

REQUEST FOR PROPOSALS

RFP No: HHSC 26-010

TO PROVIDE:

Compensation Management Software with Policy and Procedure
Support

for

Hawaii Health Systems Corporation

Hawaii Health Systems Corporation
3675 Kilauea Avenue
Honolulu, Hawaii 96816
An Agency of the State of Hawaii

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SECTION 1

ADMINISTRATION

1.0 INTRODUCTION

This Request for Proposal (“RFP”) is issued by the Hawaii Health Systems Corporation (“HHSC”), a public body corporate and politic and an instrumentality and agency of the State of Hawaii. This solicitation is governed by the provisions of Hawaii Revised Statutes (“HRS”) Chapter 103D and its implementing rules. All procedures and processes will be in accordance with HRS Chapters 103D and 323F. To the extent this solicitation contains any terms or provisions inconsistent with HRS Chapter 103D and its and implementing rules, the statutes and the rules shall govern.

Thank you for your interest in submitting a proposal for this solicitation. The rationale for this competitive sealed RFP is to promote and ensure the fairest, most efficient means to obtain the **best value** to HHSC, i.e., the proposal offering the greatest overall combination of service and price, all of which shall be assessed in accordance with the evaluation criteria established in this RFP. Hereinafter, organizations interested in submitting a proposal in response to this RFP shall be referred to as “OFFEROR”.

To allow HHSC to evaluate OFFEROR’S response in a timely manner, please thoroughly read this RFP and follow instructions as presented.

1.1 RFP TIMETABLE AS FOLLOWS

The timetable as presented represents HHSC’s best estimated schedule. If an activity of the timetable, such as “Closing Date for Receipt of Questions” is delayed, the rest of the timetable dates may be shifted. OFFEROR will be advised, by addendum to the RFP, of any changes to the timetable. Contract start date will be subject to the issuance of a Notice to Proceed.

ACTIVITY		SCHEDULED DATES
1.	RFP Public Announcement	June 30, 2026
2.	Closing Date for Receipt of Questions	July 8, 2026
3.	Addendum for HHSC Response to Offeror’s Questions	July 16, 2026
4.	Closing Date for Receipt of Proposals	July 30, 2026- No Later Than 3:00 p.m., HST
5.	Mandatory Requirements Evaluation	July 31, 2026
6.	Proposal Evaluations	August 3-14, 2026
7.	Proposal Discussions (optional)	To be determined
8.	Demonstrations (Tentative)	Tentatively Scheduled: August 17-21, 2026
9.	Best and Final Offers (optional)	To be determined
10.	Contractor Selection/Award Notification (on/about)	On or about August 26, 2026
11.	Contract Execution Period	August 27, 2026 -September 8, 2026
12.	Contract Tentative Award Date	On or about September 2026

1.2 AUTHORITY

This RFP is issued under the provisions of the HRS, Chapter 103D and its administrative rules. All OFFERORS are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any OFFEROR shall constitute admission of such knowledge on the part of such OFFEROR.

1.2.1 RFP ORGANIZATION

This RFP is organized into five sections:

SECTION 1: ADMINISTRATIVE

Provides information regarding administrative requirements.

SECTION 2: SCOPE OF SERVICES

Provides a detailed description of goods and/or services to be provided and delineates HHSC and CONTRACTOR responsibilities.

SECTION 3: PROPOSALS

Describes the required format and content for submission of a proposal.

SECTION 4: EVALUATION

Describes how proposals will be evaluated and lists the “value weight percentages” of the evaluation categories.

SECTION 5: AWARD OF CONTRACT

Describes procedures for selection and award of contract.

1.3 HEAD OF PURCHASING AGENCY (HOPA)

The HOPA for HHSC, or designee, is authorized to execute any and all Agreements (Contracts), resulting from this RFP.

The HOPA for this RFP is:

Edward N. Chu
Chief Financial Officer
Hawaii Health Systems Corporation

1.4 DESIGNATED OFFICIALS

The officials identified in the following paragraphs have been designated by the HOPA as HHSC’s procurement officials responsible for execution of this RFP, award of Agreement and coordination of CONTRACTOR’s satisfactory completion of contract requirements.

1.4.1 ISSUING OFFICER

The Issuing Officer is responsible for administering/facilitating all requirements of the RFP solicitation process and is the **sole point of contact** for OFFEROR from date of public announcement of the RFP until the selection of the successful OFFEROR. The Issuing Officer will also serve as the Contract Manager responsible for contractual actions throughout the term of the contract. The Issuing Officer is:

Nancy Delima, Contracts Manager
HHSC
PH: (808) 243-3091
ndelima@hhsc.org

1.5 HHSC ORGANIZATIONAL INFORMATION

1.5.1 CHARTER

HHSC is a public body corporate and politic and an instrumentality and agency of the State of Hawaii. HHSC is administratively attached to the Department of Health, State of Hawaii and was created by the legislature with passage of Act 262, Session Laws of the State of Hawaii 1996. Act 262 affirms the State's commitment to provide quality health care for the people in the State of Hawaii, including those served by small rural facilities.

1.5.2 STRUCTURE AND SERVICES

HHSC oversees the operation of twelve public health facilities throughout the Hawaiian Island chain, including Oahu, Kauai and Hawaii. In addition to the nine HHSC facilities, Kahuku Medical Center, Hawaii Health Systems Foundation, and Alii Community Care are wholly owned subsidiaries and may be included in this solicitation.

HHSC is organized into four operational regions and provides a broad range of healthcare services including acute, long term, rural and ambulatory health care services. Following the transfer of the Maui regional Facilities (Maui Memorial Medical Center, Kula Hospital and Lana'i Community Hospital) to private operation on July 1, 2017, HHSC has approximately 2,000 employees and operates approximately 768 licensed beds of which 302 are Acute and 486 are designated Long-Term Care. It is important that Offerors are aware that HHSC is made up of multiple regions and provider types, and that some regions are geographically separate from another (access only by plane or boat between some regions).

1.5.3 MISSION

The mission of HHSC is to provide and enhance accessible, comprehensive health care services that are quality-driven, customer-focused and cost-effective.

1.6 FACILITY INFORMATION

Detailed information pertaining to HHSC facilities is located at <http://www.hhsc.org>.

1.7 SUBMISSION OF QUESTIONS

Questions must be submitted in writing via electronic mail, or post mail to the Issuing Officer no later than the "Closing Date for Receipt of Questions", identified in Section 1.1 in order to generate an official answer. All written questions will receive an official written response from HHSC and become addenda to the RFP.

- IMPORTANT -

Offeror may request changes and/or propose alternate language to the attached HHSC General Terms and Conditions during the Question/Addenda phase only. OFFEROR is advised to perform legal review of the HHSC General Terms & Conditions, and to submit any written requests for revisions during this time. All requests will be presented to the HHSC Legal Department for review. No requests to change the HHSC General Terms and Conditions will be entertained after the proposals have been submitted or during the contract execution process. All written questions will receive an official written response from HHSC and approved revisions shall be recorded as addenda to the RFP. Revisions to the HHSC General Terms and Conditions will take the form of Special Conditions in the resulting award.

HHSC reserves the right to reject or deny any request(s) made by OFFEROR.

Responses by HHSC shall be due to the OFFEROR no later than the dates for initial questions and final questions stipulated in Section 1.1.

Impromptu, un-written questions are permitted and verbal answers will be provided during pre-proposal conferences and other occasions. Such responses are **only** intended as general direction and do not and shall not represent the official HHSC position. The only official position of HHSC is that which is stated in writing and issued in the RFP as addenda thereto.

No other means of communication, whether oral or written, shall be construed as a formal or official response/statement and may not be relied upon.

SEND QUESTIONS TO:

Nancy Delima, Contracts Manager
Email: ndelima@hhsc.org

1.8 SOLICITATION REVIEW

OFFEROR should carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter, **excluding requests to revise the General or Special Conditions**, must be made in writing and should be received by the Issuing Officer, Nancy Delima, no later than the "Closing Date for Receipt of Proposals" as identified in Section 1.1. This will allow issuance of any necessary amendments to the RFP. It will also assist in preventing the opening of proposals upon which award may not be made due to a defective solicitation package.

1.9 RFP AMENDMENTS

HHSC reserves the right to amend the RFP any time prior to the ending date for the proposal evaluation period. RFP Amendments will be in the form of addenda.

1.10 CANCELLATION OF RFP

The RFP may be canceled when it is determined to be in the best interests of HHSC.

1.11 PROTESTS

Pursuant to HRS §103D-701, an actual or prospective offeror who is aggrieved in connection with the solicitation or award of the contract may submit a protest. Any protest shall be submitted in writing to the HOPA as noted below.

A protest based upon the content of the solicitation shall be submitted in writing within five (5) working days **after** the aggrieved individual/business knows or should have known of the facts giving rise thereto; provided further that the protest shall not be considered unless it is submitted in writing prior to and not later than the "Closing Date for Receipt of Proposals" identified in section 1.1.

A protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract as detailed in HRS 103D and its implementing rules. The notice of award, if any, resulting from this solicitation shall be posted in the Hawaii State Procurement Reporting System website:

<http://www.hawaii.gov/spo2/source/>

Any and all protests shall be submitted in writing to the HOPA, as follows:

Edward N. Chu
Chief Financial Officer
Hawaii Health Systems Corporation
3675 Kilauea Avenue
Honolulu, Hawaii 96816

SECTION 2

SCOPE OF SERVICES

2.0 INTRODUCTION

The purpose of this competitive solicitation is to award a single, fixed-priced Agreement for OFFEROR to conduct the **“Physician Compensation Management Software with Policy and Procedure Support.”**

The OFFEROR awarded an Agreement under this RFP shall be referred to as “CONTRACTOR” or “OFFEROR”.

2.1 CONTRACT PERIOD

The term of contract shall be for a twelve (12) month period, with four (4) one-year option periods.

2.2 SCOPE OF SERVICES

OFFEROR shall provide archiving services necessary to ensure that the Hawaii Health Systems Corporation (“HHSC”) effectively performs its functions and attains its mission in compliance with applicable federal and state laws and regulations that impact health care services.

Introduction

HHSC is seeking proposals from qualified vendors to provide a comprehensive Physician Compensation Management Software solution. The software should support the development, implementation, and administration of physician and advanced practice provider (APP) compensation models, ensure compliance with regulatory requirements, and include access to sample policies, procedures, and toolkits to guide governance, standardization, and training.

