



University of Idaho

Contracts & Purchasing Services
1028 West Sixth Street
Moscow, Idaho 83844

REQUEST FOR PROPOSALS NO. 25-15M

FOR

Instructional Design and Course Development Services

Jake Milleson, Purchasing Lead
Phone (208) 885-6116
jacobmilleson@uidaho.edu

Date Issued: February 24, 2025

Inquiries Due: March 7, 2025

Proposals Due: March 21, 2025

UNIVERSITY OF IDAHO REQUEST FOR PROPOSALS NO. 25-15M

PROPOSAL RESPONSE CERTIFICATION

DATE

The undersigned, as Proposer, declares that they have read the Request for Proposals, and that the following proposal is submitted on the basis that the undersigned, the company, and its employees or agents, shall meet, or agree to, all specifications contained therein. It is further acknowledged that addenda numbers ____ to ____ have been received and were examined as part of the RFP document.

Name

Signature

Title

Company

Street Address

City, State, Zip

Telephone Number

Cell Phone Number

E-mail Address

State of Incorporation

Tax ID Number

Business Classification Type (Please check mark if applicable):

- Minority Business Enterprise (MBE) _____
- Women Owned Business Enterprise (WBE) _____
- Small Business Enterprise (SBE) _____
- Veteran Business Enterprise (VBE) _____
- Disadvantaged Business Enterprise (DBE) _____

SECTION 1 - INSTRUCTIONS TO PROPOSERS

1-1 SCOPE OF WORK

The University of Idaho (herein referred to as the University) is soliciting proposals for a qualified instructional design firm(s) to provide course design, development, and multimedia production services. This Master Agreement will allow the University to engage the awarded vendor(s) through individual task orders for course development projects as identified.

The University may award contracts to multiple vendors to provide a diverse range of instructional design and course development services.

The University of Idaho, home of the Vandals, is Idaho's land-grant, national research university. From its residential campus in Moscow, the University serves the state of Idaho through educational centers in Boise, Coeur d'Alene and Idaho Falls, a research and Extension center in Twin Falls, plus Extension offices in 42 counties. Home to more than 12,000 students statewide, U of I is a leader in student-centered learning and excels at interdisciplinary research, service to businesses and communities, and in advancing diversity, citizenship and global outreach. The University competes in the Big Sky Conference. Learn more at www.uidaho.edu.

1-2 PROPOSAL SUBMISSION

Proposal must be submitted electronically to jacobmilleson@uidaho.edu by 11:59 pm on March 21, 2025

The proposal must be signed by such individual or individuals who have full authority from the Proposer to enter into a binding Agreement on behalf of the Proposer so that an Agreement may be established as a result of acceptance of the proposal submitted. By reference, the terms and conditions set forth in the Request for Proposals shall serve as the Agreement terms and conditions. In addition, the laws of the State of Idaho shall apply. No other terms and conditions will apply unless submitted as a part of the proposal response and accepted by the University.

Proposals received after the exact time specified for receipt will not be considered.

1-3 REQUEST FOR PROPOSAL SCHEDULE

RFP issued February 24, 2025

Inquires due March 7, 2025

Proposals due March 21, 2025

1-4 INQUIRIES

All inquiries concerning this request shall be submitted in writing and received by Contracts & Purchasing Services on or before March 7, 2025 to:

Jake Milleson, Purchasing Lead
E-mail: jacobmilleson@uidaho.edu

Proposers should consider Contracts & Purchasing Services as the first and prime point of contact on all matters related to the procedures associated with this RFP. If additional information is needed from any

source, Contracts & Purchasing Services will work with the Proposer and with the various offices of the University to gather that information.

1-5 INTERPRETATION, CORRECTIONS, OR CHANGES IN RFP

Any interpretation, correction, or change in the RFP will be made by addendum by the University. Interpretations, corrections, or changes to the RFP made in any other manner will not be binding, and no Proposer may rely upon any such interpretation, correction, or change.

1-6 MODIFICATION OR WITHDRAWAL OF PROPOSALS

A Proposer may modify or withdraw a proposal at any time prior to the specified time and date set for the proposal closing. Such a request for modification or withdrawal must be in writing, and executed by a person with authority as set forth under paragraph 1-2 above, or by facsimile notice subsequently confirmed in writing.

1-7 ERASURES AND INTERLINEATIONS

Erasures, interlineations, or other changes in the proposal must be initialed by the person(s) signing the proposal.

1-8 ACKNOWLEDGMENT OF ADDENDUMS TO RFP

Receipt of an addendum to this RFP must be acknowledged by a Proposer on the Proposal Response Certification (Attachment A).

1-9 PROPOSAL COPIES

One (1) electronic complete copy of the proposal shall be submitted to the University.

1-10 OFFER ACCEPTANCE PERIOD

A proposal shall constitute an offer to contract on the terms and conditions contained in this RFP and the proposal. Said proposal shall constitute an irrevocable offer for ninety (90) calendar days from the proposal opening date, even if the University makes one or more counteroffers.

1-11 REJECTION OF PROPOSALS

The University in its sole discretion, expressly reserves the right to reject any or all proposals or portions thereof, to reissue a Request for Proposal, and to waive informalities, minor irregularities, discrepancies, and any other matter or shortcoming.

1-12 PROPOSAL PRICE

The prices submitted in the proposal shall include everything necessary for the prosecution and completion of the Agreement including, but not limited to, furnishing all materials and all management, supervision, labor and service, except as may be provided otherwise in the Agreement Documents. In the event of discrepancy between the unit prices and their extensions, the total price will be adjusted accordingly. In the event of discrepancy between the sum of the extended total prices, the Total Proposal Price will be adjusted accordingly. The proposal price shall not include any allowance for Idaho State sales/use tax.

The University will evaluate the total price for the basic requirements with any options(s) exercised at the time of award. Evaluation of options will not obligate the University to exercise the option(s).

The University may reject an offer if it is materially unbalanced as to process for the basic requirements and the option quantities. An offer is unbalanced when it is based on prices significantly less than cost for some work and prices that are significantly overstated for other work.

1-13 TERM OF AGREEMENT

The initial term of this agreement shall be three (3) years, commencing upon the date of execution by the university. The term of this agreement may, if mutually agreed upon in writing, be extended by one-year increments for a total of two (2) additional years, provided written notice of each extension is given to the bidder at least thirty (30) days prior to the expiration date of such term or extension. In the event funding approval is not obtained by the University, this Agreement shall become null and void effective the date of renewal. During extension periods, all terms and conditions of this Agreement shall remain in effect.

1-14 AWARD OF AGREEMENT

The University shall make the award to the responsible Proposer whose proposal will be most advantageous to the University with respect to price, conformance to the specifications, quality, and other factors as evaluated by the University. The University is not required or constrained to award the Agreement to the Proposer proposing the lowest price.

The University may award an Agreement on the basis of initial offers received, without discussion; therefore, each initial offer should contain the offeror's best terms from a cost and technical standpoint.

The University reserves the right to award this agreement to one or more vendors based on the proposals received and in the best interest of the University.

1-15 PUBLIC AGENCY

The Contractor has agreed to extend contract usage to other public agencies, such as any city or political Subdivision of this state, including, but not limited to counties; school districts; highway districts; port authorities; instrumentalities of counties, cities or any political subdivision created under the laws of the State of Idaho; any agency of the state government; or any city or political subdivision of another state.

1-16 PROPOSAL CONFIDENTIALITY

Each Proposer agrees that except as determined by the University's Office of Contracts and Purchasing Services, in its sole discretion, no information will be given regarding any proposals or evaluation progress until after an award is made, except as provided by law.

1-17 F.A.R. REQUIREMENT

All purchase orders and contracts issued by the University of Idaho are subject to F.A.R. 52.209-6. Supplier warrants that neither supplier nor its principals are presently debarred, suspended or proposed for debarment by the Federal Government.

1-18 RECORD OF PURCHASES

Contractor will provide Contracts and Purchasing Services a detailed usage report of items/services ordered, quantities, and pricing under this Agreement upon request.

