

REQUEST FOR PROPOSAL

by

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

for

selection of a

PREFERRED SUPPLIER OF CAR RENTAL SERVICES

RFP No. UTS/A 29

**Submittal Deadline: September 5, 2012,
@ 3:00 PM, CST**

Issued: July 20, 2012

TABLE OF CONTENTS

SECTION 1: INTRODUCTION	3
SECTION 2: NOTICE TO PROPOSER	5
SECTION 3: SUBMISSION OF PROPOSAL.....	9
SECTION 4: GENERAL TERMS AND CONDITIONS	10
SECTION 5: SPECIFICATIONS, ADDITIONAL QUESTIONS AND SCOPE OF WORK.....	10
SECTION 6: PRICING SCHEDULE AND AFFIRMATION	19

ATTACHMENTS

APPENDIX ONE	PROPOSAL REQUIREMENTS	21
APPENDIX TWO	UT SYSTEM POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES.....	30
APPENDIX THREE	SAMPLE PREFERRED SUPPLIER AGREEMENT.....	31
APPENDIX THREE-300	SAMPLE INSTITUTIONAL PARTICIPATION AGREEMENT	50
APPENDIX FOUR	ACCESS BY INDIVIDUALS WITH DISABILITIES.....	52
ATTACHMENT A	PRICE SCHEDULE (ref. Sect. 6 of this RFP)	53
EXHIBIT A	CAR RENTAL VOLUME (ref. Sect. 1.3 of this RFP).....	55
EXHIBIT B	TOP DOMESTIC AND INTERNATIONAL RENTAL LOCATIONS (ref. Sect. 1.3 of this RFP).....	56
EXHIBIT C	UT System Policy UTS157 (ref. Sect. 5.3.4.3 of this RFP)	58

SECTION 1

INTRODUCTION

1.1 Description of The University of Texas System

The University of Texas System is comprised of System Administration and 15 institutions of higher education with campuses across the State of Texas whose missions are devoted to world class healthcare, teaching, research, and public service (collectively, “**UT System**”). UT System currently has six health institutions and nine academic facilities, making it one of the larger education systems in the United States. With an annual operating budget of \$12.8 billion, UT System has a current student enrollment exceeding 211,000. UT System employs more than 87,000 faculty and staff, making UT System one of the largest employers in the State of Texas.

UT System is comprised of the following institutions:

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

UT System has established the University of Texas System Supply Chain Alliance (the “**Alliance**”) to conduct and coordinate strategic purchasing initiatives across UT System. Through a collaborative relationship, the Alliance seeks to combine the supply chain and contracting activities and efforts to obtain best value goods and services while reducing total acquisition costs.

The Alliance, in collaboration with the UT System Travel Council, has created a team of professionals tasked with executing purchasing initiatives for System-wide business travel services. Subject matter experts (“**SMEs**”) from each participating institution to assist in the development of each sourcing event and the evaluation of suppliers during the procurement process. SMEs are involved from the sourcing event’s inception and work with the Alliance and UT System to select the best value supplier(s).

By participating in this Request for Proposal, proposer(s) (collectively, “**Proposer**”) agrees to extend all services and pricing to UT System Administration and institution travelers as defined herein.

1.2 Objective of this Request for Proposal

UT System and the System-wide Travel Council, acting through the Alliance, are soliciting proposals in response to this Request for Proposal, UTS/A29 (this “RFP”), for selection of one or more Preferred Suppliers to provide car rental services more specifically described in **Section 5.3 (Scope of Work)** of this RFP (collectively, the “Services”). A successful Proposer to whom business may be awarded is referred to in this RFP as the “Preferred Supplier.”

The goal of this RFP is to minimize cost, while improving overall service. Proposer should provide solutions involving historically underutilized business suppliers, where possible (ref. **Section 2.5** of this RFP). UT System will work through the Alliance and System-wide Travel Council to team with a Preferred Supplier to develop a relationship that will produce a win-win for all parties and establish practical business processes and procedures that will foster a strong working relationship.

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

- provide a comprehensive and guaranteed pricing structure for the Services;
- leverage the aggregate purchasing volumes of participants;
- achieve cost savings for participants;
- improve overall customer satisfaction; and
- enhance relationships between Preferred Supplier and participants.

1.3 Background

Texas law authorizes institutions and agencies of higher education (defined by Section 61.003 Education Code) to use the group purchasing procurement method, and other state agencies also may rely on the group procurement embodied in this RFP. As a result, Texas state institutions and agencies in addition to UT System may elect to utilize any contract(s) resulting from this RFP.

No contract resulting from this RFP will guarantee a specific volume to a Preferred Supplier. For the sole purpose of providing background information, annual car rental volume for UT System is approximately \$4.3 million utilizing over 32,000 vehicles for university business. **Exhibit A** details the car rental volume and **Exhibit B** lists the top domestic and international rental locations.

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

SECTION 2
NOTICE TO PROPOSER

2.1 Submittal Deadline

UT System will accept proposals submitted in response to this RFP until **3:00 PM**, Central Standard Time, on **September 5, 2012** (the "**Submittal Deadline**").

2.2 UT System Contact Person

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

Thuan Do, Sourcing Specialist
UT System Supply Chain Alliance
Phone: 713.792-1635
Email: thdo@mdanderson.org

UT System specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications forwarded to the UT System Contact. The UT System Contact must receive all questions or concerns no later than **August 15, 2012**. UT System will use a reasonable amount of time to respond to questions or concerns. It is UT System's intent to respond to all appropriate questions and concerns; however, UT System reserves the right to decline to respond to any question or concern.

After the Agreement with a Preferred Supplier is executed (ref. **Section 4** of this RFP), the UT System Travel Program Director (the "**UT System Travel Program Director**"), whose contact information appears below, will be the primary contact in relation to the Services (ref. **Section 1.2** of this RFP) to be provided under the Agreement:

Nancy Sutherland, Travel Program Director
Office of the Controller
Phone: 512.322.3725
Email: nsutherland@utsystem.edu

2.3 Criteria for Selection

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

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

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

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

2.3.1 Threshold Criteria Not Scored

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

2.3.1 Scored Criteria

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

2.4 Key Events Schedule

Issuance of RFP	July 20, 2012
Pre-Proposal Conference (ref. Section 2.6 of this RFP)	11:00 AM, Central Standard Time on August 8, 2012
Deadline for Questions/Concerns (ref. Section 2.2 of this RFP)	August 15, 2012
Submittal Deadline (ref. Section 2.1 of this RFP)	3:00 PM, Central Standard Time on September 5, 2012
Selection of Finalists	Early October 2012
Finalists Interviews	Late October 2012
Anticipated Contract Award(s)	Mid-November 2012

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

1. If selected as a finalist, Proposer may be required to attend an interview session that includes a face-to-face meeting with an advance notice of no more than one week. The anticipated location of this activity is Houston, Texas.

2. If selected for contract award, Proposer should have its chief legal and business officers available for commencement of contract negotiations with 72 hours of notice of award. Such negotiations may take place face-to-face in order to expedite the contracting phase. The anticipated location of this activity is Houston, Texas. Proposer is requested to reference **Section 5.3** of this RFP and provide any exceptions as part of Proposer's RFP response.

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

2.5 Historically Underutilized Businesses

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

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

Preferred Supplier will not be permitted to change its HSP unless: (1) Preferred Supplier completes a newly modified version of the HSP in accordance with the terms of **APPENDIX TWO** that sets forth all changes requested by Preferred Supplier, (2)

Preferred Supplier provides UT System with such modified version of the HSP, (3) UT System approves the modified HSP in writing, and (4) all agreements or contractual arrangements resulting from this RFP are amended in writing by UT System and Preferred Supplier to conform to the modified HSP.

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

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

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

2.6 Pre-Proposal Conference

UT System will hold a pre-proposal conference at 11:00 AM, Central Standard Time, on August 8, 2012. Proposers may attend the conference in one of the following two formats:

in person attendance at the UT MD Anderson, Mid Campus One Building, 7007 Bertner Ave., Suite 10.3212, Houston, TX 77030; or

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

The Pre-Proposal Conference will allow all Proposers an opportunity to ask the Alliance, Travel Council members and UT System HUB representatives relevant questions and clarify provisions of this RFP. **Proposer should notify the UT System Contact no later than August 3, 2012, whether it will attend the Pre-Proposal Conference, by emailing the UT System Contact at thdo@mdanderson.org. Proposer must clearly state in which format it will attend. If the Proposer elects to attend the Pre-Proposal Conference in the webinar format, UT System will provide complete details and instructions (including personal computer requirements). If Proposer elects to attend the Pre-Proposal Conference in person, there will be a strict limit of two (2) individuals per Proposer.**

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Electronic Submission Notice

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

3.2 Proposal Validity Period

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

3.3 Terms and Conditions

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

- 3.3.1.1 Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP);
- 3.3.1.2 General Terms and Conditions (ref. **Section 4** of this RFP);
- 3.3.1.3. Proposal Requirements (ref. **APPENDIX ONE**); and
- 3.3.1.4 Notice to Proposer (ref. **Section 2** of this RFP).

3.4 Submittal Checklist

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

- 3.4.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**).
- 3.4.2 Responses to questions and requests for information in the Specifications, Additional Questions and Scope of Work Section (ref. **Section 5** of this RFP).
- 3.4.3 Signed and Completed Pricing Affirmation (ref. **Section 6** of this RFP).

- 3.4.4 Signed and completed copy of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFP and **APPENDIX TWO**).
- 3.4.5 Responses to Proposer's Survey (ref. **Section 5.4** of this RFP).
- 3.4.6 Proposer's Price Schedule (ref. **Section 6** and **Attachment A** of this RFP).

SECTION 4

GENERAL TERMS AND CONDITIONS

4.1 General Information regarding Structure of Transaction and Terms and Conditions

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

The expected initial term of the PSA is five (5) years, with three (3) one-year renewals, subject to earlier termination at will by UT System or Preferred Supplier, without penalty, by giving 90 days written notice to the other party. If UT System were to terminate the PSA, UT System's sole obligation would be to pay Preferred Supplier for Services received prior to termination.

