STATE OF ARKANSAS
COMMODITIES CONTRACT

This contract ("Contract") is by and between the:

Arkansas Department of Human Services
("Department" or the "State")

and

Enter Contractor Name as Registered with the Secretary of State
("Contractor")

Enter Entity Type in **Enter State of Formation**

with principal address at **Enter Street Address, City, State, Zip Code**.

The Contractor and the State are referred to hereinafter, collectively, as the "Parties."

WHEREAS, the State seeks a contractor willing to sell it the commodity or commodities identified in **Enter Exhibit Reference for Commodity & Price List (i.e., Exhibit A)** hereto (the "Commodities"); and

WHEREAS, the Contractor is willing to sell the State the Commodities for the prices identified in **Enter Exhibit Reference for Commodity & Price List (i.e., Exhibit A)** hereto.

NOW THEREFORE, in consideration of their mutual promises and obligations set forth herein and as incorporated, the Parties agree as follows:

1. **Commodities & Purchase Price.** During the term of this Contract, the Contractor shall, in the quantities set forth in any purchase order that the Department may submit to the Contractor under this Contract, sell to the Department the Commodities set forth on **Enter Exhibit Reference for Commodity & Price List (i.e., Exhibit A)** at the prices stated therein. Unless otherwise stated in **Enter Exhibit Reference for Commodity & Price List (i.e., Exhibit A)**, the Department shall pay all taxes applicable to any purchase it makes under this Contract.

   Price changes may be negotiated at the time of contract renewal at the discretion of the State. Any request for a price increase must include supporting documentation demonstrating that the increase in contract price is based on an increased cost to the Contractor and that the proposed pricing is still competitive in the marketplace. The State has the right to approve or deny any request for a price adjustment.

2. **Invoicing and Payment after Delivery.** Unless otherwise stated in **Enter Exhibit Reference for Commodity & Price List (i.e., Exhibit A)**, payment for the Commodities is due within thirty (30) days of the date of the Contractor's delivery of Commodities conforming to the Contract and receipt of the Contractor's invoice, whichever is later.

   Invoices must be sent to:
   Enter Department Name
   Enter Department Mailing Address
   Enter Department Mailing City, State, Zip Code

   The Contractor should invoice the agency by an itemized list of charges. The Department's Purchase

Order Number and/or the Contract Number should be referenced on each invoice.

3. **Delivery: Title and Risk of Loss.** The Contractor shall deliver the Commodities FOB destination to the Department's receiving address as set forth in the relevant purchase order under this Contract, with all transportation and handling charges paid by the Contractor, unless the Parties agree otherwise in a writing signed by the Parties. Risk of loss of the Commodities will pass to the Department upon Contractor's delivery of Commodities conforming to the Contract pursuant to a purchase order from the Department under this Contract. Contractor shall take all reasonable measures to ensure that any Commodities purchased under this Contract shall be delivered within thirty (30) days of the Department's issuance of the relevant purchase order unless the Parties agree otherwise in writing. The Contractor will not be liable for delays in performance or for non-performance due to unforeseen circumstances or causes beyond the Contractor's reasonable control.

4. **Inspection.** The State may inspect any Commodities delivered, tendered, or identified to the State as being procured under this Contract to determine whether they conform to the Contract. The State's right to inspection may be exercised at any reasonable place and time and in any reasonable manner, as determined in the State's reasonable discretion, prior to acceptance of and payment for any Commodities procured under this Contract. If the Commodities are found to be conforming as the result of inspection, the State shall bear the cost of inspection, if any. If any of the Commodities are found to be non-conforming, the State: (a) may elect to recover expenses of inspection, if any, from the Contractor and the Contractor shall bear the cost; and (b) the Contractor shall be responsible for the cost of any retrieval, return, or disposal of the Commodities. Payment for Commodities does not constitute acceptance of the Commodities as conforming to the Contract if the State has not had a reasonable opportunity to inspect the Commodities or in the event of Contractor's fraud or concealment of defects.

5. **Term Dates.** The original term (Original Term) of the Contract shall commence on **Click or tap to enter term start date**., and shall continue until **Click or tap to enter term expiration date**., unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (Total Possible Term) beyond the Contract's Original Term, as defined in the following paragraph.

   The Total Possible Term of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the Original Term, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than **Click or tap to enter final expiration date**.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence**. If this Contract was awarded as the result of a solicitation, the Parties agree that, by this reference, this Contract incorporates all material specifications in the underlying solicitation documents and any and all written representations, warranties, terms, and conditions, set forth in the bid or proposal that became the basis of this Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless amended by this Contract or by a written agreement of the Parties. Accordingly, the provisions of this Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this Contract and the provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

1. This Contract, as may be amended in a writing signed by the Parties;
2. The solicitation **Enter Solicitation Number**, including all Addenda;
3. Contractor's response to the solicitation.