1-19 APPEAL OF AWARD

A Proposer may file an appeal by writing to the AVP-Finance, within five (5) business days of award. Proposers are responsible for tracking of award announcement.

SECTION 2 - INSTRUCTIONS FOR PREPARING PROPOSALS

2-1 GENERAL

To aid in the evaluation process, it is required that all responses comply with the items and sequence as presented in paragraph 2-2, RFP Response Outline. Paragraph 2-2 outlines the minimum requirements and packaging for the preparation and presentation of a response. Failure to comply may result in rejection of the response. The proposal should be specific and complete in every detail, prepared in a simple and straight-forward manner.

Proposers are expected to examine the entire Request for Proposals, including all specifications, standard provisions, and instructions. Failure to do so will be at the Proposer's risk. Each Proposer shall furnish the information required by the invitation. It is required that proposal entries be typewritten. Periods of time, stated in number of days, in this request or in the Proposer's response, shall be in calendar days. Propose your best price on each item.

2-2 RFP RESPONSE OUTLINE

- A. Response Sheet: The proposal Response Certification shall be attached to the front of the proposal and shall contain the Proposer's certification of the submission. An official who has full authority to enter into an Agreement shall sign it.
- B. Background and History: Describe the company, organization, officers or partners, number of employees, and operating policies that would affect this Agreement. State the number of years your organization has been continuously engaged in business.
- C. References: The Proposer shall provide a minimum of three (3) references including names of persons who may be contacted, title of person, addresses, phone numbers, and e-mail, where products or services similar in scope to the requirements of this RFP have been provided.
- D. Experience and Support: Describe Proposer's experience in performing the requested services.
- E. Technical Specifications & Pricing: Include itemized costs for all components and features to be delivered. Costs should be identified as one-time or continuing. Purchase prices, lease prices, installation charges, and maintenance charges must be identified.
- F. Warranties: Describe warranties provided by the Proposer. Include discussions of any additional support provided after the sale.
- G. Proposer Exceptions: Describe any exceptions to the terms and conditions contained within this document.

SECTION 3 - TECHNICAL SPECIFICATIONS

3-1 Initial Task Order (Phase 1 Scope)

Upon Contract execution, the awarded vendor will be issued a Task Order for six (6) courses:

- Three (3) courses within the Doctor of Anatomical Sciences (DAS) program
- Three (3) courses within the MS in Gerontology program.

Each course's content will include:

- At least ten (10) short videos.
- Ten (10) custom graphics.
- Interactive content experiences such as quizzes, case studies, and knowledge checks.
- Simulation scenarios where applicable to enhance experiential learning.

All deliverables for this task order must be completed before the Fall 2025 semester.

3-2 Future Task Orders

Future task orders may be issued depending on the University's needs. Future task orders may include but are not limited to:

- Additional DAS and Gerontology Courses
- Instructional design support for other academic programs.
- Course redesign, accessibility enhancements, or multimedia content production for online learning.

Each task order will be issued at the University's discretion and will define the scope, deliverables, timeline, and compensation for the assigned work. The University does not guarantee a minimum number of future task orders.

3-3 General Requirements

The awarded vendor will provide instructional design and course development services as detailed in individual task orders. The general scope includes:

Course Design and Development:

- Collaborate with University of Idaho faculty and subject matter experts (SMEs) to design and develop high-quality online courses.
- Ensure a consistent and professional look across all courses, aligned with the University's branding and educational standards.
- Develop instructional content, which may include:
 - Video production and animations.
 - Custom graphics and visual content.
 - Interactive content experiences such as quizzes, case studies, and knowledge checks.
 - Simulation scenarios where applicable to enhance experiential learning.

Multimedia and Instructional Elements:

- Create engaging videos and animations to support course objectives.
- Ensure multimedia components are compatible with various devices and screen sizes.
- Provide transcripts and closed captions for all video content to meet accessibility requirements.

Accessibility Compliance:

- Ensure all course materials comply with the Americans with Disabilities Act (ADA) and Section 508 accessibility standards.
- Incorporate Universal Design for Learning (UDL) principles to support diverse learning needs.

Quality Assurance and Adaptability:

- Conduct thorough quality assurance (QA) checks to ensure accuracy, consistency, and adherence to instructional design best practices.
- Ensure content can be easily updated and adapted for future iterations.

Learning Management System (LMS) Integration:

- Develop course materials that are fully compatible with the University of Idaho's LMS (Canvas).
- Provide necessary support for seamless integration of content, ensuring functionality across all Canvas features.
- Ensure SCORM compliance and compatibility where applicable.

Project Management and Deliverables:

- Provide a detailed project timeline with key milestones and deliverables for each task order.
- Maintain regular communication with university stakeholders through scheduled updates and progress reports.
- Deliver final course content with full documentation and implementation support.

3-4 Task Order Issuance and Process**Issuance of Task Orders**

The University may issue task orders as needed under this agreement. Each task order will include:

- Scope of Work specific to the course(s) being developed.
- Deliverables and timeline for project completion.
- Compensation details, based on agreed-upon pricing terms.

The vendor will be expected to review and confirm acceptance of task orders before work begins.

Task orders may be issued to one or more vendors, depending on the needs of the University and the expertise required for each course development project.

Pricing and Compensation

The agreement will establish fixed pricing or rate structures for core services. Task order pricing will be based on:

- Course complexity and instructional needs.
- Multimedia and interactive content development requirements.
- Project management and faculty engagement hours.

If additional services are required beyond the scope of the master agreement, pricing will be negotiated on a per-task order basis.

The University may negotiate pricing structures with multiple awarded vendors to ensure cost efficiency and service coverage.

3-5 Task Order Performance and Review

Each completed task order will undergo formal review and acceptance by the University.

SECTION 4 - PROCUREMENT PROCESS

4-1 PROPOSER LIST AND QUALIFICATION EVALUATION

After the established date for receipt of proposals, a listing of Proposers submitting proposals will be prepared, and will be available for public inspection.

Qualifications and proposals submitted by interested Proposers will be reviewed and evaluated based on the evaluation factors set forth in the RFP.

4-2 PROPOSAL CLASSIFICATION

For the purpose of conducting discussions with individual offerors, if required, proposals will initially be classified as:

- A. Potentially Acceptable
- B. Unacceptable

Discussions may be conducted with any or all of the Proposers whose proposals are found acceptable or potentially acceptable. Offeror's whose proposals are unacceptable will be notified promptly. The Director of Contracts and Purchasing Services will establish procedures and schedules for conducting oral and/or written discussions.

Proposers are advised that the University may award an Agreement on the basis of initial offers received, without discussions; therefore, each initial offer should contain the offeror's best terms from a cost and technical standpoint.

4-3 PROPOSER INVESTIGATION

The University will make such investigations as it considers necessary to obtain full information on the Proposers selected for discussions, and each Proposer shall cooperate fully in such investigations.

4-4 FINAL OFFERS AND AWARD OF AGREEMENT

Following any discussions with Proposers regarding their technical proposals, alternative approaches, or optional features, a number of the firms may be requested to submit best and final offers. The committee will rank the final Proposers for the project, giving due consideration to the established evaluation criteria. The committee will propose award to the proposal which is found to be most advantageous to the University, based on the factors set forth in the Request for Proposals.

SECTION 5 - EVALUATION PROCESS

The University reserves the right to reject any or all proposals, or portions thereof. The selection of a successful Proposer, if any, will be made based upon which proposal the University determines would best meet its requirements and needs.

5-1 EVALUATION CRITERIA

Proposals will be evaluated in accordance with the following criteria:

- Demonstrated Experience – Proven track record in instructional design and online course development.
- Quality & Innovation – Ability to create engaging, accessible, and pedagogically sound content.
- Accessibility & Compliance – Compliance with ADA, Section 508, and UDL best practices.
- Cost & Value – Competitive pricing structure with a breakdown of costs per course.
- Scalability & Adaptability – Ability to support additional course development.
- References & Client Feedback – Strong references from higher education institutions.