The terms and conditions contained in the attached Sample Preferred Supplier Agreement (ref. **APPENDIX THREE**) or, in the sole discretion of UT System, terms and conditions substantially similar to those contained in **APPENDIX THREE**, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Preferred Supplier Agreement, Proposer must submit a list of the exceptions as part of its proposal in accordance with **Section 5.2.2** of this RFP. Proposer's exceptions will be reviewed by UT System and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, UT System may consider Proposer's exceptions when UT System evaluates the Proposer's proposal.

SECTION 5

SPECIFICATIONS, ADDITIONAL QUESTIONS AND SCOPE OF WORK

5.1 General

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

5.2 Additional Questions Specific to this RFP and Scope of Work

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

- 5.2.1 In its proposal, Proposer must indicate whether it will consent to include in the Agreement the "Access by Individuals with Disabilities" language that is set forth in **APPENDIX FOUR**, Access by Individuals with Disabilities. If Proposer objects to the inclusion of the "Access by Individuals with Disabilities" language in the Agreement, Proposer must, as part of its proposal, specifically identify and describe in detail all of the reasons for Proposer's objection. NOTE THAT A GENERAL OBJECTION IS NOT AN ACCEPTABLE RESPONSE TO THIS QUESTION.
- 5.2.2 If Proposer takes exception to any terms or conditions set forth in **Section 4** of this RFP, Proposer must submit a list of the exceptions.
- 5.2.3 Proposers will provide answers to the questions listed in the Proposer's Survey ("**Proposer's Survey**") (ref. **Section 5.4** of this RFP) to the best of Proposer's knowledge, as responses may be incorporated into the Preferred Supplier Agreement. The questions in the Proposer's Survey will provide UT System with additional information about Proposer and various efficiencies and economies of scale that Proposer may provide to participating institutions.
- 5.2.4 Although Proposer may offer only a portion of the Services listed in **Section 5.3** (Scope of Work), Proposer should submit prices for as many of the identified items as possible.

5.3 Scope of Work

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

- 5.3.1 Definitions. The following terms are defined as indicated:

Corporate Discount Number / Rental Code – An identifying number utilized by Preferred Supplier to identify individual university/State entities.

Eligible Traveler - UT System and The University of Texas Investment Management Company ("**UTIMCO**") employees, as well as students (age 18 or above), guests, and consultants traveling on Official University / State Business (defined below) when travel is paid/reimbursed by UT System or UTIMCO. Services are also available to all Texas institutions of higher education and state agencies electing to participate in a contract resulting from this RFP.

Fixed Based Operator (FBO) – a commercial business granted the right by an airport to operate on the airport and provide aeronautical services such as passenger flight services, fueling, hangaring, tie-down and aircraft maintenance. For the purposes of this RFP, the term applies to Texas-based FBOs.

Global Distribution Systems (GDS) – The automated reservation systems used by the commercial travel industry for booking available vehicles.

In-Terminal – The rental car counter is in the airport terminal and vehicles are within walking distance or within a 10 minute shuttle service ride.

Official University / State Business – Travel undertaken by the employee at the direction of the university / State agency.

Off-terminal – The rental car counter and vehicles are not physically located on the airport property and elapsed time to the rental office exceeds 15 minutes via the included shuttle service.

Roadside Assistance Program – Traveler assistance program offered by Preferred Supplier to aid travelers with rental-related issues.

Travel Management Company (TMC) – Travel agency operating under contract with a university / State agency, and all other travel agencies approved by the **Airline Reporting Corporation (ARC)** or **International Airlines Travel Agency Network (IATAN)**.

Rental Rates – the total cost of the car rental, including base rate, insurance (excluding insurance for international rentals) and all applicable fees and taxes.

5.3.2 Eligibility for Contract Utilization. Services to be provided under the Agreement(s) are for Eligible Travelers engaged in Official University / State Business travel.

5.3.3 Use of Contract Rates. If Preferred Supplier, at any time during the term of the Agreement, offers rentals to the public at a rate lower than the contract rate (including insurance), the lower rate must be offered to Eligible Travelers under the same conditions.

Preferred Supplier(s) will be preferred provider(s) of Services for Eligible Travelers engaged in Official University / State Business travel. UT System will require that its travelers and TMCs justify use of any car rental company other than Preferred Supplier(s). Justifications will include the Preferred Supplier(s) not having a particular car type, the Preferred Suppliers being unable to provide required Services, the availability from another vendor of lower-cost services (including insurance), etc.

5.3.4 Travel Program Management

5.3.4.1 In addition to working directly with Preferred Supplier for reservations using Preferred Supplier's dedicated phone lines and/or web sites, within the next year UT System may further consolidate its travel program by contracting with a single travel management company (TMC) for all business travel reservations. Preferred Supplier may derive benefit from the resulting consolidated contract management and improved reporting.

5.3.4.2 All of Preferred Supplier's agreed-upon rates must be accessible through Global Distribution Systems (GDS). The rates available through the GDS must include all agreed-upon fees, surcharges, and taxes.

5.3.4.3 Attached hereto as **Exhibit C** is UT System Policy UTS157 regarding the use of personal vehicles. This policy encourages the use of rental vehicles instead of personal vehicles when conducting UT System business.

5.3.5 Service Requirements. Services will comply with the specific, non-exhaustive list of requirements specified below, and Preferred Supplier will ensure that any permitted franchisees and subcontractors will also comply with these specific requirements.

5.3.5.1 Corporate Discount Number/Rental Codes. Preferred Supplier will assign a dedicated Corporate Discount Number / Rental Code for each university / State entity, to help ensure that rentals confirmed with these codes are identifiable for tracking and reporting purposes.

5.3.5.2 Locations. Proposer must submit the following information for all Proposer's locations, using Microsoft Excel. Proposer should complete one line per location. If there is more than one rental counter at a given location (e.g., Terminal 1 and Terminal 2 at Frankfurt Airport) and there are differences in phone numbers or operating hours, then multiple spreadsheet rows should be used.

Please list the following for Domestic Rental Car Locations:

- Company Name
- Franchisee (yes/no)
- Address
- City
- State
- Zip Code
- Company Location/Branch Number
- Associated Airport Code (airport code or NA for city/suburban locations)
- In-Terminal (yes/no)
- Local Phone Number
- Toll Free Number
- Operating hours (by day using a 24 hour clock)

Please list the following for International Rental Car Locations:

- Company Name
- Franchisee (yes/no)
- Address
- City
- Country
- Postal Code
- Company Location/Branch Number
- Associated Airport Code (airport code or NA for city/suburban locations)
- In-Terminal (yes/no)
- Legally Imposed Mandatory Rental Insurance (yes/no)
- International driver's license mandatory (yes/no)
- Local Phone Number (include country code)
- Operating hours (by day using a 24 hour clock)

If a rental location is moved to a new address/location or is closed, or if a new location is opened, Preferred Supplier will be required under the Agreement to give to UT System thirty (30) days prior notice of the change.

5.3.5.3 Rental Vehicles. Rental vehicles provided under the Agreement will be properly licensed and inspected, meeting all applicable national, state and local safety standards. Preferred Supplier will not rent vehicles subject to recall until these vehicles have been repaired with the approved manufacturer process. Rentals will be maintained, clean, no more than two years old, in good mechanical condition at rental inception, and have no more than 40,000 miles on the odometer. Rental vehicles will include a full tank of gas.

Rental vehicles will provide reasonable accommodation in compliance with the American with Disabilities Act (ADA) and will be available upon 24 hours' notice.

Service animals (i.e., law enforcement, seeing-eye, etc.) will be allowed in all rental vehicles, as required by Eligible Traveler.

Eligible Traveler will be provided, upon request, with a non-smoking vehicle at time of reservation, with guarantee of availability.

All maintenance and repair of rental vehicles will be the responsibility of Preferred Supplier and will be provided at no additional cost. For long-term rentals, Preferred Supplier will provide Eligible Travelers with routine vehicle maintenance schedules and specific instructions for obtaining any required maintenance and repair. Any required maintenance and repair will be performed at or within the general vicinity of the rental location or Eligible Traveler's location.

5.3.5.4 Risk and Insurance. Notwithstanding the provisions of any vehicle rental agreement or contract executed by an Eligible Traveler renting a vehicle under the terms of the Agreement, Preferred Supplier (and not the Eligible Traveler or UT System) will assume and bear the entire risk of loss of or damage to the rental vehicles (including costs of towing, administrative costs, loss of use, and replacements), for both in-state of Texas and out-of-state of Texas rentals (excluding International rentals), from any and every cause whatsoever, including but not limited to casualty, collision, fire, flood, upset, malicious mischief, vandalism, tire damage, falling objects, overhead damage, glass breakage, strike, civil commotion, theft and mysterious disappearance, except where the loss or damage is caused by one or more of the following

- (1) Operation of the vehicle by an authorized driver under the influence of intoxicants or any prohibited drugs, or the damage or loss is caused intentionally by an authorized driver;
- (2) Use of the vehicle for any illegal purpose;
- (3) Operation of the vehicle for law enforcement purposes that are likely to expose the vehicle, the driver or passengers or other persons or

property of others to a risk of damage or injury above that of routine travel, unless the company has agreed to such operation in writing at the time of rental;

- (4) Operation of the vehicle in a test, race or contest;
- (5) Operation of the vehicle, with the consent of an authorized driver, by a person other than an authorized driver;
- (6) Operation of the vehicle across international boundaries, unless specifically authorized at the time of rental.

Preferred Supplier will arrange for the insurance coverage detailed in APPENDIX THREE (Sample Preferred Supplier Agreement), and the coverage described therein will be extended to every Eligible Traveler.

