

CONTRACTUAL AGREEMENT

For

INVITATION TO BID (ITB) #: 1500MCSA

ENTITLED: FIRE ALARM SYSTEM MAINTENANCE AND SERVICES

Between

UNIVERSITY OF CENTRAL FLORIDA AND COMMERCIAL SYSTEMS GROUP, INC.

This Agreement is entered into and effective as of the date of the last signature hereto, by and between the University of Central Florida, on behalf of its Board of Trustees ("University" or "UCF"), and Commercial Systems Group, Inc. ("Payee"). The parties agree as follows:

1. **ACKNOWLEDGMENT.** Payee acknowledges that:
 - A. The University is a public entity of the State of Florida;
 - B. The University is exempt from federal and Florida taxes;
 - C. UCF's liability is regulated by Florida law. Except for its employees acting within the course and scope of their employment, UCF shall not indemnify any entity or person and, then, such indemnification is limited to the express terms of §768.28, Florida Statutes. The State of Florida is self-insured to the extent of its liability under law and any liability in excess of that specified in statute may be awarded only through special legislative action. Accordingly, UCF's liability and indemnification obligations in this Agreement shall be effective only to the extent expressly required by §768.28, Florida Statutes. Any provision requiring UCF to provide insurance coverage other than the State of Florida self-insurance shall not be effective.
2. **DESCRIPTION OF SERVICES.** The Payee is an independent contractor pursuant to Florida law and assumes full responsibility for completion of the services/delivery of the goods, as described in detail in Attachment "A" to this Agreement, which is incorporated herein for all purposes. Units of deliverables, if any, for such services/goods are stated in Attachment "A". Such services/goods shall be rendered/delivered in accordance with the schedule and for the amounts set forth in Attachment "A".
3. **TOTAL AMOUNT OF AGREEMENT.** The total amount of this Agreement shall not exceed N/A in accordance with UCF ITB# 1500MCSA
4. **SOURCE OF PAYMENT.** If applicable, payments to Payee under this Agreement shall be paid out of the University's account N/A.
5. **PERFORMANCE CRITERIA.** Criteria, if any, and the final date(s) by which such criteria must be met to complete this Agreement are described in detail in Attachment "B," which is incorporated herein for all purposes. Such criteria, if any, shall be met in accordance with the schedule set forth in Attachment "B".

6. **PERIOD OF PERFORMANCE.** The Payee shall commence performance of the terms of this Agreement approximately September 9, 2015, and shall end his/her performance of this Agreement on June 30, 2017 with 3-1yr renewal periods. The University may renew/extend this Agreement, as mutually agreed to by both parties.

7. **PAYMENT.**

- A. The University shall have sufficient time (as determined by the University) after its actual receipt of ordered goods or services to inspect and approve/disapprove the goods and/or services. It is the policy of the University that invoices on goods and/or services that have been received, inspected and approved by the University will generally be paid within thirty (30) days of the University's receipt, inspection and approval thereof. Until the University receives a properly completed invoice, the payment process will not begin.
- B. Advance payment for goods and services shall not be made except in accordance with applicable Florida law.
- C. The University shall not be bound to any prepayment penalty clauses.
- D. Bills for approved travel expenses shall be submitted in accordance with §112.061, Florida Statutes. The University may establish rates not to exceed the maximum allowed as provided in §112.061, Florida Statutes. The University reserves the right not to pay travel expenses unless the University approves such expenses in advance, in writing. The University has the right to make travel arrangements for Payee.

Bills for fees or other compensation for services or expenses shall be submitted in sufficient detail with supporting documentation sufficient for pre-audit & post-audit.

8. **VENDOR OMBUDSMAN STATEMENT.** The University has established a Vendor Ombudsman who acts as an advocate for vendors who may be experiencing problems in obtaining timely payment(s). The Vendor Ombudsman may be contacted at (407) 882-1000.

9. **ANNUAL APPROPRIATION.** The University's performance and obligations under this Agreement are subject to and contingent upon annual appropriations by the Florida Legislature and other funding sources.

10. **ASSIGNMENTS.** Under no circumstances shall the Payee assign to a third party any right or obligation of Payee pursuant to this Agreement without prior written consent of the University. If Payee is, or during the term of this Agreement becomes, an individual on the payroll of the State of Florida, Payee represents that he or she has complied with all applicable provisions in the Florida Statutes and Florida Administrative Code regarding outside or dual employment and compensation.