Proposals will be evaluated independently, and the University may select multiple vendors if it is deemed beneficial to meet instructional design needs.

SECTION 6 - GENERAL CONTRACTUAL TERMS AND CONDITIONS

6-1 AGREEMENT TERMS AND CONDITIONS

The submission of a proposal herein constitutes the agreement of any Proposer that any Agreement to be drawn as the result of an award herein shall be prepared by the University and shall include at a minimum, all terms and conditions set forth in this RFP. The submission of a proposal shall further constitute the agreement of each Proposer that it will not insist on the use of standard contract agreements, documents, or forms, and that it waives any demand for the use of its standard agreements. The Agreement between the parties shall consist of, in order of precedence: the agreement document signed by the Parties subsequent to submission of the proposal, and any attachments thereto and incorporations therein, the terms and conditions in the RFP, and the Proposer's response to the RFP.

Awarded vendors acknowledge that this agreement does not confer exclusive rights to provide services, and the University may enter into agreements with multiple vendors.

6-2 ASSIGNMENT

No assignment of this Agreement or of any right accruing under this Agreement shall be made, in part or in whole, by Contractor without the written consent of the University. Notwithstanding any assignment, Contractor shall remain fully liable on this Agreement and shall not be released from performing any of the terms, covenants, and conditions of this Agreement.

6-3 TERMINATION FOR CONVENIENCE

The University may terminate this Agreement, in whole or in part, at any time by written notice to the Contractor. The Contractor shall be paid its reasonable costs, including reasonable close-out costs and a reasonable profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim for payment. If the Contractor has any property in its possession belonging to the University, the Contractor will account for the same and dispose of it in the manner the University directs.

6-4 TERMINATION FOR DEFAULT

If the Contractor does not deliver the materials in accordance with the Contract delivery schedule, or if the Contract is for services and the Contractor fails to perform in the manner called for in the Contract, or if the Contractor fails to comply with any other provisions of the Contract, the University may terminate this Contract for default. Termination shall be effected by serving on the Contractor a notice of termination setting forth the manner in which the Contractor is in default. The Contractor will be paid a reasonable price for materials delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract.

6-5 INDEMNIFICATION

Contractor shall indemnify, defend and hold the University and the State of Idaho harmless from and against any and all claims, losses, damages, injuries, liabilities and all costs, including attorneys fees, court costs and expenses and liabilities incurred in or from any such claim, arising from any breach or default in the performance of any obligation on Contractor's part to be performed under the terms of this Agreement, or arising from any act, negligence or the failure to act of Contractor, or any of its agents, subcontractors, employees, invitees or guests. Contractor, upon notice from the University, shall defend the University at Contractor's expense by counsel reasonably satisfactory to the University. Contractor, as a material part of the consideration of the University, hereby waives all claims in respect thereof against the University.

Contractor shall: (a) notify the University in writing as soon as practicable after notice of an injury or a claim is received; (b) cooperate completely with the University and/or the University's insurers in the defense of such

injury or claim; and (c) take no steps such as admission of liability which would prejudice the defense or otherwise prevent the University from protecting the University's interests.

6-6 APPLICABLE LAW AND FORUM

This Agreement shall be construed in accordance with, and governed by the laws of the State of Idaho. Any legal proceeding related to this Agreement shall be instituted in the courts of the county of Latah, state of Idaho, and Contractor agrees to submit to the jurisdiction of such courts.

6-7 LAWS, REGULATIONS AND PERMITS

The Contractor shall give all notices required by law and comply with all applicable Federal, State, and local laws, ordinances, rules and regulations relating to the conduct of the work. The Contractor shall be liable for all violations of the law in connection with work furnished by the Contractor, including the Contractor's subcontractors.

6-8 GENERAL QUALITY

Contractor's work shall be performed with the highest degree of skill and completed in accordance with the Agreement Documents.

6-9 PROOF OF COMPLIANCE WITH AGREEMENT

In order that the University may determine whether the Contractor has complied with the requirements of the Agreement Documents, the Contractor shall, at any time when requested, submit to the University properly authenticated documents or other satisfactory proofs as to compliance with such requirements.

6-10 PAYMENT AND ACCEPTANCE

Except as otherwise provided herein, payments shall be due and payable within (30) days after acceptance of such goods or services or after receipt of properly completed invoice, whichever is later. No advance payment shall be made for goods or services furnished pursuant to this Agreement.

6-11 CONTINUATION DURING DISPUTES

The Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as possible under the terms of the Agreement to be entered into, each party will continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by any court.

6-12 SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application; to this end the terms and conditions of this Agreement are declared severable.

6-13 INTEGRATION

This Agreement constitutes the entire Agreement between the parties. No change thereto shall be valid unless in writing communicated in the stipulated manner, and signed by the University and the Contractor.

6-14 BINDING EFFECT

This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties hereto and their respective heirs, legal representatives, successors, and assigns.

6-15 APPROPRIATIONS CLAUSE

If the term of this Agreement is longer than one year, the University's obligations and liabilities hereunder are subject to the appropriation of funds from the State of Idaho, which appropriation shall be in the State of Idaho's sole discretion, from revenues legally available to the University for the ensuing fiscal year for the purposes of this Agreement. If the State of Idaho does not appropriate the funds for the purpose of this Agreement, the Agreement shall terminate and neither party shall have any further obligations hereunder.

6-16 IRS SECTION 501(C)(3) AND SECTION 115 CONSIDERATIONS

If any provision of this Agreement may cause the University to lose its status as an Internal Revenue Code Section 501(c)(3) corporation, this Agreement shall be voidable. In the alternative, at the sole option of the University, the offending provision(s) shall be modifiable such that the provision(s) will no longer cause the University to lose its status as a 501(c)(3) corporation. The terms of the modification shall be subject to agreement in writing by all parties.

6-17 COMPLIANCE WITH GOVERNOR'S EXECUTIVE ORDER

In the event any provision of this Agreement shall cause the University to be in violation of any of the Governor of Idaho's Executive Orders, then this Agreement shall be voidable at the sole option of the University.

6-18 DEBARRED, SUSPENDED OR EXCLUDED

All purchase orders and contracts issued by the University of Idaho are subject to F.A.R. 52.209-6. Supplier warrants that neither supplier or its principals is presently debarred, suspended or proposed for debarment by the Federal Government.

6-19 NON-USE OF NAMES AND TRADEMARKS

Contractor shall not use the name, trade name, trademark, or other designation of the University, or any contraction, abbreviation, or simulation any of the foregoing, in any advertisement or for any commercial or promotional purpose (other than in performing under this Agreement) without the University's prior written consent in each case.

6-20 RISK OF LOSS

Until all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, Contractor shall bear all risks of all loss or damage to the improvements, equipment, or goods, excluding loss or damage caused by acts, omissions, or negligence of the University. Once all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, the risk of all loss or damage shall be borne by University, excluding loss or damage caused by acts, omissions, or negligence of the Contractor.

6-21 CONTRACTOR REPRESENTATIONS

Contractor represents and warrants the following: (a) that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to provide the equipment and goods, complete the

services, and perform its obligations required hereunder; (b) that it is able to furnish any of the plant, tools, materials, supplies, equipment, and labor required to complete the services required hereunder and perform all of its obligations hereunder and has sufficient experience and competence to do so; (c) that it is authorized to do business in Idaho, properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and the services, equipment, and goods required hereunder, and has or will obtain all licenses and permits required by law; and (d) that it has visited the site of the project and familiarized itself with the local conditions under which this Agreement is to be performed.

6-22 REGENTS' APPROVAL

This Agreement may be subject to approval by the Regents of the University of Idaho, and if it is and if such approval is not granted this Agreement shall be void and neither party shall have any further obligations or liabilities hereunder.

6-23 SURVIVAL OF TERMS

The terms and provisions hereof, and all documents being executed hereunder, if any, including, without limitation, the representations and warranties, shall survive this Agreement and shall remain in full force and effect thereafter.

