides to SYSTEM MEMBER under this Agreement (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213 of the *Texas Administrative Code* and Title 1, Chapter 206, §206.70 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the *Texas Government Code*). To the extent COLLECTOR becomes aware that the EIRs, or any portion thereof, do not comply, then COLLECTOR represents and warrants that it will, at no cost to SYSTEM MEMBER, either (1) perform all necessary remediation or (2) replace the EIRs with new EIRs. In the event that COLLECTOR fails or is unable to do so, then SYSTEM MEMBER may terminate this Agreement and COLLECTOR will refund to SYSTEM MEMBER all amounts SYSTEM MEMBER has paid under this Agreement within thirty (30) days after the termination date.



**[DELETE - Note: EIR clause must be used to the extent that COLLECTOR provides electronic and information resources and all associated information, documentation, and support. An exception may be sought but must comply with certain requirements as set forth in the TAC.]**

- 42. If the Contract requires COLLECTOR’S presence on the SYSTEM MEMBER’S premises or in the SYSTEM MEMBER’S facilities, COLLECTOR 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 SYSTEM MEMBER rules and policies, including, without limitation, those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.
- 43. COLLECTOR acknowledges that litigation on the delinquent account is prohibited unless COLLECTOR obtains specific written authorization from the SYSTEM MEMBER and the attorney general and complies with the requirements of the Texas Administrative Code.
- 44. COLLECTOR shall place any funds collected in an interest bearing account with amounts collected, plus interest, less collections costs, payable to the agency on a monthly basis or by direct deposit to the agency’s account on a weekly basis with the agency billing once a month; in either case a listing of the accounts and amounts collected per account should be submitted to the agency upon deposit of the funds.
- 45. COLLECTOR acknowledges that SYSTEM MEMBER may recall any account without charge.
- 46. COLLECTOR agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations under this Agreement, COLLECTOR will purchase products and materials produced in Texas when such products and materials are available at a price and time comparable to products and materials produced outside of Texas.
- 47. COLLECTOR is responsible for ensuring that its employees involved in any work being performed for SYSTEM MEMBER under this Agreement have not been designated as “Not Eligible for Rehire” as defined in System policy 32.02, *Discipline and Dismissal of Employees*, Section 4 (“NEFR Employee”). In the event SYSTEM MEMBER becomes aware that COLLECTOR has a NEFR Employee involved in any work being performed under this Agreement, SYSTEM MEMBER will have the sole right to demand removal of such NEFR Employee from work being performed under this Agreement. Non-conformance to this requirement may be grounds for termination of this Agreement by SYSTEM MEMBER.

**IV. DUTIES OF SYSTEM MEMBER:** SYSTEM MEMBER agrees to:

- 1. Periodically place accounts for collection with COLLECTOR, providing the debtor’s name, current address and phone number (if known), account number, principal and interest due, late charges, and collection costs, along with a historical summary of account activity whenever possible. Loans will not be written off at the time they are referred for collections.
- 2. Grant COLLECTOR the authority to waive collection costs in situations where recovery of such costs is prohibited by law
- 3. Advise COLLECTOR within ten (10) business days of receipt by SYSTEM MEMBER of each debtor change of name and/or address.
- 4. Include payments received directly by SYSTEM MEMBER for accounts referred to COLLECTOR in the total payments collected which are subject to the collection fee, except as otherwise provided in this Contract. The SYSTEM MEMBER will within fifteen (15) business days notify COLLECTOR of such payment received by it for an account placed with COLLECTOR.
- 5. Provide COLLECTOR with proper payment information upon contract execution.

**V. INSURANCE AND BOND:**

- 1. COLLECTOR shall obtain and maintain, for the duration of this Contract or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to SYSTEM MEMBER. By requiring such minimum insurance, the SYSTEM MEMBER shall not be deemed or construed to have assessed the risk that may be applicable to COLLECTOR under this Contract. COLLECTOR shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. COLLECTOR is not relieved of any liability or other obligations assumed pursuant to this Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to SYSTEM MEMBER at least ten days before the effective date of the cancellation.

**Insurance:**

<u>Coverage</u>	<u>Limit</u>
A. <b><u>Worker’s Compensation</u></b>	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident \$1,000,000 Disease/Employee \$1,000,000 Disease/Policy Limit

Workers’ Compensation policy must include under Item 3.A. on the information page of the workers’ compensation policy the state in which work is to be performed for SYSTEM MEMBER. Workers’ compensation insurance is required, and no “alternative” forms of insurance will be permitted

**B. Automobile Liability**

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;

**Additional Endorsements**

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System and the SYSTEM MEMBER as additional insured’s.