Objectives

The primary objectives of this project are to:

- Implement an automated, transparent, and scalable compensation management system.
- Ensure compliance with federal and state regulations (e.g., Stark Law, Anti-Kickback Statute, FMV/CR standards, HIPAA).
- Streamline integration with existing HR, payroll, EMR/EHR, and financial systems.
- Provide policies and procedures that standardize physician compensation governance, oversight, and operational workflows.
- Support organizational strategy, financial sustainability, and physician engagement.

Scope of Services

A. Vendors must provide information on how their solution meets the following:

Software Features

- Ability to manage multiple compensation models (e.g., base salary, wRVU, collections, quality incentives, call pay, administrative stipends).
- Customizable rules engine to support varied models across specialties.
- Dashboards and reporting for Finance, Compliance, HR, and physician leadership.
- Real-time tracking of wRVUs, productivity, quality, and incentive metrics.
- Scenario modeling for new hires, contract renewals, and strategic planning.
- Automated fair market value (FMV) benchmarking and commercial reasonableness tools.
- Audit trails and workflow approvals for compliance and legal review.

Integration

- Seamless data integration with EMR/EHR, payroll, HRIS, and financial platforms.
- Role-based access and secure permissions for different stakeholders.

Policies & Procedures Support

Access to sample policies and procedures for:

- Physician compensation governance
- Contract management workflows
- FMV documentation and approval
- Compensation plan modifications and exception handling
- Conflict of interest management
- Billing integrity and compliance reporting
- Customizable toolkits, templates, and training materials.
- Best practice guidance for policy adoption and governance structure.

B. Technical Requirements

Desktop | Server / On-Premises | Cloud / SaaS

Includes HIPAA BAA, PHI Encryption, and Audit Log Retention Requirements

Legend	
SHALL — Mandatory requirement. Non-compliance is disqualifying.	SHOULD — Desired/scored requirement. Partial compliance is evaluated.
Rows highlighted in red indicate HIPAA-specific requirements.	Cite 45 CFR references apply to HIPAA Security Rule. HRS §622-58 (Hawaii) governs where stricter.

Section 1: Desktop Application Requirements

1.1 Operating System & Compatibility

#	Level	Requirement
1	SHALL	The application shall support Windows 11 or later on both 32- and 64-bit architectures.
2	SHALL	The application shall not require local administrator privileges for day-to-day operation after initial installation.
3	SHALL	The application shall be deployable via enterprise software distribution tools (e.g., SCCM, Intune, JAMF).

1.2 Installation & Footprint

#	Level	Requirement
5	SHALL	The installation package shall be available as an MSI or MSIX for Windows deployment.

#	Level	Requirement
6	SHALL	The installed application shall not exceed 2 GB of disk space, excluding user-generated data.
7	SHALL	The application shall support silent/unattended installation with configurable parameters.
8	SHOULD	The application should support per-machine and per-user installation modes.

1.3 Performance

#	Level	Requirement
9	SHALL	The application shall launch to a functional state within 10 seconds on hardware meeting minimum specifications.
10	SHALL	The application shall operate with no more than 4 GB RAM under normal single-user workload.
11	SHALL	The application shall not consume more than 25% CPU on average during idle or background states.

1.5 Accessibility

#	Level	Requirement
16	SHALL	The application shall conform to WCAG 2.1 Level AA and Section 508 of the Rehabilitation Act.
17	SHALL	The application shall be operable using keyboard navigation without requiring a mouse.
18	SHALL	The application shall be compatible with JAWS and NVDA screen readers.

Section 2: Server / On-Premises Requirements

2.1 Platform & Architecture

#	Level	Requirement
19	SHALL	The server application shall support deployment on Windows Server 2019/2022 and/or RHEL 8/9 or Ubuntu Server 22.04 LTS.
20	SHALL	The application shall support a minimum of N+1 redundancy for all critical service components.
21	SHALL	The application architecture shall support horizontal scaling by adding application server nodes without service interruption.
22	SHOULD	The application should support containerized deployment via Docker and Kubernetes (OCI-compliant images).

2.2 Database

#	Level	Requirement
23	SHALL	The application shall support a vendor-supported relational database (e.g., Microsoft SQL Server 2019+, PostgreSQL 14+, or Oracle 19c+).
24	SHALL	The Offeror shall document all database objects created, including tables, stored procedures, views, and indexes.
25	SHALL	The application shall support database clustering or Always-On configurations for high availability.
26	SHALL	The application shall support database backup and restore procedures without requiring application downtime beyond the agreed maintenance window.

2.5 High Availability & Disaster Recovery

#	Level	Requirement
37	SHALL	The application shall support a documented RTO of no more than 4 hours and RPO of no more than 1 hour.
38	SHALL	The application shall support active-passive or active-active failover between nodes or data centers.
39	SHALL	The Offeror shall document all single points of failure and provide mitigation strategies for each.

2.6 Network & Ports

#	Level	Requirement
40	SHALL	The Offeror shall document all required inbound and outbound network ports, protocols, and connection endpoints.
41	SHALL	All inter-service communication shall use encrypted channels (TLS 1.2 minimum, TLS 1.3 preferred).
42	SHALL	The application shall support operation behind a reverse proxy and shall not rely on direct IP addressing by clients.

Section 3: Cloud / SaaS Requirements

3.1 HIPAA Business Associate Agreement [HIPAA]

★ **HIPAA Note:** Requirements in this section are governed by the HIPAA Security Rule and/or Hawaii HRS §622-58.

#	Level	Requirement
43	SHALL	The Offeror shall execute a HIPAA-compliant Business Associate Agreement (BAA) with the Purchaser prior to accessing, processing, transmitting, or storing any PHI. The BAA shall be a condition of contract award.
44	SHALL	PHI encryption in transit and at rest [HIPAA]
45	SHALL	Audit Logging — Cloud PHI Access [HIPAA]
46	SHALL	The Offeror shall maintain and make available upon request a current HIPAA Security Risk Assessment conducted in accordance with 45 CFR §164.308(a)(1), performed within the prior 12 months.
47	SHALL	The Offeror shall provide a current SOC 2 Type II report (dated within 12 months of contract execution) demonstrating controls over security, availability, and confidentiality.

3.4 Deployment Model & Data Residency

#	Level	Requirement
57	SHALL	The Offeror shall disclose the cloud provider(s), region(s), and data residency for all environments (production, staging, DR).
58	SHALL	Purchaser data shall reside within the United States. Data shall not be processed or stored outside the U.S. without prior written approval.
59	SHALL	The Offeror shall disclose all sub-processors that handle Purchaser data and shall notify Purchaser of changes within 30 days.

3.5 Availability & SLA

#	Level	Requirement
60	SHALL	The Offeror shall provide a minimum 99.9% uptime SLA for production environments, excluding agreed maintenance windows.
61	SHALL	Planned maintenance windows shall not exceed 4 hours per month and shall occur outside of business hours with at least 5 business days' notice.
62	SHALL	The Offeror shall provide a public or customer-facing status page with real-time availability and incident history.

3.6 Integration & API

#	Level	Requirement
63	SHALL	The application shall provide seamless data integration with HHSC regional EMR/EHR, Infor HRIS, and Infor FSM.

3.7 Data Portability & Exit

#	Level	Requirement
67	SHALL	Upon contract termination, the Offeror shall provide all Purchaser data in a non-proprietary, machine-readable format within 30 days.
68	SHALL	Following confirmed data return, the Offeror shall irreversibly destroy all Purchaser data within 60 days and provide written certification.

Section 4: Deployment Requirements

4.2 Authentication & Access Control

#	Level	Requirement
73	SHALL	The application shall support role-based access control (RBAC) with configurable roles and permissions.
74	SHOULD	The application shall enforce multi-factor authentication (MFA) for all privileged accounts and shall support MFA for all user accounts.
75	SHALL	The application shall support integration with Active Directory / Azure AD via LDAP or SAML 2.0.
76	SHALL	User sessions shall automatically time out after a configurable period of inactivity (default no greater than 30 minutes).

4.6 Vendor Support

#	Level	Requirement
87	SHALL	The Offeror shall provide a documented support model with defined response times for P1 (critical), P2 (high), P3 (medium), and P4 (low) issues.
88	SHALL	P1 incidents (system down or PHI breach) shall have initial response within 1 hour and status updates every 2 hours until resolved.
89	SHALL	The Offeror shall provide a minimum 12-month notice prior to end-of-life for any supported platform version.

4.7 Documentation

#	Level	Requirement
90	SHALL	The Offeror shall provide current system documentation including: architecture diagrams, data flow diagrams, user manuals, and administrator guides.
91	SHALL	All documentation shall be updated within 30 days of any major release.
92	SHOULD	Documentation should be available in an online, searchable format in addition to static files.

Appendix A: Regulatory References

Citation	Description
45 CFR §164.308(a)(1)	HIPAA Security Rule — Security Management Process (Risk Analysis required)
45 CFR §164.312	HIPAA Security Rule — Technical Safeguards (access control, audit controls, encryption)
45 CFR §164.316(b)(2)	HIPAA Security Rule — Documentation retention: 6 years from creation or last effective date
45 CFR §164.404–410	HIPAA Breach Notification Rule — Notification to individuals, HHS, and media
45 CFR §164.504(e)	HIPAA Privacy Rule — Business Associate contracts
Hawaii HRS §622-58	Hawaii medical records retention — minimum 7 years for adults (governs where stricter than HIPAA)
NIST SP 800-111	Guide to Storage Encryption Technologies for End User Devices
NIST SP 800-57	Recommendation for Key Management — includes key rotation and lifecycle guidance
FIPS 140-2	Security Requirements for Cryptographic Modules

- C. All information and documents inputted into the System shall be the property of HHSC and OFFEROR shall provide HHSC access data mapping definitions, relations and descriptions to download or otherwise transfer HHSC to other systems upon request. OFFEROR shall perform monthly backup of the system and shall provide HHSC copies upon request. All backups shall be in a universal format accessible by multiple software programs. In the event HHSC chooses another System in the future, the OFFEROR shall provide all data and documents in a universally usable electronic format to HHSC at no additional cost. The system proposed by the OFFEROR will be a browser-based application and not require administrator privileges on the client to operate. The OFFEROR will identify client hardware, OS, network requirements (i.e. ports, bandwidth, etc.), browser or client requirements (i.e. plugins, JVM, Java, etc.) and any additional specifications for the system to function properly. The OFFEROR will identify how remote support is accomplished and the requirements needed for installation.

2.1 OFFEROR REQUIREMENTS

A. OFFEROR shall provide services to the Corporate Office **and/or** to one or more of the four (4) HHSC regions consisting of the following hospitals (hereinafter, HHSC), if and when requested. Throughout the life of this Agreement, should Hawaii Health Systems Corporation (HHSC) have the need to eliminate or add a facility to its system-wide inventory, OFFEROR agrees to provide services to HHSC facilities at the discretion of HHSC.