6-24 HEADINGS

The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6-25 ADDITIONAL ACTS

Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the parties, the parties hereby agree to perform, execute and/or deliver or cause to be performed, executed and/or delivered any and all such further acts, deeds and assurances as any party hereto may reasonably require to consummate the transaction contemplated hereunder.

6-26 TIME OF ESSENCE

All times provided for in this Agreement, or in any other document executed hereunder, for the performance of any act will be strictly construed, time being of the essence.

6-27 WAIVER

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any other covenant, term or condition herein. Acceptance by a party of any performance by another party after the time the same shall have become due shall not constitute a waiver by the first party of the breach or default of any such covenant, term or condition unless otherwise expressly agreed to by the first party in writing.

6-28 FORCE MAJEURE

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (except for financial ability), shall excuse the performance, except for the payment of money, by such party for a period equal to any such prevention, delay or stoppage.

6-29 NO JOINT VENTURE

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or agency relationship between the parties.

6-30 INFORMATION TRUE AND CORRECT

All documents, agreements and other information provided to the University by Contractor or which Contractor has caused to be provided to the University are true and correct in all respects and do not omit to state any material fact or condition required to be stated, necessary to make the statement or information not misleading, and there are no other agreements or conditions with respect thereto.

6-31 EQUAL OPPORTUNITY

Contractor represents and agrees that it will not discriminate in the performance of this Agreement or in any matter directly or indirectly related to this Agreement on the basis of race, sex, color, religion, national origin, disability, ancestry, or status as a Vietnam veteran. This non-discrimination requirement includes, but is not limited to, any matter directly or indirectly related to employment. Breach of this covenant may be regarded as a material breach of Agreement.

6-32 PUBLIC RECORDS

Pursuant to the Idaho Public Records Act, Idaho Code title 74, chapter 1, proposals received from Proposers may be open to public inspection and copying unless exempt from disclosure. Upon request from the University, Proposers shall clearly designate individual portions of records as "exempt" on each page of the record containing exempt portions and shall indicate the basis in the Idaho Public Records Act for such exemption. The University will not accept the marking of an entire record as exempt or a legend or statement on one (1) page that all, or substantially all, of the record is exempt from disclosure. Proposers shall indemnify and defend the State against all liability, claims, damages, losses, expenses, actions, attorney fees and suits whatsoever for honoring Proposer's designation of exemption or for Proposer's failure to designate a record as exempt. Proposer's failure to designate as exempt any record or portion of a record that is released by the University shall constitute a complete waiver of any and all claims for damages caused by any such release. If the University honors a claim of exemption by Proposer, Proposer shall provide the legal defense for such claim, in consultation with the University and Idaho Department of Administration Risk Management Program.

6-33 CONTRACTOR CERTIFICATIONS

The University is prohibited by state law from entering into certain contractual agreements. Contractor hereby certifies that: (i) Pursuant to Idaho Code Section 67-2346 and 672347A, if payments under the Agreement exceed one hundred thousand dollars (\$100,000) and it employs ten or more persons, it is not currently engaged in, and will not for the duration of the Agreement engage in, a boycott of goods or services from Israel or territories under its control; or a boycott of any individual or company because the individual or company (a) engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or (b) engages in or supports the manufacture, distribution, sale, or use of firearms, as defined in Section 18-3302(2)(d), Idaho Code; (ii) pursuant to Idaho Code Section 67-2359, it is not currently owned or operated by the People's Republic of China and will not for the duration of the Agreement be owned or operated by the People's Republic of China; and (iii) it is not an abortion provider or an affiliation of an abortion provider under the No Public Funds for Abortion Act. The terms in this section defined in Idaho Code Section 67-2346, Idaho Code Section 672359, and in Title 18, Chapter 87, Idaho Code, respectively, shall have the meanings defined therein.

6-34 UNIVERSITY'S RULES, REGULATIONS, AND INSTRUCTIONS

Contractor will follow and comply with all rules and regulations of the University and the reasonable instructions of University personnel. The University reserves the right to require the removal of any worker it deems unsatisfactory for any reason.

SECTION 7 – INDEMNITY, RISKS OF LOSS, INSURANCE

7-1 RISK OF LOSS

Until all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, Contractor and its subcontractors of any tier shall bear all risks of all loss or damage to the improvements, equipment, or goods, excluding loss or damage caused by acts, omissions, or negligence of the University. Once all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, the risk of all loss or damage shall be borne by University, excluding loss or damage caused by acts, omissions, or negligence of the Contractor. Contractors shall require its subcontractors of any tier to bear the same risk of loss.

7-2 INDEMNIFICATION

Contractor shall indemnify, defend and hold the University and the State of Idaho harmless from and against any and all claims, losses, damages, injuries, liabilities and all costs, including attorneys fees, court costs and expenses and liabilities incurred in or from any such claim, arising from any breach or default in the performance of any obligation on Contractor's part to be performed under the terms of this Agreement, or arising from any act, negligence or the failure to act of Contractor, or any of its agents, subcontractors, employees, invitees or guests. Contractor, upon notice from the University, shall defend the University at Contractor's expense by counsel reasonably satisfactory to the University. Contractor, as a material part of the consideration of the University, hereby waives all claims in respect thereof against the University.

Contractor shall: (a) notify the University in writing as soon as practicable after notice of an injury or a claim is received; (b) cooperate completely with the University and/or the University's insurers in the defense of such injury or claim; and (c) take no steps such as admission of liability which would prejudice the defense or otherwise prevent the University from protecting the University's interests.

7-3 Insurance

7.3.1 General Requirements

7.3.1.1 Contractor and its subcontractor(s) of any tier are required to carry the types and limits of insurance shown in this insurance clause, section 8.0, and to provide University with a Certificate of Insurance ("certificate"). All certificates shall be coordinated by the Contractor and provided to the University within seven (7) days of the signing of the contract by the Contractor. Certificates shall be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. All certificates shall provide for thirty (30) days' written notice to University prior to cancellation, non-renewal, or other material change of any insurance referred to therein as evidenced by return receipt of United States certified mail. Said certificates shall evidence compliance with all provisions of this section 8.0. Exhibit A of this Agreement contains a Request for Certificate of Insurance which shall be given to the insurance broker or agent of the Contractor and its subcontractor(s) of any tier, upon award of bid to Contractor.

7.3.1.2 Additionally and at its option, Institution may request certified copies of required policies and endorsements. Such copies shall be provided within (10) ten days of the Institution's request.

7.3.1.3 All insurance required hereunder shall be maintained in full force and effect with insurers with Best's rating of AV or better and be licensed and admitted in Idaho. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage University may

choose to maintain. Failure to maintain the required insurance may result in termination of this Agreement at University's option.

7.3.1.4 All policies except Workers Compensation and Professional Liability shall name University as Additional Insured. The Additional Insured and Certificate Holder shall be stated as: "State of Idaho and The Regents of the University of Idaho". Certificates shall be mailed to: University of Idaho, Attn.: Risk Management, 875 Perimeter Drive MS2433, Moscow, ID 83844-2433, or email to: UI-Risk@edu.idaho.gov.

7.3.1.5 Failure of University to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Institution to identify a deficiency from evidence that is provided shall not be construed as a waiver of the obligation of Contractor and its subcontractor(s) of any tier to maintain such insurance.

7.3.1.6 No Representation of Coverage Adequacy. By requiring insurance herein, University does not represent that coverage and limits will necessarily be adequate to protect Contractor and its subcontractor(s) of any tier, and such coverage and limits shall not be deemed as a limitation on the liability of the Contractor and its subcontractor(s) of any tier under the indemnities granted to University in this Agreement.

8.1.7 Contractor is responsible for coordinating the reporting of claims and for the following: (a) notifying the Institution in writing as soon as practicable after notice of an injury or a claim is received; (b) cooperating completely with University in the defense of such injury or claim; and (c) taking no steps (such as admission of liability) which will prejudice the defense or otherwise prevent the University from protecting its interests.

