

**HARVARD UNIVERSITY
MASTER CONTRACT
FOR SERVICES**

This Master Contract is made as of the date set forth below between President and Fellows of Harvard College (“**Harvard**”), acting by and through its central administration Financial Administration department (“**FAD**”) and by one or more faculties or departments contracting for specific services (each, “**Harvard’s Agent**”) and identified below and/or in a SWA or Services Agreement (defined below), and the contractor or vendor identified in the General Terms below (“**Contractor**”).

Whereas, Contractor provides _____ services;

Whereas, Harvard wishes to procure Contractor’s services through FAD and/or one or more of Harvard’s Agents under the uniform terms and conditions set forth below;

Whereas, in some cases, Contractor is already providing services to Harvard under one or more existing agreements and in those cases the parties wish to continue their relationship but do so on a uniform set of terms and conditions that are different from those of the existing agreements;

Now, therefore, the parties agree as follows:

I. Basic Terms and Contact Information

1.1 The commencement date of this Master Contract is _____ (“**Commencement Date**”).

1.2 Harvard’s Agent. Harvard’s Agent(s) is/are

[Insert Name(s) of Faculty or Department.] Harvard’s Agent contact information shall be set forth in each SWA or Services Agreement (defined below).

1.3 Contractor or Vendor. Contractor is

[Insert Contractor’s Name.]

1.4 Contractor’s Representative: The name, address, and telephone number of Contractor’s Representative is

1.5 Harvard’s Financial Administration Coordinator: Sandi Newton, Contract Manager, Procurement Management Department, 540 Holyoke Center, 1350 Massachusetts Ave. Fax: 617-495-9452.

- 1.6 Contract Purpose; Scope of Services. This Master Contract sets forth the terms and conditions under which Contractor shall provide all labor, equipment, and/or supplies necessary to perform/provide the services as more fully defined below (the “**Services**”) in a neat, thorough, orderly, safe and skillful manner. The scope of Services to be provided by the Contractor and the locations for the provision of the Services shall be set forth in one or more Services Work Authorizations (each a “**SWA**”) made between Harvard’s Agent(s) and Contractor substantially in the form attached as Attachment 1, and/or in one or more contracts for services previously entered into between Contractor and Harvard’s Agent (each, a “**Services Agreement**”). Each SWA and Services Agreement shall be deemed to be a part of this Master Contract, as more fully described in Section 1.7 with respect to Services Agreements.
- 1.7 Existing Services Agreements. Unless otherwise specified herein, each Services Agreement currently in effect as of the date of this Master Contract shall remain in effect only as to its description of services and deliverables (including scope, location, performance period and schedule), technical specifications, payment amounts and schedule, specific reporting requirements and contact information, and in all other respects, the terms of this Master Contract shall govern with respect to all Services performed under each Services Agreement during the term of this Master Contract. The terms of this Master Contract shall supersede and control in the event of any conflict or inconsistency between its terms and the terms of any Services Agreement. In the event that Contractor and any Harvard’s Agent enter into a new agreement (other than a SWA) during the term of this Master Contract, each such agreement will automatically be deemed to be a Services Agreement and governed by the terms and conditions of this Master Contract as provided in this Section 1.7.

II. Contractor Services

- 2.1 Contractor shall use his/her/its best efforts in performing the Services and shall perform the Services in a professional and workmanlike manner and in accordance with any technical specifications set forth in each SWA and Services Agreement. Services will be provided on a non-exclusive basis, unless otherwise specified in a SWA or Services Agreement with respect to a particular Harvard faculty or department.