- **East Hawaii Region:** Hilo Medical Center, Hale Ho'ola Hamakua, Ka'u Hospital, and the East Hawaii clinics;
- **West Hawaii Region:** Kona Community Hospital, Kohala Hospital;
- **Oahu Region:** Leahi Hospital, Maluhia, Kahuku Medical Center;
- **Kauai Region:** Kauai Veterans Memorial Hospital, Samuel Mahelona Memorial Hospital, and the West Kauai Clinics including Port Allen, Waimea, Kalaheo, Poipu, Eleele, and Kapaa;
- **HHSC Corporate Office.**

B. Upon contract award OFFEROR shall provide to the HHSC Technical Requesters written contact information for the OFFEROR's Representatives who shall be responsible for receiving, coordinating and finalizing HHSC's Service Orders and all matters relating to the satisfactory performance of the services. Written contact information shall include Representative's name, telephone, fax number and e-mail address.

C. OFFEROR shall not use State of Hawaii employees to perform services under this Agreement, nor recruit from the staff of HHSC to become employees of the OFFEROR.

SECTION 3 **PROPOSALS**

3.0 INTRODUCTION

One of the objectives of the RFP is to make proposal preparation easy and efficient, while giving OFFEROR ample opportunity to highlight their proposal. When an OFFEROR submits a proposal, it shall be considered a complete plan for accomplishing the requirements described in this RFP.

3.1 PROPOSAL PREPARATION

OFFEROR shall prepare a written proposal in accordance with requirements of this Section. Proposals shall address and contain, at a minimum:

The technical category information identified in Section 3.7 below.

The price category information identified in Section 3.8 below.

The Technical and Price proposals shall be distinct documents and readily separable for review. Proposals shall include all data and information requested to qualify proposals for evaluation and consideration for award. Non-compliance may be deemed sufficient cause for disqualification of a proposal.

Prepared proposals should be organized into distinctive sections, with the technical and price categories and other categories, as appropriate. The development of overly elaborate proposals and presentation material, not required and/or related to RFP requirements, is **HIGHLY DISCOURAGED**. This procedure will facilitate proposal evaluations.

3.2 COSTS FOR PROPOSAL PREPARATION

Any and all costs incurred in the development of proposals, i.e., preparing and submitting, on-site product/service demonstrations, on-site visits, oral presentations, travel and lodging, etc. shall be the sole responsibility of OFFEROR.

3.3 DISQUALIFICATION OF PROPOSALS

HHSC reserves the right to consider acceptable only those proposals submitted in accordance with all requirements set forth in the RFP and which demonstrate an understanding of the Scope of Services. HHSC reserves the right to ask for clarification of any item in the proposal.

- ATTENTION -

Any proposal offering any other set of terms and conditions contradictory to those included in the RFP may be disqualified without further notice. Please refer to Section 1.7.

An OFFEROR will be disqualified and the proposal automatically rejected for any one or more of the following reasons:

- Communicating or requesting information from any HHSC staff other than the sole point of contact throughout the RFP process.
- Proof of collusion among OFFERORS, in which case all proposals involved in the collusive action will be rejected.
- The OFFEROR’S lack of responsibility and cooperation as shown by past work or services.
- The proposal shows any noncompliance with applicable law.
- The proposal is conditional, incomplete, or irregular in such a way as to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- The proposal has any provision reserving the right to accept or reject award, or to enter into a contract pursuant to an award, or provisions contrary to those required in the solicitation.
- Proof of exclusion from participation in federal health care programs, as defined in the Social Security Act (section 1128 and 1128A), and other federal laws and regulations relating to health care.

3.4 SUBMISSION OF PROPOSALS

Each OFFEROR may submit only one (1) written proposal (**which includes a technical proposal, price proposal, Exhibit’s, and or Appendix’s.**). Alternate proposals will not be accepted. The Issuing Officer must receive **one (1) original electronic copy emailed to ndelima@hhsc.org** of the proposal no later than the “Closing Date for Receipt of Proposals”, identified in Section 1.1. **(July 30, 2026- No Later Than 3:00 p.m., HST) Proposals received after this time/date may be rejected.** The original shall be clearly marked “ORIGINAL”. **It shall be the sole responsibility of the OFFEROR to confirm receipt of the electronic copy Deliver proposals to the following address:**

Nancy Delima, Contracts Manager
RFP No. HHSC 26-010
ndelima@hhsc.org

The cover of the proposal should be noticeably marked, as follows:

“Proposal Submitted in Response to: RFP # HHSC FY26-010”

3.5 PROPOSAL TRANSMITTAL COVER LETTER

OFFEROR is required to submit proposal with a transmittal cover letter. The transmittal cover letter must be on the OFFEROR’S official business letterhead; signed by an individual authorized to legally bind the OFFEROR; affixed with the corporate seal or notarized; and minimally include information, as written/requested, on the “sample” letter in Section 5, APPENDIX A.

3.6 PUBLIC INSPECTION

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The register of proposals and OFFERORS' proposals shall be open to public inspection after the contract is executed by all parties.

OFFEROR shall request in writing the nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the proposal and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. The proposals are subject to disclosure rules set forth in Chapter 92F, H.R.S. The OFFEROR bears the burden of establishing that the designated data is exempted from the disclosure requirements set forth in Chapter 92F.

All proposals and other material submitted by OFFEROR become the property of HHSC and may be returned only at HHSC's option.

3.7 TECHNICAL PROPOSAL

The technical proposal shall include the following categories:

- SUMMARY
- BACKGROUND, QUALIFICATIONS AND EXPERIENCE
- PERSONNEL ORGANIZATION AND STAFFING
- MANAGEMENT AND CONTROL

3.7.1 SUMMARY

Clearly, concisely and briefly summarize and highlight the contents of the technical proposal in such a way to provide HHSC with a broad understanding and the unique, most promising aspects of the proposal.

3.7.2 BACKGROUND, QUALIFICATIONS AND EXPERIENCE

Provide explicit details on Company's background, qualifications and experience relative to performing requirements set forth in the Scope of Services, including but not limited to:

- A. Background of the Company, i.e. services offered, size, resources, years in business, location, State of Hawaii presence, state of incorporation, etc.
- B. Brief description of Company's qualifications to perform Scope of Services requirements.
- C. Brief description of three (3) past and/or present contracts demonstrating Company's qualifications, experience and performance. Include customer name, contact name and telephone number. If not available, provide contact name and telephone number of three (3) references that can discuss your Company's qualifications, experience and performance.
- D. Company financial statements for the past two years, preferably audited, or a copy of filed tax returns. Certified Balance & Income Statements are acceptable; keep documentation simple/limited. If not available or applicable, please explain reason(s) why.
- E. Identification of litigation currently impacting the Company, if any. State "NONE", if none.

3.7.3 PERSONNEL ORGANIZATION AND STAFFING

Provide explicit details on the Company's personnel organization and staffing relative to performing requirements set forth in the Scope of Services, as follows:

- A. Company's managerial organizational chart and resumes of key positions.
- B. Key personnel identified to perform services, including: name, years of experience, years with the Company, qualifications and verifiable references (with contact telephone numbers), if any.

3.7.4 MANAGEMENT AND CONTROL

Provide a detailed summary of the methodology relative to performing requirements set forth in the Scope of Services, as follows:

- A. Assignment and management of personnel.
- B. Coordination of requirements with HHSC personnel.
- C. Problems anticipated, if any.

3.8 PRICE PROPOSAL

The price proposal shall include the following categories:

- A. SUMMARY
- B. SUMMARY OFFER

3.8.1 SUMMARY

Clearly, concisely and briefly summarize and highlight the contents of the price proposal, in such a way as to provide HHSC with a broad understanding of the unique, most promising aspects of the proposal.

3.8.2 SUMMARY OFFER

Provide a detailed, line-item list (including at a minimum: description of price elements and personnel performing services; hours required; unit price; total price; taxes including Hawaii General Excise Tax) of any and all prices, with a summary total, representing the dollar amount offered (Summary Offer) to perform Scope of Service requirements of this RFP.

All worksheets and supporting documentation in determining the Summary Offer shall be provided with the proposal to verify validity of computations and determine if prices are "fair & reasonable". A further breakdown of price elements and/or price related information may be requested during proposal review and evaluation.

The Summary Offer shall represent the total amount offered; and, if proposal is accepted, the "Not to Exceed" maximum dollar amount of the contract.

3.8.3 NON APPLICABLE PROPOSAL REQUIREMENT

Excluding HHSC General and Special Terms and Conditions, and any objectionable or defective RFP matters, if any proposal requirement, as describe in this Section, is not applicable to the OFFEROR and therefore will/can not be provided, list the requirement(s) and provide detailed explanation of the reasons why the requirement(s) is not applicable. HHSC reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in this Section.

3.8.4 NON ACCEPTANCE OF ANY RFP REQUIREMENT

If any RFP requirement, as describe in this RFP, is not acceptable to the Offeror, list the requirement(s) and provide detailed explanation of the reasons why the requirement(s) is not acceptable and provide a recommended revision, if applicable. HHSC reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the RFP.

- ATTENTION -

Any proposal offering any other set of terms and conditions contradictory to those included in the RFP will be disqualified without further notice. Please refer to Section 1.7.

3.8.5 PROPOSAL SUBMISSION CHECKLIST

The Proposal Submission Checklist be used by the OFFEROR to ensure that all required documents and information are being submitted with OFFEROR'S proposal; and, as a supplementary means for HHSC in performing evaluation of the "Mandatory Requirements", as set forth in Section 4.2.1. The checklist is required to be completed by each OFFEROR and included (as the last document) in the proposal package. The proposal submission checklist is located under APPENDIX B, following Section 5 of the RFP.

SECTION 4 **EVALUATIONS**

4.0 INTRODUCTION

The evaluation of proposals shall be conducted comprehensively, fairly, and impartially. Structural, quantitative scoring techniques will be utilized to maximize the objectivity of the evaluation.

4.1 PROPOSAL EVALUATION COMMITTEE

An evaluation committee will be selected from HHSC to perform all evaluation requirements. The committee will be composed of individuals with experience in, knowledge of, and program responsibility for the requirements identified in the RFP. HHSC reserves the right to request information from OFFEROR to clarify the OFFEROR'S proposal.