7.3.2 Required Insurance Coverage.

Contractor and its subcontractor(s) of any tier shall at its own expense obtain and maintain:

7.3.2.1 Commercial General and Umbrella / Excess Liability Insurance. Contractor and its subcontractor(s) of any tier shall maintain Commercial General Liability ("CGL") written on an occurrence basis and with a limit of not less than \$1,000,000 each occurrence and in the aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately by location and shall not be less than \$1,000,000. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, sexual abuse and molestation and liability assumed under a contract including the tort liability of another assumed in a business contract. Waiver of subrogation language shall be included. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy.

7.3.2.2 Commercial Auto Insurance. Contractor and its subcontractor(s) of any tier shall maintain a Commercial Auto policy with a Combined Single Limit of not less than \$1,000,000; Underinsured and Uninsured Motorists limit of not less than \$1,000,000; Comprehensive; Collision; and a Medical Payments limit of not less than \$10,000. Coverage shall include Non-Owned and Hired Car coverage. Waiver of subrogation language shall be included.

7.3.2.3 Business Personal Property. Contractor and its subcontractor(s) of any tier shall purchase insurance to cover Business Personal Property of Contractor and its subcontractor(s) of any tier. In no event shall University be liable for any damage to or loss of personal property sustained by Contractor, even if such loss is caused by the negligence of Institution, its employees, officers or agents. Waiver of subrogation language shall be included.

7.3.2.4 Workers' Compensation. Contractor and its subcontractor(s) of any tier shall maintain all coverage statutorily required of the Contractor and its subcontractor(s) of any tier, and coverage shall be in accordance with the laws of Idaho. Contractor and its subcontractor(s) of any tier shall maintain Employer's Liability with limits of not less than \$100,000 / \$500,000 / \$100,000.

7.3.2.4 Professional Liability. If professional services are supplied to Institution, Contractor and its subcontractor(s) of any tier, Contractor and its subcontractor(s) of any tier shall maintain Professional Liability (Errors & Omissions) insurance on a claims made basis, covering claims made during the policy period and reported within three years of the date of occurrence. Limits of liability shall be not less than one million dollars (\$1,000,000).

7-4 PROTECTION OF MINORS

7.4.1 Permittee is responsible for activities and operations of its employees, directors, subcontractors, agents and volunteers. Permittee is responsible for participants in its programs and shall have adequate policies and procedures related to prevention and mitigation of physical/sexual abuse/molestation and harassment.

7.4.2 As applicable, Permittee shall maintain and purchase insurance that covers claims arising from activities sponsored by Permittee, but conducted on premises not owned by Facilities User. Commercial General Liability coverage shall include physical/sexual abuse/molestation and harassment ("abuse") coverage. Limit of liability for abuse coverage shall be at least \$1,000,000 general aggregate. This coverage shall be evidenced on the insurance certificate. Certificates must be sent to University of Idaho Risk Management three (3) weeks prior to commencement of operations.

7.4.3 Failure to satisfy above may result, at the University's sole discretion, with immediate termination of this contract, without regard to any other termination provision.

UNIVERSITY OF IDAHO GENERAL TERMS AND CONDITIONS

THIS ORDER EXPRESSLY LIMITS ACCEPTANCE TO THE TERMS AND CONDITIONS STATED HEREIN. ALL ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CONTRACTOR ARE OBJECTED TO AND ARE HEREBY REJECTED, UNLESS OTHERWISE PROVIDED FOR IN WRITING BY THE PURCHASING MANAGER, UNIVERSITY OF IDAHO.

1. NOTICES: All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the third business day after mailing; (iii) the second business day after sending by confirmed facsimile; or (iv) the second business day after sending by email.
2. CHANGES: No alteration in any of the terms, conditions, delivery, price, quality, quantity or specifications of this order will be effective without the written consent of the University of Idaho Department of Purchasing Services.
3. PACKING: No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified.
4. DELIVERY: For any exceptions to the delivery date as specified on the order, Contractor shall give prior notification and obtain approval thereto from the University of Idaho Department of Purchasing Services. With respect to delivery under this order, time is of the essence and order is subject to termination for failure to deliver within the timeframe specified in this order.
5. SHIPPING INSTRUCTIONS: Unless otherwise instructed, all goods are to be shipped prepaid and allowed, FOB Destination.
6. ORDER NUMBERS: Agreement order numbers or purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.
7. REJECTION: All goods, materials, or services purchased herein are subject to approval by the University of Idaho. Any rejection of goods, materials, or services resulting from nonconformity to the terms, conditions or specifications of this order, whether the goods are held by the University of Idaho or returned, will be at Contractor's risk and expense.
8. QUALITY STANDARDS: Brand names, models, and specifications referenced in herein are meant to establish a minimum standard of quality, performance, or use required by the University. No substitutions will be permitted without written authorization of the University of Idaho Department of Purchasing Services.
9. WARRANTIES: Contractor warrants that all products delivered under this order shall be new, unless otherwise specified, free from defects in material and workmanship, and shall be fit for the intended purpose. All products found defective shall be replaced by the Contractor upon notification by the University of Idaho. All costs of replacement, including shipping charges, are to be borne by the Contractor.
10. PAYMENT, CASH DISCOUNT: Invoices will not be processed for payment nor will the period of computation for cash discount commence until receipt of a properly completed invoice or invoiced items are received and accepted, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized. Payment shall not be considered late if a check or warrant is available or mailed within the time specified.
11. LIENS, CLAIMS AND ENCUMBRANCES: Contractor warrants and represents that all the goods and materials delivered herein are free and clear of all liens, claims or encumbrances of any kind.
12. TERMINATION: In the event of a breach by Contractor of any of the provisions of this Agreement, the University of Idaho reserves the right to cancel and terminate this Agreement forthwith upon giving written notice to the Contractor. Contractor shall be liable for damages suffered by the University of Idaho resulting from Contractor's breach of Agreement.
13. TRADEMARKS: Contractor shall not use the name, trade name, trademark, or any other designation of the University, or any contraction, abbreviation, adaptation, or simulation of any of the foregoing, in any advertisement or for any commercial or promotional purpose (other than in performing under this Agreement) without the University's prior written consent in each case.
14. SAVE HARMLESS: Contractor shall protect, indemnify, and save the University of Idaho and the State of Idaho harmless from and against any damage, cost or liability, including reasonable attorney's fees, for any or all injuries to persons or property arising from acts or omissions of Contractor, its employees, or subcontractors, howsoever caused.
15. OSHA REGULATIONS: Contractor guarantees all items, or services, meet or exceed those requirements and guidelines established by the Occupational Safety and Health Act.
16. TAXES: The University of Idaho is exempt from payment of Idaho State Sales and Use Tax. In addition, the University is generally exempt from payment of Federal Excise Tax under a permanent authority from the District Director of the Internal Revenue Service. Exemption certificates will be furnished as required upon written request by

Contractor. If Contractor is required to pay any taxes incurred as a result of doing business with the University of Idaho, it shall be solely responsible for the payment of those taxes. If Contractor is performing public works construction, it shall be responsible for payment of all sales and use taxes.

17. **BINDING EFFECT:** This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

18. **ASSIGNMENTS:** No Agreement, order, or any interest therein shall be transferred by Contractor to any other party without the approval in writing of the Purchasing Manager, University of Idaho. Transfer of an Agreement without approval may cause the rescission of the transferred Agreement at the option of the University of Idaho.

19. **WAIVER:** No covenant, term or condition, or the breach thereof, shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition herein. Acceptance by a party of any performance by another party after the time the same shall have become due shall not constitute a waiver by the first party of the breach or default unless otherwise expressly agreed to in writing.

20. **FORCE MAJEURE:** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes thereof, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (except for financial ability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

21. **NO JOINT VENTURE:** Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment or agency relationship between the parties.

