

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (Agreement) is entered into this 26th day of January , 2015, by and between the Board of Regents, State of Iowa (Board), whose address for the purposes of this Agreement is 11260 Aurora Avenue, Urbandale, Iowa 50322, and Huron Consulting Services LLC (Huron) whose address for the purposes of this Agreement is 550 W Van Buren Street, Chicago, IL 60607.

For the purposes of this Agreement, the terms "University" and "Universities" shall mean the University of Iowa, Iowa State University, and the University of Northern Iowa either individually or collectively.

For consideration of the mutual promises contained in this Agreement the Board and Huron agree as follows:

### 1. Scope of Services (Work Streams A and B)

- Assess policies, procedures and regulations, policies governing purchasing authority, controls, and operational processes relating to the procurement and strategic sourcing functions
- Assess the procurement and strategic sourcing organization structure, including roles and responsibilities
- Assess technology improvement opportunities for procurement and strategic sourcing related functions
- Validate and recalibrating the current strategic sourcing business case through additional analysis and stakeholder discussion for seven (7) primary spend categories; providing additional high level review and guidance on three (3) additional category areas
- Estimate actionable and measurable savings opportunities;
- Analyze and refining data to identify actionable strategies for savings and other opportunities
- Develop the action plan for implementing the proposed functional and strategic sourcing opportunities
- Develop communication plans, measurements and reporting to capture the benefits

### 2. Deliverables (Work Streams A and B)

#### a. Primary Deliverables

- i. Action plan and timeline to successfully achieve cost savings, including quick wins, mid-term and long-term actions;
- ii. Preferred sourcing approach for each assessed category;
- iii. Based on category and sourcing expertise, identify alternative methods of sourcing (eSourcing, reverse auctions, etc.)
- iv. Incumbent supplier strategy assessment
- v. Key service and other non-cost factors that are important to the Iowa institutions;
- vi. Policy changes that drive increased adoption of procurement strategies;

- vii. A summary of key change enablement issues and strategies to successfully implement the adoption and change process;
    - viii. Detailed communication plans;
    - ix. Metrics and measurement to capture benefits;
    - x. Procurement best practices applicable for each assessed category;
    - xi. Recommendations to leverage eProcurement tools and technology; and
    - xii. Recommendations related to procurement and sourcing operating model and organization roles and responsibilities
  - b. Within fifteen (15) days of receipt of a Deliverable, the Board shall provide Huron with written notice of one of the following:
    - i. the Deliverable conforms in all aspects required by this Agreement and is approved and accepted by the Board,
    - ii. the Deliverable does not conform with the requirements of this Agreement, but the Board waives the nonconformity and approves and accepts the Deliverable, or
    - iii. the Deliverable does not conform with the requirements of this Agreement and the Board is rejecting the Deliverable.
  - c. Subject to section 21.a and Iowa Code Chapter 22, all Deliverables will become public record upon acceptance by the Board.
3. Work Stream C (Optional) Should the Board and participating institutions choose to have Huron continue their involvement in this initiative, this next phase involves the execution of identified opportunities and strategies with a focus on realizing the savings and other benefits. This will occur through a collaborative process executed by Huron, the campuses, and the Board to execute on the strategies identified and accepted from the initial project. Typical tasks during this phase include:
  - Lead "quick hit" opportunities;
  - Execute RFX and/or incumbent supplier strategies;
  - Initiate the request for proposal / negotiation structure and draft applicable RFPs, bid, and/or initial supplier communication documents;
  - Identify incumbent and other qualified suppliers for each sourcing event / commodity areas;
  - Analyze proposal responses and create qualitative and quantitative comparison summaries;
  - Develop negotiation support documents and prepare for negotiation meetings;
  - Update key stakeholders;
  - Calculate projected cost savings achieved throughout the sourcing event execution process;
  - Support supplier selection and final recommendations;
  - Draft Memorandum of Terms documents;
  - Implement agreements;
  - Develop change management and campus communication strategy and materials;
  - Implement framework to measure savings and compliance;
  - Create supplier performance metrics and supplier scorecard framework;
  - Draft supplier and category management plan (supplier relationship management); and

- Develop supplier enablement and implementation plan and timeline (supplier outreach and management);

In order to provide the Board and the universities with the most value and cost-effective support for the implementation elements identified as part of this next phase of the project, we recommend jointly finalizing Huron's scope and pricing for these services following the recommendations report and agreement on the path forward by the Board.