Mexico Rentals – Preferred Supplier will allow Eligible Travelers to drive their rental vehicles into Mexico and will accept UT System’s Mexico Tourist policy to cover these vehicles. UT System’s Mexico Tourist Policy provides \$1,000,000 combined single limit coverage. The Eligible Traveler will be required to provide the dates of travel in Mexico and ensure that the following documents will be in their possession while in Mexico:

- Mexico Tourist Auto ID Card
- Copy of the Mexico Tourist Policy
- Copy of the Mexico Insurance Agreement between UT System and Preferred Supplier

Preferred Supplier will provide the Eligible Traveler vehicle identification number for the Mexico Tourist Auto ID Card

5.3.5.5 Rental Rates. The Agreement will include the following Rental Rates:

Daily Rate – the charge per day (24 hours) for the lease of a vehicle. Rate will be applicable to Preferred Supplier’s airport, FBO and suburban locations.

Weekly Rate – the weekly rate for seven consecutive days with charges every 24 hours. Therefore, a seven (7) day lease is actually six (6) days of daily rate charges.

Monthly Rate – the charge for the lease of a vehicle for thirty (30) consecutive days.

The Rental Rates and additional rental information will apply 365 days per year, without regard to holidays or specific days of the week. Differences in rates by city or international location are to be specified by Proposer as an additive to the base rate (ref. **Attachment A**, Price Schedule).

There will be no late, no-show, energy recouping and/or cancellation fees under the Agreement.

Preferred Supplier will not charge additional fees for all one-way domestic rentals in Texas (e.g., no drop-off charges).

All Rental Rates will include unlimited mileage on all vehicle types and full loss/damage waiver with no deductible.

All domestic Rental Rates proposed will include the base rate, insurance and all applicable fees and taxes. UT System and its institutions, as agencies of the State of Texas, qualify for exemption from State and Local Sales and Use Taxes (except Prop. Title and Registration Tax) pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. Preferred Supplier may claim exemption from payment of applicable taxes by complying with such procedures as may be prescribed by the State of Texas Comptroller of Public Accounts.

5.3.5.6 Reservations. Preferred Supplier will make reservations available to participating entities and Eligible Travelers through all of the following sources:

- Directly from Preferred Supplier via toll-free number, fax, or in person at Preferred Supplier's locations
- Through UT System or state contract travel agency and all other travel agencies approved by the Airline Reporting Corporation (ARC) or International Airlines Travel Agency Network (IATAN)
- Through a secure Preferred Supplier-maintained internet site
- Through UT System-designated online booking tools

5.3.5.7 Form of Payment. Eligible Travelers may pay for rentals using cash or a personal or institutional credit or debit card. Preferred Supplier will accept an institutional travel charge card for rentals under the Agreement. For Eligible Travelers without an institutional or personal credit or debit card, cash deposits up to the estimated amount of rental charges may be required. The cash deposit will be based on the lesser of the daily, weekly, or monthly rate plus any applicable sales tax. For a vehicle rented with a cash or money order deposit, any excess deposit will be refunded to the renter by check issued within 30 calendar days after the end of the rental period.

Based on institution specific requirements and processes, Preferred Supplier will provide direct billing services. Contractor must be able to accept electronic payments by Automated Clearinghouse (ACH) in Corporate Trade Exchange (CTX) format for all rentals direct billed to UT System.

5.3.5.8 Rental Process.

- (1) Preferred Supplier will provide a rental vehicle for 100% of vehicle requests from Eligible Travelers. In no case will an Eligible Traveler be turned away. Preferred Supplier will validate authorized users as those persons authorized to operate vehicles rented under the Agreement, and if properly licensed, include the Eligible Travelers,

and without additional charge, secondary drivers who are either Eligible Travelers or accompanying an Eligible Traveler whether or not associated with State business (spouse, etc.). Employees or agents of the State who are 18 or older, if otherwise eligible, may rent and operate vehicles under the Agreement when on official UT System business. The vehicle to be rented will be ready for dispatch, to the extent possible, when the Eligible Traveler arrives at the rental location. The Eligible Traveler will be furnished a copy of the Preferred Supplier's rental agreement and will not be bound by any stipulation therein which is inconsistent with the Agreement. Proof of insurance will be included as part of the rental agreement or made available in the glove compartment, on door/windshield or other location as specified by Preferred Supplier. Preferred Supplier will provide market fuel prices at its published prepaid fuel rate for any vehicle returned with less than a full tank of gas, as required. Market fuel will be charged on a gallon by gallon basis, not as a full tank. (e.g., - 3 gallons used will equal 3 gallon fueled). This rate will not exceed the U.S. and Energy Administration weekly average rate as published at <http://www.eia.gov/petroleum/gasdiesel/>. Prepayment will not be required.

- (2) In all cases where Preferred Supplier's locations do not have rentals cars available within reasonable walking distance, shuttle service will be offered for In-Terminal and Off-Terminal locations. For those locations that do not offer continuous shuttle bus service, there will be toll-free phone access to call for shuttle service, and the contact information will be made clearly visible in the airport.
- (3) In instances when no vehicles are available at time of pick-up and the Eligible Traveler has a reservation, Preferred Supplier will provide an equivalent or better type of vehicle at the same rate as originally reserved by the Eligible Traveler. Preferred Supplier also may make a reservation at another location or another car rental company and arrange for the vehicle to be transported to the Eligible Traveler or the Eligible Traveler be transported to the vehicle, at the same rate as originally reserved by the Eligible Traveler. With the Eligible Traveler's consent, Preferred Supplier may provide a smaller vehicle at a reduced rate. There will be no additional cost associated with any substitution due to any reserved vehicle's non-availability.
- (4) Standard rental services at all of Preferred Supplier's airport locations under the Agreement will not exceed a twenty (20) minute check-in process or a 15 minute return process, including shuttle service if needed.
- (5) At the completion of each rental, Preferred Supplier will provide a receipt of services that will contain all charges listed. The receipt and the rental document from Preferred Supplier will clearly state the vehicle class for the Eligible Traveler (i.e. economy, compact, full, etc.), all optional equipment, upgrades, fuel, all (federal, state, and

local) fees, surcharges, and any taxes applied to the vehicles rented at each location. Preferred Supplier will substantiate all charges and taxes upon request by the renter or by the institutions.

(6) Roadside Assistance will be available at no additional charge for Eligible Travelers and will include, but not be limited to, the following:

- 24/7 toll free phone and text assistance in the event of an accident and/or a repair becomes necessary and a replacement vehicle is required
- Lost key replacement
- Minor repairs (flat tire, dead battery, etc.)
- Towing
- Rental car replacement for any repair that takes longer than 2 hours

The time spent waiting for repairs or a replacement vehicle due to any mechanical failure of the vehicle (except loss of keys) will be deducted from the total amount of rental time.

5.3.5.9 Customer Service. Preferred Supplier will provide personnel at all Preferred Supplier's locations who are knowledgeable with the terms and conditions of the Agreement to process rentals for Eligible Travelers. Further, Preferred Supplier will provide a dedicated customer service representative (CSR) accessible (24/7) either in person or by office phone, cell phone, email or fax, to assist with questions and resolve all issues that may arise during the rental process. When CSR is unavailable due to personal days or holiday, CSR will provide an alternate contact available 24/7.

5.3.5.10 Management Reports. Preferred Supplier will provide one electronic report to UT System Administration and each institution as requested no later than the 45th day after the preceding month. The report will include all rental locations and contain the following data by each institution and/or department within the institution:

Executive Summary To Include:

- Total number of rentals
- Total number of rental days, broken out by domestic in-State, domestic out-of-State, and international
- Rental by car class
- Average number of days per rental
- Total rental charges
- Refueling fees
- Damage, Accident, Incident report

Detailed Report To Include:

- Number of rental days for each vehicle

- Total charges for each institution for all vehicles (including base rate, other charges)
- Total number of days for all vehicles rented by each institution
- Refueling charges for all vehicles for each institution.
- Institution may request breakdown by department based on assignment of departmental ID numbers with Contractor
- Detail listing of all loss claims and damages on vehicles caused by Eligible Travelers by institution

5.4 Proposer's Survey

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

SECTION 6 PRICING SCHEDULE AND AFFIRMATION

6.1 Pricing Schedule

Proposer must submit a completed Attachment A as part of its proposal, detailing all fees and Rental Rates for the Services in accordance with the specifications listed in Section 5.3 of this RFP. The fees quoted in Attachment A will include all costs associated with providing the full scope of work.

6.2. Rental Rate Adjustments

The Rental Rates would be subject to adjustment as provided in **Attachment A**.

6.3. Pricing Affirmation

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

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System
Ref.: Preferred Supplier of Car Rental Services
RFP No.: UTS/A29

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish the Services required pursuant to the above-referenced Request for Proposal upon the pricing terms quoted below.

The prices quoted in **Attachment A**, Price Schedule, to this RFP will be Proposer's guaranteed pricing for the Services.

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

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX ONE

PROPOSAL REQUIREMENTS

SECTION 1 GENERAL INFORMATION

1.1 Purpose

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

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

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

1.2 Inquiries and Interpretations

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

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

1.3 Public Information

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

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

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

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

1.4 Type of Agreement

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

1.5 Proposal Evaluation Process

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

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

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

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

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

1.6 Proposer's Acceptance of Evaluation Methodology

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

1.7 Solicitation for Proposal and Proposal Preparation Costs

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

1.8 Proposal Requirements and General Instructions

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

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

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

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

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

1.9.2 Execution of Offer

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

1.9.3 Pricing Affirmation

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

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

1.9.4 Submission

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

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

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

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

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

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

SECTION 2 **EXECUTION OF OFFER**

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

- 2.1** By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between UT System and Proposer; (3) UT System has made no representation or warranty, written or oral, that one or more contracts with UT System will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer’s preparation of a response to this RFP.
 - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
 - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
 - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.