III. Term and Termination

- 3.1 The term of this Master Contract shall begin on the Commencement Date and shall continue in effect while any SWA or Services Agreement remains in effect, unless terminated earlier as provided below. Nothing herein shall be deemed to require Harvard to employ Contractor’s services for any period of time.
- 3.2 Harvard may terminate this Master Contract or Harvard’s Agent may terminate Contractor’s Services under a Services Agreement or SWA at any time upon 30 days written notice to Contractor, provided that if a Services Agreement specifies a different notice period, that notice period will govern with respect to that Services Agreement only.
- 3.3 If Contractor fails to perform any of its obligations under this Master Contract or under any SWA or Services Agreement and such failure continues for ten days after written notice of such failure is given to Contractor by Harvard or by Harvard’s Agent in case of a termination of a SWA or Services Agreement, then Harvard may immediately, or at any time thereafter, terminate this Master Contract by written notice to Contractor, or Harvard’s

Agent may terminate the applicable SWA or Services Agreement, without prejudice to any remedies (whether set forth in this contract or provided for by law or in equity) which might otherwise be available to Harvard for such failure.

- 3.4 Upon any termination or expiration of this Master Contract (or SWA or Services Agreement hereunder), all obligations of the parties under the terminated instrument shall cease except: (a) the provisions of Sections 8.1, 13, and 23; and (b) in the case of termination other than for Contractor's breach, Harvard's payment obligations with respect to Services satisfactorily performed through the date of termination. It is acknowledged and agreed that if this Master Contract is terminated pursuant to Section 3.2 or Section 3.3, all SWA's and Services Agreements hereunder shall necessarily terminate automatically.

IV. Payment

- 4.1 In consideration for the performance of the Services, Harvard's Agent shall pay Contractor fees in the amount and at the times set forth in the applicable SWA or Services Agreement, provided that such provisions shall in no event reduce or limit Contractor's obligations to compensate its employees in accordance with the Harvard University Wage and Benefits Parity as provided in Section 14.5.
- 4.2 Contractor shall submit invoices directly to Harvard's Agent or designated other recipient for such invoices, at the beginning of each month for the preceding month's services or by other pre-arranged schedule as set forth in the applicable SWA or Services Agreement. The invoices may include an itemized statement setting forth the time spent and services rendered, together with a list of and the amounts of all reimbursable expenses, if authorized under the applicable SWA or Services Agreement.
- 4.3 Payment shall be made by Harvard's Agent within forty-five (45) days of receipt of the invoices (unless otherwise specified in the SWA or Services Agreement) provided the following conditions are met: (a) services covered by the invoice are completed to the full satisfaction of Harvard's Agent, (b) invoices are properly issued, and (c) the Contractor has provided proof of valid insurance in accordance with Section 6.2.

V. Taxes

- 5.1 Contractor shall be solely responsible for the payment of any and all taxes or fees, whether foreign or domestic, relating to Contractor's activities hereunder and receipt by Contractor his/her/its employees of compensation therefor, including, without limitation, all Federal, state, and local income taxes, all taxes or contributions required under the social security, unemployment insurance, workers' compensation or other laws of any jurisdiction, and any licensing fees, sales or use taxes, or other taxes or fees arising from Contractor's activities hereunder, except for taxes that are exempted in accordance with Section 5.2.
- 5.2 Harvard, as a non-profit educational institution, is exempt from certain taxes. Contractor, and any subcontractors authorized under this Master Contract, shall make known to suppliers the tax-exempt status of Harvard so that Harvard is not charged taxes from which it is exempt. In the event that such taxes are paid on any items, Contractor shall obtain rebates for the taxes and reimburse Harvard's Agent in the full amount. Harvard

will provide the necessary evidence and certificates of its tax-exempt status upon request. Harvard has been assigned Exemption Certificate No. E-042-103-580 with respect to leases, rental or purchase of “tangible personal property”, including building materials and supplies, exempting Harvard from the Massachusetts Sales and Use Tax. The exemption does not apply to any equipment leased or rented by Contractor for its own use.