4.2 EVALUATION PHASES

Evaluation phases will be conducted as follows:

Phase 1.....Evaluation of Mandatory Requirements

Phase 2.....Technical Proposal Evaluation

Phase 3.....Price Proposal Evaluation

Phase 4.....Proposal Discussions by Priority-List (**optional**)

Phase 5.....Best and Final Offers by Priority List (**optional**)

Phase 6.....Recommendation for Contract Award

4.2.1 PHASE - 1 EVALUATION OF MANDATORY REQUIREMENTS

The evaluation of the mandatory requirements, as listed below, shall be based upon a "Pass/ No Pass" basis. The purpose of this phase is to determine whether an OFFEROR'S proposal is sufficiently responsible and responsive to RFP requirements to permit a complete evaluation, i.e. responsible in terms of "Does the OFFEROR have the capability to perform fully the Scope of Services requirements"; and, "Were proposal documents, as identified below, received by HHSC and do they contain the required information?" Failure to meet any mandatory requirement will be grounds for deeming the proposal non-responsible, non-responsive or both and disqualification ("No Pass") thereof.

Proposal **MANDATORY REQUIREMENTS:**

- ✓ Proposal Cover Letter **with corporate seal or notarization**
- ✓ Technical Proposal
 - Background, Qualifications and Experience

- Personnel Organization and Staffing
- Management and Control
- Miscellaneous
- ✓ Price Proposal
- ✓ State of Hawaii Compliance Documents
- ✓ Proposal Submission Checklist

4.2.2 PHASE - 2 TECHNICAL PROPOSAL EVALUATION

Evaluation of OFFEROR'S technical proposal shall be conducted using the technical proposal categories and the value weight percentages identified in Section 4.3 and the evaluation scoring system identified in Section 4.5.

4.2.3 PHASE - 3 PRICE PROPOSAL EVALUATION

Evaluation of the price proposal shall be conducted using the price proposal category and the value weight percentages identified in Section 4.3 and the evaluation scoring system identified in Section 4.4.

4.2.4 PHASE - 4 PROPOSAL DISCUSSIONS WITH PRIORITY-LISTED OFFERORS (OPTIONAL)

At its discretion, following the Mandatory Requirements Phase, HHSC may develop a Priority List of Offerors based on the evaluation of OFFERORS' Technical and Price proposals. This Priority List may be asked to conduct discussions with HHSC. OFFEROR'S proposal may be accepted without Discussions. In the event that HHSC elects to hold Discussions, HHSC shall inform Priority-Listed OFFERORS of specific Discussion topics and issues; and schedule Discussion proceedings.

4.2.5 PHASE - 5 BEST AND FINAL OFFERS (OPTIONAL)

OFFEROR may be requested to submit a Best and Final offer. Best and Final offers shall be evaluated and scoring of the OFFEROR'S proposal adjusted, accordingly. If a Best and Final offer is requested but not submitted, the previous submittal shall be construed as the Best and Final offer.

4.2.6 PHASE - 6 RECOMMENDATION FOR CONTRACT AWARD

The Evaluation Committee shall prepare a report summarizing proposal evaluation findings/rankings and provide recommendation for award of contract to the HOPA.

4.3 EVALUATION CATEGORIES AND VALUE WEIGHT PERCENTAGES

MANDATORY REQUIREMENTS..... **PASS/NO PASS**

PROPOSAL CATEGORIES [A]		RANKING * Select [1 Thru 10] 1-3 Low- Minimum Information Provided; 4-7 Med -Partial Information Provided; 8-10 High - Adequately meets all requirements. [B]	TOTAL POINT [C]
20	Background, Qualification & Experience	1 2 3 4 5 6 7 8 9 10	RANKING [D] x 20 = Total Points

10	Personnel Organization & Staffing	1 2 3 4 5 6 7 8 9 10	RANKING [D] x 10 = Total Points
10	Management & Control	1 2 3 4 5 6 7 8 9 10	RANKING [D] x 10 = Total Points
30	Service Delivery	1 2 3 4 5 6 7 8 9 10	RANKING [D] x 30 = Total Points
30	Cost	1 2 3 4 5 6 7 8 9 10	RANKING [D] x 30 = Total Points

4 EVALUATION SCORING SYSTEM

The proposal receiving the highest number of points is considered statistically the best proposal and the **best value** to HHSC; and, will be recommended for award of contract, unless otherwise determined and justified by the evaluation committee.

The evaluation categories are assigned a value weight percentage, as determined by HHSC, totaling 100%. Each category will be rated between one (1) and ten (10), with ten being the highest (the best rating) by each member of the evaluation committee. The OFFEROR'S total score (see note below) will be determined by: a) multiplying the assigned weight value of each category by the numerical rating provided by the evaluation committee member to determine the score for each category; b) totaling the score for all categories of each evaluation committee member; and, c) totaling the score of all evaluators.

Note: In determining the total score, the OFFEROR'S price proposal with the lowest price will receive the highest available rating allocated to price. Each proposal that has a higher price than the lowest will have a lower rating for price. The points allocated to higher-priced proposals will be equal to the lowest proposal price multiplied by the maximum points available for price, divided by the higher proposal price.

SECTION 5

AWARD OF CONTRACT

5.0 AWARD OF CONTRACT

Award of contract shall be made to the most responsible and responsive OFFEROR whose proposal is determined by the Evaluation Committee to provide the best value to HHSC, considering all evaluation reviews and results.

5.1 CONTRACT AWARD NOTIFICATION

The notice of award, if any, resulting from this solicitation shall be posted on the Hawaii State Procurement Office website. This will serve as the official notification to all OFFERORS. In addition, the Issuing Officer will inform the successful OFFEROR of contract award selection by an official “notice of award” letter.

At its discretion and as a courtesy to the OFFEROR the Issuing Officer may issue a “Notice of Posting of Award” to the unsuccessful OFFERORS. However, a delay in issuing the notice or the inadvertent omission of such courtesy notice will not extend the protest filing time.

5.2 CONTRACT AWARD DEBRIEFING

If requested, HHSC shall provide a contract award debriefing. The purpose of a debriefing is to inform the non-selected OFFEROR of the basis for the source selection decision and contract award. A written request to the Issuing Officer for a debriefing shall be made within three (3) working days after receipt of non-award of contract letter from HHSC and/or posting of the award of the contract.

5.3 METHOD OF AWARD

The contract will be awarded by executing an “Agreement for Goods or Services Based Upon Competitive Sealed Proposals” (“CONTRACT”) by HHSC and the successful OFFEROR (“OFFEROR”). This document will serve as the official, legal contractual instrument between both parties. This document will incorporate (by attachments or reference) the RFP, with any and all addendums; GENERAL CONDITIONS and any SPECIAL CONDITIONS; and the CONTRACTOR’s accepted proposal, with any and all addendums, changes, negotiated agreements, all of which becomes part and whole of the CONTRACT. A “sample” CONTRACT is located at APPENDIX C. Please DO NOT complete or execute the “sample” CONTRACT.

5.4. GENERAL AND SPECIAL CONDITIONS:

The GENERAL CONDITIONS - NON-PHYSICIAN HEALTHCARE SERVICES, Section 5, APPENDIX D and the SPECIAL CONDITIONS, Section 5, APPENDICES E and F, are applicable and shall be part and whole and attached to the Agreement.

The GENERAL CONDITIONS - NON-PHYSICIAN HEALTHCARE SERVICES, APPENDIX D **provisions are non-negotiable**. Please refer to Section 1.7.

Of particular significance, please note/review the following requirements:

5.4.1 GENERAL EXCISE/USE TAX

Refer to the GENERAL CONDITIONS - NON-PHYSICIAN HEALTHCARE SERVICES, APPENDIX D. Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii CONTRACTOR are advised that the gross receipts derived from this solicitation are subject to the general excise tax imposed by Chapter 237, HRS, and where applicable to tangible property imported into the State of Hawaii for resale, subject to the use tax imposed by Chapter 28, HRS.

Pursuant to Section 237-9, HRS, the CONTRACTOR is required to obtain and/or possess a valid General Excise Tax License from the Hawaii State Department of Taxation ("DOTAX") prior to executing a contractual agreement with a State Agency (Reference the GENERAL CONDITIONS - NON-PHYSICIAN HEALTHCARE SERVICES, APPENDIX D).

The **General Excise Tax License** shall be obtained from the DOTAX offices in the State of Hawaii or the DOTAX Web Site and by mail or FAX. Refer to the next Section for procedures in obtaining DOTAX forms and information.

5.4.2 HAWAII COMPLIANCE EXPRESS – CERTIFICATE OF COMPLIANCE

Pursuant to §103D-310(c), HRS, with section 3-122-112, HAR, the CONTRACTOR is required to obtain/posses valid **Certificates of Compliance** from the following agencies:

- 1) State of Hawaii Department of Commerce and Consumer Affairs,
- 2) Department of Labor and Industrial Relations, and
- 3) Department of Tax prior to executing a contractual agreement with a HHSC.

The certificates are valid for six months from the date of issue and must be valid on the date it is received by HHSC.

These certificates will be required upon contract execution. CONTRACTOR shall apply and obtain proof of compliance electronically through the Hawaii State Procurement Office "Hawaii Compliance Express" ("HCE") website at <http://vendors.ehawaii.gov> for all three (3) state certificates referenced herein.

OFFERORS shall use the Hawaii Compliance Express services and will be required to pay an annual registration fee of \$15.00 or most current fee charged.

5.4.3 CONTRACT EXECUTION

Upon receipt of the CONTRACT document, the CONTRACTOR shall have ten (10) business days to execute and return the CONTRACT to the Issuing Officer. Explicit execution instructions will accompany the CONTRACT. A copy of the fully executed CONTRACT will be provided the CONTRACTOR within seven (7) business days of CONTRACT execution.

Award of CONTRACT may be withdrawn if the CONTRACTOR is unable to meet CONTRACT execution requirements.

5.4.4 CONTRACT COMMENCEMENT DATE

Upon completion of CONTRACT execution requirements, a **"Notice to Proceed"** letter will be provided the CONTRACTOR specifying the "Commencement" (start work) date of the CONTRACT. No work is to be undertaken by the CONTRACTOR prior to the commencement date specified in the Notice to Proceed letter. HHSC is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to the official, notice to proceed "Commencement" date.

APPENDIX A

PROPOSAL TRANSMITTAL COVER LETTER

(Name of Business) _____ proposes to provide any and all goods and services as set forth in the "Request for Proposals for Competitive Sealed Proposals" to provide "[Compensation Study]", RFP # HHSC FY26-010, for which fees/costs have been set. The fees/costs offered herein shall apply for _____ (Please insert applicable period of time) _____.