- 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in Section 4 of this RFP, under which Proposer will be required to operate.
- 2.1.6 If selected by UT System, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
- 2.1.7 If selected by UT System, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
- 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that UT System will rely on such statements, information and representations in selecting Preferred Supplier. If selected by UT System, Proposer will notify UT System immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
- 2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UT SYSTEM, INDEMNIFY, AND HOLD HARMLESS UT SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
- 2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 2.2** By signature hereon, Proposer offers and agrees to comply with all terms, conditions, requirements and specifications set forth in this RFP.
- 2.3** By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and Proposer may be removed from all proposal lists at UT System.
- 2.4** By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at UT System's option, may result in termination of any resulting contract or agreement.

- 2.5** By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- 2.6** By signature hereon, Proposer certifies that the individual signing this document and the documents made a part of this RFP, is authorized to sign such documents on behalf of Proposer and to bind Proposer under any agreements and other contractual arrangements that may result from the submission of Proposer's proposal.
- 2.7** By signature hereon, Proposer certifies as follows:
- "Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."
- 2.8** By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and any member of the Board of Regents of the University of Texas System or an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to UT System in writing; (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. Section 669.003, *Government Code*). All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before UT System enters into a contract or agreement with Proposer.
- 2.9** By signature hereon, Proposer certifies that in accordance with Section 2155.004, *Government Code*, no compensation has been received for its participation in the preparation of the requirements or specifications for this RFP. In addition, Proposer certifies that an award of a contract to Proposer will not violate Section 2155.006, *Government Code*, prohibiting UT System from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Pursuant to Sections 2155.004 and 2155.006, *Government Code*, Proposer certifies that Proposer is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.

- 210 By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 211 By signature hereon, Proposer represents and warrants that all products and services offered to UT System in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.
- 212 Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time UT System makes an award or enters into any contract or agreement with Proposer.
- 2.13 If Proposer will sell or lease computer equipment to UT System under any agreements or other contractual arrangements that may result from the submission of Proposer's proposal then, pursuant to Section 361.965(c), *Health & Safety Code*, Proposer certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, *Health & Safety Code* and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, *Texas Administrative Code*. Section 361.952(2), *Health & Safety Code* states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.
- 214 **Proposer should complete the following information:**

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

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

RFP No.: UTS/A29

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

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

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name/Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

APPENDIX TWO

UT SYSTEM POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES

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

APPENDIX THREE

SAMPLE PREFERRED SUPPLIER AGREEMENT

for

CAR RENTAL SERVICES

between

THE UNIVERSITY OF TEXAS SYSTEM

and

_____ **University of Texas Agreement Number:** _____

This Preferred Supplier Agreement, dated effective as of _____, 2012 (“**Effective Date**”), is made by and between **The University of Texas System** (“**UT System**”), a state agency and institution of higher education authorized under the laws of the State of Texas, and _____ (“**Preferred Supplier**”), a _____ corporation, Federal Tax Identification Number _____, with its principal offices located at _____.

This Agreement specifies the terms and conditions applicable to the purchase of certain car rental services that Preferred Supplier will sell to UT System and its participating institutions, all as further described below.

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

SECTION 1 – Definitions

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

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

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

“UT Party” means, collectively, UT System and each Institutional Participant.

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

“UT System Travel Administrator” means the institution administration travel contact who will handle the day to day service and management of this Agreement.

[Additional definitions to be inserted, as appropriate]

SECTION 2 – Term:

The initial term of this Agreement (**“Initial Term”**) will begin on the Effective Date and expire _____, unless earlier terminated in accordance with the provisions of this Agreement. UT System and Preferred Supplier may mutually agree to extend the term of this Agreement for up to three additional one-year periods. A renewal will be effective only if evidenced by written amendment between UT System and Preferred Supplier in accordance with **Section 3**.

SECTION 3 – Amendment:

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

SECTION 4 – Performance of Services:

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

SECTION 5 – Family Code Child Support Certification:

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

SECTION 6 – Eligibility Certifications:

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

SECTION 7 – Tax Certification:

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

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

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

SECTION 9 – Products and Materials Produced in Texas:

[This Section intentionally left blank]

SECTION 10 – Loss of Funding:

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

SECTION 11 – Force Majeure:

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

SECTION 12 – Notices:

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

transmitted, and (iv) if sent by email (to the extent an email address is set forth below), when received:

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

with copy to: The University of Texas System Supply Chain Alliance
Mid Campus Building
7007 Bertner Ave., Suite 10.3212
Houston, TX 77030
Attention: Director
Fax : 713-792-8084
Email: jfjoshua@mdanderson.org

and Office of the Controller
The University of Texas System
702 Colorado Street
Austin, Texas 78701
Attention: Travel Program Director
Fax: 512.322.3731
Email: nsutherland@utsystem.edu

If to Preferred Supplier: _____

Attn: _____
Fax: _____
Email: _____

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

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

and The University of Texas System Supply Chain Alliance
Mid Campus Building
7007 Bertner Ave., Suite 10.3212
Houston, TX 77030

Attention: Director
Fax: 713-792-8084
Email:jfjoshua@mdanderson.org

and

Office of the Controller
The University of Texas System
702 Colorado Street
Austin, Texas 78701
Attention: Travel Program Director
Fax: 512.322.3731
Email: nsutherland@utsystem.edu

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

SECTION 13 – Preferred Supplier's Obligations.

13.1 Preferred Supplier represents that it has the knowledge, ability, skills, and resources to perform the Services.

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

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

13.4 Preferred Supplier warrants and agrees that the Services will be accurate and free from any material defects. Preferred Supplier's performance of the Services will at no time be in any way diminished by reason of any approval by UT Party nor will Preferred Supplier be released from any liability by reason of any approval by UT Party, it being agreed that UT Party at all times is relying upon Preferred Supplier's skill and knowledge in performing the Services. Preferred Supplier will, at its own cost, correct all material defects in performance of the Services, as soon as practical after Preferred Supplier becomes aware of the defects. If Preferred Supplier fails to correct material defects in the Services within a reasonable time, then UT Party may correct the defect at Preferred Supplier's expense. This remedy is in addition to, and not in substitution for, any other remedy for the defect that UT Party may have at law or in equity.

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

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

13.7 Preferred Supplier will provide the warranties more particularly described in Section 7 of **Rider 100**, Scope of Work, on all Supplies.

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

SECTION 14 – State Auditor's Office:

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

SECTION 15 –Governing Law:

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

SECTION 16 – Breach of Contract Claims:

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

16.1.1 Preferred Supplier's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be

submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Preferred Supplier will submit written notice, as required by subchapter B of Chapter 2260, to UT Party in accordance with the notice provisions in this Agreement. Preferred Supplier's notice will specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that UT Party allegedly breached, the amount of damages Preferred Supplier seeks, and the method used to calculate the damages. Compliance by Preferred Supplier with subchapter B of Chapter 2260 is a required prerequisite to Preferred Supplier's filing of a contested case proceeding under subchapter C of Chapter 2260. The UT Party's chief business officer, or another officer of UT Party as may be designated from time to time by UT Party by written notice thereof to Preferred Supplier in accordance with the notice provisions in this Agreement, will examine Preferred Supplier's claim and any counterclaim and negotiate with Preferred Supplier in an effort to resolve the claims.

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

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

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

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

SECTION 17 – Compliance with Law:

Preferred Supplier will perform the Services in compliance with all Applicable Law. Preferred Supplier represents and warrants that neither Preferred Supplier nor any firm, corporation or institution represented by Preferred Supplier, nor anyone acting for such firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Preferred Supplier's response to UT System's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for the Services.

SECTION 18 – UT Party's Right to Audit:

At any time during the term of this Agreement and for a period of four (4) years thereafter UT System or a duly authorized audit representative of UT System, or the State of Texas, at its expense and at reasonable times, reserves the right to audit Preferred Supplier's records and books directly related to charges paid for all products and services provided under this Agreement. The right will not extend to

any fixed fee component of the charges or to any services performed more than 1 year prior to the date of request for review. In the event such an audit by UT System reveals any errors or overpayments by UT System which error or overpayment is confirmed by Preferred Supplier, Preferred Supplier will refund UT System the full amount of such overpayments within thirty (30) days of such audit findings, or UT System, at its option, reserves the right to deduct such amounts owing to UT System from any payments due Preferred Supplier

SECTION 19 – Access to Documents:

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

SECTION 20 – Insurance:

20.1 Preferred Supplier, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance in the form, with companies admitted to do business in the State of Texas and having an A.M. Best Rating of A:-VII or better, and in amounts (unless otherwise specified), as UT System may require:

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

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

Policies must include (a) Other States Coverage to include TEXAS and any other state that is outside the State of domicile for Preferred Supplier, and (b) a waiver of subrogation in favor of UT System;

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

Each Occurrence Limit	\$1,000,000
Medical Expenses (any one person)	\$ 10,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$2,000,000

Policy will include independent contractor’s liability, covering, but not limited to, the liability assumed under the indemnification provision of this Agreement, fully insuring Preferred Supplier’s (or subcontractor’s) liability for bodily injury (including death) and property damage.

20.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Combined Single Limit Bodily Injury and Property Damage.

20.1.4 Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 per claim.

20.1.5 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate with a deductible of no more than \$10,000, and (i) providing coverage in excess of the coverages of, and (ii) "following form" subject to the same provisions as, the underlying policies required in Section 20.1.1 Employer's Liability Insurance, Section 20.1.2 Commercial General Liability Insurance, and Section 20.1.3 Business Auto Liability Insurance.

20.1.6 Self-Insurance: Preferred Supplier will provide insurance as required herein or self-insurance as addressed by the Texas Transportation Code: Sections 601.053, Evidence of Financial Responsibility and 601.124 Self-Insurance. Insurance will be effective, and evidence of self-insurance will be furnished to UT System, prior to commencing any operations under this Agreement. Site locations listed below:

Texas Transportation Code, Section 601.053,
<http://www.statutes.legis.state.tx.us/Docs/TN/htm/TN.601.htm#601.053>;

Evidence of Financial Responsibility, Section 601.124,
<http://www.statutes.legis.state.tx.us/Docs/TN/htm/TN.601.htm#601.124>

20.2 Preferred Supplier will deliver to UT System:

20.2.1 Evidence satisfactory to UT System in its sole discretion, evidencing the existence of all insurance after the execution and delivery of this Agreement and prior to the performance or continued performance of any services to be performed by Preferred Supplier under this Agreement.