VI. Insurance

6.1 Prior to commencement of any work, Contractor and any authorized subcontractors under this Master Contract shall be required to provide evidence of insurance in the minimum amounts set forth below:

1. Commercial General Liability

Per Occurrence	\$1,000,000
Per Aggregate	\$2,000,000

2. Automobile Liability

Per Person.....	\$250,000
Per Occurrence	\$500,000
Property Damage	\$250,000

3. Workers' Compensation Statutory Limits

6.2 The required insurance shall be maintained during the entire term of this Master Contract. All certificates (other than Workers Compensation) shall name “President and Fellows of Harvard College” as an additional insured. Certificates shall be sent to Harvard’s Agent and to the Harvard University Risk Management Department, 1350 Massachusetts Avenue, Holyoke Center, Room 460, Cambridge, MA 02138 prior to the commencement of any Services. Failure to furnish these certificates of insurance in compliance with this contract prior to commencement of work may result in suspension or termination of this Master Contract.

VII. Property Damage

- 7.1 Contractor shall exercise due care in performing the Services and shall be liable for all damages and injury caused by its negligence or misconduct and/or the negligence or misconduct of its employees, agents, and subcontractors. Contractor will be charged in full for all repairs and replacements that are required to restore the property to pre-damage condition or a condition otherwise acceptable to Harvard.

- 7.2 Reports of property damage by Contractor’s employees shall be brought to the attention of Harvard’ s Agent immediately after the occurrence.

VIII. Indemnification

8.1 To the fullest extent permitted by law, Contractor agrees to indemnify and hold harmless President and Fellows of Harvard College and its officers, directors, employees, agents and members of its governing boards (collectively, the “Indemnitees”) from and against all claims, losses, costs, expenses, damages, and liabilities of every kind, including reasonable attorneys’ fees, arising out of or related to any breach of this Master Contract

by Contractor or its subcontractors or any negligence or misconduct on the part of Contractor or any of its officers, employees, agents, or subcontractors. Such claims, losses, costs, expenses, damages, or liabilities shall include, without limitation, all actual, general, special, and consequential damages.

IX. Compliance with Law

- 9.1 Contractor shall comply with all applicable federal, state and local laws and regulations including, but not limited to: (a) federal, state, and local tax laws, including laws requiring the withholding and payment of income taxes; (b) Social Security laws; (c) regulations of the Massachusetts Department of Environmental Protection and the United States Environmental Protection Agency, local fire and health regulations and ordinances; (d) regulations of the Occupational Safety and Health Administration and Massachusetts Department of Public Health; (e) regulations of the Immigration and Naturalization Service of the US Department of Justice; and (f) regulations of the Equal Employment Opportunity Commission and Massachusetts Commission Against Discrimination.

X. Permits and Licenses

- 10.1 Unless otherwise agreed upon by Harvard's Agent, Contractor shall secure all permits, licenses and inspections necessary for the performance and completion of the Services. Contractor shall ensure that any materials, operations, waste generation, disposal or other activities that are conducted by Contractor under a permit or license issued to Harvard are conducted in accordance with terms of permit or license or regulatory requirements, whichever is more stringent.

XI. Subcontracting

- 11.1 Contractor may not subcontract any portion of the Services without prior written approval from the applicable Harvard's Agent. Contractor shall be responsible for each subcontractor's compliance with all the terms of this Master Contract, and Contractor shall not be relieved of any of its obligations hereunder.

XII. Change in Scope

- 12.1 Contractor agrees to perform additional work related to the Services upon the execution by Harvard's Agent and Contractor of a written change order that describes the additional work and sets forth any applicable fees. Harvard shall not be obligated to pay for any additional work performed by Contractor unless approved of in the manner set forth in this Section 12.1. All terms and conditions of this Master Contract shall apply to the performance of such additional work.

XIII. Use of Harvard's Name; Confidentiality

- 13.1 The Contractor shall not cause or authorize the name "Harvard" or any name including the name "Harvard" to be used in any advertising or marketing or promotional materials without Harvard's prior written consent, which may be withheld in its sole discretion.
- 13.2 Contractor agrees not to directly or indirectly disclose or use, except as required to perform the Services hereunder, any proprietary or confidential data, trade secrets or other

information relating to the affairs of Harvard which may be disclosed to Contractor in connection with Contractor's activities hereunder.