C. **Professional Liability (Errors & Omissions):** Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of COLLECTOR and its subcontractors under this Contract. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Contract. If coverage is written on a claims-made basis, COLLECTOR agrees to purchase an Extended Reporting Period Endorsement, effective for two (2) full years after the expiration or cancellation of the policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least three (2) years after the expiration of cancellation of this Contract.

D. **Contractor's Employee Dishonesty Insurance** will be endorsed with a Client's Property Endorsement (or equivalent) to protect the assets and property of SYSTEM MEMBER with limits of not less than [Option: \$5,000,000] [Option: \$1,000,000] per claim. COLLECTOR or subcontractor's insurance will be primary to any insurance carried by SYSTEM MEMBER. If COLLECTOR has property of SYSTEM MEMBER in its care, custody or control away from SYSTEM MEMBER'S premises, COLLECTOR will provide bailee coverage for the replacement cost of the property. Contractor's Employee Dishonesty policy will name SYSTEM MEMBER as Loss Payee. [Note: Limit amount should be adequate to cover SYSTEM MEMBER'S exposure. Appropriate limit will depend on the subject matter of this Contract.]

E. **Director's 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 Contract and for not less than two (2) years following the expiration or termination of this Contract.

**DELETE - Note: If this Contract poses potential risks related to data privacy, network or information security, please contact the Member's Risk Management or System Risk Management for guidance on relevant insurance requirements and seek review of the contract by the SYSTEM MEMBER'S Information Security Officer. Make changes to the applicable insurance provision in F below**

F. **Cyber Liability insurance** with limits of not less than \$2,00,000 for each occurrence and an annual aggregate of \$5,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. Such coverage is required only if any products and/or services related to information technology (including hardware and/or software) are provided to Insured and for claims involving any professional services for which COLLECTOR is engaged with Insured for such length of time as necessary to cover any and all claims.

G. COLLECTOR will deliver to SYSTEM MEMBER:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Contract and prior to the performance of any services by COLLECTOR under this Contract. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

**All insurance policies**, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and SYSTEM MEMBER as Additional Insureds up to the actual liability limits of the policies maintained by COLLECTOR. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

**All insurance policies** will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and SYSTEM MEMBER. No policy will be canceled without unconditional written notice to SYSTEM MEMBER at least ten days before the effective date of the cancellation. **All insurance policies** will be endorsed to require the insurance carrier providing coverage to send notice to SYSTEM MEMBER ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section V.

Any deductible or self-insured retention must be declared to and approved by SYSTEM MEMBER prior to the performance of any services by COLLECTOR under this Contract. COLLECTOR is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Contract will be mailed, faxed, or emailed to the following SYSTEM MEMBER contact:

Name:

Address:

Facsimile Number:

Email Address:

The insurance coverage required by this Contract will be kept in force until all services have been fully performed and accepted by SYSTEM MEMBER in writing,

2. COLLECTOR shall maintain a satisfactory blanket employee fidelity bond in the minimum amount of [redacted] for the purpose of protecting SYSTEM MEMBER against any loss or failure of COLLECTOR or any of its officers, employees or agents to transmit to SYSTEM MEMBER for any reason the monies collected as required by this Contract. Within ten (10) business days of the effective date of this Contract, COLLECTOR must provide SYSTEM MEMBER proof of bonding. COLLECTOR must provide SYSTEM MEMBER notice of any cancellation of any bond within three (3) business days of any cancellation.

**VI. NON-DISCRIMINATION:** COLLECTOR shall not discriminate on the basis of sex, race, creed, color, national origin or disability in regard to collection efforts and employment decisions. COLLECTOR is aware of, is fully informed about, and in full compliance with its obligations under existing applicable law and regulations, including but not limited to, Executive Order No. 10925 of March 6, 1961, as amended, Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000(D)), Executive Order 11246, as amended (41 CFR 60-1 and 60-2), Vietnam Era Veterans Readjustment Act of 1974, as amended (41 CFR 60-250),