7. Termination & Cancellation Clauses.

1. **Non-Appropriation Clause Pursuant to §19-11-1012(11)**. In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this Contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

   This provision shall not be construed to abridge any other right of termination the agency may have.

2. **For Convenience**. The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination. If the Contract is so terminated, the State's only payment obligation under the Contract shall be for those commodities ordered prior to the effective date of the termination.

3. **For Cause**. The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30) days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue:

1. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.
2. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this Contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.
3. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds $10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Rules promulgated pursuant thereto. The Contractor shall also require any subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government

entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated pursuant thereto, shall be considered a material breach of the terms of the Contract and shall subject the party failing to disclose, in violation thereof, to all remedies available to the Department under this Contract and at equity and law.

12. **Compliance**. The Contractor shall endeavor to ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas Procurement Law, including, without limitation, the ethics provisions of Ark. Code Ann. § 19-11-701 et seq.

13. **Indemnity**. The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.

14. **Assignment/Subcontracting**. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.

15. **Amendments**. The terms of this Contract shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever without written approval of both parties.

16. **Records**. Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations**.**

17. **State Property.** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other such item furnished by the State to the Contractor hereunder or in contemplation hereof or developed by the Contractor for use hereunder shall remain property of the State, shall be kept confidential as permitted or required by law, shall be used only as expressly authorized, and shall be returned at the Contractor's expense to the F.O.B. destination point provided by the State. Contractor shall properly identify items being returned. Any data furnished by the State in use of Contractor's product shall be returned to the State at its request in a format acceptable to the State within thirty (30) days of the State's request for return of its proprietary or sensitive data.

18. **Non-waiver**. The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

19. **Severability**. If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.

20. **ACH Payment**. All payments to the Contractor under this Contract shall be made exclusively through ACH (Automated Clearing House) direct deposit or through the State's authorized Procurement Card (p-card). The Contractor agrees to provide the necessary banking information, including account number, routing number, and any other details required to facilitate ACH direct deposits. The

Contractor is responsible for ensuring that the provided banking information is accurate and up to date. Any delays or errors in payment caused by incorrect or outdated information provided by the Contractor shall not be the responsibility of the Department. The Department will process payments according to the agreed payment schedule, and all payments made via ACH direct deposit shall be considered as duly received upon successful transmission to the Contractor's designated bank account.

21. Attachments:

1. **Enter Exhibit Reference for Commodity & Price List (i.e., Exhibit A)**
2. Exhibit B: Certification of Contractor
3. Exhibit C: Solicitation, including addenda
4. Exhibit D: Contractor's response to Solicitation
5. **Enter Exhibit Reference for negotiated items, if applicable**
6. **Enter Exhibit Reference for additional items, if applicable**

22. Notices:

1. **Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

2. **Receipt of Notice.** A notice given under this Contract will be effective on
   i. the other party's receipt of it, or
   ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

3. **Issuance of Notice.** All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

Click here to enter text. Name	Click here to enter text. Title
Click here to enter text. Telephone #	Click here to enter text. Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

Click here to enter text. Name	Click here to enter text. Title
Click here to enter text. Telephone #	Click here to enter text. Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

Click here to enter text.	Click here to enter text.

Name	Title
Click here to enter text.	Click here to enter text.
Telephone #	Email

23. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at Technology Access Clause and are included herein by reference, as applicable.

24. SIGNATURES. IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 5 above.

CONTRACTOR AUTHORIZED SIGNATURE	**DEPARTMENT AUTHORIZED SIGNATURE**
Click here to enter text.	Click here to enter text.
Printed Name	Printed Name
Click here to enter text.	Click here to enter text.
Title	Title
Click here to enter text.	Click here to enter text.
Address	Address
Signature	Signature
Click or tap to enter a date.	Click or tap to enter a date.
Date	Date

EXHIBIT A: COMMODITIES & PRICE LIST

EXHIBIT B: CERTIFICATION OF CONTRACTOR

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction**: For contracts valued at $1,000 or greater.

   A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.

2. **Illegal Immigrant Restriction**: For contracts valued at $25,000 or greater.

   No state agency may contract for services with a Contractor who knowingly employs or contracts with an illegal immigrant. The Contractor shall certify that it does not knowingly employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.

3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction**: For contracts valued at $75,000 or greater.

   A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.

4. **Scrutinized Company Restriction**: Required with bid or proposal submission.

   A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

   By signing this form, the Contractor agrees and certifies they are in compliance with the certification requirements listed above that are relevant to this contract and will remain so for the aggregate term of any resultant contract.