XIV. Contractor's Employees

- 14.1 The Contractor shall furnish an adequate number of trained personnel, together with competent supervision, in order to completely fulfill the requirements of the specifications set forth in each SWA and Services Agreement and to meet the quality demands of the faculty or department.
- 14.2 Contractor's employees shall perform their work in a professional manner without any disturbance to Harvard's students, residents, employees and abutters and shall abide by Harvard's rules as they apply.
- 14.3 Upon 24 hours written notice from Harvard's Agent, Contractor shall remove from Harvard's premises any employee requested to be removed by the faculty or department, provided such request does not violate any applicable employment laws or collective bargaining agreement. Harvard's Agent shall not be required to provide justification for such request.
- 14.4 Contractor shall maintain attendance records for all employees working under this Master Contract. Harvard shall have the right to review such records at any time (during business hours) during the term of this Master Contract.
- 14.5 **IF CONTRACTOR (AND ITS SUBCONTRACTORS) IS PROVIDING SECURITY, CUSTODIAL, OR RETAIL DINING SERVICES FOR A PERIOD OF NINE MONTHS OR MORE AND ARE PAID (OR ARE TO BE PAID) BY HARVARD AN AGGREGATE ANNUAL AMOUNT OVER \$50,000 (IN 2001 DOLLARS TO BE INDEXED BY THE U.S. CONSUMER PRICE INDEX), CONTRACTOR AND EACH OF ITS SUBCONTRACTORS SHALL:**
- (A) COMPLY WITH HARVARD'S MANDATORY CONTRACT PROVISIONS, ARISING OUT OF HARVARD'S WAGE AND BENEFIT PARITY POLICY, SET FORTH IN SCHEDULE A;**
- (B) SUBMIT AN EXECUTED AND AUTHORIZED CERTIFICATION CHECKLIST IN THE FORM SET FORTH IN SCHEDULE B TO HARVARD'S FINANCIAL ADMINISTRATION COORDINATOR UPON EXECUTION OF THIS MASTER CONTRACT;**
- (C) COMPLETE A WORKSHEET IN THE FORM ATTACHED AS SCHEDULE C (SECTOR WORKSHEET-TOTAL COMPENSATION SCHEDULE) FOR EACH EMPLOYEE ASSIGNED HEREUNDER EACH YEAR, WHICH WORKSHEETS SHALL BE MAINTAINED BY CONTRACTOR DURING THE TERM OF THIS MASTER CONTRACT; AND**
- (D) COMPLY WITH THE PROVISIONS OF SCHEDULE D REGARDING CRIMINAL RECORD CHECKS.**
- 14.6 Contractor's employees shall not accept or perform any non-contract work for Harvard's employees, occupants of Harvard's premises, or other contractors and vendors performing work at Harvard's premises during the term of this contract without the express consent of Harvard's Agent.
- 14.7 Harvard may request pre-assignment screening of Contractor's employees scheduled to perform duties at Harvard's designated locations.

- 14.8 Upon request, Contractor shall provide Harvard's Agent with the complete names, addresses, and telephone numbers of all employees performing Services under this Master Contract. Without limiting the foregoing, Contractor shall keep accurate and reasonable employment records related to this Master Contract, including, but not limited to, records containing the following information for each employee providing Services: name and address, date of hire, job title and category, information regarding pre-assignment screening and record checks, any Schedule C payment worksheets, and such other data as Harvard may require. Contractor agrees that Harvard or its duly authorized representative has the right from time to time to audit the foregoing employment records and any other directly pertinent books, documents, papers, and records related to Contractor's performance under this Master Contract. The right to audit shall also apply to any subcontractor hired by Contractor. Contractor shall make available to Harvard or its representatives all such records and documents for audit on the Contractor's premises during regular and reasonable working hours or, on Harvard's request, submit copies of such records to Harvard.