11. **BILLING.** The University shall only submit payment to the Payee, if Payee has provided the University with approved invoices. Mere statements in lieu of approved

invoices will not be accepted by the University. All invoices must specifically describe the services and/or goods provided, the dates and hours that the services were rendered and/or goods delivered and the fee charged. Payee shall deliver the invoices to UCF's Finance and Accounting Department, unless Payee has been otherwise instructed by the University. The Payee must display the applicable purchase order number on the face of each of Payee's invoices to the University. The University will not be responsible for any goods or services delivered without a properly completed University purchase order or other order provided in writing by a duly authorized University signatory or designee. If Payee's invoice lists any freight or cartage charges, such invoice must attach all of Payee's receipted transportation bills.

12. **CANCELLATION/TERMINATION.** This Agreement may be unilaterally cancelled by UCF for refusal by the Payee to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Payee in conjunction with this Agreement. UCF also may terminate this Agreement without cause on thirty (30) days' advanced written notice to the Payee. The parties to this Agreement may terminate the Agreement at any time by mutually consenting in writing. Either party may terminate this Agreement immediately for breach by the other that remains substantially uncured after thirty (30) days' advanced written notice to the breaching party, which notice describes the breach in detail sufficient to permit cure by the breaching party. The University shall be liable only for payment for services satisfactorily rendered/goods satisfactorily delivered and accepted from the date of commencement until the effective date of cancellation/termination.
13. **COMPLIANCE.** The parties shall at all times comply with all applicable ordinances, laws, rules and regulations of local, state and federal governments, or any political subdivision or agency, or authority or commission thereof, which may have jurisdiction to pass laws, ordinances, or make and enforce rules and regulations with respect to the parties.
14. **EXPORT CONTROL.** The parties shall comply with all applicable U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799 and/or other restrictions imposed by the Treasury Department's Office of Foreign Asset Controls (OFAC), in the performance of this Agreement. The parties agree that no technology, related data or information will be exchanged or disseminated under this Agreement nor any collaborations conducted pursuant to this Agreement, which are export controlled pursuant to the export control laws of the United States, including the EAR and the ITAR and any other applicable regulations. The Parties agree that the Payee will not provide the University with any ITAR or EAR restricted technology and/or related data, and that any ITAR or EAR restricted technologies and/or data produced in furtherance of this Agreement will be in the exclusive possession of the Payee and at no time will any export controlled technologies, related data, or information be intentionally or inadvertently transferred to the University, its facilities, labs, staff, researchers, employees, officers, agents, servants or students in the performance of this Agreement. If the Payee wishes to disclose export

controlled technology or technical data to the University, the Payee will, prior to disclosing any information, technical data or source code that is subject to export controls under federal law, notify the University in writing that the material is export controlled and shall identify the controls that apply. The University shall have the right to decline or limit (a) the receipt of such information, and (b) any task requiring receipt of such information. In the event the Payee sends any such technical data or product that is subject to export control, without notice of the applicability of such export control, the University has the right to immediately terminate this Agreement. The Payee understands and agrees that to the extent the Payee's personnel have access to work or materials subject to U.S. export controls while on University property, such personnel will meet all federal export control regulatory requirements or have the appropriate U. S. government approval.

15. **CONFLICTS OF INTEREST.** Acceptance of this Agreement shall certify that Payee is aware of the requirements of Chapter 112, Florida Statutes and in compliance with the requirements of Chapter 112, Florida Statutes and other laws and regulations concerning conflicts of interests in dealing with entities of the State of Florida. Payee certifies that its directors and/or principal officers are not employed and/or affiliated with the University unless a current Conflict of Interest (Report of Outside Activity/Employment) form has been completed, executed by such director or officer and approved in accordance with applicable University policies or rules. Violation of this section by Payee shall be grounds for cancellation of this Agreement.
16. **DELIVERY.** Delivery is to be made to "Ship To" location shown on the face of this purchase order. When delivery is specified to a location other than the University's Central Receiving Department, Payee shall direct its carrier to telephone the University's Central Receiving Department before unloading. Delivery of all shipments shall occur between 9:00 a.m. and 4:00 p.m., Mondays through Fridays only, except on State of Florida or U.S. holidays. Indicated on the face of this purchase order is the "Delivery Desired By" date; failure to make delivery by or before "Delivery Desired By" constitutes cause for cancellation of this Agreement by the University. The University of Central Florida is committed to sustainable practices. Palletized shipments should not exceed 1500 pounds per pallet and when possible, should be shipped on a 40"x48" pallet. Payee shall include a packing list showing contents of shipment (if shipment is made in two or more containers). No boxing, packing, installation, assembly, or similar charges (not included in the item price) will be allowed unless expressly and specifically authorized in writing by the University on the face of this purchase order.
17. **EMPLOYMENT OF ALIENS.** Payee's employment of unauthorized aliens, if any, shall be considered a violation of §§274(e) of the Immigration and Nationality Act. If the Payee knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Agreement by the University.
18. **FORCE MAJEURE.** No default, delay or failure to perform on the part of UCF shall be considered a default, delay or failure to perform otherwise chargeable, hereunder, if such default, delay or failure to perform is due to causes beyond UCF's reasonable control