4. Term. The term of this Agreement shall commence on the date this Agreement has been executed by both parties and shall terminate upon satisfactory completion of the Services and acceptance of all Deliverables, unless earlier terminated by either party in accordance with Section 8.
5. Fees and Payment
  - a. Work Stream A and B Professional Fees. The Board shall compensate Huron for Work Stream A and B Services a fixed fee amount of three hundred and eighty-five thousand dollars (\$385,000). Huron will invoice monthly based on hours worked, but will not exceed the fixed fee amount of the agreement. The final payment is due within thirty (30) days of Huron's satisfactory completion of Work Stream A and B Services and the Board's acceptance of all Work Stream A and B Deliverables. At the reasonable request of the Board, Huron will provide document evidence supporting a monthly invoice.
  - b. Work Stream A and B Reimbursable Expenses. Reimbursable expenses for Work Streams A and B shall not exceed 18% of Work Stream A and B Professional Fees. Reimbursable Expenses, identified further in Section 6, shall be invoiced on a monthly basis, with payment for properly documented expenses due thirty (30) days following the Board's receipt of an invoice.
  - c. Work Stream C Professional Fees and Reimbursable Expenses. The Board will only be obligated to pay professional fees and reimbursable expenses associated with Work Stream C upon separate written agreement of the parties, which shall be appended to and fully incorporated into this Agreement.
6. Change Orders. The Board, without invalidating this Agreement, may at any time direct changes in the Services (Change Order). All Change Orders shall be submitted to Huron in writing. Huron is responsible for reviewing a proposed Change Order and verifying the scope of Services impacted. A Change Order may result in an equitable increase or decrease in the Fees identified in Section 4. Once the parties have agreed to the applicable increase or decrease in Fees, the increase or decrease shall be documented in writing and signed by both parties.
7. Reimbursable Expenses. The Board shall reimburse Huron, or pay directly, actual reasonable expenses incurred in the performance of the Services; including, but not limited to, travel, lodging, meals, and communication and reproduction expenses. The Board may reject a request for reimbursement of expenses, in whole or in part, that does not conform to the requirements of this section. The Board's obligation to reimburse expenses is subject to the following limitations:
  - a. Travel Expenses:

- i. Automobile Mileage – IRS allowable reimbursement rate for current year
  - ii. Air Fare – Actual cost of coach class fare. **Receipts required.**
  - iii. Rental Car – Actual cost of mid-size car or smaller. **Receipts required.**
  - iv. Taxi, Airport Shuttle – Actual cost including reasonable gratuity. **Receipts required**
  - v. Parking – Actual cost. **Receipts required.**
- b. Daily Expenses:
- i. Lodging – Actual cost for a standard single room. **Receipts required.**
  - ii. Meals – \$40 per diem for a full day of travel. For partial days of travel the following limits apply – B = \$8, L = \$12, D = \$20. Alcohol is not a reimbursable expense.
- c. Other Expenses:
- i. Telecommunications – Actual cost with proper supporting documentation
  - ii. Printing – Actual cost. **Receipts required.**
  - iii. Miscellaneous – Actual cost, receipts required for any single expense in excess of \$25

#### 8. Ownership of Work Product

- a. Huron agrees that any computer programs, software, documentation, discoveries, inventions, improvements, copyrightable work or other Deliverables (Work) developed by Huron solely or with the assistance of others, or by any of Huron subcontractors, as a result of the performance of Huron's responsibilities and obligations under this Agreement are the property of the Board. Huron hereby assigns and transfers to the Board all rights, title and interest in and to the Work, including but not limited to, the exclusive rights to reproduce, distribute, prepare derivative works, display and perform the Work. Huron agrees to assist the Board in taking whatever action reasonably necessary to preserve the Board's commercial interest in and to the Work; including, but not limited to, the filing of patent and copyright protections. To the extent that Services are provided by subcontractors who produce any portion of the Work, Huron shall insure that its agreements with subcontractors include a full assignment of rights in the Work to the Board as is required herein of Huron.
- b. To the extent that the Work incorporates any computer programs, software, documentation, discoveries, inventions, improvements, or other copyrightable work developed by Huron prior to or independently of the Services (Huron Technology), Huron grants to the Board the right to use any Huron Technology included in the Work in connection with the Board's use of the Work.
- c. To the extent that the Work incorporates any computer programs, software, documentation, discoveries, inventions, improvements, or other copyrightable work developed by others prior to or independently of the Services (Third Party Technology), Huron shall secure, at no cost to the Board, a license for the Board to use any Third Party Technology included in the Work in connection with the Board's use of the Work. Huron shall indemnify and hold harmless the Board from and against any suits, claims, damages, losses, and expenses, including reasonable attorney's fees, for infringement of any patent rights or copyrights arising out of the use or incorporation of Third Party Technology in the Work.

d. Section 8 shall survive termination of the Agreement.