XV. Holidays

- 15.1 Although Harvard recognizes 12 holidays (Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Day following Thanksgiving, Christmas Eve (1/2 day), Christmas Day, New Year's Day, Martin Luther King Day, President's Day and Memorial Day), work requirements and holiday designations will vary as detailed in the SWA or Services Agreement. Harvard reserves the right to prohibit all work on the University's Commencement day (usually the first Thursday in June).

XVI. Facilities

- 16.1 Contractor shall not store equipment or supplies on Harvard property unless specifically authorized to do so by Harvard's Agent. Contractor shall maintain any storage area designated by Harvard's Agent in a clean and orderly manner.
- 16.2 Harvard shall have no liability or obligation to protect any of the Contractor's materials or equipment being stored by the Contractor on Harvard's property.

XVII. Communications and Reporting

- 17.1 Contractor shall supply the Contracting Agent with the name and telephone number of a responsible person who may be contacted 24 hours each day/7 days a week in the event of an emergency. Spills or releases of hazardous materials shall be immediately reported to Harvard's Agent. Contractor shall communicate, as required by law, any special procedures or plans prior to when Contract commences for the protection of Harvard University personnel.
- 17.2 Contractor shall promptly inform Harvard's Agent if expected standards for the performance of the Services cannot be met due to building conditions or activities.
- 17.3 Any existing or anticipated maintenance or security problem encountered while performing the Services shall be promptly communicated to Harvard's Agent.

- 17.4 Contractor shall promptly inform Harvard's Agent of any materials, equipment, or conditions arising in connection with the Services that may create a hazard to any person or property.

XVIII. Keys, Security and Personal Property

- 18.1 Keys shall be distributed to Contractor's employees only in accordance with key distribution policies established by Harvard's Agent.
- 18.2 Contractor shall be solely responsible for all keys issued. Doors shall be opened or unlocked only to areas that are actively being worked in. At no time shall keys be left in doors during or after Contractor's operation. In the event keys issued to Contractor are lost or stolen, Contractor shall be liable for the cost of replacement of all keys and changing of locks. Upon termination of Services, all keys or Harvard issued identification badges will be returned to Harvard's Agent.
- 18.3 At no time shall Contractor's employees open or unlock secured areas for occupants, other contractors, or other persons without the prior approval of Harvard's Agent.
- 18.4 When the performance of Services shall require entry or work within occupied office space, Contractor's employees shall not move or disturb the personal property of the staff unless specifically directed by Harvard's Agent. Contractor's employees shall not disturb the contents in or upon desks, tables, shelves or counter tops, open drawers or cabinets, or use telephones, computers, radios, television sets, typewriters or other office equipment.

XIX. Waste Disposal

- 19.1 Solid waste generated by Contractor or found throughout Harvard's premises shall be transported to trash chutes, dumpsters, or recycling bins in accordance with the instructions of Harvard's Agent. Contractor shall securely close all dumpsters after use.
- 19.2 Contractor shall remove all combustible rags and/or waste from the immediate work site at the end of each work shift. Work areas shall be neat and orderly and shall not present a hazard to any person.
- 19.3 Contractor shall not use any drain, pipe or plumbing fixture for the disposal of any waste materials without the prior consent of Harvard's Agent.
- 19.4 Contractor shall be responsible for the proper removal and disposition of all surplus oil or hazardous materials (e.g., paints, lubricants, cleaning products) brought onto Harvard's premises by Contractor or its subcontractors. No oil or hazardous materials brought onto Harvard's premises by Contractor shall remain on Harvard's premises at the completion of the Services.
- 19.5 If Contractor encounters unidentified material that is believed to be radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, toxic, hazardous, asbestos containing or oil-based, Contractor shall immediately stop work in the affected area and report the condition to Harvard's Agent and to the Harvard property manager for the premises. At no time shall such material be disposed of in chutes, dumpsters, drains, pipes or any other waste container. Contractor agrees to cooperate with Harvard's Agent

and any consultants engaged by Harvard to perform services with respect to the detection, removal, containment, treatment and disposal of such regulated materials.