including, but not limited to, strikes, lockouts, actions or inactions of governmental authorities, epidemics, war, embargoes, fire, earthquake, acts of God, default of common carrier. In the event of such default, delay or failure to perform due to causes beyond UCF's reasonable control, any dates or times by which UCF is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the cause beyond the reasonable control of UCF.

19. **GOVERNING LAW AND VENUE.** This Agreement and any attachments and addenda hereto are subject to and governed by Florida law. Venue for any action arising hereunder shall be in Orange County, Florida. The University is entitled to the benefits of sovereign immunity, including immunities from taxation.
20. **HEADINGS.** Headings have been included in this Agreement for convenience only and shall not affect the interpretation of any terms found herein.
21. **INDEMNIFICATION.** Payee shall hold the University and the UCF Board of Trustees and the University's officers, employees, agents and/or servants harmless and indemnify each of them against any and all liabilities, actions, damages, suits, proceedings, and judgments from claims arising or resulting from the acts or omissions of Payee, its employees, its agents or of others under Payee's control and supervision. If any part of a delivery to the University pursuant to this Agreement is protected by any patent, copyright, trademark, other intellectual property right or other right, Payee also shall indemnify and hold harmless the University and the UCF Board of Trustees and the University's officers, employees, agents and/or servants from and against any and all liabilities, actions, damages, suits, proceedings and judgments from claims instituted or recovered against the University by any person or persons whomsoever on account of the University's use or sale of such article in violation of rights under such patent, copyright, trademark, other intellectual property right or other right.
22. **INDEPENDENT CONTRACTOR.** Each of the parties is an independent contractor and nothing contained herein shall constitute or designate any of the employees or agents of one party as employees or agents of the other party.
23. **NO JOINT VENTURE.** Nothing contained in this Agreement shall be construed to create a joint venture, partnership, or other like relationship between the parties.
24. **LEASED EQUIPMENT.** The risk of loss or damage to leased equipment, goods or property shall not transfer to the University except as provided in §680.219, Florida Statutes. Any security interest in the leased equipment, goods or property granted to Payee contrary to AGO 79-72 and AGO 80-9 is null and void. Limitation of remedies provisions, which are unconscionable under applicable Florida law, are void.
25. **MATERIAL SAFETY DATA SHEET (MSDS).** In compliance with Florida Statutes, Ch. 442, a Material Safety Data Sheet (MSDS) must accompany any applicable item delivered under this Agreement.

must furnish the University with valid and adequate releases necessary for the unrestricted use of the Materials for advertising or trade purposes, including model and property releases relating to the Materials and releases from any persons whose names, voices or likenesses are incorporated or used in the Materials. The Payee hereby represents and warrants that, (a) all applicable laws, rules and regulations have been complied with, (b) the Payee is free and has full right to enter into this P.O. and perform all of its obligations hereunder, (c) the Materials may be used or reproduced for advertising or trade purposes or any commercial purposes without violating any laws or the rights of any third parties and (d) no third party has any rights in, to, or arising out of, or in connection with the Materials, including without limitation any claims for fees, royalties or other payments. The Payee agrees to indemnify and hold harmless the University and those acting for or on its behalf, the UCF Board of Trustees, the State of Florida and the Florida Board of Governors and their respective officers, agents, employees and servants from and against any and all losses, claims, damages, expenses or liabilities of any kind, including court costs and attorneys' fees, resulting from or in any way, directly or indirectly, connected with (a) the performance or non-performance of the University's order by the Payee, (b) the use or reproduction in any manner, whatsoever, or (c) any breach or alleged breach of any of the Payee's agreements or representations and warranties herein.