It is understood and agreed that _____ (Name of Business) _____ have read HHSC's Scope of Services described in the RFP and that this proposal is made in accordance with the provisions of such Scope of Services. By signing this proposal, _____ (Name of Business) _____ guarantee and certify that all items included in this proposal meet or exceed any and all such Scope of Services.

_____ (Name of Business) _____ agree, if awarded the contract, to provide the goods and services set forth in the RFP; and comply with all terms and conditions indicated in the RFP; and at the fees/costs set forth in this proposal. The following individual(s) may be contacted regarding this proposal:

Other information:

Business Phone #:		Federal Tax ID #:	
Facsimile #:		Hawaii GET Lic. ID #:	
E-mail address:			

_____ (Name of Business) _____ is a: ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ Joint Venture Other
_____ (Specify) _____

State of Incorporation is: (Specify) _____

The exact legal name of the business under which the contract, if awarded, shall be executed is: _____

(Authorized Bidder's Signature, Printed Name/Title; Corporate Seal or Notarized)

Encl: Proposal

APPENDIX B

MANDATORY - PROPOSAL SUBMISSION CHECKLIST

***IF SPECIFIC ITEM(S) IS NOT APPLICABLE, MARK WITH "N/A"---DO NOT LEAVE BLANK.**

PLEASE CHECK OFF:

OFFEROR Shall Check Off Submitted	Proposal Items	HHSC Internal Use ONLY
	Proposal Received "On-Time"	☐
☐	One (1) Original & One (1) electronic file emailed to ndelima@hhsc.org	☐
☐	Proposal Transmittal Cover Letter:	☐
☐	• Official Business Letterhead	☐
☐	• Authorized Signature	☐
☐	• Corporate Seal or Notarized	☐
☐	• Required Information	☐
☐	Technical Proposal	☐
☐	• Background, Qualifications and Experience	☐
☐	• Personnel Organization and Staffing	☐
☐	• Management and Control	☐
☐	Cost Proposal	☐
☐	• Summary	☐
☐	• Summary Offer	☐
☐	Optional Services Costs	☐
☐	Non Applicable Proposal Requirement(s)	☐
☐	All Data and Information Required of the RFP	☐
☐	Proprietary Documents	☐
☐	Others (List)	☐
☐	Proposal Submission Checklist	☐
☐	Hawaii State Compliance Documents	☐

**HAWAII HEALTH SYSTEMS CORPORATION
AGREEMENT FOR GOODS OR SERVICES
BASED UPON
COMPETITIVE SEALED PROPOSALS**

AGREEMENT #: FY _____

THIS AGREEMENT, executed on the respective dates of the signatures of the parties shown hereafter, is effective as of [Insert Month Day, Year], between the **Hawaii Health Systems Corporation** (hereinafter "HHSC"), by its Chief Executive Officer, (hereinafter "CEO"), whose address is 3675 Kilauea Avenue, Honolulu, Hawaii 96816, and [Insert Vendor Name] (hereinafter "CONTRACTOR"), a [Insert corporation, partnership, sole proprietorship, or other legal form of the Contractor], under the laws of the State of [Insert State of Incorporation], whose business address is [Insert Contractor Address] and taxpayer identification number, Tax ID #: Hawaii Tax No. XXXXXX; FEIN No. XXXXXX.

RECITALS

- A. The HHSC is in need of the goods or services, or both, described in this Agreement and its attachments.
- B. The HHSC has issued a request for competitive sealed proposals, and has received and reviewed proposals submitted in response to the request.
- C. The solicitation for proposals and the selection of the CONTRACTOR were made in accordance with section 103D-303, Hawaii Revised Statutes ("HRS"), Hawaii Administrative Rules ("HAR") Title 3, Department of Accounting and General Services, Subtitle 11, Chapter 122 Subchapter 6, and applicable procedures established by HHSC.
- D. The CONTRACTOR has been identified as the responsible and responsive offeror whose proposal is the most advantageous for the HHSC, taking into consideration price and the evaluation factors set forth in the request.
- E. The HHSC desires to retain and engage the CONTRACTOR to provide the goods or services, or both, as the case may be, and the CONTRACTOR is agreeable to providing said goods or services, or both.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the HHSC and the CONTRACTOR agree as follows:

- 1. **SCOPE OF SERVICES.** The CONTRACTOR shall, in a proper and satisfactory manner as determined by the HHSC, provide all the goods or services set forth in the request for competitive sealed proposals, **RFP # HHSC _____** ("RFP"), and the CONTRACTOR'S accepted proposal, including any and all revisions/addendum's/negotiated agreements thereto (collectively "PROPOSAL"), both of which, even if not physically attached to this Agreement, are hereby made a part of this Agreement.
- 2. **TIME OF PERFORMANCE.** The performance required of the CONTRACTOR under this Agreement shall be executed in accordance with the time period set forth in the **Attachment 2**, which is made a part of this Agreement.

3. **COMPENSATION.** The CONTRACTOR shall be compensated for goods supplied or services performed, or both, under this Agreement in a total amount not to exceed _____ DOLLARS (\$000,000.00), including taxes, at the time and in the manner set forth in the RFP and CONTRACTOR'S Proposal.

4. **BONDS.** The CONTRACTOR ☐ (is) or ☐ (is not) required to provide a (performance) or (payment) (performance and payment) bond in the amount of _____ DOLLARS (\$000,000.00).

5. **STANDARDS OF CONDUCT DECLARATION.** The Standards of Conduct Declaration of the CONTRACTOR is attached and is made a part of this Agreement.

6. **OTHER TERMS AND CONDITIONS.** The General Conditions and any Special Conditions are attached hereto and made a part of this Agreement (or, Any Special Conditions are attached hereto and made a part of this Agreement). In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) Agreement, including all attachments and addenda; (2) Request, including all attachments and addenda; and (3) Proposal.

7. **LIQUIDATED DAMAGES.** Liquidated damages shall be assessed in the amount of _____ DOLLARS (\$000,000.00) per day, in accordance with the terms of Section 9 of the General Conditions.

8. **NOTICES.** Any written notice required to be given by any party to this Agreement shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice required to be given to the CEO shall be sent to: HHSC, President & Chief Executive Officer, HHSC, 3675 Kilauea Avenue, Honolulu, Hawaii 96816. Notice to the "head of the purchasing agency" and/or "Agency Procurement Officer" as denoted in the General Conditions shall be sent to: HHSC, Attn: Procurement Office, 3675 Kilauea Avenue, Honolulu, Hawaii 96816. Notice to the CONTRACTOR shall be sent to the CONTRACTOR'S address as indicated in this Agreement. A notice shall be deemed to have been received three (3) days after mailing or at the time or actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the HHSC in writing of any change of address.

IN VIEW OF THE ABOVE, the parties execute this Agreement by their signatures, on the dates below, to be effective as of the date first above written.

HHSC:

(Signature)

Edward N. Chu

(Printed Name)

HHSC Chief Financial Officer

(Title)

(Date)

CONTRACTOR:

Sample-Do
Not Sign

(Signature)

(Printed Name)

(Title)

(Date)

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

I certify that the services to be provided under this Agreement by the CONTRACTOR may be performed concurrently with the CONTRACTOR'S private business or profession or other private employment, and that it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State or HHSC. Pursuant to section 76-16(15), Hawaii Revised Statutes, the services are exempt from the state civil service.

Edward N. Chu
Chief Financial Officer
Hawaii Health Systems Corporation

Date: _____

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty percent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State or HHSC, including members of boards, commissions, and committees, and employees under Agreement to the State or HHSC or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges.

On behalf of _____, CONTRACTOR, the undersigned does declare, under penalty of perjury, as follows:

1. CONTRACTOR** ☐ IS or ☐ IS NOT a legislator or an employee or a business in which a legislator or an employee has a controlling interest (Section 84-15(a), HRS).
2. CONTRACTOR has not been assisted or represented personally in the matter by an individual who has been an employee of HHSC within the preceding two years and who participated while so employed in the matter with which the Agreement is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Agreement, if the legislator or employee had been involved in the development or award of the Agreement. (Section 84-14(d), HRS).
4. CONTRACTOR has not been represented on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, served as an HHSC employee or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Agreement (HRS 84-18(b) and (c), HRS).

CONTRACTOR understands that the Agreement to which this document is attached is voidable on behalf of the State or HHSC if this Agreement was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the State or HHSC.

CONTRACTOR

Sample-Do
Not Sign

By: _____

Print Name: _____

Print Title: _____

Date: _____

Name of CONTRACTOR: _____

****Reminder to contracting facility:** if "is" is circled, and the Agreement involves goods or services of a value in excess of \$10,000, the Agreement must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, HHSC/Contracting facility may not award the Agreement unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission prior to contracting .(Section 84-15(a), HRS).

SCOPE OF SERVICES

TIME OF PERFORMANCE

1. The CONTRACTOR shall provide the services required under this Agreement for a period of one(1) year from the date of full execution or until all work listed in Attachment 1 is completed.
2. **OPTION TO EXTEND:** The TIME OF PERFORMANCE of this Agreement may be extended for Three (3) additional one (1) year intervals, subject to mutual written agreement between HHSC and the CONTRACTOR prior to the end of the current contract period. A Supplemental Agreement will be executed by the CONTRACTOR and HHSC to exercise extensions.

COMPENSATION AND PAYMENT SCHEDULE

In full consideration for the services to be performed by the CONTRACTOR under this Agreement, the HHSC agrees, subject to appropriation and allotments, to pay to the CONTRACTOR a total sum of money not to exceed _____

DOLLARS (\$000,000.00), including all applicable taxes and expenses incurred, and in accordance with the following:

The CONTRACTOR shall submit invoices for approval and payment to the Hospital's "Technical Representative(s)" in accordance with provisions of Section 20 of the GENERAL CONDITIONS. Invoices shall reference the Agreement number and include, at a minimum, an itemized account of all compensation due.