9. Termination

- a. For Convenience. Either party may terminate this Agreement for convenience by providing thirty (30) days advance written notice to the non-terminating party. In the event of a termination for convenience, Huron shall follow any reasonable written directive of the Board to cease and/or conclude the Services. The Board shall only be responsible for payment for Services satisfactorily rendered and expenses incurred through the date of termination for convenience. Notwithstanding the forgoing, the Board shall not be responsible for payment for Services rendered or expenses incurred following delivery of a notice of termination for convenience if the Services rendered or expenses incurred are in direct contravention of any reasonable instructions provided by the Board in the notice to terminate.
- b. For Cause. In the event of a material breach, the non-breaching party may terminate this Agreement by providing the breaching party with written notice of the alleged breach and the intent to terminate. The breaching party shall have fourteen (14) days to cure the breach. In the event a breach is not or cannot be cured within fourteen (14) days from the date the breaching party is first put on notice, the nonbreaching party shall have the right to terminate this Agreement. In the event of termination for cause, the Board shall only be responsible for payment for Services satisfactorily rendered and expenses incurred through the date the notice of breach is first delivered to the breaching party.
- c. In the event of termination under either 9.a or 9.b, the fixed fee payment identified in Section 5 shall be prorated based on Services satisfactorily rendered through the date of termination. Huron shall prepare an invoice detailing Services rendered, effort expended (hours/times/rates), and expenses incurred through the date of termination. At the reasonable request of the Board Huron shall provide additional document evidence supporting the final invoice. In no event shall the fees payable by the Board upon termination exceed the limits identified in section 5.

10. Insurance

- a. Huron shall purchase and maintain, throughout the life of this Agreement, commercial general liability insurance and commercial automobile liability insurance to protect Huron from claims for bodily injury, including accidental death, personal injury, and property damage arising from operations under this Agreement, whether such operations be by Huron, a subcontractor, or anyone else directly or indirectly employed by Huron or a subcontractor. In addition, all statutory insurance requirements, including workers' compensation, shall be met. Limits of such insurance shall be as stated below:

<u>Type of Insurance</u>	<u>Limits of Liability</u>
Workers' Compensation	Statutory
Commercial General Liability	\$1 million per occurrence

Commercial Auto Liability	\$1 million combined single limit
Errors and Omissions	\$1 million per claim

- b. With the exception of Workers' Compensation and Errors and Omissions, the "State of Iowa" and the "Board of Regents" shall be included on such policies as additional insureds. Prior to providing services under the terms of this Agreement, Huron shall provide a Certificate(s) of Insurance evidencing the required insurance coverage. Huron shall maintain such insurance in effect throughout the duration of this Agreement consistent with all applicable laws and in the minimum amounts required above to cover claims arising from the performance of this Agreement. Should a policy be canceled or subject to adverse material change, Huron shall provide the Board with prompt written notice of the change. Failure to carry the required insurance coverage places Huron in material breach of this Agreement.
- c. Certificate(s) of Insurance on current ACORD forms, which shall be acceptable to the Board, shall be addressed to:  
  
The Board of Regents, State of Iowa  
11260 Aurora Avenue  
Urbandale, Iowa 50322
- d. Huron shall either (1) require each subcontractor performing Services hereunder to procure and to maintain during the life of each associated subcontract liability insurance of the type and in the same amounts as specified herein, or (2) provide coverage for the activities of the subcontractor(s) in Huron's own policies.
- e. Huron shall automatically renew policies which expire during the term of this Agreement and provide the Board with certificates as evidence of such renewal.

#### 11. Indemnification

- a. To the fullest extent permitted by law, Huron shall defend, indemnify and hold harmless the Board, the Universities, and their agents and employees from and against all claims, damages, losses, and expenses, including reasonable attorney's fees, arising out of or resulting from the negligent or intentional acts or omissions of Huron, its officers, agents, or employees in the performance of this Agreement.
- b. To the extent permitted by Iowa Code Chapter 669, the Board shall defend, indemnify and hold harmless Huron, its agents and employees from and against all claims, damages, losses, and expenses, including reasonable attorney's fees, arising out of or resulting from the negligent or intentional acts or omissions of the Board, its officers, agents, or employees in the performance of this Agreement.
- c. Limitation of Liability. To the fullest extent permitted by applicable law, neither party shall be liable to the other for any special, consequential, incidental, indirect or exemplary damages or loss (nor any lost profits, savings or business opportunity). Further, neither parties' liability relating to this Agreement will in any event exceed an amount equal to 1) in the case of Huron, the fees (excluding

taxes and expenses) it receives from the Board for the Services, or 2) in the case of the Board, the fees (excluding taxes and expenses) paid by the Board to Huron pursuant to this Agreement. This limitation shall not apply to claims resulting from the recklessness, gross negligence, bad faith, fraudulent or intentional misconduct of the other party, its subcontractors or their respective personnel. This limitation shall not apply to claims related to death, bodily injury, or damage to real or personal property that are subject of indemnification hereunder.