30. PUBLIC RECORDS. The Agreement may be canceled unilaterally by the University for refusal by the Payee to allow public access to all papers, documents, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Payee in conjunction with the Agreement.

31. PUBLIC RECORDS, CONTRACT FOR SERVICES

To the extent that Payee meets the definition of "contractor" under Section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Payee must comply with public records laws, including the following provisions of Section 119.0701, Florida Statutes:

- A.** Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- B.** Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C.** Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- D.** Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

If Payee does not comply with a public records request, University shall enforce the contract provisions in accordance with the contract.

32. **RECORDS.** The Payee agrees to keep and maintain, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its obligations and activities pursuant to this Agreement. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations under this Agreement. University or its authorized agent shall have the right to audit and inspect such records from time to time during the term of this Agreement, upon reasonable notice to the Payee.
33. **TAXES.** The University shall not pay any intangible taxes, property taxes or sales taxes.
34. **VIETNAM ERA VETERANS READJUSTMENT ACT OF 1974.** The University and the Payee must comply with all applicable provisions of: (i) §402:60-250.4 of the Vietnam Era Veterans Readjustment Act of 1974; (ii) §503:60-741.4 of the Rehabilitation Act of 1973; (iii) Executive Order 11246, as amended; and, (iv) the rules, regulations, and relevant orders of the U.S. Secretary of Labor.
35. **EQUAL OPPORTUNITY.** This Contractor/Payee and any subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
36. **SEVERABILITY.** This Agreement is severable such that should any provision of this Agreement be or become invalid or unenforceable, the remaining provisions shall continue to be fully enforceable.
37. **WAIVER/REMEDIES.** No failure or delay by a party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. The remedies provided in this Agreement are cumulative and not exclusive of the remedies provided by law or in equity.
38. **PAYEE INSURANCE.** For all purchases under this Agreement of \$10,000 or below, Payee will have and maintain types and amounts of insurance that at a minimum cover the Payee's (or subcontractor's) exposure in performing this Agreement. For all purchases that exceed \$10,000 (i.e. \$10,000.01 and up) and/or all purchases that require a UCF Safe Form, Payee will have and maintain general liability insurance of one (1)

million dollars and Payee shall send a copy of Payee's insurance certificate (prior to commencement of Payee's performance or delivery hereunder) to the following address by email, fax or mail:

e-mail: ehs@ucf.edu

Fax: 407-823-0146

Mail: University of Central Florida

PO Box 163500

Orlando FL 32816-3500

The Payee/Vendor shall name UCF and its Board of Trustees as additional insured to their general liability insurance for the duration of this Agreement. UCF has the right to deviate from any of the above insurance requirements, if UCF, at UCF's sole discretion decides to do so. If UCF decides to deviate from the above noted insurance requirements, UCF will inform the Payee in writing in those particular circumstances. Unless UCF notifies a Payee in writing that UCF is willing to deviate from the insurance requirements noted above, all of the above insurance requirements shall apply to the Payee.

39. **AMENDMENTS.** No changes or amendments to this Agreement are binding on the University unless made in legible writing that is signed by an attorney in the University's General Counsel's Office and an authorized UCF signatory. Payee shall return this Agreement to the University's Purchasing Department at once with a written explanation if it is not acceptable in its entirety.
40. **USE OF CONTRACT BY OTHER GOVERNMENT AGENCIES.** At the option of the Payee, the use of the Agreement resulting from this solicitation may be extended to other governmental agencies, including the State of Florida, its agencies, political subdivisions, counties and cities. Each governmental agency allowed by the Payee to use this Agreement shall do so independent of any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods or services ordered, received and accepted. No agency receives any liability by virtue of this bid and subsequent contract award.
41. **SECURE HANDLING OF UCF DATA**
Secure protection and handling of data by vendors and third parties
1. Network Security. Vendor agrees at all times to maintain network security that – at a minimum – includes: network firewall provisioning, intrusion detection, and regular third party penetration testing. Likewise Vendor agrees to maintain network security that conforms to one of the following:
- a. Those standards that UCF applies to its own network, as found at <http://www.est.ucf.edu/about/information-security-office/iso-policies-standards/>
- b. Current standards set forth and maintained by the National Institute of Standards and Technology, including those at:
- <http://web.nvd.nist.gov/view/ncp/repository>

c. Any generally recognized comparable standard (e.g., ISO/IEC 27001, etc.) that Vendor then applies to its own network.