Additional evidence, satisfactory to UT System in its sole discretion, of the continued existence of all insurance not less than thirty (30) days prior to the expiration of any insurance. Insurance policies, with the exception of Workers' Compensation and Employer's Liability, will be endorsed and name UT System and the Institutional Participants as Additional Insureds. All policies will be endorsed to provide a waiver of subrogation in favor of UT System and the Institutional Participants. All policies with the exception of Workers' Compensation and Employer's Liability will be endorsed to provide primary and non-contributory coverage. Preferred Supplier will be responsible for any and all deductibles or self-insurance retentions Preferred Supplier carries under primary or excess insurance. No policy will be canceled until after thirty (30) days' unconditional written notice to UT System. All policies will be endorsed requiring the insurance carrier providing coverage to send notice to UT System 30 days prior to any cancellation, material change, or non-renewal relating to any insurance policy required herein.

20.3 The insurance policies required in this Agreement will be kept in force for the periods specified below:

20.3.1 Commercial General Liability Insurance; Business Automobile Liability Insurance; and Umbrella/Excess Liability Insurance will be kept in force until Preferred Supplier's receipt of final payment from every Institutional Participant; and

20.3.2 Workers' Compensation Insurance and Employer's Liability Insurance will be kept in force until all the Services have been fully performed and accepted by every Institutional Participant.

SECTION 21 – Indemnification:

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

21.2 IN ADDITION, PREFERRED SUPPLIER WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UT PARTY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY PREFERRED SUPPLIER, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF PREFERRED SUPPLIER, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UT PARTIES WILL PROMPTLY NOTIFY PREFERRED SUPPLIER AND PREFERRED SUPPLIER WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UT PARTIES AGREE TO REASONABLY COOPERATE WITH PREFERRED SUPPLIER. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

SECTION 22 – Ethics Matters; No Financial Interest:

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

SECTION 23 – Assignment of Overcharge Claims:

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

SECTION 24 – Assignment and Subcontracting:

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

SECTION 25 – Historically Underutilized Business Subcontracting Plan:

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

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

25.3 If UT Party expands the scope of the Services through a change order or any other amendment, UT Party will determine if the additional scope of work contains probable subcontracting opportunities not identified in the initial solicitation for the scope of work. If UT Party determines additional probable subcontracting opportunities exist, Preferred Supplier will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of 34 TAC Section 20.14 before (1) this Agreement may be amended to include the additional scope of work; or (2) Preferred Supplier may perform the additional scope of work. If Preferred Supplier subcontracts any of the additional subcontracting opportunities identified by UT Party without prior authorization and

without complying with 34 TAC Section 20.14, Preferred Supplier will be deemed to be in breach of this Agreement under Section 4.19 and will be subject to any remedial actions provided by Texas law including Chapter 2161, Texas Government Code, and 34 TAC Section 20.14. UT Party may report nonperformance under this Agreement to the TPSS in accordance with 34 TAC Chapter 20, Subchapter F, Vendor Performance and Debarment Program.

SECTION 26 – Payment and Invoicing:

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

SECTION 27 – Limitations:

The parties to this Agreement are aware that there are constitutional and statutory limitations on the authority of UT Party (a state agency) to enter into certain terms and conditions of this Agreement, including, but not limited to, those terms and conditions relating to disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; dispute resolution; indemnities; and confidentiality (collectively, the “**Limitations**”), and terms and conditions related to the Limitations will not be binding on UT Party except to the extent authorized by the laws and Constitution of the State of Texas.

SECTION 28 – Affirmative Action:

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

SECTION 29 – OSHA Compliance:

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

SECTION 30 - Certifications of Nonsegregated Facilities and Equal Employment Opportunities Compliance:

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

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

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

SECTION 31 – Premises Rules:

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

SECTION 32 – Debarment:

Preferred Supplier confirms that neither Preferred Supplier nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States ("U.S.") federal government procurement or nonprocurement programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs issued by the U.S. General Services Administration. "**Principals**" means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Preferred Supplier will provide immediate written notification to UT Party if, at any time prior

to award, Preferred Supplier learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when UT Party executes this Agreement. If it is later determined that Preferred Supplier knowingly rendered an erroneous certification, in addition to the other remedies available to UT Party, UT Party may terminate this Agreement for default by Preferred Supplier.

SECTION 33 – Office of Inspector General Certification:

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

SECTION 34 – Termination:

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

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

SECTION 35 – Authority:

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

SECTION 36 – Survival of Provisions:

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

SECTION 37 – Confidentiality and Safeguarding of University Records; Press Releases; Public Information:

Under this Agreement, Preferred Supplier may (1) create, (2) receive from or on behalf of UT Party, or (3) have access to UT Party records or record systems (collectively, “**University Records**”). Among other things, University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by applicable federal, state and local, laws, regulations, and ordinances, including the Gramm-Leach-Bliley Act (Public Law No: 106-102) and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (“**FERPA**”). If University Records are subject to FERPA, (1) UT Party designates Preferred Supplier as a university official with a legitimate educational interest in University Records, and (2) Preferred Supplier acknowledges that its improper disclosure or redisclosure of personally identifiable information from University Records may result in Preferred Supplier’s exclusion from eligibility to contract with UT Party for at least five (5) years. Preferred Supplier represents, warrants, and agrees that it will: (1) hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by Agreement, (b) required by law, or (c) otherwise authorized by UT Party in writing; (2) safeguard University Records according to reasonable administrative, physical and technical standards (such as standards established by (i) the National Institute of Standards and Technology and (ii) the Center for Internet Security, as well as the Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which Preferred Supplier protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that University Records are safeguarded and the confidentiality of University Records is maintained in accordance with all applicable federal, state and local, laws, regulations, and ordinances, including FERPA and the Gramm-Leach Bliley Act, and the terms of this Agreement; and (4) comply with the UT Party rules, policies, and procedures regarding access to and use of UT Party computer systems. At the request of UT Party, Preferred Supplier agrees to provide UT Party with a written summary of the procedures Preferred Supplier uses to safeguard and maintain the confidentiality of University Records.

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

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

destruction, Preferred Supplier will confirm to UT Party in writing the destruction of University Records.

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

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

37.5 Public Information. UT Party strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act*, Chapter 552, *Texas Government Code*.

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

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

SECTION 38 – Tax Exemption

UT Party may be an agency of the State of Texas or other non-profit entity and may be exempt from certain state taxes under various exemption statutes, including Texas Sales & Use Tax in accordance with Section 151.309, *Tax Code*, and Title 34 *Texas Administrative Code* (“**TAC**”) Section 3.322. Notwithstanding its exemption from certain state taxes, UT Party will be responsible for any taxes (except corporate income taxes, franchise taxes, and taxes on Preferred Supplier’s personnel, including personal income tax and social security taxes) from which UT Party is not exempt. Preferred Supplier will provide reasonable cooperation and assistance to UT Party in obtaining any tax exemptions to which UT Party is entitled.

SECTION 39 – Undocumented Workers:

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

addition to other remedies or penalties prescribed by law, UT Party may terminate this Agreement in accordance with Section 4.31. Preferred Supplier represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

SECTION 40 – No Required Quantities or Minimum Amounts; Non-Exclusive Contract:

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

40.2 Preferred Supplier and UT System agree that this Agreement is a non-exclusive contract and is not an exclusive purchasing arrangement under which any Services must be procured by UT Party from Preferred Supplier. Preferred Supplier acknowledges and agrees that UT Party may procure any goods and services, including goods and services that are the same as or substantially similar to the Services, from sources other than Preferred Supplier.

SECTION 41 – Access by Individuals with Disabilities:

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

SECTION 42 – Entire Agreement; Modifications:

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

SECTION 43 – Captions:

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

SECTION 44 – Waivers:

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

SECTION 45 – Binding Effect:

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

SECTION 46 – Limitations of Liability:

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

SECTION 47 – Relationship of the Parties:

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

SECTION 48 – Severability:

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

SECTION 49 – External Terms:

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

SECTION 50 – Conflicts:

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

SECTION 51 – Attachments:

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

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

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

THE UNIVERSITY OF TEXAS SYSTEM

[PREFERRED SUPPLIER]

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX THREE- 300

INSTITUTIONAL PARTICIPATION AGREEMENT

By entering into this Institutional Participation Agreement (“**Institutional Participation Agreement**”), the undersigned institution (“**Institutional Participant**”) agrees to the terms and conditions set forth in the Preferred Supplier Agreement for _____ between The University of Texas System and _____, Agreement Number UTSSCA_____ dated effective _____, 2012 (the “**Preferred Supplier Agreement**”). All of the terms and conditions of the Preferred Supplier Agreement are incorporated into this Institutional Participation Agreement for all purposes. Unless otherwise specified in this Institutional Participation Agreement, all defined terms used in this Institutional Participation Agreement have the same meaning as assigned to those terms in the Preferred Supplier Agreement.

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

Benefits from Preferred Supplier Agreement:

Access to _____ from Preferred Supplier at prices which should generate significant cost savings for Institutional Participant.

Institutional Participant’s Responsibilities

To the extent authorized by applicable law, Institutional Participant will use commercially reasonable efforts to perform the following responsibilities:

- Identify Preferred Supplier as the preferred source of _____ services.