HOSPITAL TECHNICAL REPRESENTATIVES

HOSPITAL TECHNICAL REPRESENTATIVE:

Juanita Lauti, VP & Chief Human Resources Officer

Hawaii Health Systems Corporation

3675 Kilauea Avenue

Honolulu, HI 96816

Phone: (808) 733-4036

Email: jlauti@hhsc.org

HAWAII HEALTH SYSTEMS CORPORATION GENERAL CONDITIONS (103D Goods and Non-Healthcare Services)

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1. **COORDINATION OF SERVICES BY HHSC.** The “head of the purchasing agency,” (through the Technical Representative(s), or other designee), shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in this Agreement. The CONTRACTOR shall maintain communications with the head of the purchasing agency through the Technical Representative(s) or other designee at all stages of the CONTRACTOR’s work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of this Agreement. “Purchasing agency” as used in these General Conditions means and includes any HHSC region or facility which is authorized to enter into contracts for the procurement of goods and services. The term, “CONTRACTOR”, includes all employees, agents, subcontractors, and other entities and persons utilized by the CONTRACTOR to fulfill the obligations of this Agreement. It will be the responsibility of CONTRACTOR to ensure that those other persons and entities follow the terms of this Agreement.
2. **RELATIONSHIP OF PARTIES: INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES, INCLUDING TAX RESPONSIBILITIES.**
 - a. In the performance of services required under this Agreement, the CONTRACTOR is an “independent contractor,” with the authority and responsibility to control and direct the performance and details of the work and services required under this agreement; however, HHSC shall have a general right to inspect work in progress to determine whether, in HHSC’s opinion, the services are being performed by the CONTRACTOR in compliance with this Agreement. Unless otherwise provided by special condition, it is understood that HHSC does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with HHSC.
 - b. The CONTRACTOR and the CONTRACTOR’s employees and agents are not by reason of this Agreement, agents or employees of HHSC for any purpose, and the CONTRACTOR and the CONTRACTOR’s employees and agents shall not be entitled to claim or receive from the HHSC any vacation, sick leave, retirement, workers’ compensation, unemployment insurance, or other benefits provided to HHSC employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR’S performance under this Agreement. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR’S employees and agents, and to any individual not a party to this Agreement, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR’S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Agreement, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes and (iii) general excise taxes. Unless provided otherwise by agreement between the parties, the CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Agreement.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with Section 237-9, Hawaii Revised Statutes (“HRS”), and shall comply with all requirements thereof.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR’S employees and agents that is or may be required by law, and for payment of all premiums, costs and other liabilities associated with securing the insurance coverage.
3. **PERSONNEL REQUIREMENTS.**
 - a. The CONTRACTOR shall secure, at the CONTRACTOR’s own expense, all personnel required to perform this Agreement.
 - b. The CONTRACTOR shall ensure that the CONTRACTOR’s employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Agreement, and that all applicable licensing and operating requirements imposed or required under federal, state or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied. Where the facility is accredited by The Joint Commission, CONTRACTOR agrees to meet any Joint Commission standards that are applicable to CONTRACTOR.
4. **CONTRACTOR EXCLUSION FROM FEDERAL PROGRAMS.** CONTRACTOR affirmatively states that it and none of its employees, agents or subcontractors performing services or providing goods pursuant to this Agreement are excluded from participation in federal health care programs, as defined in the Social Security Act (Section 1128 and 1128A), and other federal laws and regulations relating to health care. CONTRACTOR has an affirmative duty to verify the accuracy of this statement at least monthly and to inform HHSC in the event it is discovered that it is no longer true. HHSC reserves the right to verify that the above statements are true and to immediately cancel this Agreement in the event they are not true.
5. **NONDISCRIMINATION.** No person performing work under this Agreement, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law or regulation.
6. **CONFLICTS OF INTEREST.** The CONTRACTOR represents that neither the CONTRACTOR, nor any employees or agents of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR’s performance under this Agreement.
7. **SUBCONTRACTS AND ASSIGNMENTS; CHANGE OF NAME.**

- a. No assignment without consent. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Agreement and no such assignment or subcontract shall be effective unless (1) the CONTRACTOR obtains the prior written consent of HHSC and (2) the CONTRACTOR'S assignee or subcontractor obtain a general excise tax license from the Department of Taxation, State of Hawaii in accordance with Section 237-9 HRS. Additionally, no such assignment or subcontract shall be effective unless the contractors assignee or subcontractor obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with Section 237-9 HRS.
 - b. Recognition of a successor in interest. When in the best interests of HHSC, a successor in interest may be recognized in an assignment agreement in which HHSC, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:
 - (1) The Assignee assumes all of the CONTRACTOR'S obligations;
 - (2) The CONTRACTOR remains liable for all obligations under this Agreement but waives all rights under this Agreement as against HHSC; and
 - (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
 - c. Change of name. When the CONTRACTOR asks to change the name under which it holds this Agreement with HHSC, the contract officer of the purchasing agency shall, upon receipt of a document acceptable or satisfactory to said officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Agreement with the CONTRACTOR to effect such a change of name. The amendment to this Agreement changing the CONTRACTOR'S name shall specifically indicate that no other terms or conditions of this Agreement are thereby changed.
8. **INDEMNIFICATION AND DEFENSE.** The CONTRACTOR shall defend, indemnify and hold harmless HHSC, the contracting facility and their directors, employees and agents from and against all liability, loss, damage, cost and expense, including all attorneys' fees and costs, and all claims, suits and demands therefor, arising out of or resulting from any acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents or subcontractors under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement for any reason.
9. **LIQUIDATED DAMAGES.** When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 11 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to HHSC the amount, if any, set forth in this Agreement per calendar day from the date set for cure until either (i) HHSC reasonably obtains similar goods or services, or both, if the CONTRACT is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACT is not terminated for default. To the extent that the CONTRACTOR's delay or nonperformance is excused under paragraph 11.d (Excuse for Nonperformance or Delayed Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR shall remain liable for damages caused other than by delay. This paragraph is of no force and effect unless the amount of liquidated damages is specified in the Agreement.
10. **SUSPENSION OF AGREEMENT.** HHSC reserves the right at any time and for any reason to suspend this Agreement for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
- a. Order to stop performance. The head of the purchasing agency may, by written order to the CONTRACTOR at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Agreement. This order shall be for a specified period of time not exceeding sixty (60) days unless the parties agree to a different period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Agreement at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any other period to which the parties shall have agreed, the head of the purchasing agency shall either:
 - (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Agreement.
 - b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery or performance schedule or contract price, or both, and the Agreement shall be modified in writing accordingly, if:
 - (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Agreement and

- (2) The CONTRACTOR asserts a claim for such adjustment within thirty (30) days after the end of the period of performance stoppage provided that if the head of the purchasing agency decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Agreement.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provisions of this Agreement.

11. TERMINATION FOR DEFAULT.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof, or otherwise fails to timely satisfy the Agreement provisions, or commits any other substantial breach of this Agreement, the head of the purchasing agency may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the head of the purchasing agency, such officer may terminate the CONTRACTOR's right to proceed with the Agreement or such part of the Agreement as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part the head of the purchasing agency may procure similar goods or services in a manner and upon the terms deemed appropriate. The CONTRACTOR shall continue performance of the Agreement to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods and services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Agreement and subject to any directions from the head of the purchasing agency, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which the State or HHSC has an interest.
- c. Compensation. Payment for completed goods and services delivered and accepted by HHSC shall be at the price set forth in the Agreement. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the head of the purchasing agency. If the parties fail to agree, the head of the purchasing agency shall set an amount. HHSC may withhold from amounts due the CONTRACTOR such sums as the head of the purchasing agency deems to be necessary to protect HHSC against loss because of outstanding liens or claims and to reimburse HHSC for the excess costs expected to be incurred by HHSC in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Agreement in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and failure arises out of causes such as; acts of God; acts of a Public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Agreement. Upon request of the CONTRACTOR, the head of the purchasing agency shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Agreement, the delivery schedule shall be revised accordingly, subject to the rights of the HHSC under this Agreement. As used in this paragraph the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR's right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 11.d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 12.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Agreement.

12. TERMINATION FOR CONVENIENCE BY HHSC.

- a. Termination for convenience of goods and services agreements. Pursuant to applicable State law and regulations (including, but not limited to, HRS§ Chapter 103D and Hawaii Administrative Rules (HAR) Title 3, Chapter 125, Section 3-125-21), the head of the purchasing agency may, when the interests of HHSC so require, terminate this Agreement in whole or in part, for the convenience of HHSC. HHSC shall give written notice of the termination to the CONTRACTOR specifying the part of the Agreement terminated and when such termination becomes effective. HHSC shall exercise its rights under this paragraph

in good faith and only when circumstances subsequent to the signing of this Agreement are changed to the extent that continuation of the Agreement is not in the best interest of HHSC. Such termination shall not be arbitrary or capricious.

- b. CONTRACTOR's obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance. The head of the purchasing agency may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to HHSC. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.
- c. Right to goods and work product. The head of the purchasing agency may require the CONTRACTOR to transfer title and deliver to HHSC in the manner and to the extent directed by the head of the purchasing agency:
 - (1) Any completed goods or work product; and
 - (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Agreement; and
 - (3) The CONTRACTOR shall, upon direction of the head of the purchasing agency, protect and preserve property in the possession of the CONTRACTOR in which the HHSC has an interest. If the head of the purchasing agency does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that HHSC has breached the Agreement by exercise of the termination for convenience provision.
- d. Compensation.
 - (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the head of the purchasing agency may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 12d(3) below.
 - (2) The head of the purchasing agency and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Agreement price plus settlement costs reduced by payments previously made by HHSC, the proceeds of any sales of goods and manufacturing materials under subparagraph 12.c, and the Agreement price of the performance not terminated.
 - (3) Absent complete agreement under subparagraph 12.d.(2) the head of the purchasing agency shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 12.d.(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Agreement;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Agreement would have completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Subject to the prior approval of the Procurement Officer, costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 12.b. Subcontractors shall be entitled to a markup of no more than ten per cent on direct costs incurred to the date of termination. These costs must not include costs paid in accordance with subparagraph 12.d.(3)(B).
 - (D) The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the total Agreement price reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 12.c.(3) and the Agreement price of performance not terminated.
- e. HAR Chapter 3-123. Costs claimed, agreed to, or established under subparagraphs 12.d.(2) and 12.d.(3) above shall be in accordance with HAR Chapter 3-123.

13. CHANGE ORDERS TO GOODS AND SERVICES AGREEMENTS. A change order is a written order signed by the head of the purchasing agency, directing the CONTRACTOR to make changes which the below "change clause" authorizes the head of the purchasing agency to order without the consent of the CONTRACTOR.

a. Changes Clause.

- (1) Generally. By written order, at any time, and without notice to any surety, the head of the purchasing agency may, unilaterally, order:
 - (A) Changes in the work within the scope of the Agreement; and
 - (B) Changes in the time of performance of the Agreement that do not alter the scope of the work of the Agreement.
- (2) Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this contract, an adjustment shall be made and the Agreement modified in writing accordingly.
 - (A) Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the Price Adjustment Clause of this Agreement. Failure of the parties to agree to an adjustment in contract price shall be resolved in accordance with the Price Adjustment Clause.
 - (B) Failure of the parties to agree to an adjustment in time shall not excuse the CONTRACTOR from proceeding with the contract as changed, provided that the head of the purchasing agency or designee, within fourteen days after the changed word commences, makes the provisional adjustments in time as the head of the purchasing agency deems reasonable.