Rehabilitation Act of 1973, as amended (41 CFR 60-741), Age Discrimination Act of 1975 (42 USC 6101 et seq.), Non-segregated Facilities (41 CFR 60-1), Omnibus Budget Reconciliation Provision, Section 952, Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended, Immigration Reform and Control Act of 1986, and Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (PL 96-507), the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.), the Civil Rights Act of 1991 and all laws and regulations and executive orders as are applicable. COLLECTOR certifies that its facilities are in full compliance with any and all applicable laws, regulations, and executive orders pertaining to segregated facilities and that it will not permit its employees to perform services at any location under its control where illegally segregated facilities are maintained. COLLECTOR agrees that a breach of this certification is a violation of the Equal Opportunity clause in the Contract. COLLECTOR 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, COLLECTOR will retain such certifications for each one of its subcontractors in COLLECTOR'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).

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

**VII. DISPUTE RESOLUTION:** The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by SYSTEM MEMBER and COLLECTOR to attempt to resolve any claim for breach of contract made by COLLECTOR that cannot be resolved in the ordinary course of business. COLLECTOR shall submit written notice of a claim of breach of contract under this Chapter to [TITLE OF OFFICER] of SYSTEM MEMBER, who shall examine COLLECTOR'S claim and any counterclaim and negotiate with COLLECTOR in an effort to resolve the claim.

**VIII. BEST VALUE PROCUREMENT:** As permitted by Texas Education Code 51.9335, other institutions of higher education may utilize this Contract as a best value method to procure the services provided herein, subject to COLLECTOR'S express written agreement, upon financial and other terms to be agreed upon by COLLECTOR and such other institutions, including any SYSTEM MEMBER.

**IX. MISCELLANEOUS:**

- Independent Contractor.** COLLECTOR, its officers, agents or employees, in the performance of this Contract, act in an independent capacity and not as officers, agents or employees of the State of Texas, The Texas A&M University System, or SYSTEM MEMBER. COLLECTOR shall indemnify SYSTEM MEMBER for any loss incurred by its violation of state or federal debt collection statutes or by the negligence of COLLECTOR, its employees, or its agents.
- Contingencies.** This Contract is subject to and conditioned upon the express written approval of the Attorney General of the State of Texas. Should the Attorney General fail to give such approval, this Contract will be null and void.
- Notices.** Any notice required or permitted under this Contract must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email, or other commercially reasonable means and will be effective when actually received. SYSTEM MEMBER and COLLECTOR can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

**SYSTEM MEMBER:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

**COLLECTOR:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

- Governing Law and Venue.** The validity of this Contract and all matters pertaining to this Contract, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas. Venue for any action or claim brought under this Contract shall lie in \_\_\_\_\_ County, Texas.
- Grammatical Interpretation.** Whenever the singular number is used, it includes the plural, and the masculine gender includes the feminine and neuter gender.
- Headings.** Headings are for reference and will not be construed to limit or alter the meaning of the provisions of this Contract.
- Entire Agreement.** This Contract constitutes the entire agreement between the parties and will not be explained, modified, or contradicted by any prior or contemporaneous negotiations, representations, or agreements, either written or oral. This Contract may be amended only by a subsequent written instrument.
- Parties Bound:** This Contract is binding upon and inures to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors in interest or office, and assigns (but this Section does not constitute permission for an assignment).

- 
9. Saving Clause. Should any clause in this Contract be found invalid by a court of law, the remainder of this Contract will not be affected and all other provisions in this Contract remain valid and enforceable to the fullest extent permitted by law.
  10. Time of Essence. Time is of the essence in the performance of this Contract.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the SYSTEM MEMBER has executed this Contract in duplicate originals on \_\_\_\_\_, 20\_\_.

SYSTEM MEMBER

\_\_\_\_\_

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

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

IN WITNESS WHEREOF, the COLLECTOR has executed this Contract in duplicate originals on \_\_\_\_\_, 20\_\_.

COLLECTOR

\_\_\_\_\_

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

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

**[DELETE - NOTE: COLLECTOR SHOULD NOT EXECUTE THIS CONTRACT PRIOR TO ATTORNEY GENERAL APPROVAL BELOW. SHOULD THE ATTORNEY GENERAL FAIL TO GIVE SUCH APPROVAL, THIS CONTRACT WILL BE NULL AND VOID.]**

APPROVED AS TO FORM:

\_\_\_\_\_  
Julie Masek  
Assistant General Counsel  
System Office of General Counsel

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Rachel Obaldo  
Chief, Bankruptcy & Collections Division  
Office of the Attorney General

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