[tbd]

Institutional Participant’s notice address and contact information is:

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

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

INSTITUTIONAL PARTICIPANT: Primary Contact:

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

INSTITUTIONAL PARTICIPANT: HUB Contact:

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

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

PREFERRED SUPPLIER Primary Contact:

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

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

The University of Texas _____

By: _____
Printed Name and Title: _____
Signature: _____
Street: _____
City: _____ State: _____ Zip: _____
Date: _____

Upon activation of this Institutional Participation Agreement, Institutional Participant's Primary Contact will receive notification of activation via email. Please return signed completed form to _____, at _____@mdanderson.org

APPENDIX FOUR

ACCESS BY INDIVIDUALS WITH DISABILITIES

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

ATTACHMENT A

PRICE SCHEDULE

A. In-Terminal In-State of Texas Locations

Car Type	Daily	Weekly	Monthly
Sub Compact			
Compact			
Intermediate			
Standard			
Full Size			
Mini-Van			
SUV (small)			
SUV (medium)			
SUV (large)			
Pickup Truck			
12 Passenger Van			
Cargo Van			

B. Off-Terminal In-State of Texas Locations

Car Type	Daily	Weekly	Monthly
Sub Compact			
Compact			
Intermediate			
Standard			
Full Size			
Mini-Van			
SUV (small)			
SUV (medium)			
SUV (large)			
Pickup Truck			
12 Passenger Van			
Cargo Van			

C. In-Terminal Out-of-State of Texas Locations

Car Type	Daily	Weekly	Monthly
Sub Compact			
Compact			
Intermediate			
Standard			
Full Size			
Mini-Van			
SUV (small)			
SUV (medium)			
SUV (large)			
Pickup Truck			
12 Passenger Van			
Cargo Van			

D. Off-Terminal Out-of-State of Texas Locations

Car Type	Daily	Weekly	Monthly
Sub Compact			
Compact			
Intermediate			
Standard			
Full Size			
Mini-Van			
SUV (small)			
SUV (medium)			
SUV (large)			
Pickup Truck			
12 Passenger Van			
Cargo Van			

E. Rental Location Exceptions

List any differences in rates by city or state location as an additive to the base rates quoted above either by amount or percentage and provide a description of the additional fee(s).

City or Location	Additional Fee (\$)	Additional Fee (%)	Description

F. International Rentals

Please list a percentage discount from the current rates for International Rentals. In addition, you may also propose other pricing alternative(s) for International Rentals.

_____ % discount from the then current International Vehicle Rental Rates

G. Box Truck Rentals

Please provide a daily, weekly and monthly rental rate for Box Trucks. Include specifications and equipment options for the Box Truck.

H. Rate Increase

The Rental Rates and other fees specified in this **Attachment A** will be fixed, without adjustment, for the first three years of the Agreement. At least 120 days prior to the end of the third and/or fourth anniversary of the effective date of the Agreement (and thereafter at least 120 days prior to the annual anniversary of the effective date), Preferred Supplier may request an increase in the fees for the succeeding 12 months of the Agreement’s term. Any such adjustment would be made only by written agreement of UT System and Preferred Supplier, following good-faith discussion of documented cost justifications presented by Preferred Supplier. In no event would any increase exceed the amount of an appropriate price index (to be agreed upon by the parties in advance and specified in the Agreement) as applied to Preferred Supplier’s costs incurred since the effective date of the Agreement or the last agreed-upon adjustment, as applicable.

EXHIBIT A

CAR RENTAL VOLUME

Institutions	# of Rentals	Rental Days
UT ARLINGTON	1,475	5,111
UT AUSTIN	11,416	36,751
UT BROWNSVILLE	497	1,565
UT DALLAS	1,854	6,226
UT EL PASO	1,323	3,659
UT HEALTH CENTER - - TYLER	130	392
UT HEALTH SCIENCE CENTER - HOUSTON	2,269	5,052
UT HEALTH SCIENCE CENTER - SAN ANTONIO	720	2,356
UT M.D. ANDERSON CANCER CENTER	1,858	11,036
UT MEDICAL BRANCH - GALVESTON	1,256	3,652
UT PAN AMERICAN	1,779	4,747
UT PERMIAN BASIN	555	1,510
UT SAN ANTONIO	2,130	5,980
UT SOUTHWESTERN MEDICAL CENTER	2,171	5,673
UT SYSTEM ADMINISTRATION	1,842	3,742
UT TYLER	1,559	8,972
Totals:	32,834	106,424

Rentals by Vehicle Class		
Vehicle Class	# of Rentals	Rental Days
Intermediate	9,988	26,007
Full Size	6,088	17,432
Standard	5,459	16,835
Mini Van	2,660	9,082
Compact	2,367	6,795
Passenger Van	1,429	4,656
SUV	1,186	4,087
Sub Compact	873	2,829
Premium	519	1,831
Luxury	353	1,157
Other	1,911	15,713
Totals:	32,833	106,424

EXHIBIT B

TOP DOMESTIC AND INTERNATIONAL RENTAL LOCATIONS

Rentals in Texas	# of Rentals	Rental Days
AUSTIN	4,672	13,848
DALLAS	3,421	6,703
HOUSTON	2,804	11,413
SAN ANTONIO	2,486	9,633
TYLER	1,275	4,330
HARLINGEN	986	1,728
EL PASO	757	1,788
EDINBURG	553	1,751
MCALLEN	544	1,266
MIDLAND/ODESSA	202	346
Totals:	17,700	52,806

Out –Of-State Domestic Rentals	# of Rentals	Rental Days
DENVER, CO	477	1,891
LOS ANGELES, CA	434	1,559
WASHINGTON, DC	390	1,194
ORLANDO, FL	363	1,447
SAN DIEGO, CA	352	1,410
PHOENIX, AZ	320	933
BALTIMORE, MD	301	837
SAN FRANCISCO, CA	295	1,047
SAN JOSE, CA	198	647
CHICAGO, IL	142	539
MADISON, WI	137	458
ALBUQUERQUE, NM	114	473
COLLEGE PARK, GA	101	323
Totals:	3,624	12,758

In addition to the above UT System travelers rent approximately 500 cars per year for international travel. The average rental is three days in length. Based on previous fiscal year data, international destinations include but are not limited to:

- Adelaide, Australia
- Aruba
- Bergen, Norway
- Blenheim, New Zealand
- Calgary, Alberta
- Catania, Italy

- Frankfurt, Germany
- Guam
- Johannesburg, South Africa
- Mahon, Spain
- Melbourne, Australia
- Montreal, Quebec
- Munich, Germany
- Ottawa, Ontario
- Palma, Spain,
- Papeete, French Polynesia
- Tel Aviv, Israel
- Triana, Albania
- Toronto, Ontario
- Toulouse, France
- Trieste, Italy
- Vancouver, British Columbia

EXHIBIT C

UT SYSTEM POLICY UTS157

[Note: to be downloaded and attached.]

ATTACHMENT B
SUPPLIER SURVEY

Company Profile

1. Please provide your company's main address, phone and fax number.
2. Please provide your company's FEIN.
3. Please provide your company's DUNS number.
4. Please provide your company's main contact person for the RFP.
5. What is your company's legal structure?
6. List all individuals, groups, corporations, etc. that hold 25% or greater equity in the company. Please list their respective percentage of ownership.
7. Provide any details of all past or pending litigation arising from your company furnishing an item or service similar to that described in this RFP.
8. Has your company, or any of its parents or subsidiaries, ever had a Bankruptcy Petition filed in its name, voluntarily or involuntarily? If yes, specify date, circumstances, and resolution.
9. Is your Company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, specify details, circumstances, and prospects for resolution.
10. Provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts with and/or has previously provided car rental services of equal type and scope within the past five (5) years. Reference list to include, company name, contact person, and telephone number, description of products and services provided, and length of business relationship.

General Requirements

11. Please provide a listing on all the Expense Management Systems your company can interface with and any special programming or third-party systems that would be required.
12. Please describe the processes for handling toll charges associated with rentals in both the direct bill and individual pay format.
13. Please provide your company's corrective action policy and procedures for addressing reported customer service incidents.
14. Please describe your company's Roadside Assistance Program applicable to this contract.
15. Please outline your company's express service or traveler program options that further improve time efficiency and check-in/return processes. Please note the locations and/or airports where these applicable programs apply.
16. Please describe your company's ability to provide services (including signature less and after-hours rentals) at Texas fixed based operators.
17. Please provide your company's accident reporting policy and procedures applicable to this contract.

17. Please provide a list of all the data elements your company can report on. Do you offer a web based reporting tool?
18. Please provide a detailed Implementation Plan for this Agreement. Such plan should include, but not limited to, communication, training, account set-up, problem resolution, change management, etc.
19. Will your company accept Purchase Orders for the rental of vehicles?
20. What online reservation tools can your company interface with (i.e. Concur/GetThere)?
21. Please describe your company's off-road usage policy and any additional charge for off-road insurance coverage.
22. Please provide your company's policy for driving domestically (USA) rented cars into Canada.

Added Value

23. Please describe any Rewards Point Program that would be available under this Agreement to UT System employees.
24. Please describe any pick-up and/or drop-off services your company will provide to Eligible Travelers.
25. Will Contractor extend these rates (including insurance but excluding taxes) to all UT System employees when not traveling on Official University/State Business?
26. Will your company provide customizable internet sites to institutions to show items like policy requirements, direct billing requirements, or car type requirements?
27. Provide a list of any services or equipment (i.e., GPS) not specified in this RFP that your company will provide to UT System.
28. Provide details regarding any special services/benefits offered or advantages in UT System selecting your company.

1. Title

Automobile Insurance Coverage for Officers and Employees and General Requirements for the Use of Vehicles

2. Policy

Sec. 1 Purpose. The purpose of this policy is to outline the responsibilities and procedures covering the authorized use of University-owned and operated vehicles, procedures for updating the inventory of vehicles for insurance purposes, requirements for the use of vehicles, requirements for authorization of drivers, and procedures for reporting vehicle accidents. Each institution's chief business officer (CBO) is responsible for full implementation of the requirements outlined within this policy.

Sec. 2 Policy Statement. This policy serves as a comprehensive guide for University employees regarding the management of risk as well as operational and legal issues associated with the use of motor vehicles on University business.

Sec. 3 Insurance Coverage.

3.1 University-Owned Vehicles [including long-term (greater than six months) lease vehicles].

(a) Under the provisions of *Texas Civil Practice and Remedies Code* Section 101.027 and *Texas Government Code* Section 612.002, liability insurance has been purchased for officers and employees of the University covering liability arising from the use and operation of University-owned and operated vehicles while on official University business.