The right of the CONTRACTOR to dispute the contract price or time required for performance or both shall not be waived by its performing the work, provided however, that it follows the written notice requirements for disputes and claims established by the Agreement.
- (3) Time period for claim. Except as may be provided otherwise by Section 103D-501(b), HRS, the CONTRACTOR must file a written claim disputing the contract price or time provided in a change order within ten days after receipt of a written change order, unless such period for filing is extended by the head of the purchasing agency in writing. The requirement for filing a timely written claim cannot be waived and shall be a condition precedent to the assertion of a claim.
- (4) Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if the claim is not received by the head of the purchasing agency prior to final payment under this Agreement.
- (5) Other claims not barred. In the absence of such a change order, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Agreement or for breach of contract.

14. MODIFICATIONS OF AGREEMENT.

- a. In writing. Any modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be made by written amendment to this Agreement and all appropriate adjustments signed by the CONTRACTOR and HHSC. Change orders shall be made in accordance with paragraph 13 herein. Notice to any surety is not required.

Modifications may include any one or more of the following:

- (1) Drawings, designs, or specifications, for the goods to be furnished;
 - (2) Method of shipment or packing;
 - (3) Place of delivery;
 - (4) Description of services to be performed;
 - (5) Time of performance (i. e., hours of the day, days of the week, etc.);
 - (6) Place of performance of the services; or
 - (7) Other provisions of the contract accomplished by mutual action of the parties to the contract.
- b. No oral modification. No oral modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be permitted or acknowledged.

- c. Adjustment of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Agreement, an adjustment shall be made and this Agreement modified in writing accordingly. Any adjustment in price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Agreement or as negotiated.
 - d. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Agreement and the claim are not made prior to final payment under this Agreement.
 - e. Other claims not barred. In the absence of a written modification to the Agreement, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Agreement or for breach of contract.
 - f. Head of purchasing agency approval. If this is a professional services agreement awarded pursuant to Section 103D-304, HRS, any modification, alteration, amendment, change or extension of any term, provision or extension of this Agreement which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) of the initial Agreement price must receive the prior approval of the head of the purchasing agency.
 - g. Sole source agreements. Amendments to sole source agreements that would change the original scope of the agreement may only be made with the approval of the head of the purchasing agency. Annual renewal of a sole source agreement for services shall not be submitted as an amendment.
15. **VARIATIONS IN QUANTITY FOR DEFINITE QUANTITY AGREEMENTS.** Upon the agreement of HHSC and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in the Agreement, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the head of the purchasing agency makes a written determination that such an increase will either be more economical than awarding another Agreement or that it would not be practical to award another agreement.
16. **VARIATIONS IN QUANTITY FOR INDEFINITE QUANTITY AGREEMENTS.** When an Agreement provides for indefinite goods and/or services the Agreement should state:
- a. The minimum quantity, if any, HHSC is obligated to order and the CONTRACTOR is to provide;
 - b. Whether there is a quantity that HHSC expects to order and how this quantity relates to any minimum or maximum quantities that may be ordered under the Agreement;
 - c. Any maximum quantity HHSC may order and the CONTRACTOR must provide; and
 - d. Whether HHSC is obligated to order its actual requirements under the Agreement, or in the case of a multiple award as defined in Section 3-122-145, HAR, that HHSC will order its actual requirements from the contractors under the multiple award subject to any minimum or maximum quantity stated.
17. **PRICE ADJUSTMENT.**
- a. Price adjustment. Any adjustment in the Agreement price pursuant to a provision in this Agreement shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance;
 - (2) By unit prices specified in the Agreement or subsequently agreed upon before commencement of the pertinent performance;
 - (3) By the costs attributable to the events or situations covered by the provision, plus appropriate profit or fee, all as specified in the Agreement or subsequently agreed upon before commencement of the pertinent performance;
 - (4) In such other manner as the parties may mutually agree upon before commencement of the pertinent performance; or
 - (5) In the absence of agreement between the parties, the adjustment shall be made pursuant to 103D-501(b)(5), HRS.
 - e. Submission of cost or pricing data. The CONTRACTOR shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of Section 103D-312, HRS. The submission of any cost or pricing data shall be made for any price adjustment subject to the provisions of HAR subchapter 15, chapter 3-122. A fully executed change order or other document permitting billing for the adjustment in price under any method listed in paragraph (a)(1) through (a)(4) shall be issued within ten days after agreement on the method of adjustment.
18. **CLAIMS BASED ON THE HEAD OF THE PURCHASING AGENCY'S ACTIONS OR OMISSIONS.**

- a. Change in scope. If any action or omission on the part of the head of the purchasing agency (which term includes the designee of such officer) requiring performance changes within the scope of the Agreement constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages or an extension of time for completion, the CONTRACTOR shall continue with performance of the Agreement in compliance with the directions or orders of proper officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages or extension of time for completion, provided:
 - (1) Written notice required. The CONTRACTOR shall give written notice to the head of the purchasing agency:
 - (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission; or
 - (B) Written thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
 - (C) Within such further time as may be allowed by the head of the purchasing agency in writing.
 - (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages or an extension of time. The Head of the Purchasing Agency, upon receipt of such a notice, may rescind such action, remedy such omission or take such other steps as may be deemed advisable.
 - (3) Basis must be explained. The notice required by subparagraph 18a(1) must describe as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages or an extension of time may be remedies to which the CONTRACTOR is entitled; and
 - (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the head of the purchasing agency within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to HHSC, justifying the claimed additional costs or an extension of time in connection with such changes.
- b. CONTRACTOR not excused. Nothing herein contained, however shall excuse the CONTRACTOR from compliance with any rules or laws precluding any State officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Agreement.
- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provisions of the Agreement and these General Conditions.

19. COST AND EXPENSES. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Agreement shall be subject to the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class airfare, whichever is less.
- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the head of the purchasing agency is obtained, reimbursement for subsistence allowance (i.e., hotel and meals) shall be \$145 per day, which consists of \$85 for hotel and \$60 for food, computed on quarter days. No other travel or living expense (e.g., tips, entertainment, alcohol, etc.) shall be reimbursed by HHSC, other than those items listed in subparagraphs a and b, above. Invoices shall document the days of travel by including the name of the traveler, itinerary, airfare receipt, hotel receipt, and ground transportation receipts. All travel must be pre-approved by the HHSC technical representative.
- d. CONTRACTORS with an office located on the same island as the site of the services to be provided pursuant to this Agreement are not entitled to per diem or transportation expense reimbursement unless explicitly specified in the Agreement.

20. PAYMENT PROCEDURES.

- a. Original invoices required. All payments under this Agreement shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Agreement have been performed by the CONTRACTOR according to the Agreement.
- b. Payment only for work under contract. HHSC is not responsible to pay for work performed by CONTRACTOR or its subcontractors that is not in this Agreement and any amendments or change orders thereto. All CONTRACTORS must follow paragraph 14, Modifications of Agreement or paragraph 13, Change Orders to Goods and Services Agreements and must have proper authorization before performing work outside the original Agreement.

21. PROMPT PAYMENT OF SUBCONTRACTORS.

- a. Generally. Any money paid to a CONTRACTOR shall be disbursed to subcontractors within ten days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes regarding payment.
- b. Final payment. Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
- c. Penalty. The procurement officer or the CONTRACTOR, as applicable, will be subject to a penalty of one and one-half per cent per month upon outstanding amounts due that were not timely paid by the responsible party under the following conditions. Where a subcontractor has provided evidence to the CONTRACTOR of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in paragraph (d), and:
 - (1) Has provided to the CONTRACTOR an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the State, as provided in Section 103-32.1, HRS; or
 - (2) The following has occurred:
 - (A) A period of ninety days after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to CONTRACTOR and the surety, as provided for in Section 103D-324, HRS; and
 - (B) The subcontractor has provided to the CONTRACTOR, an acceptable release of retainage bond, executed by a surety company authorized to do business in the State, in an amount of not more than two times the amount being retained or withheld by the CONTRACTOR; any other bond acceptable to the CONTRACTOR; or any other form of mutually acceptable collateral, then, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the procurement officer to the CONTRACTOR and subsequently, upon receipt from the procurement officer, by the CONTRACTOR to the subcontractor within the applicable time periods specified in paragraph (b) and Section 103-10, HRS. The penalty may be withheld from future payment due to the CONTRACTOR, if the CONTRACTOR was the responsible party. If a CONTRACTOR has violated paragraph (2) three or more times within two years of the first violation, the contractor shall be referred by the procurement officer to the contractors license board for action under Section 444-17(14), HRS.
- d. A properly documented final payment request from a subcontractor, as required by paragraph (c), shall include:
 - (1) Substantiation of the amounts requested;
 - (2) A certification by the subcontractor, to the best of the subcontractor's knowledge and belief, that:
 - (A) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;
 - (C) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and
 - (D) The payment request does not include any amount that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and
 - (3) The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The procurement officer shall return any final payment request that is defective to the CONTRACTOR within seven days after receipt, with a statement identifying the defect.
- e. This section shall not be construed to impair the right of a CONTRACTOR or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under paragraph (c); provided that any such payments withheld shall be withheld by the procurement officer.

22. CONFIDENTIALITY OF MATERIAL

- a. All material given to or made available to the CONTRACTOR by virtue of this Agreement, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the HHSC. It is acknowledged and agreed that all of the trade secrets, business plans, marketing plans, know how, data, contracts, including this Agreement, documents, scientific and medical concepts, billing records, personnel records, medical records of any kind, and referral sources for existing or future services, products,

operations, management, business, pricing, financial status, valuations, goals, strategies, objectives and agreements of HHSC and any of its facilities, affiliates or subsidiaries, and all patient information in any form, whether written, verbal or electronic are confidential ("Confidential Information"); provided, however, that Confidential Information, with the exception of patient information, shall not include information that is in the public domain.

- b. All information, data, or other material provided by the CONTRACTOR to the HHSC is subject to the Uniform Information Practices Act, chapter 92F, HRS, as modified by chapter 323F, HRS.