- 19.6 Contractor, and not Harvard, shall be responsible for providing all safety equipment to its employees, including personal protective equipment.

XX. Environmental Health and Safety Compliance

- 20.1 Contractor shall be responsible for performing the Services in conformance with all environmental, health and safety laws and regulations. Contractor shall comply with the provisions of Harvard's "Contractor's Safety Manual" found at www.uos.harvard.edu/ehs/saf_serv_cont.shtml as it may be updated from time to time.

XXI. Parking of Vehicles

- 21.1 Contractor's employees shall not park personal vehicles on Harvard's property without the prior written consent of Harvard's Agent. Service vehicles may be parked for deliveries, loading, or unloading only in areas specified by Harvard's Agent.

XXII. Dress Code

- 22.1 Contractor shall furnish all employees with uniforms, unless otherwise specified by Harvard's Agent. Uniforms must be kept clean and tidy, free from rips and tears and meet with the approval of Harvard.

XXIII. Miscellaneous

- 23.1 Waiver. Any waiver by either party of a breach of any provision of this Master Contract shall not operate as, nor be construed to be, a waiver of any subsequent breach thereof. No delay or omission in the exercise or enforcement of any right or remedy provided hereunder or by law by either party shall be construed as a waiver of such right or remedy.
- 23.2 Severability. The provisions of this Master Contract shall be deemed to be severable. In the event that any provision or section of this Master Contract shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of the Master Contract or the validity of any Services Agreement.
- 23.3 Assignment. This Master Contract may not be assigned by either party without the prior written consent of the other.
- 23.4 Independent Contractor. Contractor, in the performance of any Services, shall be an independent contractor only, and not an agent, employee, partner or joint venturer of or with Harvard, and nothing in this Master Contract shall be deemed to create or imply any relationship other than that of independent contractor.
- 23.5 Governing Law and Disputes. This Master Contract shall be governed by and interpreted in accordance with the laws of The Commonwealth of Massachusetts (excluding the conflict of laws thereof). All disputes hereunder shall be resolved in the applicable state or federal courts of Massachusetts. The parties consent to the jurisdiction of such courts and waive any jurisdictional or venue defenses otherwise available.

- 23.6 Entire Agreement; Amendment. This Master Contract, including the attachments hereto, and any other schedules or documents attached or by reference incorporated herein or made pursuant to this Master Contract provided by Harvard's Agent relating to the subject matter of this Master Contract, contains and constitutes the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes and cancels all previous negotiations, agreements, commitments, and writings in connection herewith, except as provided in Section 1.7. It may be amended only by an agreement in writing, signed by each of the parties hereto and specifically referring to this Master Contract.
- 23.7 Notices. Any notice permitted hereunder shall be sufficiently given if delivered in person, or sent by telecopy (with the original sent promptly by ordinary mail), or by registered or certified mail, postage prepaid, or by recognized overnight delivery service, to the address of (in the case of notice to Harvard) the Financial Administration Coordinator set forth above and to the address of each Harvard's Agent, or (in the case of notice to Contractor) to the address of Contractor's Representative and such notice shall be deemed to have been given when receipted for and if not receipted for shall be deemed received 3 days after being deposited in the U.S. Mail, if by certified mail, or with the overnight delivery service. Notification sent by facsimile shall be adequate if verification of transmission is received. By such notice either party may change its address or the identity of the person(s) designated to receive notices.

Executed as an instrument under seal as of the date first written above.

HARVARD:

CONTRACTOR:

PRESIDENT AND FELLOWS

Company _____

OF HARVARD COLLEGE, acting by and
through the Financial Administration Department

Address _____

By: _____
Jay Bounty
Controller

By: _____

Name: _____

Title: _____

SCHEDULES

Schedule A Mandatory Contract Provisions for
Contractors that provide Custodial, Dining, Security/Parking
services

Schedule B Certification Check List Form

Schedule C Sector Worksheet

Schedule D Pre-Employment Criminal Record Checks

ATTACHMENT 1 Services Work Authorization