2. Data Security. Vendor agrees to protect and maintain the security of UCF data based on the latest industry security standards and best practices. These security measures include, but are not limited to, maintaining secure segmented networks, maintaining systems that are up-to-date, and environments free of malware.

3. Data Transmission. Vendor agrees that any and all transmission or exchange of system application data with UCF and/or any other parties expressly designated by UCF – solely in accordance with Section 6 below – shall take place via secure means, e.g. HTTPS or FTPS with 128 bit key AES encryption or better.

4. Data Storage. Vendor agrees that any and all UCF data will be stored, processed, and maintained solely on designated target servers and that no UCF data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Vendor's designated backup and recovery processes.

5. Data Encryption. Vendor agrees to store all UCF backup data as part of the its designated backup and recovery processes in encrypted form using 128 bit key AES encryption or better.

6. Data Re-Use. Vendor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Current Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Vendor.

Vendor further agrees that no UCF data of any kind shall be transmitted, exchanged or otherwise passed to other vendors or interested parties except on a case-by-case basis as specifically agreed to in writing by an agent of UCF.

7. End of Agreement Data Handling. Vendor agrees that upon termination of this Agreement it shall erase, destroy, and render unreadable all UCF data according to the standards enumerated in DOD 5220.22 or NIST 800-88 and certify in writing that these actions have been completed at a mutually predetermined date.

8. Data Breach. Vendor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally-identifiable information or other event requiring notification. In the event of a breach of any of Vendor's security obligations or other event requiring notification under applicable law ("Notification Event"), Vendor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend UCF and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Notification Event.

Related Documents:

- Third-Party Outsourcing (Cloud Computing) of University Data
- UCF Third Party Assurance Questionnaire
- 4-008 Data Classification and Protection

9. FERPA

If Vendor is provided access to any student personally identifiable information (as defined under FERPA), Vendor acknowledges that it will comply with the privacy regulations outlined in the Family Educational Rights and Privacy Act ("FERPA"), for the handling of such information, to the extent such regulations apply to Vendor. Vendor will not disclose or use any student information except to the extent necessary to carry out its obligations under its agreement with UCF and as permitted by FERPA.

42. **ATTACHMENTS AND ENTIRE AGREEMENT.** This Agreement and any attachments and/or addenda hereto that are executed by the University's duly authorized signatory constitute the entire and exclusive agreement between the parties. Attachments and/or addenda may include, but are not limited to, the University's ITB/ITN, if any, including all the University's ITB/ITN specifications, and the Payee's ITB/ITN response, if applicable. In the event of any conflict or inconsistency between this Agreement and the provisions of attached documents, the order of priority is:

- A. This Agreement;
- B. The University's ITB/ITN and ITB/ITN specifications, if any;
- C. Payee's ITB/ITN response; and
- D. any other attached documents signed by the University's official signatory at the time the Agreement is executed.

UNIVERSITY OF CENTRAL FLORIDA

Signature: Gregory M. Robinson

For: Printed: Gregory Robinson

Title: Director of Purchasing

Date: 9/8/15

COMMERCIAL SYSTEMS GROUP, INC.

Signature: Chris Wiman

Printed: CHRIS WIMAN

Title: VILLAGE PRESIDENT

Date: 9-8-15

Address: 151 SEMOLAN

COMMERCIAL PLAZA

APOPKA FL 32703

Telephone: 407-814-0225

Facsimile: 407-814-8868

FEID#/SS#: 52-2073956

ATTACHMENT "A" PRICE SCHEDULE

If applicable, divide the Agreement into units of deliverables including, but not limited to, reports, findings and drafts that must be received by a stated date and accepted in writing by the University before payment.

In accordance with the University of Central Florida's ITB# 1500MCSA and Payee/vendor response.

ATTACHMENT "B" PERFORMANCE CRITERIA

If applicable, describe in sufficient detail performance criteria that must be achieved by a stated date and accepted in writing by the University before payment.

In accordance with the University of Central Florida's ITB# 1500MCSA and Payee/vendor response.