- 23. **CORPORATE COMPLIANCE PROGRAM.** A description of the Corporate Compliance Program of HHSC, including orientation materials, is posted on the HHSC internet site (www.hhsc.org). The CONTRACTOR, by signing this contract, acknowledges that it has read said description, and that the CONTRACTOR knows of the fact and substance of the Corporate Compliance Program, which governs operations at all facilities of HHSC. The CONTRACTOR understands and agrees that employees, agents, contractors and subcontractors performing any services at any of the HHSC facilities shall be fully subject to such Corporate Compliance Program, as may be amended from time to time, as well as all federal program requirements and applicable policies and procedures of HHSC and its facilities. The Corporate Compliance Program requires periodic training, including an orientation program, of all people who provide financial, business office, personnel, coding, medical records information systems and clinical services in the facility. The CONTRACTOR agrees to cause its employees, agents and contractors who provide financial, business office, personnel, coding, medical records information systems and/or clinical services at any of the HHSC facilities to review the posted orientation materials and participate in any compliance training programs HHSC may require.
- 24. **BUSINESS ASSOCIATE ADDENDUM.** By signing this Agreement, CONTRACTOR acknowledges that CONTRACTOR may be a Business Associate of HHSC within the meaning of the federal privacy and security laws as stated in 45 C.F.R. Parts 160 and 164, Subparts A, C, and E. CONTRACTOR further acknowledges that CONTRACTOR has read the Business Associate Addendum, which is posted on the HHSC internet site (www.hhsc.org/BAA). If CONTRACTOR is a Business Associate as defined in the above laws, said Business Associate Addendum is hereby incorporated by reference and made a part of this Agreement as if fully repeated herein. By signing this Agreement, CONTRACTOR agrees to fully comply with, and be bound by, all terms set forth in the Business Associate Addendum, as it may be amended from time to time.
- 25. **PUBLICITY.** The CONTRACTOR shall not refer to the HHSC or any office, agency, or officer thereof, or any HHSC employee, including the head of the purchasing agency, the Agency procurement officer, the HHSC Board of Directors, or to the services or goods, or both, provided under this Agreement, in any of the CONTRACTOR's brochures, advertisements, or other publicity of the CONTRACTOR without the explicit written consent of HHSC. All media contacts with the CONTRACTOR about the subject matter of this Agreement shall be referred to the head of the purchasing agency.
- 26. **OWNERSHIP RIGHTS AND COPYRIGHT.** HHSC shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Agreement and all such material shall be considered "works for hire." All such materials shall be delivered to HHSC upon expiration or termination of this Agreement. HHSC, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Agreement.
- 27. **INSURANCE.** During the term of this Agreement, CONTRACTOR shall maintain at all times or cause to be maintained general and professional liability insurance coverage for CONTRACTOR and its employees rendering services to HHSC under this Agreement. The insurance policies shall be issued by a company or companies authorized to do business in Hawaii and approved by HHSC, with combined single limits of not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and THREE MILLION DOLLARS (\$3,000,000) in the aggregate, or such greater amount as may be required from time to time by HHSC. HHSC shall receive not less than thirty (30) days notice prior to any cancellation or material change or reduction in coverage. No such material change or reduction may be made without approval from HHSC. HHSC shall be listed as an additional insured on all policies. Prior to the commencement of this Agreement, CONTRACTOR shall provide HHSC with a certificate of insurance. Thereafter, prior to the expiration of each policy period, the insurance carriers for CONTRACTOR shall provide HHSC with certificates of insurance evidencing the foregoing coverage and provisions. HHSC reserves the right to request a certified copy of the policies. CONTRACTOR shall also carry workers' compensation insurance for CONTRACTOR'S employees in the amounts required by applicable law. Failure to maintain the necessary insurance in accordance with the provisions set forth herein shall constitute a material breach of this Agreement and HHSC shall thereafter have the option of pursuing remedies for such breach and/or immediate termination of this Agreement.
- 28. **LIENS AND WARRANTIES.**
 - a. **Liens.** All products provided under this Agreement shall be free of all liens and encumbrances.
 - b. **Warranties for products and services.** In the event this Agreement is for the provision of products (goods or equipment), CONTRACTOR warrants that it has all rights, title and interest in and to all products sold, leased or licensed to HHSC. CONTRACTOR also warrants that the products shall substantially conform to all descriptions, specifications, statements of work and representations set forth in the Agreement, schedules, publications of CONTRACTOR and/or any order(s) and will be free from defects in materials, performance, workmanship and design. CONTRACTOR further warrants that it will perform any services required with promptness, diligence and in accordance with prevailing standards in the industry to the

reasonable satisfaction of HHSC. The Warranty period shall commence after Acceptance, as defined in this Agreement. Any specific warranty periods shall be as set forth in the proposals, schedules, orders or Special Conditions pertaining to this Agreement but in any event such warranty period shall not be less than one (1) year.

- 29. ACCESS TO BOOKS AND RECORDS AND AUDIT BY HHSC.** If the value or cost of Services rendered to HHSC pursuant to this Agreement is Ten Thousand Dollars (\$10,000.00) or more over a twelve-month period, CONTRACTOR agrees as follows:
- a. Until the expiration of four (4) years after the furnishing of such services, CONTRACTOR shall, upon written request, make available to the Secretary of the Department of Health and Human Services (the "Secretary"), the Secretary's duly-authorized representative, the Comptroller General, or the Comptroller General's duly-authorized representative, such books, documents, and records as may be necessary to certify the nature and extent of the cost of such Services; and
 - b. If any such Services are performed by way of subcontract with another organization and the value or cost of such subcontracted Services is Ten Thousand Dollars (\$10,000.00) or more over a twelve month period such subcontract shall contain and CONTRACTOR shall enforce a clause to the same effect as paragraph 29.a above.
 - c. The availability of CONTRACTORS' books, documents and records shall be subject to all applicable legal requirements, including such criteria and procedures for obtaining access that may be promulgated by the Secretary. The provisions of paragraphs 29.a and 29.b shall survive the expiration or other termination of this Agreement regardless of the cause of such termination.
 - d. HHSC may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor or prospective subcontractor which are related to this Agreement. HHSC may utilize third-party agents to conduct an audit and/or analysis of CONTRACTOR'S records related to quotes, proposals, orders, invoices, sales reports, expenses charged to HHSC, sales reports, and discounts related to this Agreement and or proposed amendment to this Agreement. Any such agents will be bound by the same confidentiality clauses as stated in this Agreement.
- 30. ANTITRUST CLAIMS.** HHSC and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to HHSC any and all claims for overcharges as to goods and materials purchased in connection with this Agreement, except as to overcharges which result from violations commencing after the price is established under this Agreement and which are not passed on to HHSC under an escalation clause.
- 31. GOVERNING LAW.** The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Agreement shall be brought in a State court of competent jurisdiction in Hawaii.
- 32. COMPLIANCE WITH LAWS.** The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Agreement. This specifically includes Sections 103-55 and 103-55.5, Hawaii Revised Statutes, dealing with wages, hours, and working conditions of employees of contractors providing services or construction. Other laws which may be applicable to contractors include, but are not limited to: HRS Chapters 383, 386, 387, 392, and 393. It shall be the responsibility of the CONTRACTOR to determine applicability and comply with the law.
- 33. CAMPAIGN CONTRIBUTIONS.** CONTRACTOR acknowledges that it is unlawful under Section 11-355, Hawaii Revised Statutes, unless specifically permitted under that law, for CONTRACTOR at any time between the execution of this Agreement through the completion of the Agreement to: (a) directly or indirectly make any contribution or to promise expressly or impliedly to make any contribution to any political party, committee or candidate or to any person for any political purpose or use; or (b) knowingly solicit any such contribution from any person for any purpose during any period.
- 34. DISPUTES.** Disputes shall be resolved in accordance with Section 103D-703, HRS and Chapter 3-126, Hawaii Administrative Rules.
- 35. ACCESS TO HHSC NETWORK AND SYSTEMS.** CONTRACTOR may be given access to some of the HHSC computer network and systems in order to fulfill the terms of the Agreement. CONTRACTOR agrees to follow and to require all agents, employees, and subcontractors to also follow the Information Technology and Confidentiality policies summarized and posted on the HHSC Procurement internet site (www.hhsc.org/GC) and to comply with such other instructions as provided by HHSC in the use of HHSC computer systems. CONTRACTOR shall not use the HHSC systems or data for any purpose other than to fulfill its duties under this Agreement.
- 36. COUNTERPARTS.** This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the parties by facsimile or electronically and such facsimile or electronic execution and transmission shall have the full force and effect of an original signature. All fully executed counterparts,

whether original executions or facsimile/electronic executions or a combination thereof shall be construed together and shall constitute one and the same Agreement.

37. **SEVERABILITY.** In the event that any provision of this Agreement is declared invalid or unenforceable by a court, such invalidity or non-enforceability shall not affect the validity or enforceability of the remaining terms of this Agreement.
38. **WAIVER.** The failure of HHSC to insist upon strict compliance with any term, provision, or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of HHSC's right to enforce the same in accordance with this Agreement. The fact that HHSC specifically refers to one provision of the law, and does not include other provisions shall not constitute a waiver or relinquishment of HHSC's rights or the CONTRACTOR's obligations under the law.
39. **DISCOUNTS AND REBATES.** CONTRACTOR hereby acknowledges its obligations to comply with any and all requirements imposed upon it as a seller under 42 U.S.C. Sec. 1320a-7b(b)(3)(A) and 42 C.F.R. Sec. 1001.952(h) Discounts.
40. **ACCEPTANCE OF GOODS AND SERVICES.** HHSC shall accept goods and services or give CONTRACTOR notice of rejection within a reasonable time, notwithstanding any payment, prior test, or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance with the specifications, shall relieve CONTRACTOR of any obligations under this Agreement or impair any rights or remedies of HHSC.
41. **OBSOLETE PARTS/LONGTERM PARTS AVAILABILITY (Goods and Equipment Agreements Only).** Contractor shall timely report on the status of end of life (EOL) hardware that has been procured for the purchased or leased product. EOL hardware includes the following: electronic components/piece parts and mechanical hardware. Contractor shall provide advanced notification in writing to the HHSC Technical Representative of any changes to tooling, facilities, materials, availability of parts, or processes that could affect the contracted product. This includes but is not limited to fabrication, assembly, handling, inspection, acceptance, testing, facility relocation, or introduction of a new manufacturer. Contractor shall notify HHSC of any pending or contemplated future action to discontinue articles purchased or replacement parts for the articles purchased pursuant to this Agreement and shall work with HHSC to determine the need to stockpile any parts for the likely life of the product and offer those parts to HHSC prior to the actual discontinuance. Contractor shall extend opportunities to HHSC to place last time buys of such articles with deliveries not to exceed twelve months after the last time buy date.
42. **ENTIRE AGREEMENT.** This Agreement sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between HHSC and the CONTRACTOR relative to this Agreement. This Agreement supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between HHSC and the CONTRACTOR other than as set forth or as referred to herein.

END OF GENERAL CONDITIONS