The Office of Risk Management procures any necessary insurance coverage and issues certificates of insurance.

(b) Automobile liability coverage is provided for authorized drivers of University-owned vehicles through the Systemwide automobile liability policy. Under the terms of the policy, the insurance company will periodically audit the inventory of vehicles covered.

(c) To assist in this audit, each institution's fleet contact shall update all vehicle information (additions, deletions, and changes) through The University of Texas System Risk Management Information System. When performing

updates, the fleet contact shall assign a Vehicle Classification Rating to each vehicle in accordance with the Motor Vehicle Classification Schedule that appears on Appendix A. Fleet contacts shall update their vehicle information as soon as possible after receiving information requiring an update.

3.2 Rental (Hired) Vehicles [including short-term (less than six months) lease vehicles].

(a) When an employee rents a vehicle from a rental company under contract with the Building and Procurement Commission (Contracted Company), liability, comprehensive, and collision insurance coverages are automatically provided. The Hired/Non-Owned policy provides coverage that is in excess of the insurance secured through the rental agreement.

(b) When a Contracted Company is not used, employees should purchase the collision damage waiver (this is a reimbursable expense). Please contact the U. T. System Office of Risk Management for an explanation of other coverage options, as some of these coverages are not reimbursable.

When an employee does not purchase the collision damage waiver the Hired/Non-Owned policy will provide excess liability, comprehensive, and collision coverage after applicable deductibles.

(c) Institutions must notify the U. T. System Office of Risk Management at least 48 hours prior to the trip if any rental vehicle is to be taken off road or if a vehicle is being rented or leased for extensive travel (travel outside of the 48 contiguous states or rented or leased for more than 30 days). The following information must be provided with the notification:

- i. dates insurance coverage is needed;
- ii. city and state where the vehicle is being rented;
- iii. name, address and phone number of the rental company;
- iv. make, model, license number, vehicle identification number and value of vehicle;

- v. names of the individuals that will be driving the vehicle;
and
 - vi. purpose of the rental.
 - (d) If renting a vehicle for use within the country of Mexico, refer to Section 3.6, Travel Outside of the United States of America, of this policy for additional information.
 - (e) If a leasing company requires a copy of the Certificate of Insurance before releasing the vehicle, then the institution needs to notify the U. T. System Office of Risk Management. The same information as mentioned in Section 3.2(c) is needed. The U. T. System Office of Risk Management will then notify the insurance company to request the certificate. Institutions shall develop internal procedures for centralizing these requests.
 - (f) If a rental vehicle is involved in an accident, both the driver and institution shall follow Section 7, Post Accident Claims Procedures, of this policy.
- 3.3 Rental (Hired) Charter Bus Vehicles [including short-term (less than six months) lease vehicles]. Chartered buses have inherent and unique exposures that require the contract charter company and any subcontractor bus companies to follow certain guidelines and insurance requirements. Institutions entering into agreements with charter or bus companies should follow the contract requirements as outlined in Appendix C under Item 5. Any questions about the guidelines and insurance requirements should be directed to the Office of Risk Management.
- 3.4 Personal (Non-University-Owned) Vehicles.
- (a) Employees are strongly discouraged from using personal vehicles for conducting official University business. Each institution is responsible for informing employees that their personal auto insurance will be primary at all times when the employee utilizes their own vehicle to conduct official University business. Additionally, each employee should be informed of the following:
 - i. that they must have a valid driver's license issued by the state where they permanently reside that is not currently suspended or revoked;

- ii. that they must carry auto liability insurance that meets the minimum requirements in their state of residence; and
 - iii. that the U. T. System Hired/Non-Owned policy of insurance is secondary to the employee's personal auto liability insurance in the event of any claim or litigation.
- (b) The Hired/Non-Owned policy provides liability-only coverage for employees using their personal vehicles while conducting official University business. This coverage is secondary to any personal auto insurance the employee has, and is only for property damage or bodily injury to third parties. It does not provide any physical damage coverage for damages sustained to the employee's vehicle. If an employee using his or her personal vehicle for official University business is involved in an accident, the institution shall notify the U. T. System Office of Risk Management by the next business day. Institutions and employees shall follow Section 7, Post Accident Claims Procedures, of this policy.

3.5 Other Insurance Coverages.

- (a) Insurance covering physical damage to a University-owned or leased vehicle is also available to institutions. This coverage is typically purchased for newer vehicles or when lease terms require physical damage insurance.
- (b) Insurance providing full coverage, which includes liability, uninsured motorist, underinsured motorist, physical damage, and personal injury protection coverages, is available to institutions as well. This coverage is most commonly purchased when a University-owned or leased vehicle is assigned to a particular employee or group of employees (e.g. Chief of Police, Physical Plant Director, etc.).

3.6 Travel Outside of the United States of America.

- (a) The Office of Risk Management has purchased an International Package Policy that provides coverage for autos used outside of the United States of America, its territories and possessions, Puerto Rico, and Canada. This policy provides liability and physical damage coverage for both owned private passenger vehicles and hired/non-owned vehicles. Most rental car agencies in foreign countries will require that their insurance be purchased in order to rent

their vehicles. The international auto insurance would be excess over the coverage that is purchased from the rental agency.

- (b) The Office of Risk Management has also purchased a Mexico Tourist Policy. When traveling into Mexico on official University business, U. T. System drivers must have in their possession a vehicle specific Mexico auto identification card and a copy of the Mexico Tourist Policy. These documents are required to be carried by Mexico law. The Mexico Tourist Policy provides liability and physical damage coverage for owned private passenger autos and hired vehicles, and liability for non-owned vehicles.
- (c) Each year prior to renewal of the Mexico Tourist Policy, institutions must advise the Office of Risk Management of any University-owned vehicles that will be used for Mexico travel throughout the year. Institutions must provide the year, make, model, and vehicle identification number of the vehicles they want listed on the policy. These institutions will be given a Mexico auto identification card for these vehicles as well as a copy of the policy. If a University-owned vehicle that was not submitted for the renewal is being used, contact the Office of Risk Management and provide the year, make, model, and vehicle identification number of the vehicle. The Office of Risk Management will supply a Mexico auto identification card and a copy of the policy.
- (d) Additionally, the Office of Risk Management has obtained approval from AVIS and Enterprise Rent-A-Car allowing the University to use its Mexico Tourist Policy to cover their rented vehicles when traveling into Mexico. When renting a vehicle in Texas for use in Mexico from either of these two vendors, the employee making the reservation for the rental vehicle should contact the Office of Risk Management with the name of the driver(s) and the dates they will be using the rental car in Mexico. The Office of Risk Management will provide the institution with a Mexico auto identification card. The spaces on the card for the vehicle description and identification number will be blank. The driver(s) needs to ensure that they enter the vehicle description and identification number of the vehicle they are renting on the Mexico auto identification card before leaving the rental agency. The Office of Risk Management will also provide the institution with a copy of the University's approval letter from

either AVIS or Enterprise Rent-A-Car. The employee should take the Mexico auto identification card, the Mexico Tourist Policy, and the approval letter with them to the rental counter. The driver(s) should keep the rental contract, Mexico auto identification card and Mexico Tourist Policy in the rental car at all times while in Mexico.

Sec. 4 Institution Fleet Safety Programs. To reduce the risk of accidental loss associated with the use of vehicles by the University, each institution shall adopt a comprehensive fleet safety program to include policies and procedures for the following: minimum driver standards; driver's motor vehicle record checks for authorized drivers and potential drivers; post accident reviews and remedial actions; driver training; drug and alcohol testing for drivers of commercial motor vehicles; and other policies and procedures consistent with the State Vehicle Fleet Management Plan and this policy.

Sec. 5 Requirements for the Authorization of Drivers.

5.1 Limitations. Authorization of drivers for the use of vehicles for official University business shall be limited to employees of the University unless otherwise approved in writing by the U. T. System Office of Risk Management or the CBO as specified below. The CBO may use his/her discretion to approve the limited use of any University-owned, leased, or rented motor vehicles for official University business. This approval authority applies only to

(a) third-party contractors utilizing University-owned vehicles for the purpose of meeting its responsibilities under a University contract. All contracts that may allow the use of University-owned vehicles by non-employees shall be reviewed by U. T. System Office of Risk Management to ensure that adequate transfer of liability is included in the contract language; and

(b) use of University-owned vehicles by nonstudent volunteers.

5.2 Authorized Driver. The CBO shall ensure that any approval given to operate a University-owned or leased vehicle must meet all requirements of an authorized driver as described in this policy. Students shall not be granted authority to drive.

5.3 Authorized Driver List. Each institution shall maintain a list of all authorized drivers of University-owned vehicles (listed alphabetically) to include all of the following:

- (a) driver's name (as it appears on his or her license);
- (b) driver's license number;
- (c) date of birth;
- (d) driving status (acceptable or not acceptable);
- (e) date of last training/counseling; and
- (f) notations regarding any misconduct with the vehicle, any reprimands concerning his or her driving, any positive remarks regarding his or her safe driving.

5.4 Motor Vehicle Record (MVR) Checks.

- (a) Before employing a person as an authorized driver of a University-owned vehicle for official University business, each institution shall request a Motor Vehicle Report showing a history going back at least 36 months that lists all convictions for traffic violations issued to the potential employee and a verification that the person has a valid driver's license issued by the state in which the person permanently resides. Incumbent authorized drivers will have their MVR checked by their respective institution
 - i. at least every twelve months after initially authorized; or
 - ii. promptly after the employee has been involved in an automobile accident while driving on official University business; and
 - iii. promptly after the employee receives a moving traffic citation while on official University business.
- (b) Authorized drivers and persons seeking a position that requires authorization to operate a University-owned vehicle for official University business will be evaluated on the most recent three-year history reflected on their MVR and points will be assigned by the institution according to Appendix B. If the total points equal four or more for the immediately preceding 36 months, the person shall not be authorized to operate a University-owned vehicle for official University business. As noted above, if an institution is unable to obtain a driving record for the preceding 36 months, the institution's CBO may use his/her discretion to authorize the employee to

operate a University-owned vehicle for official University business.