22. **PRICE WARRANTY FOR COMMERCIAL ITEMS:** Contractor warrants that prices charged to the University of Idaho are based on Contractor's current catalog or market prices of commercial items sold in substantial quantities to the general public and prices charged do not exceed those charged by Contractor to other customers purchasing the same item in like or comparable quantities.

23. **NONDISCRIMINATION:** Contractor represents and agrees that it will not discriminate in the performance of this Agreement or in any matter directly or indirectly related to this Agreement on the basis of race, sex, color, religion, national origin, disability, ancestry, or status as a Vietnam veteran. This non-discrimination requirement includes, but is not limited to, any matter directly or indirectly related to employment. Breach of this covenant may be regarded as a material breach of Agreement.

24. **CONTRACTOR CERTIFICATIONS:** The University is prohibited by state law from entering into certain contractual agreements. Contractor hereby certifies that: (i) Pursuant to Idaho Code Section 67-2346 and 672347A, if payments under the Agreement exceed one hundred thousand dollars (\$100,000) and it employs ten or more persons, it is not currently engaged in, and will not for the duration of the Agreement engage in, a boycott of goods or services from Israel or territories under its control; or a boycott of any individual or company because the individual or company (a) engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or (b) engages in or supports the manufacture, distribution, sale, or use of firearms, as defined in Section 18-3302(2)(d), Idaho Code; (ii) pursuant to Idaho Code Section 67-2359, it is not currently owned or operated by the People's Republic of China and will not for the duration of the Agreement be owned or operated by the People's Republic of China; and (iii) it is not an abortion provider or an affiliation of an abortion provider under the No Public Funds for Abortion Act. The terms in this section defined in Idaho Code Section 67-2346, Idaho Code Section 672359, and in Title 18, Chapter 87, Idaho Code, respectively, shall have the meanings defined therein.

25. **UNIVERSITY REGULATIONS:** Contractor shall follow and comply with all rules and regulations of the University and the reasonable instructions of University personnel.

26. **GOVERNING LAW:** This Agreement shall be construed in accordance with, and governed by the laws of the State of Idaho. Any legal proceeding related to this Agreement shall be instituted in the courts of the county of Latah, state of Idaho, and Contractor agrees to submit to the jurisdiction of such courts.

EXHIBIT A - APPENDIX FOR INFORMATION SECURITY STANDARDS AND REQUIREMENTS

The parties wish to set forth in the additional confidentiality, security, and privacy requirements with respect to Protected Information (as defined below) Processed by Company in performing such Services to ensure that such Processing by Company is compliant with Applicable Privacy Laws.

1. **Definitions.** Capitalized terms not otherwise defined herein have the following meanings and shall be construed in a manner with definitions set forth in the Agreement:

- 1.1 **“Applicable Privacy Law(s)”** means the applicable data protection and privacy laws to which U of I is subject, and any guidance or statutory codes of practice issued by the relevant Privacy Authority (including but not limited to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 C.F.R. Part 99, as amended (“FERPA”) and the California Consumer Privacy Act of 2018, and its implementing regulations as modified and amended by the California Privacy Rights Act of 2020 (“CCPA”), and other similar legislation as it may come into effect from time to time, such as the Colorado Privacy Act of 2021 (“CPA”)), Health Insurance Portability and Accountability Act (“HIPAA”), Gramm-Leach-Bliley Act (“GLBA”); and data falling under the definition of Controlled Unclassified Information pursuant to federal law (“CUI”) per FAR 52.204-21.
- 1.2 **“Data Security Incident”** means any (1) theft or loss of, or unauthorized or unlawful collection, disclosure, use, alteration, destruction of, or access to, Processing or other compromise of Protected Information, and/or any (2) compromise of Company or its Subcontractor’s (as defined below) network, server, site or system that contains or otherwise Processes any Protected Information, which could materially affect U of I confidential information or performance of this contract.
- 1.3 **“Industry Standards”** means (a) the standards, practices and guidelines issued by the National Institute for Standards and Technology in NIST 800-171, and/or other applicable industry standards for information security and data privacy, as each may be updated, amended or replaced by the applicable industry body.
- 1.4 **“Named Accounts”** means the primary U of I account assigned to a single individual for accessing U of I resources and completing work as required by the agreement.
- 1.5 **“Protected Information”** means any information relating to an identified or identifiable natural person that is within the scope of the Applicable Privacy Law, or other regulated data, which Company may Process from time to time in connection with its performance of Services provided to U of I under this Agreement.
- 1.6 **“Process,” “Processed” or “Processing”** means any operation in relation to Protected Information irrespective of the purposes and means applied including, without limitation, access, collection, retention, storage, transfer, disclosure, use, copying, recording, organizing, hosting, transmitting, providing, disclosing, making available, generation, disposal, erasure, destruction, and any other operation.
- 1.7 **“Student Information”** means any student or alumni information of U of I or an U of I Affiliate, including but not limited to student or alumni names, email addresses, identification code or other educational or financial records. Student Information shall be deemed Protected Information.

2. **Compliance with U of I’s Information Security Standards.** Company shall comply with U of I’s Third Party Information Security Standards and Policy located at <https://uidaho.edu/oit/standards> and <https://uidaho.edu/apm/30> as amended from time to time in U of I’s sole discretion, with respect to any and all access, storage, and use of U of I information technology (“IT”) assets. IT assets include but are not limited to: (i) information, such as databases, hosted data, computer files, documentation, manuals, plans and audit logs; (ii) software, such as application and system software; and (iii) physical equipment, such as computer hardware, peripheral devices and communication. Company will promptly notify U of I if it becomes aware of or suspects any violation of this Section or has any reason to believe that a violation has occurred or is likely to occur.

3. **FERPA.** If Company, its employees or agents are provided access to any Student Information, Company acknowledges that it is subject to and will fully comply with FERPA's privacy regulations for the handling of such information. Company will not disclose or use any Student Information except to the extent necessary to carry out its obligations under this Agreement and as permitted by FERPA. Company shall be subject to and agrees to abide by U of I's established and published FERPA policies. The parties agree that Company has legitimate educational interests in access to all Student Information because such access is relevant and necessary to carry out the purposes, Services, and functions under this Agreement and that such access shall be subject to and limited by 34 C.F.R. 99.31(a)(l)(B). Company's use and maintenance of any Student Information remains subject to the direct control of U of I. Company shall not disclose, release, or allow access to the Student Information to any third party, except as set forth in **Section 5** of this Privacy and Data Security Schedule, or as required by judicial order or a lawfully issued subpoena. Company shall destroy all Student Information provided to it by U of I in connection with its performance of the Services promptly following completion of use of such data as determined by the relevant SOW, and in any event within ten (10) days of receipt of a request from U of I and/or of termination of this Agreement. Within thirty (30) days of such deletion, Company will provide a written certificate, signed by an authorized representative of Company, confirming that it has deleted all Student Information from its systems, destroyed any paper or other copies of any such data, and has not retained in any form any such data.