12. Independent Contractor Status Huron agrees that the relationship between Huron and the Board is that of an independent contractor. Huron shall be solely responsible for self-employment, income or any other taxes relating to payment under this agreement including those of any employees. Huron shall be solely responsible for liability, disability and health insurance coverage.
13. Assignment The covenants, conditions, and obligations contained in this Agreement shall be binding on and inure to the benefit of the respective successors and assigns of the Board and Huron to the same extent as if each successor and assign were named as a party to this Agreement. Notwithstanding the forgoing, neither party shall assign the Agreement, in whole or in part, without prior written consent of the other party, and any attempt to do so shall be void and ineffective.
14. Subcontracting Huron shall not subcontract all or any portion of the Services to be provided under the terms of this Agreement to any other party or entity unless prior written consent is granted by the Board. Huron shall provide the Board with advance notice of any proposed subcontractor, and the Board shall notify Huron in writing of any reasonable objection to a proposed subcontractor. In the event the Board reasonably objects to a proposed subcontractor, Huron shall propose a new subcontractor or perform the Services to be subcontracted itself.
15. Use of Marks Huron shall not use the name or marks of the Board of Regents or the Universities in any commercial advertising, or as a business reference, without the express written consent of the Board or, when applicable, the University in question.
16. Non-Availability of Funds Notwithstanding any other provisions of this agreement, if funds anticipated for the continued fulfillment of this Agreement are at any time not forthcoming or insufficient, either through the failure of the Federal government or the State of Iowa to appropriate funds or through deappropriation, then the Board shall have the right to terminate this Agreement immediately without penalty by giving written notice documenting the lack of funding.
17. Choice of Law The terms of this Agreement, including all attachments and amendments, and all matters relating to this engagement, shall be governed by and construed in accordance with the laws of the State of Iowa. Any action based on or arising out of this Agreement shall be brought and maintained exclusively in state or federal court in Polk County, Iowa.
18. Severability In the event any term or provision of this Agreement, or the application thereof to either party, is held invalid, illegal, or unenforceable in any respect, the other provisions of this Agreement or the application thereof to either party shall continue to be valid and enforceable to the fullest extent permitted by law.

19. No Waiver of Rights No action or failure to act by the Board or Huron shall constitute a waiver of a right or duty under this Agreement, nor shall such action or failure to act constitute approval or acquiescence in a breach of this Agreement except as expressly agreed to in writing.

20. Force Majeure If a party's ability to perform an obligation of this Agreement is delayed at any time by reason of acts of God, war, civil commotion, riots, inclement weather, strikes or other labor disputes by employees of a third party, inability to obtain required government permits, fire, epidemic, or similar causes beyond the reasonable control of the party (Permitted Delay), then the time for performance shall be appropriately extended by the time of delay actually caused by the circumstance or event. The party claiming a Permitted Delay shall promptly notify the other party in writing of the Permitted Delay and the event causing the delay.

21. Entire Agreement None of the covenants, provisions, terms or conditions of this Agreement shall be in any manner modified, waived or abandoned, except by a written instrument signed by both parties. This Agreement contains the entire agreement of the parties.

22. Iowa Open Records Act and Confidential Information

- a. The parties recognize that as an agency of the State of Iowa the Board is subject to the requirements of Iowa Code Chapter 22, the Iowa Open Records Act. Huron shall identify in writing any information provided to the Board pursuant to this Agreement which Huron reasonably believes represents a trade secret or other confidential information which may fall within one of the exceptions identified in Iowa Code section 22.7. Huron's designation of information as confidential is for informational purposes only and is not binding on the Board. The Board will notify Huron of a request for any information previously designated in writing by Huron as confidential, unless prohibited by law.
- b. The Board may provide Huron access to information that is considered confidential in accordance with State or Federal laws, including the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, or is otherwise exempt from public disclosure under Iowa Code section 22.7 (collectively, Board's Confidential Information). Huron agrees to only use the Board's Confidential Information in connection with the Services. To the extent that Huron is provided access to any of the Board's Confidential Information it shall protect against unauthorized redisclosures using at least the same degree of care it employs in maintaining the confidence of its own confidential information, and in any event, no less than a reasonable degree of care given the confidential nature of the information. The Board hereby consents to Huron's disclosure of such confidential information (1) to subcontractors engaged by Huron to perform Services who have been bound by confidentiality provisions similar to those contained in this Agreement, or (2) as may be required by law, regulation, or a lawfully issued judicial or administrative order.
- c. Notwithstanding anything contained in the foregoing, Huron shall not be provided access to any personally identifiable student information subject to the protections of FERPA (FERPA Data) unless and until it enters into a FERPA