(c) See Appendix B, MVR Points Schedule.

5.5 Reporting Responsibilities.

(a) An authorized driver of a University-owned vehicle shall immediately report to his or her supervisor a suspension or revocation of the driver's license or any Type A violation as defined in this policy including the nature of the charge, the pleas entered by the driver, the scheduled court date, and the findings of the court. An employee who fails to provide required notice shall be subject to disciplinary action up to and including dismissal. Additionally, an authorized driver shall promptly report to his or her supervisor if the driver has been involved in a Type B violation as defined by this policy or an at-fault automobile accident while operating a University-owned vehicle for official University business.

(b) An employee who operates a University-owned, rented, leased, or personal vehicle for official University business at a time when his or her license was suspended or revoked, shall be subject to disciplinary action up to and including dismissal.

5.6 Driver Training. Each institution shall require driver training for each authorized driver of University-owned vehicles at least every three years. Driver training may include, but is not limited to

(a) defensive driving;

(b) one-day seminars on driving improvement;

(c) driver training videos on specific driving skills in which the driver may be deficient; or

(d) hands-on, behind-the-wheel training.

Sec. 6 Operation of 12 and 15-Passenger Vans.

6.1 Requirements. Institutions shall ensure the following regarding the use of 12 and 15-passenger vans:

(a) require that 12 and 15-passenger vans be operated only by experienced, authorized drivers who understand and are

familiar with the handling characteristics of the vans, especially when the van is fully loaded. This shall include having all operators of 12 and 15-passenger vans attend van-specific training, including behind-the-wheel on-the-road training. Each institution shall require specialized driver training for each driver of University-owned, rented, or leased 12 and 15-passenger vans at least every three years;

- (b) 12 and 15-passenger vans shall not be used to carry more than nine occupants (including the driver) at any one time, except as provided in the following sentence. At the discretion of the institution's CBO, an institution may use a 12 and 15-passenger van to carry between 10 and a maximum of 15 occupants (including the driver) on inner-campus, nonpublic streets only, provided that: (1) the van does not cross over or travel on public streets; and (2) the van is not driven at a speed in excess of the posted campus speed limit, or in excess of 15 mph if there is no posted campus speed limit;
- (c) require seat belt use at all times by all occupants of 12 and 15-passenger vans;
- (d) require proper loading of vehicles. Consult the owner's manual to determine the maximum load for the vehicle and the proper distribution of that load. Passengers shall be seated only in recognized seats and in an arrangement designed to spread out the load. Luggage shall be placed in the rear behind the last seat and shall not be allowed on the roof when the van is being operated;
- (e) require that tires be inspected to assure they are properly inflated and not worn;
- (f) limit the number of total hours a driver may operate the vehicle to no more than 10 hours in any 24-hour period. Trips requiring more than ten hours driving time to reach a point of destination will require overnight lodging;
- (g) van drivers shall take a mandatory 30-minute rest break every four hours; and
- (h) for trips scheduled for longer than two hours, assign a navigator to assist each driver. The navigator must stay awake while on duty.

- 6.2 Special 12-Passenger Van Provisions for Newer Vehicles. Institutions that purchase or rent a 12-passenger van that meets all of the following criteria may forgo the nine-passenger-only limitation:
- (a) 12-passenger vans must not be a converted, modified, or otherwise altered 15-passenger van;
 - (b) 12-passenger vans must have a wheel base of approximately 135 inches or more;
 - (c) 12-passenger vans must not have the ability to seat more than 12 passengers including the driver and have assigned seatbelts for each seat;
 - (d) 12-passenger vans must be equipped with an Electronic Stability Control (ESC) or Traction Control System (TCS); and
 - (e) 12-passenger vans should also be equipped with other safety features, such as front and side curtain air bags, antilock brakes, and a tire pressure monitoring system.
- 6.3 Commercial Driver's License (CDL).
- (a) A CDL is required of authorized drivers who operate commercial motor vehicles (CMVs) for official University business if one of the following conditions is met:
 - i. has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds);
 - ii. has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more);
 - iii. is designed to transport 16 or more passengers, including the driver; or
 - iv. is of any size and is used in the transportation of hazardous materials as defined in 49 U.S.C. 5103 and is required to be placarded under 49 *Code of Federal Regulations* (CFR), Part 172, Subpart F.
 - (b) In accordance with the U.S. Department of Transportation's Federal Motor Carrier Safety Regulations, 49 CFR Parts 40

and 382, employers shall test drivers holding a CDL for drugs and alcohol. The regulations call for preemployment, post accident, reasonable suspicion, random, return-to-duty, and follow-up drug and alcohol testing. Institutions with authorized drivers who are required to hold a CDL shall adopt a drug and alcohol-testing program that meets the regulatory requirements.

- Sec. 7 Post Accident Claims Procedures. Reporting procedures shall be established by each institution to ensure authorized drivers understand their post accident claim handling and reporting responsibilities and to ensure that the CBO or designee is immediately made aware of any incidents that could lead to a claim under any automobile insurance policy purchased by or for the benefit of the institution.

An ACORD Automobile Loss Notice Report Form should be completed for each accident.

The Office of Risk Management will assist with processing claims and may request additional information needed from the institutions related to claims processing after an accident.

7.1 Driver Responsibilities.

- (a) While at the scene of the accident, authorized drivers shall attempt to obtain as much information as possible, including the license plate number of any vehicles at the scene, and insurance information from the other parties involved in the accident. As soon as possible, the authorized driver shall provide this information to his or her institution's fleet contact.
- (b) Authorized drivers of University-owned vehicles should advise other parties involved in the accident that the accident will be reported to the University's insurance company who will be in contact with the claimant. Authorized drivers should not make any representations regarding insurance coverage or admit fault to other parties involved in the accident, because the insurance adjuster will make the determination of coverage available under the insurance policy and assess liability.

7.2 Institution Responsibility.

- (a) The current procedures for reporting Domestic, International, and Mexico Auto claims (or possible claims) to the insurance

carrier can be found here:

<http://utsystem.edu/orm/riskfinance/rfautoclaim.htm>

- (b) It is important for the insurance company to know clearly and as soon as possible, all factual information about the accident. If the facts lead the driver or the fleet contact to the opinion that the University is not at fault, clearly state that information when submitting the claim. If fault is questionable, the driver or fleet contact should provide supporting information to assist the insurance company with its investigation.
- (c) The U. T. System Office of Risk Management or the insurance company may request additional information needed for their files or for further processing.
- (d) Authorization for repairs will not be given until the claim is reviewed by the insurance company.

3. Definitions

Authorized Driver - an employee of The University of Texas System (University) who is eligible to operate a University-owned vehicle for official University business is an authorized driver. To be eligible, an employee must hold a valid driver's license issued by the state where the employee permanently resides, have an acceptable driving record, and have the necessary driver training.

Commercial Motor Vehicle (CMV) - the U.S. Department of Transportation - Federal Motor Carrier Safety Administration defines a CMV as any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle

1. has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds);
2. has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more);
3. is designed to transport 16 or more passengers, including the driver; or
4. is of any size and is used in the transportation of hazardous materials as defined in 49 U.S.C. 5103 and is required to be placarded under 49 CFR, Part 172, Subpart F.

Employee - a person employed in the service of the University under an appointment or oral or written express contract for hire whose name appears on the payroll of a U. T. System institution or U. T. System Administration.

Institution - these include The University of Texas at Arlington, The University of Texas at Austin, The University of Texas at Brownsville, The University of Texas at Dallas, The University of Texas at El Paso, The University of Texas - Pan American, The University of Texas of the Permian Basin, The University of Texas at San Antonio, The University of Texas at Tyler, The University of Texas Southwestern Medical Center, The University of Texas Medical Branch at Galveston, The University of Texas Health Science Center at Houston, The University of Texas Health Science Center at San Antonio, The University of Texas M. D. Anderson Cancer Center, The University of Texas Health Science Center at Tyler, and U. T. System Administration.

Official University Business (as it relates to operating a motor vehicle) - driving a vehicle during the course and scope of employment for the University regardless of the frequency of driving or operating duties.

University-Owned Vehicle - a vehicle to which the University holds title or a vehicle leased by the University for more than six months.

Vehicle - equipment of a motorized, vehicular nature, which requires a state driver's license to operate. This does not include riding lawnmowers or other vehicles that normally operate off public thoroughfares, except for incidental crossing of a public roadway.

4. Relevant Federal and State Statutes

U.S. Department of Transportation's Federal Motor Carrier Safety Regulations, 49 CFR Parts [40](#) and [382](#) and [383](#)

Texas Department of Public Safety, 37 TAC, Chapter 16

5. Relevant System Policies, Procedures, and Forms

INT114, Travel Policy, Section 3.1.2.3 Additional Charges

[Rental Cars](#)

Board of Regents' *Rules and Regulations*, Rule 50601, [Student Travel](#)

Appendix A: Motor Vehicle Classification Schedule

http://www.utsystem.edu/policy/forms/uts157/Motor_Vehicle_Classification.pdf

Appendix B: MVR Points Schedule

http://www.utsystem.edu/policy/forms/uts157/MVR_Points.pdf

Appendix C: Contract Guidance, Insurance and Rating Check Requirements for Charter Bus Companies

http://www.utsystem.edu/policy/forms/uts157/Charterbus_Contract_Guidelines.pdf

6. Who Should Know

Chief Business Officers
Physical Plant Directors
Institutional Travel Contacts
Institutional Fleet Contacts
Risk Management Advisory Committee
Authorized Drivers

7. System Administration Office(s) Responsible for Policy

Office of Risk Management

8. Dates Approved or Amended

May 7, 2002
Amended June 17, 2009
Amended June 14, 2011

9. Contact Information

Questions or comments about this policy should be directed to:

- bor@utsystem.edu