4. **Processing of Data by Company.** In the course of providing Services to U of I under the Agreement, Company represents and warrants as follows:

- 4.1 Company will only Process Protected Information on behalf of and under the instruction of U of I, and in compliance with U of I's written instructions and the obligations set forth in the Agreement and this Privacy and Data Security Schedule.
- 4.2 Protected Information shall not be used or otherwise Processed by Company other than as strictly necessary for Company's performance of the Services under the Agreement. Any use of Protected Information by Company must immediately cease upon expiration or termination of the Agreement, as well as upon U of I's request at any time. Company will ensure that any of its employees that Process Protected Information are subject to a duty of confidentiality sufficient to protect such Protected Information consistent with this Privacy and Data Security Schedule.
- 4.3 Without U of I approval (in its sole discretion), Protected Information shall not be (i) disclosed, sold, assigned, leased, or otherwise provided to third parties by Company, (ii) commercially exploited by or on behalf of Company, or (iii) combined with any other data that Company has or retains for the benefit of Company or any other third party.
- 4.4 As between U of I and Company, all Protected Information is, shall be, and shall remain the property of U of I and shall be deemed Confidential Information of U of I. Company shall not possess or assert encumbrances or other rights in or to the Protected Information. Company hereby assigns to U of I without further consideration all of its right, title and interest in and to the Protected Information.
- 4.5 In the event that U of I requires Company to comply with the requirements of a U of I Legal Hold to preserve relevant Protected Information in Company's possession or control for the purposes of anticipated litigation, whether through access or preservation of Protected Information, U of I shall provide Company with notice of (a) the U of I Legal Hold, (b) the specific Protected Information to which the U of I Legal Hold applies and (c) the time for the U of I Legal Hold to be complied with by Company. Company shall comply with the requirements of such notice upon receipt.
- 4.6 Upon request by U of I at any time, including expiration or termination of the Agreement, unless retention of Protected Information is required by law, Company shall at no charge to U of I and in each case to the extent so requested by U of I (a) promptly return to U of I in a secure portable digital format all or any part of the Protected Information and (b) securely erase or destroy all or any part of the Protected Information in Company's possession. Company shall provide U of I a certificate attesting to its compliance with this Section (i) no later than 30 calendar days after U of I's request.

4.7 Company shall correct, at U of I's request and at no charge to U of I, any destruction, loss or alteration of any Protected Information caused by Company.

4.8 All Protected Information that Company Processes pursuant to the Agreement will reside on servers located within the United States, and Company will not Process nor cause or permit any Protected Information to be Processed outside of the United States without U of I's prior express written consent.

4.9 Restrictions on Processing Protected Information. Company acknowledges and agrees that U of I is a "Business" or "controller" and Company is a "Service Provider" or "processor" under the Applicable Privacy Laws. The Purpose of providing the Services specified in this Agreement are performed in Company's capacity as a Service Provider or processor. Company shall use the Protected Information only as reasonably necessary and proportionate to provide the Services for which the Protected Information is provided. Company shall not Sell or Share any Protected Information and must ensure its Personnel do not do the same. Company is also prohibited from: (a) from retaining, using, or disclosing Protected Information for any purpose other than for the specific purpose of performing the Services specified in this Agreement, including any use for a commercial purpose other than performing the Services specified in this Agreement; (b) further collecting, selling, or using Protected Information except as necessary to perform such Services; and (c) from retaining, using or disclosing any Protected Information outside of the direct business relationship between U of I and Company. The terms "Business," "Business Purpose," "Protected Information," "Consumer," "Commercial Purpose," "Sell," "Share" (and its derivatives) and "Service Provider," shall have the meanings ascribed to them in the Applicable Privacy Laws.

4.10 Restrictions on Disclosing Protected Information. Except as expressly permitted under **Section 5**, Company shall not disclose Protected Information to any third parties without U of I's prior written consent. In the event that such consent is provided, Company and U of I shall work together to ensure that such disclosure complies with all Applicable Privacy Laws and Company shall enter into a written agreement with such third party, which contains obligations that are equivalent to the terms in this Privacy and Data Security Schedule. Company will permit U of I to take reasonable and appropriate steps to ensure compliance with Applicable Privacy Laws and make available to U of I all information necessary to demonstrate compliance with Applicable Privacy Laws.

4.11 Certification. Company certifies that Company (a) understands the obligations and restrictions imposed on it by Applicable Data Privacy Laws in its role as a processor or Service Provider; (b) agrees to comply with all such obligations, including providing the same level of privacy protection as required by Applicable Data Privacy Laws; and (c) shall notify U of I immediately if Company determines that it can no longer meet its obligations under Applicable Data Privacy Laws or this Privacy and Data Security Schedule.

4.12 In no event will this Agreement relieve Company or U of I of the liabilities imposed on them under Applicable Privacy Laws by virtue of their respective roles in the Processing relationship.

5. **Subcontractors.** Company will not subcontract any of its obligations under the Agreement to any affiliate, third party or company (each a "**Subcontractor**") or engage or permit any Subcontractor to Process Protected Information or otherwise transfer, disclose or provide access to the Protected Information to a third party, except where the following conditions are satisfied prior to the Processing of any Protected Information by any Subcontractor: (i) Company shall notify U of I in writing unless prohibited by applicable law from doing so; (ii) Company shall obtain the prior written consent of U of I; (iii) Company shall conclude a written agreement with the Subcontractor that imposes the same obligations and restrictions on the Subcontractor as those that apply to Company under the Agreement, including this Privacy and Data Security Schedule; (iv) U of I shall be entitled to obtain a copy of any agreement with a Subcontractor (which Company may redact as needed to remove confidential commercial information); and (v) Company shall remain fully liable for the actions or omissions of any Subcontractors. U of I expressly consents to the Subcontractors listed in **Appendix 1** hereto. Company must inform U of I in writing of any intended changes to said approved Subcontractors and U of I shall have a period of 30 (thirty) days from the date of the notice to inform Company in writing of any reasonable objection to the use of that Subcontractor. The Parties will then, for a period of no more than 30 (thirty) days from the date of U of I's objection, work together in good faith to attempt to find a commercially reasonable solution for the Company which avoids the

use of the objected-to Subcontractor. Where no such solution can be found, U of I may (notwithstanding anything to the contrary in the Agreement) terminate the relevant Services immediately on written notice to Company, without penalty or indemnification.

6. **Security/Adequate Safeguards.** Company agrees that Protected Information will be secured from unauthorized access, use, disclosure, loss, and theft and Processed using Industry Standards. Without limiting the foregoing, Company represents and warrants the following:

6.1 **Security Program.** Company has in place a comprehensive, written information security program designed to protect the information under its custody, management or control, including all Confidential Information and Protected Information. Company's information security program complies with Applicable Privacy Laws and includes the following safeguards: (a) secure business facilities, data centers, paper files, servers, back-up systems and computing equipment including, but not limited to, all mobile devices and other equipment with information storage capability; (b) network, device application, database and platform security; (c) secure transmission, storage and disposal; (d) authentication and access controls within media, applications, operating systems and equipment; (e) encryption of Protected Information placed [on any electronic notebook, portable hard drive or removable electronic media with information storage capability, such as compact discs, USB drives, flash drives, tapes]; (f) encryption of Protected Information in transit and at rest; (g) prohibition of Processing Protected Information in test, development or non-production environments; (h) segregating U of I Confidential Information, including Protected Information, from information of other clients of Company so that such information is not commingled; and (i) employee, Subcontractor, and other Personnel security and integrity including, but not limited to, background checks consistent with applicable law and the requirements of this Agreement.

6.2 **Testing.** Company shall regularly, but in no event less than annually, evaluate, test and monitor the effectiveness of its information security program and shall promptly adjust and/or update such programs as reasonably warranted by the results of such evaluation, testing, and monitoring.

6.3 **Training.** All Company Personnel with access to Protected Information are provided appropriate information security and privacy training to ensure their compliance with Company's obligations and restrictions under the Agreement and this Appendix for Information Security Standards and Requirements as well as with all Applicable Privacy Laws and with Company's information security program.

6.4 **Business Continuity.** Company shall maintain an audit trail of all access to, and use of, U of I Confidential Information, including Protected Information. Company also shall implement and maintain appropriate business continuity, contingency and disaster recovery plans in order to maintain the availability, security and confidentiality of U of I Confidential Information, including Protected Information and restore normal operating procedures as promptly as possible in the event of a major disruption, business interruption or failure.

6.5 **Standards.** Company's information security program materially complies with Industry Standards as modified from time to time. If Company conducts a security audit, such as an SSAE 18 audit, then Company will, at U of I's request, provide a complete copy of the results of such audits at no additional cost to U of I, as frequently as annually, or when required due to a security incident. Company will, at U of I's request, provide a current and complete HECVAT (<https://educause.edu/hecvat>) completed by a qualified individual.

6.6 **IT Access.** All Company connectivity to U of I computing systems and all attempts at the same shall only be through U of I's security gateways/firewalls and only through U of I-approved security procedures. Company shall not access and shall not permit unauthorized persons or entities to access, U of I computing systems and/or networks that contain U of I Confidential Information, including Protected Information without U of I's express written authorization, and any such actual or attempted access shall be consistent with any such authorization. Company shall take appropriate measures to ensure that Company's systems connecting to U of I's systems and anything provided to U of I through such systems do not contain any Disabling Device. For purposes of this Agreement, "Disabling Device" means any programs, mechanisms,

programming devices, malware or other computer code (i) designed to disrupt, disable, harm, or otherwise impede in any manner the operation of any software program or code, or any computer system or network (commonly referred to as “malware”, “spyware”, “viruses” or “worms”); (ii) that would disable or impair the operation thereof or of any software, computer system or network in any way based on the elapsing of a period of time or the advancement to a particular date or other numeral (referred to as “time bombs”, “time locks”, or “drop dead” devices); (iii) is designed to or could reasonably be used to permit a party or any third party to access any computer system or network (referred to as “trojans”, “traps”, “access codes” or “trap door” devices); or (iv) is designed to or could reasonably be used to permit a party or any third party to track, monitor or otherwise report the operation and use of any software program or any computer system or network by the other party or any of its Affiliates.

7. **Amendments.** Company acknowledges that Applicable Privacy Laws are subject to change. Company shall reasonably cooperate with U of I to amend the terms of the Agreement to the extent necessary for U of I's or its Affiliates' compliance with all amended and additional Applicable Privacy Laws.

8. **Protected Information Requests.** Unless otherwise prohibited to do so, Company will promptly notify U of I in writing within twenty-four (24) hours about any request from a regulator, governmental entity or other third party relating to the Services or the Agreement, any legally binding request for disclosure of Protected Information. To the extent applicable, if Company receives any request directly from an individual requesting to know, access, correct, transfer, delete, or stop the processing of their Protected Information, or otherwise exercise any of their rights as a data subject or consumer under Applicable Data Privacy Laws (“Data Subject Request”), Company will (i) permit U of I to have sole control over any response to a Data Subject Request, including the timing, method and content; (ii) not respond directly to a Data Subject Request except if required by applicable law; and (iii) comply with any request made by U of I relating to Protected Information (e.g. Company will delete Protected Information if and when requested by U of I). Given the nature of the Processing of Protected Information and the Services performed in the Agreement, Company will, as requested by U of I, promptly provide all information, perform all acts, and otherwise cooperate with U of I as necessary to assist U of I in complying with its obligations under Applicable Data Privacy Laws. Company agrees to provide the foregoing information, assistance, and cooperation at no additional charge to U of I.

9. **Security Testing and Audits.** Upon notice to Company, U of I may carry out or have carried out a security audit of the Services. Such U of I audits shall occur no more than annually (except in the event of a Data Security Incident, in which case U of I may perform an additional audit or follow up audit). Company shall make its representatives available to the extent reasonably necessary to answer questions or otherwise assist U of I in performing such audits.

10. **Data Security Incidents.** Company agrees to notify U of I immediately (which in no event shall be longer than twenty-four (24) hours) upon discovery of an actual or suspected Data Security Incident. Such notice shall include all information reasonably required by U of I to comply with its obligations under Applicable Privacy Laws, breach notification laws, or other applicable law. Company hereby agrees to cooperate fully and promptly in U of I's handling of the Data Security Incident or suspected Data Security Incident including, but not limited to: (i) assisting with any investigation; (ii) providing U of I with physical access to the facilities and operations affected, as reasonably required by U of I; (iii) facilitating interviews with Company's employees and others involved in the matter; and (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards or as otherwise requested by U of I. Company shall cooperate with U of I and use its best efforts to immediately remedy any known Data Security Incident and prevent any further Data Security Incident, in accordance with applicable privacy rights, laws, regulations and standards. In the event of any Data Security Incident and notwithstanding any provision in the Agreement to the contrary, Company shall in all cases bear, be responsible for and pay: (a) the losses incurred by U of I and Company in complying with their respective legal obligations relating to the Data Security Incident, including, without limitation, with regard to any third party claims and first party costs and expenses; and (b) in addition to any other losses for which Company may be liable for under the Agreement, the following costs and expenses incurred by U of I in responding to such breach, to the extent applicable: (i) the costs and expenses of providing notice to affected individuals, (ii) the costs and expenses of providing notice to governmental authorities, credit bureaus, and other required entities, (iii) costs and expenses related to the reasonably anticipated and commercially recognized consumer data breach mitigation efforts

including, but not limited to, providing affected individuals with credit monitoring services for a specific period of at least twelve (24) months, (iv) call center support for such affected individuals for a specific period not to exceed twelve (12) months or such longer time as is required by law or recommended by one or more regulators (v) costs and expenses incurred to engage independent third-party forensic investigator, legal counsel, and/or any other third party, to investigate assess or remediate the Data Security Incident and to comply with all laws and/or relevant industry standards, (vi) costs and expenses incurred for the retention of a public relations or crisis management firm in order to manage communications on behalf of U of I related to any Data Security Incident, and (vii) the costs and expenses of any other measures required under Applicable Privacy Laws or other applicable laws or regulations; and (c) any other costs and losses for which Company would be liable under the Agreement.

11. **Security Warranty.** Company warrants and represents that (i) it has not been the subject of or the direct or indirect cause of any prior Data Security Incident which could materially affect U of I confidential information or performance of this Contract; (ii) there are no claims threatened or pending, or events or circumstances known to Company likely to give rise to claims as a result of any Data Security Incident or failure to implement and maintain industry standard information security measures; and (iii) there are no regulatory actions threatened or pending, or events or circumstances known to Company likely to give rise to a regulatory action as a result of any Data Security Incident or failure to implement and maintain industry standard information security measures.

12. **General Terms.**

12.1 **Conflicts.** In the event Company believes that it cannot satisfy its other obligations under the Agreement while complying fully with this Privacy and Security Schedule, Company will notify U of I as soon as practicable and will work with U of I to resolve the issue to U of I's reasonable satisfaction.

12.2 **Survival.** Notwithstanding anything to the contrary in the Agreement including, the obligations pursuant to this Exhibit B shall survive termination of the Agreement and shall continue with full force and effect unless and until Company ceases to Process the Protected Information and returns or destroys all Protected Information in accordance with the terms of this Privacy and Data Security Schedule.

12.3 **Precedence.** This Privacy and Security Schedule is made part of but does not supersede the Agreement, except with respect to the subject matter of this Privacy and Security Schedule. In the event any provision of the Agreement conflicts with the terms of this Privacy and Security Schedule, the terms of this Privacy and Security Schedule shall take precedence where its terms provide greater protection for Personal Data.

12.4 **Severability.** If any provision of this Appendix for Information Security Standards and Requirements shall be unlawful, void, or for any reason unenforceable under an applicable law, then that provision shall be deemed severable only to the extent necessary and shall not affect the validity and enforceability (i) of the provision under another applicable law, nor (ii) of any remaining provisions of this Appendix for Information Security Standards and Requirements or the Agreement.

12.5 **Headings.** The headings and titles in this Appendix for Information Security Standards and Requirements are for convenience only and shall not affect the interpretation of the terms hereof.

12.6 **Amendment.** This Appendix for Information Security Standards and Requirements cannot be modified, amended, or changed except in writing and signed by the parties.

12.7 **Material Breach.** Any breach of this Appendix for Information Security Standards and Requirements shall constitute a material breach of the Agreement and U of I may immediately terminate the Agreement and pursue all remedies available to it.

12.8 **Injunctive Relief.** Company acknowledges that any breach of its covenants or obligations set forth in this Appendix for Information Security Standards and Requirements shall cause U of I irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach, U of I is entitled to seek equitable relief without the necessity of a bond or security, or without proving actual damages, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which U of I may be entitled at law or in equity.

EXHIBIT A- APPENDIX 1

Approved Subcontractors

Name of Subcontractor

Location of

Address